# Online Learning in Law Schools –the Pandemic Experiment

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**ABSTRACT:**

Using methods from epidemiology and disaster research methods and data collected by the National Conference of Bar Examiners (NCBE), this study observes the effects of law students learning online during the COVID-19 Pandemic government mandated closure and transition to online learning. The effects are measured by two measures: Multi-state Bar Examination (MBE) scores because this is consistently given in all states (except one); and the bar passage rate for all jurisdictions. This experimental method is used in catastrophic events when conditions not normally testable can be tested due to the extreme events. These effects can be observed over all law schools which online learning during the period for the classes of 2020, 2021, 2022 and 2023. The findings did not agree with at least one hypothesis. Overall, law students performed slightly better on standardized testing on legal analysis and knowledge (the MBE) with all online learning; but did progressively worse on the overall bar examinations for their jurisdictions the more years they experienced online learning. This presentation will seek to explore this analysis and explain the findings and conclusions.

## The pandemic learning environment in law school

The pandemic set up the largest scale experiment in online learning in law schools, to date, that spanned every law school in the United States. The government mandated closure of law schools and transition to online learning came at a time when online learning was being mastered by law professors over the past decade. Almost every law school likely had one or more "experts" on online learning from which to draw on for knowledge and skill.

## Data used

On March 13, 2020, a federal government mandate closed schools, governments and businesses due to the COVID-19 pandemic.[1] This required an immediate shift to online learning for all law courses, over the weekend, March 14-15, 2020. Approximately midway through the spring semester, the remainder of all classes were online. The Class of 2020 was the first class to graduate and experience learning law online as a class (one half of the last semester), but the Classes of 2021 and the 1L Class of 2022 were impacted with the balance of their law school experience being most if not all, online. Many, if not most law schools were returning to face-to-face

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[1] https://www.federalregister.gov/documents/2020/03/18/2020-05794/declaring-a-national-emergency-concerning-the-novel-coronavirus-disease-covid-19-outbreak

classes during the 2022-2023 academic year. The end the COVID-19 National and Public Health Emergency Declaration was ended on May 11, 2023.[2]

For this research study, the classes of 2020, 2021 and 2022 are the focus of the effects of online learning in law school.

The Multistate Bar Examination (MBE) nationwide results were used for the first part of this study and the bar passage rate for each state was used for the second part of this study.

## Methods

There is a special category of research called disaster research that uses these otherwise tragic moments to gain some benefit from studying it, originally drawing from the field of epidemiology.[3] The National Science Foundation supports a center that focuses on social science research in disasters, Social Science Extreme Events Research (SSEER) network,[4] and there are also areas in many fields associated with disasters, like transportation, structural disasters and geotechnical fields.[5]

Being aware of the structure of a disaster is important in framing the research. There is preparedness, disaster, response and recovery stages in disasters. This study is set in the first two categories. Observations are made about the impacts of the pandemic learning transition and execution in online learning.

## The Multi-State Bar Examination

The Multi-state Bar Examination is the common test given to all law students taking any bar examination (except Louisiana).[6] It is used in this study as one measure of how student learning and performance may have been impacted by learning law, online. Because the Multi-state Practice Test (MPT) is not given in all states including large states like California, Florida and Virginia, this measure was not included in this study.[7]

Using the mean score for the February and July tests, for all jurisdictions, plotting by year, the following Graph 1, shows this data from 2014 to the most recent year available, 2023. The year 2014 was a significant year because there was a drop in 5% in MBE passing test-takers.[8] However, data was available from 2009, so Graph 2, charts the data from 2009 to 2023 to create a more accurate trend line.

[2] https://archive.cdc.gov/www_cdc_gov/coronavirus/2019-ncov/your-health/end-of-phe.html .

[3] Malilay, Josephine et al. "The Role of Applied Epidemiology Methods in the Disaster Management Cycle" 104, no. 11 (2014) at https://stacks.cdc.gov/view/cdc/32754 .

[4] https://converge.colorado.edu/research-networks/sseer/researchers-map/

[5] https://converge.colorado.edu/research-networks/

[6] https://thebarexaminer.ncbex.org/2023-statistics/the-multistate-bar-examination-mbe/#step4 .

