

# The Formal Structure of MBE Answer Choices

BY RICH KLARMAN

Rich Klarman is a private tutor based in Ann Arbor, Michigan. Since 1992, he has helped hundreds of students conquer the LSAT, law school coursework/exams, and the bar exam. To learn more, visit <http://testguru.com>.

[pub.testguru.com/mbe-answer-structure.pdf](http://pub.testguru.com/mbe-answer-structure.pdf)

## The “Classic” MBE Answer Choice is Comprised of 3 Distinct Components:

### Result

*e.g., prevail, guilty, unconstitutional, inadmissible, liable, excluded, etc.*

### Logical Connector

*e.g., if, because, since, unless, only if, even though, etc.*

### Reason

*e.g., plaintiff failed to exercise reasonable care, declarant is unavailable, the regulation constitutes an undue burden on interstate commerce, defendant is not a merchant, etc.*

## Learning to Exploit this Structure Helps You Score More Points on the MBE.

By using the format of the exam against the exam itself, you can enhance your multiple-choice guessing yield substantially. Certain answers that may appear horrible to the uninitiated may, in fact, be golden — i.e., clearly worth a full, non-discounted point. Other answers that are highly seductive (again, to the uninitiated) may be easily eliminated by those of us in the know, due to formal, structural considerations.

Just to make it clear: What we’re talking about now has nothing to do with learning law, per se. Rather, it has to do with learning test-taking techniques that allow you to maximize your MBE performance *for a given level of legal knowledge*. Obviously, no amount of test-taking trickery will enable you to pass the bar exam without adequate substantive preparation. At the margin, however, being savvy about the structure of the MBE makes a difference. In fact, it makes an enormous difference — it’s a big margin!

## **A Very, Very Easy Exercise — Identify the 3 components in the following examples:**

- (1) Liable, because there were hypodermic needles in the tuna salad.
  
- (2) Not liable, if plaintiff assumed the risk.
  
- (3) Liable, only if Otis was acting within the scope of his employment when he crashed into plaintiff.
  
- (4) Admissible, even though the statement is hearsay.
  
- (5) Excluded, because the confession was obtained through torture.
  
- (6) Not guilty, unless defendant should have known victim was 15 years old.
  
- (7) Plaintiff cannot recover against Amos, since plaintiff can recover against Boris.

## **The Logical Connectors have Particular, Synthetic Meanings on the MBE.**

The logical connectors specify what kind of relationship exists between the reason and the result. Although the logical connectors consist of ordinary, commonly used English words — “if,” “unless,” “because,” etc. — their meaning on the MBE does not correspond exactly with how we generally understand these words out in the world. Therefore, we need to clarify their meanings on the MBE as precisely as we can, which will occupy us throughout this document.

Note that the *meaning* of particular logical connectors has nothing to do with what the reason and/or the result are. That is why we can study them apart from any discussion of substantive law (although we will choose to illustrate some of them with law-related examples).

It's Useful to Divide the World of Logical Connectors into Two Broad Domains:

## The “If” Type

if,  
only if,  
unless,  
others...

In evaluating any answer of the “if”-type, **you must take the reason as given** — i.e., you are not asked to find support for the reason in the setup. The issue is simply whether the reason (taking it to be true) would be an appropriate reason for reaching the result. Of course, the meaning of “appropriate” will vary, depending on which “if”-type logical connector we happen to be dealing with.

## The “Because” Type

because,  
since,  
even though,  
others...

Evaluating any answer of the “because”-type, involves a **2-step process**:

**Step (1)** Is the reason factually supported by the setup augmented by commonsense reality (and legally supported by the corpus of American law)?

If (and only if) the answer to Step (1) is yes, do we continue with the analysis...

**Step (2)** Is the reason an appropriate reason for reaching the result (the meaning of “appropriate” varying depending on which “because”-type logical connector we happen to be dealing with)?

Admittedly, this is all rather a bit abstract. Let's get our heads around it: We'll define each of the different logical connectors more precisely. Then we'll clarify how they function by considering several examples showing them in action.



**IF :: Is the reason sufficient to produce the result?**

Given the reason, can you infer the result?

**ONLY IF :: Is the reason necessary for the result?**

Given the result, can you infer the reason?

**UNLESS :: Is the negation of the reason sufficient to produce the result?**

Given the negation of the reason, can you infer the result?

**EVEN IF :: Is the reason insufficient to prevent the result?**

Given the reason, is the result nevertheless reachable?

**BECAUSE/SINCE :: (1) Is the reason supported factually by the setup augmented by commonsense reality (and legally by the corpus of American law)? And, if so (and only if so), (2) is it a good reason for reaching the result?**

Notice that in Step (2) I've hedged a bit by using the language "good reason." I do this, because it's not exactly clear what kind of logical nexus "because" requires — the term is inherently ambiguous, sloppy.

Consider the following illustration: "Rich Klarman likes coffee, because it helps him wake up in the morning." I can assure you that coffee does indeed help me wake up in the morning, and that fact is one thing I very much like about it. However, I like coffee for other reasons too. On occasion, I've even been known to imbibe it (decaf) late at night. So the fact that coffee helps me wake up in the morning is not necessary for my liking it. And sometimes — if I'm really, really sleep-deprived — no amount of coffee will keep my eyes open. So coffee is (at least in these rare instances) not sufficient to help me wake up. Hmm... So is it true that I like coffee *because* it helps me wake up in the morning? We'd probably say so. And in saying so we'd be conceding that "because" requires neither necessity nor sufficiency, but rather just some sort of "good" fit. Whatever.

