



- Lee Burgess: Welcome to the Law School Toolbox Podcast. Today we are going to be chatting about how to attack multiple choice questions on a law school exam. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be. We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the career-related website [CareerDicta](#). Alison also runs the [Girl's Guide to Law School](#). If you enjoy the show, please leave a review and rating on your favorite listening app, and if you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form](#) on LawSchoolToolbox.com, and we'd love to hear from you. And with that, let's get started.
- Alison Monahan: Welcome back. Today we're talking about a part of law school exams that make almost everyone nervous, and that's multiple choice exams. Over the years, law school professors have been incorporating more and more multiple choice into their exams. Lee, why do you think that is?
- Lee Burgess: Well, I'll be honest. I think the first reason is they're super easy to grade.
- Alison Monahan: Adds to the appeal.
- Lee Burgess: Yes, like bubbling and running Scantrons is much faster than sitting and reading essay questions.
- Alison Monahan: Yeah, we're talking at least an order of magnitude easier.
- Lee Burgess: An order of magnitude. And after teaching myself and having to read stacks of essay assignments, I definitely had a lot more compassion for professors, but still, I think that's one of the reasons why they are starting to use multiple choice questions. I think they often also provide a level of difficulty that sometimes an essay question doesn't provide, to allow the scores to really differentiate themselves or allow the scores to be different from student to student, and that makes the curve more pronounced. I think sometimes with the essay questions, unless the essay has a lot of nuances, they can't necessarily get the full range of scores they're looking for to get that curve.
- Alison Monahan: Right, and it also makes the curve a lot more objective. If the student comes in complaining about their exam score, and you're like, "Well, you got 20 out of 30 on the multiple choice, and that was below average," it's pretty simple to understand your grade, whereas if it's like, "Well, you were a little too conclusory or you didn't quite address this counterargument," it's a lot more subjective, I think, if you're grading an exam. And I think a lot of professors are actually pretty uncomfortable with that subjectivity.



- Lee Burgess: I think it is, and from a professor perspective, it's hard. Oftentimes you grade exams like over a week, and it can be very challenging to make sure that the standards you are applying throughout that whole week as you get through the stack are exactly the same. I know oftentimes then professors will go back to the early ones to make sure they haven't accidentally shifted the difficulty. I mean, that's a lot of work. So it is hard, and I think multiple choice, it's either right or wrong.
- Alison Monahan: Exactly. You got the right answer or you didn't get the right answer, and the machine just tells you, so you're like, "Oh, 17 of 20, 18 of 20, 19 of 20." Pretty easy to curve.
- Lee Burgess: Exactly. I also think another reason is that recently the performance numbers on the MBE, which is the multiple choice portion of the bar exam, have slumped, and law schools have felt a bit of pressure to better prepare their students for the multiple choice part of the exam. And I think incorporating multiple choice questions, especially into those core 1L classes that are typically tested on the MBE is another way that they feel like they are kind of laying the foundation for bar prep early on.
- Alison Monahan: Which I think absolutely makes sense. I mean, I didn't have any ... evidence maybe, my third year of law school, we had a multiple choice component, because it was an adjunct and it was a huge class, and I'm sure he didn't want to grade a bunch of stuff. He was a practicing ... I think he was in the US Attorney's Office or something. But I think that was the only one I ever had, and so when I started studying for the MBE, which is a very difficult test, it was this moment of, "Oh my gosh, what is this?"
- Lee Burgess: Yeah, I think it is a little shocking, especially if you've been spending your whole law school career focusing on essay and writing, because multiple choice questions are different. You know, in law school you are taught to argue the law. Right? That's what we do. We on this podcast have talked a lot about arguing both sides or living in the gray area, embracing ambiguity, and multiple choice questions force you to pick an answer choice, show you that there's one right outcome. And I think that's very frustrating, because it goes against the grain of what you're really trying to train your brain to do in law school. It doesn't feel like the SAT or the LSAT, which is probably where you've taken a lot of multiple choice practice. A lot of the tricks you've learned and a lot of ways to kind of outsmart the test, they don't really work on legal multiple choice questions.
- Alison Monahan: Right. One thing I was going to, I guess, push back a little bit on, when you said, "Oh, well you know, there's one right answer." Oftentimes, part of the difficulty of these law school or MBE questions is there's not really one obvious right answer. It might be one answer that's less wrong than other ones or one answer



