



Law Student Perspective

by Margaret “Gosia” Fonberg and Nadia Dahab

Eeny Meeny Miny Moe: Which State Bar Exam Should I Take?

With the spring semester well underway, the time

to sign up for the July 2014 bar exam is just around the corner. For some of you, that might be no big deal—you already have a job lined up so you know where to sit for the bar, you’ve already settled down in the state of your choice, or maybe you intend to practice in the District of Columbia. (See below for why the district makes this decision-making process a little bit easier!) But for others, you have a big decision ahead: Which state bar exam should you take? Ultimately, the answer to that question comes from choices personal to each of you. But we’d like to think we have some helpful tips to share.

Consider Location (and Quality of Life)

Perhaps you’ve already thought about location and have some idea where you want to live and practice. Maybe you want to stay in the state in which you attended law school—where you already have some professional contacts through your professors, your externship, or your summer job. Or maybe you have your heart set on a particular state because of its climate (like Hawaii?) or its outdoor opportunities (we’re thinking Oregon). Or, maybe your significant other has a job somewhere, so you’ll take the bar there.

In our view, one of your first and foremost considerations should be where you want to *live*. After all, you won’t be spending every waking hour at work. (Or so we hope!) So, when you’re not at the office, where will you be happy?

And when answering that question, consider the things you love to do. If you love live theater, shopping, and travel, pick a state with large metropolitan areas that offer those things. If you love to ski and need easy access to the slopes, consider Colorado. And if you’re a solar-powered desert mammal, perhaps Arizona is the right place for you.

We think this should be your first consideration because, in our opinion, it’s the most important one. If you can’t be happy where you live, can’t endure the area’s climate, or are unable to do the things you love, even your dream job may not be quite so dreamy.

Another thing to consider is where you can *work* and be happy. What type of law do you want to practice, and where can you practice it? (But don’t worry, it’s OK if you don’t know the answer

to this question quite yet.) This may be important because some states are better for certain practices than others. For example, if you want to practice administrative law, perhaps you should seriously consider living in Washington, D.C., where most federal agency cases arise. Likewise, if you’re particularly interested in defending death penalty cases, you’ll want to know which states have abolished it (there are 18). And, if you live for patent litigation, you’ll apparently want to move to Nevada.¹

Again, the best place for you is something only you will know, but it’s an important thing to consider when choosing your potential bar membership. Whether it be for the climate, the nightlife, the proximity to your family, or some other factor, we just hope you pick a spot in which you’ll be happy living and working.

Consider Admissions Requirements (State and Federal)

Another thing to consider is admissions requirements. Some states have unique admissions requirements that you might not find elsewhere and will want to look out for. Vermont, for example, requires new bar admittees to complete a three-month law office study before beginning practice, allowing new attorneys to become more familiar with Vermont’s substantive and procedural law.² Delaware has a similar five-month clerkship requirement.³ (In both states, by the way, the admittee can fulfill the requirement either during or after law school.) Other states have less onerous, state-specific requirements, such as bridge-the-gap training, additional skills courses, or new lawyer mentoring programs. We encourage you to check each state bar’s local rules for additional information.⁴

And if you plan to practice federal law, keep in mind that federal courts—not only in each *state*, but also in each federal *district*—have their own admission requirements. For example, if you plan to practice in New York, the admission requirements vary between the Eastern and Southern Districts. In the Southern District, a new admittee must have a sponsor, who must also be a licensed attorney admitted to practice in district,⁵ but the Eastern District has no such requirement. In many of the western states’ federal districts (Oregon, both districts of Washington, and all of California, to name a few), you must be a member of the

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district's respective state bar in order to apply for admission to the federal court.⁶ And in others (the Southern District of Texas), if you are not a member of the state bar, then you must be a member of another U.S. district court as a condition of admission. The Southern District also requires that each applicant participate in a new admittee workshop.⁷ Again, all of these and other conditions can be found in each district's local rules, so we encourage you to check those for additional information.

