Date:	February 9, 2024
From:	Academic Affairs and Curriculum Committee [Ortman—chair, Belz, Dillof, Ellman, Fox, Prebelich, Sadaka, Sholander, Tamburo, Hoffman (*ex officio*), Settlage (*ex officio*)
Re:	Proposal for Bar Exam Strategies and Fundamentals course

The Academic Affairs and Curriculum Committee moves the faculty to approve a new course: Bar Exam Strategies and Fundamentals. The committee is proposing this as a two-credit mandatory upper-level course using the non-letter grading system. The course proposal memo is attached.

Alongside the course approval, the committee moves the faculty to make two changes to the J.D. Academic Regulations, as follows:

- Part I.C.2 is amended to list Bar Exam Strategies and Fundamentals course as a required course.

- Part V.B is amended so that the first sentence reads: "All required courses under I.C except Bar Exam Strategies and Fundamentals are subject to grading norms adopted by the Law School faculty and attached as Appendix B."

The remainder of this memo explains the committee's rationales for the proposal in four parts: (i) why the course should be adopted, (ii) why it should be mandatory, (iii) why it should use the Honors-Pass-Low Pass-No Credit grading system, and (iv) why it should not be restricted to 3Ls.

I. THE COURSE SHOULD BE ADOPTED

A for-credit course, offered in collaboration with JD Advising, is a core component of the Law School's ambitious response to our flagging bar passage numbers. Moreover, other schools that have adopted similar courses have seen improvement in their bar passage rates. It was clear to the committee that the course should be approved in one form or another, so our discussions did not focus on that question, but on the ones that follow.

II. THE COURSE SHOULD BE MANDATORY

A more difficult question is whether the course should be mandatory. We acknowledge that there are reasonable arguments for the view that it should be optional. The most significant is the principle that we should avoid acting paternalistically when possible. Another is that if the course is optional, there might be an opportunity to collect data about its efficacy by comparing passage rates of those who took it versus those who did not.[1] But the committee thinks that the benefits of making the course mandatory outweigh the costs. There are several reasons:

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[1] Because the course will not focus heavily on the substance of particular legal domains, the risk that it will cannibalize existing bar topic courses appears low.

1. Students overwhelmingly plan to take the course, and a majority think it should be mandatory.

We polled students to gauge their views on the course. Of 72 students responding, 69 (96%) indicated that they would take the course if it's offered as an optional elective and 40 (56%) think it should be mandatory. To the extent that almost every student would take the course anyway, concerns about the paternalism of a mandatory course dissipate quickly. Also, students *plan* to take the class, but we all know that sometimes the best laid plans go awry. Making it mandatory facilitates students doing what they know they should do anyway. Besides, a majority actual favors the course's being a graduation requirement. Nobody *likes* requirements, so that's pretty telling.

2. A majority of our students are at a real risk of failing the bar.

One school of thought is that rather than have a universal approach to bar prep, we should narrowly tailor our efforts to those students at highest risk of failing. Most of our students do, after all, pass the bar. Our numbers have fallen, yes, but even in the July 2023 administration, around three-quarters of our takers passed.

To get a handle on this, we took a close look at the relationship between 1L GPA and bar passage. Here are aggregate statistics:

Overall	Number of Wayne Law bar takers	Pass rate	Percentage of takers in GPA cohort
1L GPA above 3.65	19	100%	21%
1L GPA 3.35-3.62	24	92%	26%
1L GPA below 3.35	49	45%	53%

Zooming in on 1L GPAs below 3.35	Number of Wayne Law bar takers	Pass rate
1L GPA 3.16-3.34	15	67%
1L GPA 3.0-3.15	14	43%
1L GPA below 3.0	20	30%

The data suggest that a 1L GPA of 3.35 is very nearly a magic number. Students with 1L GPAs above it overwhelmingly pass, while students with 1L GPAs below it are at a real risk of failing. That's striking, because it means that a majority of our students are at risk. In other words, failing bar scores aren't concentrated in students with very low 1L GPAs, but are distributed among a large portion of the class. In that scenario, trying to focus bar prep efforts on a limited group of students just isn't workable. Rather, this is something that we need to do across our JD student body. Additionally,

narrowly targeting bar prep efforts at a selected student group risks stigmatizing those students, which we should do all we can to avoid.