that's better than other ones, where both of them are sort of correct. And I think that's a real difference from something like the SAT or even the LSAT, because there, there's a right answer. You might not get to that answer, but someone who knows what they're doing is always going to be, "Okay, this is the algebraic equation. You solve the equation. This is what you get." There's no ambiguity at all, and so I think the one thing that can be challenging about these law school ones is sometimes there still is, not exactly ambiguity but uncertainty.

Lee Burgess: Yeah, that's true, and you often are looking for the best answer choice.

Alison Monahan: Right. So it may be that you could make an argument for one or the other, but ultimately you have to pick one. I know sometimes people get really frustrated, because certain students come and they say, "Well, I can always get to the best two, but then I pick the wrong one. How do I correct that?" I think that's a really difficult problem for people to be having, because you're almost getting it right, but you're not quite getting it right.

Lee Burgess: Right. We'll talk a little bit more, we're going to walk through a multiple choice question together, but we'll talk a little bit more about kind of the ways that you can help yourself make that decision. Because oftentimes, I do think with these questions, you can get it down to two, and then there is that disconnect of how do I pick the right one? And so we'll talk about a few tricks about that.

Alison Monahan: Right. And even on the MBE, a pretty good score is not going to be anywhere close to 100%. If you're getting 70 or 80%, you're doing really well, and I think that can be difficult for people, because law students are overachievers. They're used to doing almost perfect, and almost perfect is probably not a realistic goal on a lot of these questions.

Lee Burgess: Yeah. I also think another thing that students feel like that they can do with multiple choice, which is not true, is that you don't necessarily need to know the law, because the question and the answer are there for you on the page, and that's-

Alison Monahan: I think it's exactly the opposite.

Lee Burgess: It is exactly the opposite. I think multiple choice questions really test you on your precise knowledge of the law and often nuances of the law, and so if anything, you need to know almost more law, because you cannot massage the law to get the outcome you want.

Alison Monahan: Right. I mean, if you have an essay question and maybe you forget one element, or you know there's an exception but you can't remember what it is, that's probably not going to be fatal to your answer. Obviously, you're not going to do



as well as you might, but you can still do pretty well, whereas when you get a multiple choice question and it happens to be testing that exact element or that exact exception, and you can't remember what it is, your odds of getting that question right are pretty poor.

Lee Burgess: Which is not a good thing.

Alison Monahan: No, you really need a very detailed, very granular knowledge of the law and all the exceptions and all the details of it in order to do multiple choice well.

Lee Burgess: Yeah. So Alison, should we go through a multiple choice question together?

Alison Monahan: Let's do it.

Lee Burgess: Okay. All right, so here we go. Abel and Bernice were eating dinner at a lovely restaurant for their anniversary when Abel started to choke on a bone from his chicken dinner. Bernice started to scream, "Is there a doctor in the house?" Carl was a doctor. He was actually an ER doctor who had all the skills necessary to save Abel, but he was enjoying a souffle that he knew would not be good if it got cold, because souffle was his favorite dessert, so he turned up his headphones ... he was listening to his favorite podcast ... and ignored the commotion. Abel passed out from choking and hit his head on the dining table, where he sustained lasting head injuries, resulting in significant memory loss. He was unable to work for two years.

Bernice learned that Carl, an ER doctor, was in the room when Abel was choking. Along with suing the restaurant for negligence, Abel also brought a cause of action against Carl for not helping him. Will Abel prevail against Carl?

Alison Monahan: Great question. Shall we talk about it before we get to the answers?

Lee Burgess: I think so.

Alison Monahan: I think this is a great example of our favorite strategy for multiple choice, which is before you look at the answer choices, you should basically treat this like a small essay question and think about what your answer might be. So basically you have to spot the issues, you have to look at the facts, you have to think about the law, and then that's probably going to make it a lot easier to find the correct answer choice. So here, how do we go about thinking about this?