Consider Reciprocity

Aside from admissions requirements, reciprocity rules for each state or federal district in which you're considering practicing may factor into your decision. These allow an attorney who has passed the bar in one state to "waive in" to practice in another without sitting for that other state's exam. Of course, with more and more states adopting the Uniform Bar Exam (the UBE), reciprocity is becoming easier to find between states. But some states have particularly strict reciprocity rules (for example, Michigan), while others have none at all (New Jersey).⁸ And keep in mind that when you live in a state with limited or no reciprocity, other states are unlikely to grant you the same.⁹

The District of Columbia is one exception to the reciprocity dilemma—it permits attorneys to waive in from every state.¹⁰ So naturally, for those of you who want to practice in D.C., we advise you to take another state's bar, so that you'll automatically have a second option for legal practice.

Consider Your Chances

One final consideration, which perhaps is particularly important in today's competitive job market, is the chance you will pass the bar on the first try. If test taking isn't your thing, maybe you consider taking an "easier" bar—that is, a bar with a higher passing rate. We know what you're thinking: how are you supposed to know that?!

Well lucky for you, Robert Anderson, a professor at Pepperdine University, has that answer. He recently used 2010 and 2011 bar passage data to create a table ranking relative bar exam difficulty.¹¹ As Anderson notes, conventional wisdom turns out to be true: California has the most difficult bar exam. Arkansas, Washington, Louisiana, and Nevada round out the top five, and for those of you who happen to be interested in Tennessee or Nebraska (our home states), they rank at 31 and 46, respectively.¹²

We note, however, that this need not be your first consideration. No matter where you decide to take the bar, there are comprehensive bar exam prep courses available, many of which guarantee their results (meaning, you get to take the course again if necessary). And beyond courses, you can likely find many other test-taking resources simply by checking with your law school or local bar association. So don't fret, and first choose based on where you know you'll be happy.

Conclusion

Hopefully, we have provided some insight for you as you make your decision about where to sit for the bar. And as you make that choice, remember: you can't predict the future, and you certainly can't plan for everything. Throughout your career, you may (indeed, you likely will) take another state's bar exam—perhaps because you want to make a life change or maybe because your

employer asks you to do so. So keep in mind that you're not forever locked into the choice you make now. We wish you the best of luck on your upcoming bar exam! ☺

Endnotes

¹See Local Patent Rules, *Patent Rules Made Easy*, available at www.localpatentrules.com/patent-rules/nevada/.

²See Vermont Judiciary, *Clerkship Requirement Information*, www.vermontjudiciary.org/LC/d-BBELibrary/ClerkshipInformation.pdf.

³Hon. Randy J. Holland, *The Delaware Clerkship Requirement: A Long-Standing Tradition*, BAR EXAMINER (2009), available at courts.state.de.us/bbe/docs/ClerkshipRJHBarEx.pdf.

⁴The American Bar Association and the National Conference of Bar Examiners have compiled a *Comprehensive Guide to Bar Admission Requirements*, which we also recommend to you. That document is available online at www.ncbex.org/assets/media_files/Comp-Guide/CompGuide.pdf.

⁵U.S. District Court for the Southern District of New York, *Attorney Services*, www.nysd.uscourts.gov/atty_admission.

⁶See, e.g., U.S. District Court for the District of Oregon, *Attorney Admissions*, www.ord.uscourts.gov/index.php/attorneys/attorney-admissions.

⁷U.S. District Court for the Southern District of Texas, *Attorney Admissions Requirements*, www.txs.uscourts.gov/attorneys/admissions/default.htm.

⁸New Jersey Board of Bar Examiners, *Frequently Asked Questions*, www.njbarexams.org/faq.

⁹For example, neighboring Pennsylvania does not offer reciprocity to members of the New Jersey bar. See Pennsylvania Board of Law Examiners, *Reciprocity Information*, www.pabarexam.org/non_bar_exam_admission/reciprocity.htm.

¹⁰PittLaw, *State-by-State Bar Exam Information: District of Columbia*, www.law.pitt.edu/students/barexam/statebystate/district-columbia.

¹¹Witnessteth: Law, Deals, and Data, *The Most Difficult Bar Exams*, witnessteth.typepad.com/blog/2013/04/the-most-difficult-bar-exams.html (April 3, 2013).

¹²Keep in mind that if you are admitted to practice law in Tennessee, each year, no matter where you live, you will be required to pay a professional privilege tax of \$400. See Professional Privilege Tax, www.tn.gov/revenue/tntaxes/proftax.shtml.

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