3. *A mandatory course sends the clearest message about the culture of bar prep at Wayne.*

Making the course mandatory has an expressive function. It tells applicants, current students, and the Michigan legal community that Wayne Law (i) is taking its dip in bar passage seriously, (2) is strongly committed to all of its students achieving their goal of becoming lawyers, and (3) believes that bar passage is a skill that can be taught, learned and mastered. Conveying that message fosters a culture of bar passage.

4. *Making the course mandatory simplifies course planning for students.*

If the course is mandatory, students will simply work it into their academic plans. They won't have to expend any intellectual capital deciding whether to take it. Simplicity is good. Likewise, if the course is mandatory, the Law School will have an easier time predicting enrollment, allocating resources, and scheduling classes.

5. *We don't have lots of required upper-level courses.*

We currently only have one required upper-level course: professional responsibility.[2] All schools require that (as does the ABA), but others require much more. MSU, for instance, requires that students take five courses from a list of fifteen. Toledo requires that students take evidence, an upper-level constitutional law course, and an upper-level civil procedure course. U of M makes students take a course on international or comparative law, and another on statutory or regulatory law. The point is that we are not, comparatively speaking, loading our students down with lots of graduation requirements. A two-credit bar prep course isn't too much to demand of them, especially considering that the vast majority want to take it anyway.

6. *Bar passage has positive externalities.*

If the course is optional, a student might decide not to take it based on an incomplete cost-benefit calculation in which the benefit side of the ledger consists only of the student's individual interest in bar passage. But a student's passing the bar also improves the Law School's ranking, which ultimately inures to benefit of all its students, past, present, and future.

III.   THE COURSE SHOULD BE NON-LETTER GRADED

The committee believes that the course should be graded on the honors-pass-low pass-no credit scale described in Part V.D of the Academic Regulations. That means that it won't be part of GPA calculations, as a letter-graded course would. It also means that it will not be subject to the mandatory grading curve, as other required courses (*i.e.*, 1L courses and PR) are.

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[2] We have other upper-level requirements, like writing, but those can be fulfilled with a large variety of courses.

As a preliminary matter, we asked students about this in the poll and a large majority (85%) preferred the non-letter graded method. That didn't, however, play a major role in our deliberations. What did is that this course will differ from every other course at the law school in one significant respect. Every other course we offer is primarily meant to help students become excellent lawyers, broadly understood. This one is meant to help students pass a licensing exam to become lawyers. If bar exam skills have applications in practice—and that's an enormous if—they're incidental. GPA has always been understood by the legal community as a reflection of a student's potential to excel as a lawyer, not to become one. We think it makes sense that a student's performance in this course should not be part of their GPA.

The committee is also concerned about the message that letter-grading—especially on the mandatory curve—would send to employers. For good reasons, employers do not want to hire graduates who will fail the bar. If employers understand the letter grade in the bar prep course to predict passage, it will be hard for the (at least) 10% of students who receive C-range grades on the mandatory curve to find employment. That seems both unnecessary and counterproductive.

Finally, the committee believes that students will be highly motivated to work hard at the course because the pay-off of hard work—bar passage—will be relatively immediate and highly salient. The motivation of achieving a high-letter grade which might contribute to a student's GPA is un-needed.