Lee Burgess: Well, I think just like any good fact pattern, you kind of need to go through line by line and start looking for those legally significant facts, because those are typically what the answer's going to turn on. So the fact that they're eating a lovely dinner at a restaurant for their anniversary is probably not so legally significant.



- Alison Monahan: Maybe the fact they're at a restaurant, it was public, but certainly not that it was their anniversary or that it was a nice restaurant, or it was dinner and not breakfast. None of that matters.
- Lee Burgess: Right, exactly. The fact that Abel starts to choke on a bone from his chicken dinner is something that is definitely legally significant. What about Bernice starting to scream?
- Alison Monahan: Well, I think it's a question of what she said. You know, clearly she's looking for a doctor. Oh, shockingly enough, someone in this hypo is indeed a doctor, and not only is he a doctor, he's an ER doctor. I wonder why that's in there? Does that matter?
- Lee Burgess: I don't know, but I probably need to circle that or underline it twice, because I think that the person who wrote this multiple choice question wanted to make special note that this person in the restaurant had the skills to save Abel.
- Alison Monahan: Right. And the fact that he's eating a souffle, maybe not so relevant. The fact that he turned up his headphones, maybe, maybe not.
- Lee Burgess: It definitely shows that he was not concerned about his need to help. Doesn't make him look good, but I don't know if it's legally significant.
- Alison Monahan: Right. I mean, the thing that jumps out to me in this hypo is that okay, this guy's an ER doctor, and then I think the next question that came to me, drawing on my way-back knowledge of tort law as well, does that mean anything? Does he have to do anything because of that?
- Lee Burgess: Right, exactly. And I think if you are thinking about your torts outline or your torts attack plan, duty of care should be the thing that is starting to come up in your brain, duty of care specifically-
- Alison Monahan: Percolating.
- Lee Burgess: Yes, percolating. Especially of a medical doctor, and when a medical doctor has a duty of care.
- Alison Monahan: Right. So at this point you're probably starting to churn through that knowledge about duty of care, like okay, generally speaking, a bystander has no duty to help. Okay, that's kind of the general rule. Is there any exception that applies here? You're wracking your brain. You can't remember. Hmm, you might be in trouble on this question.
- Lee Burgess: So then, after you've started to really think about this, then maybe you try and remember what the duty of care is for a doctor or duty of care for a bystander.



Does somebody have a duty to try and save somebody else? Alison, do you remember that rule?

Alison Monahan: Well, I'm pretty sure the general rule is there is no duty to help as a bystander, which seems morally repugnant, but that is the law. I would have to go back and look this up to be 100% certain, but my sense is the doctor does not have a duty to help, but once they start helping, I think there are some rules about they're more liable, or something like that. Maybe that's totally wrong. As I recall this answer, I recall this law, I think that it doesn't apply directly to the duty, but there is something about if he decided to help, maybe there's some other nuance that you would need to be aware of.

Lee Burgess: Right, and I believe that the special relationship that doctors have with their patients, which creates a heightened duty of care, you have to have a doctor-patient relationship. I just don't think doctors walking down the street have to help-

Alison Monahan: Yeah, I think once they start helping, they are held to like a higher standard of a reasonable doctor or something, so if they screw up, they're going to be more liable than just a random bystander who screws up.

Lee Burgess: Right. All right, so now that we've kind of chewed on this question, then-

Alison Monahan: Now that we've thrown out a bunch of buzzwords, but we don't really quite remember how they apply, let's read the answers.

Lee Burgess: We can go through the answer choices. So again, the question is, "Will Abel prevail against Carl for not helping Abel?" And answer choice A is, "Yes, because he has a duty as a medical doctor to provide help as long as it doesn't put himself in danger." So this goes to the point, Alison, we were just talking about, is the rule that as a medical doctor he has to help?

Alison Monahan: Does that rule exist or not?

Lee Burgess: Does that rule exist or not? B is, "Yes, because even if he helped and Abel had gotten hurt, he would be protected as a good Samaritan." There's legal rules about that. And then we just talked about that maybe there's a different rule for a doctor.

Alison Monahan: So that one may or may not be legally accurate.