[7] https://thebarexaminer.ncbex.org/2023-statistics/the-multistate-performance-test-mpt/

[8] Robert R. Kuehn and David R. Moss, "A Study of the Relationship between law school course work and bar exam outcomes," 68 J. Legal Ed. 623-649 (Spr 2019) at https://jle.aals.org/home/vol68/iss3/7/ .
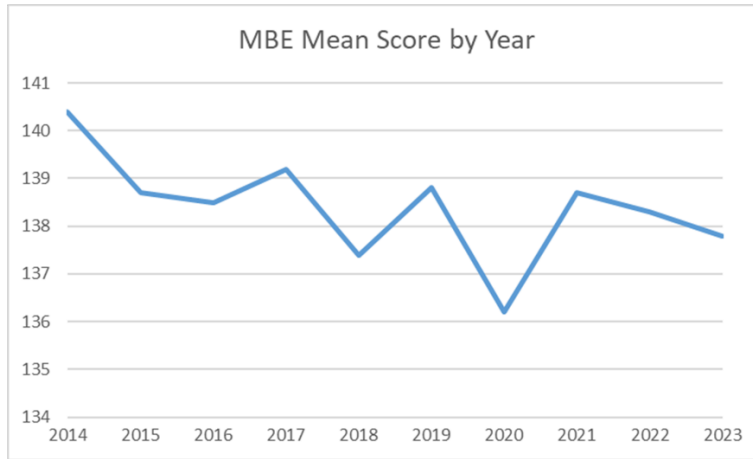
Graph 1. MBE Mean Score by Year.
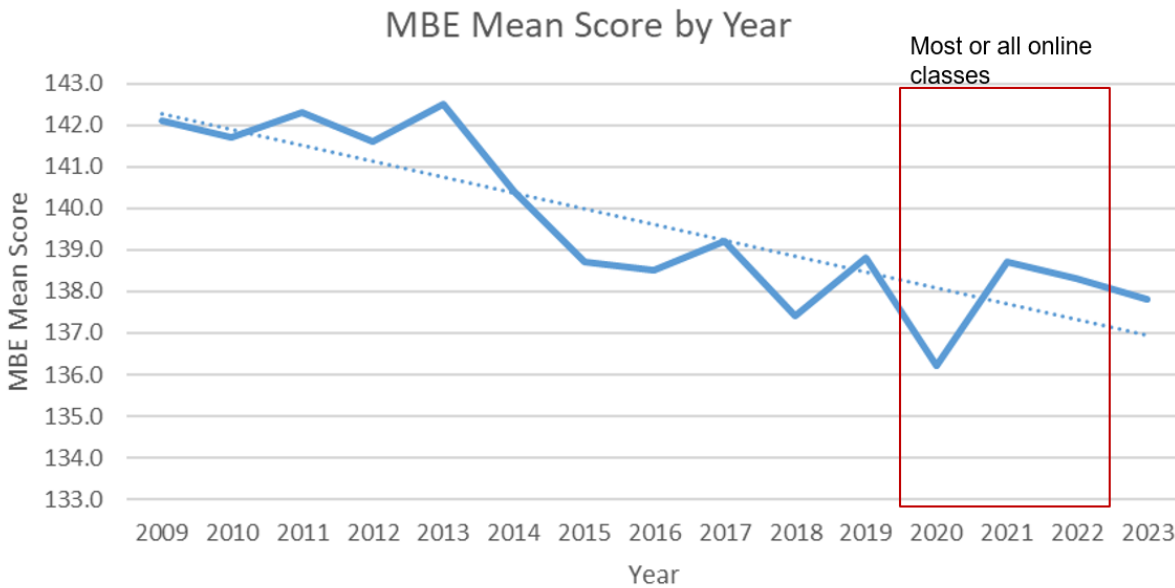


Graph 2. MBE Mean Score by Year. 2009-2023, Trend line, online courses

**Analysis**

The MBE mean scores across all jurisdictions and territories from 2009 to 2023 yield a trend line that shows how each year deviates from the trend line. Examining the period where online classes were being exclusively used, the 2020 year drops significantly below the trend line, but then rebounds significantly above the trend line in 2021 and 2022.

Examining the MBE mean scores from 2009 to 2023 there are alternating increases and decreases for all years except 2013-2015, so the period of 2021 and 2022 rising in these consecutive years is not the normal expectation. The drop in 2021 may be the expected drop from the previous years rise in the MBE score, or it could have been the effect of one half of the last semester being taught online. It is more likely

it is the trend of MBE scores than the effect of one-half semester on a three-year period of law school.

For the years 2021 and 2022 and going into 2023, the MBE scores are above the trend line. Because these years are all online teaching, except 2023 with two of three years of online teaching, they are a good measure of the effect. The effect is that MBE scores actually increased above the trend line for both 2021, 2022 and 2023.

**Conclusion on MBE analysis**

From this data, not only did online learning not impact students negatively, it led to better scores on the MBE than the trend line would predict. After the initial transition which resulted in a dip in scores in 2020, there is a correlation with higher scores and online learning. There is no other significant change in law school structure of classwork during that time, other than teaching online.

**Bar passage rate measure**

The bar passage rate is another measure or indictor to compare our conclusion in the previous analysis of the MBE mean score. Bar passage rate is determined on a state by state basis as to what the cut off score will be, and that varies from year to year and from state to state. Thus, this measure is not as uniform or consistent across time and states.

For this analysis, the state-by-state determination of a cutoff score for the MBE, which would not be evident in the previous analysis, is part of the bar passage rate. The overall bar passage rate for the states and territories by year is expected to show a trend and any impact from online learning in 2020, 2021, 2022 and into 2023 (Graph 3.)