IV. THE COURSE SHOULD NOT BE RESTRICTED TO THIRD-YEAR STUDENTS

It's our expectation that students will mostly take the course as 3Ls. That is *probably* the best time to take it, as it's closest to the bar exam. (On the other hand, it's possible that there are advantages to getting these skills earlier.) We considered restricting the course to 3Ls, but decided not to. The main reason is to maintain flexibility. If a student has some sort of unusual scheduling need to take the course as a 2L, we see little reason to stop her from doing so. While we have endorsed a paternalistic approach to this course (*see supra*, Part II), that goes only so far.

To:	Professor William Ortman, Academic Affairs Committee (Chair)
From:	Lisa L. Fadler, Senior Assistant Dean, Career Success
Date:	January 15, 2024
Re:	Request to Approve New Course: Bar Exam Strategies and Fundamentals

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COURSE RATIONALE

This course will focus on the bar examination strategies and foundational skills required to pass the bar examination. It will introduce students to the components of the bar exam, provide instruction on strategies to pass, and teach students how to effectively answer bar exam questions. This course will complement other elements of Wayne Law's institutional bar preparation program to provide students with a full-scale, integrated, comprehensive bar examination preparation experience and approach. By offering bar exam strategies in a course for credit, students will not only get a head-start preparing for the bar exam, but students who may be at-risk for failing the bar exam will head into bar preparation with an understanding of the foundational skills needed to pass the exam.

COURSE STRUCTURE

This course will be a mandatory, one-semester, two-credit, non-letter-graded course graded on an Honors-Pass-Low Pass-No Credit basis. In this course, students will study effective strategies for approaching the Multistate Bar Exam (MBE), Multistate Essay Examination (MEE), and Multistate Performance Test (MPT). In addition to lectures and course materials, students will complete weekly homework assignments and graded MBE, MEE, and MPT practice exam questions administered in class. Assessments will include a final examination consisting of practice MBE, MEE, and MPT questions.

DESIRED LEARNING OUTCOMES

Upon completion of the course, students should be able to do the following:

1. Understand how to approach preparing for the bar examination including implementing strong memorization skills, effective MEE and MPT writing structure and self-grading, MBE skills and strategies for improvement, and timing techniques
2. Understand the strategies for approaching the Multistate Performance Test (MPT) and complete an MPT under timed conditions
3. Understand the strategies for approaching the Multistate Essay Examination (MEE) and complete an MEE under timed conditions
4. Recognize the strategies for approaching the Multistate Bar Exam (MBE) and complete MBE practice questions under timed conditions
5. Understand how to use bar exam preparation time efficiently from the beginning

6. Engage in reflection about a personal bar exam preparation plan including preferred style of learning (live vs. prerecorded lectures), study schedules, and whether to start preparing early
7. Recognize the common mistakes that first-time takers sometimes make to avoid those mistakes

COURSE OVERLAP

While this course will reference substantive areas of the law in topic areas that appear on the bar exam, such substantive law is only used to explain bar exam components. For example, the course may discuss substantive law surrounding *Miranda*, but the purpose in doing so would be to teach students how to approach a Multistate Essay Examination question and not solely to teach students *Miranda* principals.

TEACHING AND COST IMPACT

This course will be taught by a part-time faculty member. We expect that experienced adjuncts from JD Advising would be recommended to the Faculty Appointments Committee to teach the course including Ashley Heidemann, Founder and CEO of JD Advising, Heather Buck, and Meagan Jabbori. JD Advising is a prelaw, law school, and bar exam preparatory company helping students nationwide. JD Advising has assisted students, including Wayne State University Law School alumni, in passing the bar exam since its founding over ten years ago. JD Advising has successfully partnered with elite law firms in Michigan and across the country.

COURSE DESCRIPTION

Bar Exam Strategies and Fundamentals. Cr. 2. This course will provide students with in-depth instruction in legal analysis and exam-taking strategies for the Uniform Bar Exam. Students will receive lectures that review bar exam topic areas and will study strategies to build their skills in preparing for the bar exam and answering bar exam questions. This course will teach students how to approach the Multistate Bar Exam (MBE), Multistate Essay Exam (MEE), and Multistate Performance Test (MPT) by providing extensive guidance on exam-taking strategies as well as frequent and individualized feedback on all three components of the bar exam. Students will also learn how to organize and execute their personal study plan for the bar exam and be ready to begin JD Advising's bar prep course upon graduation. We expect that the course will be revised and altered every semester to remain current with the Michigan Bar Examination.