Lee Burgess: May or may not be legally accurate. I think the other thing that's kind of interesting to me about that is it doesn't mention the fact that he's a doctor, or it doesn't really relate to the fact that he's a doctor, so that makes me a little questionable about that option.



- Alison Monahan: Right, and it's also kind of a counterfactual, like if he had helped and he had gotten hurt, but that's not really the point of the question, because he didn't help.
- Lee Burgess: And this is about duty of care, right? The answer choice C is, "No, because there is no heightened duty of care for medical doctors to help the general public." Well, that kind of sounds like what we were noodling on, so we'll maybe make a little check mark next to that one. And then D is, "No, because there's no special relationship to other patrons of the restaurant." So again, we see some tort buzzwords here: "good Samaritan", "special relationship", "heightened duty of care". So you can see that the person who wrote this question was weaving in legal terminology that should ring true in your brain, and these are known as "distracters".
- Alison Monahan: Right. So if you had not thought about your answer, you might read these and be like, "Oh yeah, that sounds great to me," and check off the box, move on. But you might well be wrong.
- Lee Burgess: Yeah, you're like, "Oh, I remember reading about the good Samaritan doctrine. Maybe that's the answer." But it's not. The answer is C, because there's no heightened duty of care for medical doctors to help the general public, and as the person who wrote this question, I can be very confident in that answer.
- Alison Monahan: Well, and also I think it's interesting in this case, in terms of test-taking, A and C are basically mirror images of each other, so there's a pretty decent chance one of those is correct, and you just have to know what the law is. So if you see that sort of situation ... I mean, not always, but typically, if it's like he has a duty or he doesn't have a duty, they really want to see if you know what the answer is legally.
- Lee Burgess: Right. So as you can see, even if you don't 100% know the law as well as you might like, that you can use the facts to really kind of chew on the answers and lead you to a correct answer or very close to the correct answer. And I think that that's important to know, because the facts are going to have to give you clues to give you the answer. The only way you can figure out the answer is through the facts, and then some law that you've memorized. So you have to become an expert at just kind of reading the facts and looking for those clues. Like we were talking about, the fact that he's a doctor is very important, clearly. It's mentioned multiple times in the fact pattern, where they specify he's an ER doctor, he clearly has specialized knowledge, and so that's got to be an important part of this answer choice.
- Alison Monahan: Right. I think sometimes people could get distracted with choice D, which is, "No, because there's no special relationship to other patrons of the diner." You know, that kind of sounds good, but what is it really even saying? And it's really



vague, and it could apply to a lot of different situations. Typically, if you're trying to choose between two reasonable options, you're going to want to go with the one that's more specific. So C would be a better answer, because it's specifically zeroing in on this heightened duty of care for medical doctors, which is really what this whole question turns on.

Lee Burgess: Yeah. As a review, since if you're listening to this on a podcast, you don't have a copy of this question, and you might be thinking, "Okay, thanks for that." Here are kind of the main takeaways. Think about approaching multiple choice questions as almost a short answer, so you read the facts pattern and the call of the question, and then think about what your answer might be if you didn't have answer choices. This is going to help protect you from those distracters, and it's going to allow you to go into looking at the answer choices kind of already having applied the law to the facts, having an idea of what you think is the correct outcome.

Alison Monahan: Yeah, and sometimes you'll get these really bonkers choices that don't make any sense unless you've already formulated an answer. I saw a contracts question recently along these lines, where if you just read the answer choices after reading the fact pattern, you'd be like, "None of these seem relevant at all. What are they even talking about here?" The question was actually super easy. It really had to do with when you dropped off something and the contract said FOB, which means freight on board, I think, but essentially anyone who's ever studied contracts or studied for the bar should immediately ... I mean, that's one of those facts that's like, "Oh, okay."

Because what that tells you is where the liability shifts, and all you had to realize was, "Oh, the liability shifted to person A instead of person B," and then the answer choice was this really convoluted thing that basically brought you back to the liability. Once you understood that, it was like, "Oh, duh. Well, of course this person doesn't have to pay." But it was one of these things like there was no way you could have gotten to that without already figuring out basically who had the liability.