As in the previous analysis the conditions were the same: online learning for the class of 2020 was only one half of the last semester; whereas the class of 2021 had online learning for the next two years. The class of 2022 was impacted from their 1L year through their 3L year, and the class of 2023 had two years of online courses.

% Bar Passage Rate in the U.S. by Year
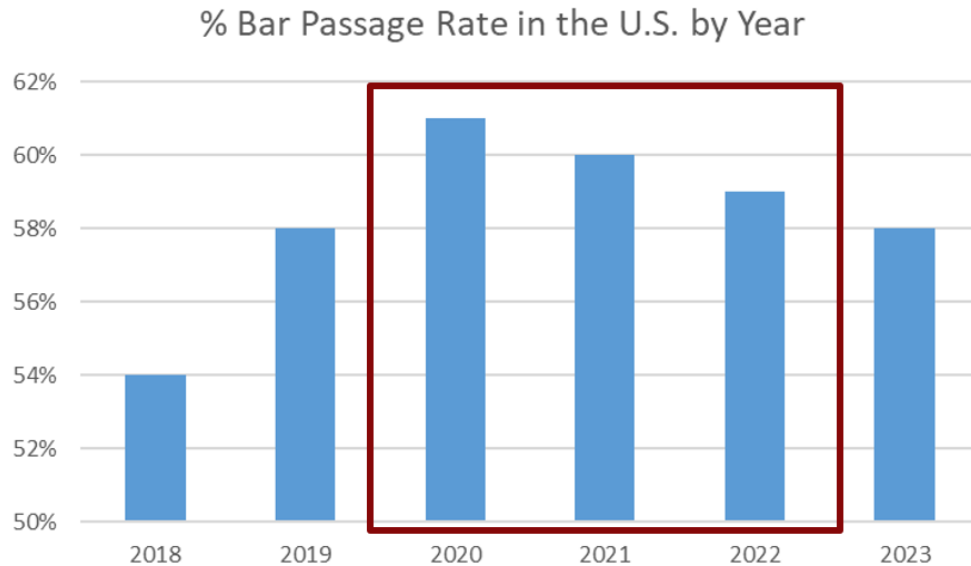
Graph 3. Bar passage rate in the U.S. by Year, 2018 - 2023

**Bar intervening factors**

Some states beginning with Louisiana gave "diploma privileges" to graduates in lieu of a bar exam that would require taking a test in person in a large gathering which was against state mandates for large gatherings in most states. (This should not appreciably alter the percent passing the bar exam overall, nationally.)

Bar exams administrations had technical difficulties but they should have been the same across the MBE as well as the rest of the bar exam parts.

**Conclusion of Bar Passage Rate Analysis**

The bar passage rate increased from 2019 to 2020 by 3 Percentage points, then decreased in a linear trend from 2020 to 2022, indicating a negative impact from online classes for bar passage rate. The intervening factors may have skewed the results in that the change in testing conditions and the variation from state to state in their cutoff score.

Yet, the decline over the period 2020-2023 suggests that the skills and knowledge needed beyond the MBE were negatively impacted, which would include practice skills like memorandum writing or other tasks, which may have been under-developed due to isolation in traditional person to person exchanges and discussions. But this is speculation and there is no causation that can be attributed for this drop other than state variation.

There is also a dropout rate in law schools during this period that may have had an impact on bar passage rates, but the dropout rate would be expected to have the same impact on MBE scores which it did not.

**Overall conclusion**

This study using the MBE and the bar passage rate for each state, as measures of the impact of online learning in law schools, shows two different indications. The MBE

showed a higher than expected score trend from 2021-2023. The bar passage rate showed a consistent decline rate from 2020-2023, indicating an increasingly negative effect from online learning on bar passage rate.

The MBE goes into the determination of bar passage rates, so there is some overlap in their measures.

This conflicting finding between the MBE scores and the bar passage rate could indicate bar passage rate may be driven by other factors since these are state determinations. Pipelines into the state may be controlled to some degree by the bar passage cutoff score, and these determinations would confound the results of measuring the impact of online learning on bar passage rates. It could also indicate other parts of the bar exam, like the practice section, may have affected the bar passage score more than the MBE. More study of the impact of online learning on legal education could further elucidate these findings.

The success of law faculty moving to online learning for law students is demonstrated in these findings on the increasing scores of the MBE. Having learned new methods of teaching online that may be improvements in use of time, efficiency and learning, legal education will never go back to the way it existed before the pandemic.[9] These results, at least on the MBE measure, indicate that online legal education has been a success in learning the law, employing new methods of online learning.

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[9] Corcos, Christine, "Legal Uncertainties: COVID-19, Distance Learning, Bar Exams, and the Future of U.S. Legal Education" (2022). *Journal Articles*. 461.
https://digitalcommons.law.lsu.edu/faculty_scholarship/461