DRAFT SYLLABUS
Bar Exam Strategies and Fundamentals

REQUIRED COURSE MATERIALS

There is no required textbook for this course. The readings, NCBE-licensed Multistate Bar Exam questions, and other course materials will be available from JD Advising on the Canvas course page.

Homework

This course will require weekly homework assignments to be completed before class as well as graded in-class assignments. Required homework will be submitted via the course Canvas page.

Class 1: Introduction and Memorization Fundamentals (Part One)
    a. **<u>Introduction</u>**
        i. Introduction to the Uniform Bar Exam
    b. **<u>Memorization</u>**
        i. Key skill: learning to memorize using different methods
            1. Importance of memorizing from the beginning
            2. Memorization techniques
            3. How to create a retention schedule for memorization
    c. **<u>Substantive law lecture</u>**
        i. Negligence
    d. **<u>Homework</u>**
        i. Memorize Negligence outline section using the skills learned in class

Class 2: Memorization Fundamentals (Part Two) and Introduction to Highly Tested Areas of Law and the MEE
    a. **<u>Memorization tips (and practice) continued</u>**
        i. Review memorization methods
        ii. Learning style quiz
        iii. Key skill: learning *what* material to memorize—focus on highly tested areas of law
            1. Importance of studying for the *exam*
            2. Highly tested areas of the law and the MEE
    b. **<u>Substantive law lecture</u>**
        i. Due Process
    c. **<u>Homework</u>**
        i. Memorize Due Process outline section using the memorization methods learned in class

Class 3: Learning Preferences and Essay Structure
    a. **<u>Live v. prerecorded lectures</u>**
        i. Discussion on different approaches on student's results of last week's learning style quiz
    b. **<u>Essay structure</u>**
        i. Key skill: learning to structure essays
            1. How to write a bar exam essay answer using IRAC
        ii. Key skill: understanding how bar exam essays are different from law school essays
            1. Difference between law school and bar exam essays
            2. Practice essay question in class
            3. Complete essay question in class under timed setting and review (to be submitted)

       c. **Substantive law lecture**
           i. Fifth Amendment - *Miranda*
       d. **Homework**
           i. Memorize Fifth Amendment *Miranda* section of the outline using the memorization methods learned in class
          ii. Practice essay structure at home with three MEEs (to be submitted)

Class 4: Self-Grading Essays and Timing Tips

       a. **Self-grading essays**
           i. Key skill: learning to self-grade essays
               1. Review from last class—structural tips and homework
               2. In-class timed essay question
               3. Learn how to self-grade essays
               4. Self-grade own essay
               5. Break into pairs to compare and evaluate self-grading
       b. **Timing tips**
           i. Key skill: practicing timed essay exams
               1. Importance of practicing timed essay exams
               2. Essay exam timing tips
       c. **Substantive law lecture**
           i. Contract formation
       d. **Homework**
           i. Complete and self-grade two MEEs that cover contract formation (to be submitted)

Class 5: Exam 1: MEE EXAM

       a. **Graded 3-question MEE exam administered during class**

Class 6: MPT Review (Part One)

       a. **Overview of different MPT tasks**
           i. Review structure, format, and MPT One-Sheet
          ii. Discuss purposes and tone of different tasks, focusing on the Objective Memorandum and the Persuasive Brief
       b. **Practice**
           i. Review "baby" MPTs (objective memorandum and persuasive brief) to get used to structure and format
       c. **Homework**
           i. Practice an MPT (objective memorandum) (to be submitted)