Lee Burgess: Yeah. I think that makes a lot of sense. And like you were also mentioning, that you've got to keep an eye out for the little phrases that sound really good, but you have to think about whether or not they're saying something, like answer choice D, which just kind of mentions special relationship, but it doesn't really mean anything.

Alison Monahan: Right. It reminded me of a physics professor I once had in high school, I think, who, if you got your exam back and it had a bunch of "TBI" all over it, you knew you were not going to get a nice grade, because what he meant was, "true but irrelevant". So a lot of this stuff is like, well, that might be true. For example, answer choice B, because even if he helped and Abel had gotten hurt, he would



be protected as a good Samaritan. I'm not sure that's legally accurate, but assume it is. It's like, okay, that's true but it's totally irrelevant, because he didn't help, so why are we even having this conversation?

Lee Burgess: Yeah. I mean, these are tricky, and this question doesn't even test super-complicated law.

Alison Monahan: It is pretty easy as these go.

Lee Burgess: This is pretty direct law. I mean, when you get into evidence multiple choice questions, where you're talking about prior bad acts and you're talking about who can present evidence on what side, it's testing very specific knowledge of nuanced rules, and that can be very frustrating. But the good thing is, is that with practice, like our answer to almost everything, with practice you can get much better at doing these types of multiple choice questions, and you can start to see how these nuances are tested over and over again. So when you see it again, it's like, "Oh, I have seen the prior bad acts nuance tested before, so I've learned that law, and now I can apply it to this different question.

Alison Monahan: Right. I mean, certain things come up over and over and over again, because they are easy to test. For example, a classic one in property is duties to a trespasser versus an invitee, that kind of thing. Again, that's really specific. You need to know exactly what those duties are. But once you know that, you just see it over and over. You're like, "Oh yeah, this is the trespasser question. This is the invitee question." They might flip the answers and have it be a "not" or something, but basically, there are only so many different types of questions you can actually test, and so the more of them that you do, obviously the more you're going to start that pattern recognition.

I mean for me, studying for the MBE, I missed literally every Fourth Amendment question for a very long time, because I'd had a crazy professor who thought the police could do whatever they wanted. Turns out that's not really the case. So I had to do a bunch of those questions before I started to see, "Okay, your first instinct is that the police can do whatever they want. You know that's not right, so slow down and think about what they're actually allowed to do, and you've seen other questions about this." There it's sort of what can you do with the trunk of a car, or a traffic stop, or stopping someone on the street? There's a limited universe that the more you see it, the better you're going to get.

Lee Burgess: Yeah, absolutely. And multiple choice questions as a method of studying can very easily highlight for you areas of the law where you don't know what you're talking about, like you said with the Fourth Amendment. If you're looking for some different ways to test your knowledge, studying for exams, I think multiple choice questions can be an excellent way to do that. If you don't have multiple choice questions on your test, you can still use them as open-ended fact



patterns, because they're still going to test nuances of the law, and they're still going to test your reading of the facts and your legal analysis, which is what essay questions do as well.

Alison Monahan: I think the point that they really do point out what you don't know in a very clear way is gold when you're studying, because it's very easy, you know, you do a practice test, you kind of skim through the answer, you're like, "Oh, I got most of that." But you don't realize that actually you have a fundamental misunderstanding of, say, individual duties in torts for different types of people, because how often does a doctor show up? Probably not that often. But if you see it three times in a multiple choice question and you get it wrong every time, you're probably going to learn that law.

Lee Burgess: Right. Or if you get this one wrong, and you go look up the law about duties of professionals, then you might remind yourself of all these different unique duties and when they apply, and then another type of specialized duty for someone being an expert could pop up, and then you're like, "Oh, I reviewed that, because I screwed up that doctor question."

Alison Monahan: Don't you wish that people would ever run down the street or an airplane or in a restaurant, be like, "Is there a lawyer in the house? I need a lawyer." It never happens. And of course you know there would be no duty for the lawyer to help, because lawyers are the ones who write the rules. And if they did help, you know that they'd have a provision to make sure they get paid.

Lee Burgess: You know what, the thing is, though, in the current day and age, I feel like that we might come up with a situation in real life where people are running down the halls looking for a lawyer.