Class 7: MPT Review (Part Two)

       a. **Overview of different MPT tasks**
           i. Review structure, format, and MPT One-Sheet
          ii. Discuss purposes and tone of different tasks, focusing on Demand Letter, Opinion Letter, and Wildcard Tasks

b. **Practice**
    i. Review "baby" MPTs (demand letter, opinion letter, and wildcard tasks) in class to get used to structure and format
c. **Homework**
    i. Practice an MPT (persuasive brief) (to be submitted)

Class 8: Exam 2: MPT Exam

a. **Graded one-question MPT administered during class**
    i. Objective memorandum (to be submitted)
b. **Homework**
    i. Practice an MPT (opinion letter) (to be submitted)

Class 9: MBE Skills (Part One)

a. **MBE skills**
    i. Key skill: using the legal pad method
        1. Write down the law you did not know or why you answered the question incorrectly for retention and review purposes
b. **Timing tips**
    i. Key skill: practicing timed exams
c. **Practice**
    i. Practice MBEs in class using legal pad method
d. **Substantive law lecture**
    i. Landlord-Tenant law
e. **Homework**
    i. Memorize Landlord-Tenant law section of outline using memorization methods
    ii. Practice MBE skills with 10 MBE questions and use the legal pad method (notes from legal pad method to be submitted)

Class 10: MBE Skills (Part Two)

a. **MBE skills—continued**
    i. Key skill: dissecting MBE questions
        1. Answer MBE questions in an untimed setting slowly and methodically
    ii. Key skill: focusing on quality of MBE practice over quantify of MBE questions answered
        1. Importance of using NCBE-released MBE questions
b. **Practice**
    i. Practice MBE questions in class by dissecting questions
c. **Substantive law lecture**
    i. Jurisdiction and venue
d. **Homework**
    i. Memorize "jurisdiction and venue" section of the outline using memorization methods

ii. Practice dissecting 10 MBE questions in a slow and methodical manner using the legal pad method (notes from legal pad method to be submitted)

Class 11: MBE Skills (Part Three)

    a. <u>MBE skills—continued</u>
        i. Key skill: using a scantron strategy
            1. Use the dot/dash method
        ii. Key skill: learning how to choose between two answer choices
            2. State the answer before looking at the answer choices
            3. Importance of using NCBE-released MBE questions
    b. <u>Practice</u>
        i. Practice MBE questions in class using all the MBE skills covered in the course
    c. <u>Substantive law lecture</u>
        i. Hearsay
    d. <u>Homework</u>
        i. Memorize Hearsay section of the outline using memorization techniques
        ii. Practice 10 MBE questions using the dot/dash scantron strategy and all other MBE skills learned in the course (notes from legal pad method to be submitted)

Class 12: EXAM 3: MBE EXAM

    a. **<u>50 Graded MBE questions administered during class</u>**
    b. **<u>Homework</u>**
        i. Practice 10 MBE questions using all MBE skills learned in the course (notes from legal pad method to be submitted)

Class 13: Making a Bar Exam Study Schedule and Other Important Tips

    a. **<u>Study schedule</u>**
        i. Key skill: structuring bar exam study time efficiently
            1. Determine what time of day you study best
            2. Determine where you study best
        ii. Key skill: creating a study schedule
            1. How to create a study schedule (daily and weekly)
            2. Create a general daily bar exam study schedule and discuss
    b. **<u>Other important tips</u>**
        i. Avoiding common mistakes made by first-time bar exam takers
        ii. Advice for day of exam
        iii. Whether and how to set up an early bar prep schedule
    c. **Practice**
        i. Create sample daily and weekly study schedules in class
        ii. Students create their own daily study schedule and explain it to a classmate in pairs
    d. **<u>Homework</u>**
        iii. Create a weekly study schedule (to be submitted)

iv. Practice 10 MBE questions using all the MBE skills learned in the course (notes from the legal pad method to be submitted)