Alison Monahan: This is a good point.

Lee Burgess: Oy, yeah. It is interesting when you start to do a lot of these, and guys, I hate multiple choice. Let me just throw that out there. I am not naturally good at them. I have had to study for every type of standardized test that I have taken.

Alison Monahan: You even tutored for the SAT.

Lee Burgess: I did. I tutored people for the SAT, because that's how much I disliked it, that I felt like I had to pay it forward, and so during law school, I was an SAT tutor. Over the years of training myself to take these tests, and even now I kind of wish, although I would never put myself through this, to go back and retake the MBE, because I'm sure I would do much better, because I have now studied these questions in a way that I never studied them when I was studying for the bar. Because I was just taking them and hoping I got them right.



- Alison Monahan: See, I was the opposite. It was like the only reason I passed the bar exam was the MBE. I always joke I got through life on being charming and having a lot of good multiple choice test-taking skills.
- Lee Burgess: It's a good skill to have.
- Alison Monahan: Yeah. Maybe somebody, they kind of flip their thinking from like just dread like you have, Lee, to I almost thought of them like a game. It was almost like, "Oh, this is kind of an interesting logic problem. Let me work through this," in a way that I sort of found essay questions to be overwhelming and much scarier, because here, even if you don't know the law, you at least know it's focused on one specific thing. So I don't know. I think if you can flip your thinking and say, "Oh well, I'm going to approach this as a game," that kind of thing, maybe that would help you be more positive about studying for these and taking them.
- Lee Burgess: Yeah. I think if nothing else, with practice and thoughtful evaluation of what you're struggling with, you can get better, whether it's in law school or on the bar exam. So it is just worth investing the time and really digging into them, and by coming up with these different ways of approaching it, like we were recommending, as a short answer question, or there are a variety of other tactics, you can also maybe undo some anxiety that you might have around multiple choice questions, because they do feel very different than the ones that you've seen in the rest of your educational career.
- Alison Monahan: Right, and I think sometimes the problem is, particularly law students feel like they don't have any way to get these questions to practice on, because understandably, most professors aren't going to release that many.
- Lee Burgess: No, because they're very hard to write.
- Alison Monahan: They're really hard to write. They might want to reuse them year after year with slight variations, perhaps. But it's not like writing an essay exam, where they're like, "Okay, you can release that question." It was effort, but it's not the same level of effort to get these multiple choice questions written. I mean, the good news, however, is by and large they're basing them on the bar exam, because that's the whole point. I mean, not every professor. You sometimes hear about people who just want to know what the case name is for this set of facts or something. That's fairly rare. Most professors are going to be essentially basing them on the bar exam questions. So that means the good news is you have access to those for most of the 1L subjects.
- Lee Burgess: Right. So just as a quick review, the subjects that are going to be in bar prep materials for the multiple choice are contracts, criminal law and criminal procedure, con law, evidence, torts, property, and civ pro. So you have pretty much your core 1L and some of your 2L classes are in that list. And most law



libraries have some sort of bar books on reserve, or supplements. Other than the major bar review companies that do produce multiple choice questions, we also like the [Emmanuel Strategies and Tactics books](#) for MBE prep as well.

Alison Monahan: That's a great book even for law students to have, because it has a ton of questions, and they also give you, as the title would suggest, some strategies for approaching different types of questions.

Lee Burgess: Yeah. I think their questions are solid, and I think you can always invest in it and know it's going to pay off eventually, because you're going to use it, possibly, as part of your bar prep as well. Some other supplements, sometimes the [CrunchTime books](#) have multiple choice in them, so you can ... Before you go invest a lot of money in supplements, you might go to the law library and see what is on reserve, and flip through them and make sure that they have exactly what you're looking for.

Also, some schools give you access to [CALI Exercises](#), and this is usually something free that you can get through your school's portal. They have a lot of multiple choice questions. Students really like going through those. They can help test your knowledge. Even if you're not taking multiple choice tests, I think CALI exercises are a great way to study. And one of my personal favorites is you can actually get a group of your friends together and write your own multiple choice questions.

Alison Monahan: Oh my gosh, so fun.

Lee Burgess: So fun. So this is one of my favorite assignments when I was teaching a couple of classes as an adjunct in law school is to assign out to my class, because one, it was fascinating. And I would only make everybody write one or two, but if you have 25 people in your class, that's 25 multiple choice questions or 50 multiple choice questions. It's a lot harder than you think to actually write these, but that practice of writing them does show you the process that the professor is going through, both by selecting the legally significant facts and then looking for believable answer choices, both of which are important to kind of learn about. So I think it's a worthwhile exercise.

Alison Monahan: Oh yeah, I think it would be really enlightening for people. I mean, I feel like if I were to do this, the first thing I would decide is okay, what's the legal rule that I'm testing? And then you build everything else around that. So you really start with that legal rule, and it's probably going to be something that's a little bit tricky.

Lee Burgess: Yeah, not exactly like the big legal rules, like not homicide is the killing of another human being with malice aforethought.



Alison Monahan: Like oh, okay. You do actually, you often see questions where it doesn't tell you that there was something like malice aforethought, and that's a really good one to test, because students do skip over it, because it seems so obvious. But that's an element of the rule. Does the question say anything about malice aforethought? Does it give you facts to support that? If not, that's not murder, it's not homicide.

Lee Burgess: Exactly. Or you'll also get a homicide facts pattern where it's a pregnant woman is on the stairs. It's never just going to be easy, like how many counts of murder would a defendant be liable for if a pregnant victim was killed after being pushed down the stairs? These are like the tiny things that professors are looking for to see if you really understand how this material plays out.

Alison Monahan: Yeah, it's almost always going to be the nitpicky stuff, or it's going to be stuff that's written in some way that's actually a simple answer, but it's super-confusing to get to that answer.

Lee Burgess: So if you are really, really, really struggling with multiple choice questions, you should not just throw up your hands and say, "I guess I will just not do well on multiple choice," and then fail the bar. We do not recommend that. We really want you to start working on this as soon as you can in your legal career, because listen, they're not going to change the bar and eliminate multiple choice questions.

Alison Monahan: Too bad. In some states, like in California, it just got even more important, because they eliminated a day of essays, so you've got 50% of your score is now the MBE. So if you are taking the bar in California, and you've always struggled with multiple choice, well sorry, your life just got harder.

Lee Burgess: Yeah, exactly, so this is not something that you want to ignore as part of your legal career. So your professors, especially if they're going to use multiple choice questions on their exam, are probably going to be willing to talk to you about multiple choice. If you go there and they are not particularly helpful, you can go to your academic support office. Oftentimes, they have access to a lot of bar materials. They might be able to help point you in a direction to get access to some additional materials. You might have a TA for your class. Maybe they have taken those multiple choice questions that will show up on your test, and they can kind of let you know, are they, say, testing the case names like you mentioned earlier, or is it a more bar-type question?

Or you can talk to a [tutor like our team](#) to help you work through questions and get more comfortable and figure out what your own individualized process should be. So multiple choice questions are tricky, but with practice you really can get better at them, I promise. I promise. All right. What do you think, Alison, do you think that's plenty to chew on about multiple choice questions?



Alison Monahan: I think we are already over time, so let's call it a day.

Lee Burgess: Sounds good. If you enjoyed this episode of the Law School Toolbox Podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. If you are thinking about the bar exam and concerned about multiple choice on the MBE, stay tuned as we will soon be launching the Bar Exam Toolbox Podcast.

Alison Monahan: Sounds exciting.

Lee Burgess: I know. I can hear the excitement from our listeners right now. That podcast will be focused on all things bar exam-related, and we will talk more about multiple choice questions and how to succeed on all parts of the bar exam. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at [Lee@LawSchoolToolbox.com](mailto:Lee@LawSchoolToolbox.com) or [Alison@LawSchoolToolbox.com](mailto:Alison@LawSchoolToolbox.com), or you can always contact us via our website [contact form](#) at [LawSchoolToolbox.com](http://LawSchoolToolbox.com). Thanks for listening, and we'll talk soon.

## RESOURCES:

- [Emanuel Strategies and Tactics](#)
- [Crunch Time Series](#)
- [CALI Lessons](#)