Consider another illustration: "Rich Klarman got a speeding ticket, because he was speeding." What if Rich Klarman was merely one of five motorists traveling in a cluster, all of whom sped by Officer Friday's radar gun at 83 mph? What if Officer Friday chose to ticket only Klarman because Klarman stole his girlfriend back in high school (by the way, this entire example is fictional)? Well, in one sense, Klarman was ticketed *because* he was speeding (had he not been speeding, Officer Friday, not being an utterly crooked cop, wouldn't have issued a citation). But, in another sense, Klarman's ticketing was not *because* he was speeding; rather, it was attributable to Officer Friday's long-held grudge. Whatever.

**EVEN THOUGH :: (1) Is the reason supported factually by the setup augmented by commonsense reality (and legally by the corpus of American law)? And, if so (and only if so), (2) is the result nevertheless reachable?**

These examples are based on this setup.

**SETUP:** Bob lives in Kalamazoo. Bob lives with an iguana named Igor and a goldfish named Gavin.

**ANSWER CHOICES:**

**(A) Bob lives in Oklahoma, if Kalamazoo is entirely contained within the borders of Oklahoma.**

This is a **great** answer. This is an “if”-type answer choice. We must therefore take the reason as given. If Kalamazoo *were* entirely contained within Oklahoma, then we could indeed conclude that Bob lives in Oklahoma.

**(B) Bob lives in Oklahoma, if Kalamazoo is close to Tulsa.**

This is a **terrible** answer. It’s not terrible because Kalamazoo is not close to Tulsa (after all, this is an “if”-type answer choice). Rather, it’s terrible because being “close to Tulsa” doesn’t imply being within Oklahoma (after all, Wichita, *Kansas* is pretty close to Tulsa).

**(C) There is at least one lizard in Kalamazoo, because iguanas are lizards.**

This is a **great** answer. The analysis of a “because”-type answer choice is a 2-step process: First, is the reason supported by the setup or by actual reality? Here, the reason is true, because iguanas are indeed lizards. Second, is the reason a good reason for reaching the result? Here, it is, since Igor lives with Bob in Kalamazoo, and Igor (being an iguana) is a lizard.

**(D) There is at least one monkey in Kalamazoo, if iguanas are monkeys.**

This is **gold!** And it doesn’t matter that the reason (“iguanas are monkeys”) is utterly unsupported — behold, the power of the “if”-type! But compare it with the following...

**(E) There is at least one monkey in Kalamazoo, because iguanas are monkeys.**

This is a **terrible** answer. The reason is patently false. After all, iguanas are not monkeys. Because the reason is not supported, this answer choice is garbage.

**(F) Bob is single, unless he happened to find a significant other who likes reptiles.**

This is a **terrible** answer. The negation of the reason is not sufficient to ensure the result. Maybe Bob’s wife detests all reptiles, but she feels that Bob has so many other redeeming qualities that she tolerates Igor’s presence in their living room. Alternatively, maybe she doesn’t like reptiles in general, but she finds Igor to be an exceptionally engaging conversationalist.

**(G) There is at least one iguana in Michigan, unless Kalamazoo is not in Michigan.**

This is a **great** answer. If Kalamazoo *were* in Michigan, then at least one iguana (Igor) *would be* in Michigan. The fact that Kalamazoo actually *is* in Michigan doesn’t undermine this analysis one bit.

**(H) There is at least one iguana in Wayne County, unless Kalamazoo is not in Wayne County.**

This is also a **great** answer. If Kalamazoo *were* in Wayne County, then at least one iguana (Igor) *would be* in Wayne County. The fact that Kalamazoo actually *isn’t* in Wayne County doesn’t undermine this analysis one bit.

**(I) Bob lives in Michigan, even though he lives with a reptile named Igor.**

This is a **great** answer. Bob does indeed live with a reptile named Igor. Therefore, the reason is supported. And that reason does not prevent the result from obtaining, which is the logical nexus that “even though” requires.

**(J) Bob doesn’t live with any reptile, even though he lives with Igor.**

This is a **terrible** answer. Bob does indeed live with Igor. Therefore, the reason is true. However, that reason does prevent the result from obtaining — after all, Igor is a reptile!

**(K) Bob lives with at least one cold-blooded animal, only if reptiles are cold-blooded.**

This is a **terrible** answer. Even if reptiles were warm-blooded, Bob would still live with a cold-blooded animal (Gavin, the goldfish). Because the result could obtain even in the absence of the reason, the requirements of “only if” are not satisfied.

### Example — Exploiting the Elemental Structure of a Cause of Action:

P sues D for negligence. P will:

- (A) Prevail, if D failed to exercise reasonable care.
- (B) Lose, if D exercised reasonable care.

Which answer is better? (B) is clearly better than (A) — and I don't even have to know anything else about the hypothetical! If the defendant *in a negligence action* exercised reasonable care, then he did not breach his duty. Therefore, one of the elements of plaintiff's cause of action — *breach* — is not met. This is fatal to plaintiff's cause of action. That is, the reason in (B) is sufficient to produce the result in (B).

Contrast this with (A). In (A) we are told that the defendant was negligent. However, there are myriad ways in which plaintiff might still not prevail — e.g., perhaps defendant's breach was not a proximate cause of plaintiff's harm; or perhaps plaintiff was contributorily negligent; or perhaps plaintiff is defendant's employee, and the negligence in question occurred within the scope of employment (thus workers' comp will be the exclusive remedy); and on and on and on. I'm not saying that (A) is wrong. I'm just saying that (B) is gold, whereas (A) depends on additional considerations.

### Example — Be an Open-Minded Exploiter:

Beavis bought a used MG from Dimitri's Auto Planet, a used car dealer. Two weeks later, Beavis was driving the MG down Woodward Avenue. As he approached the red light at Jefferson, Beavis stepped on the brake pedal. The brakes failed suddenly, utterly, and without any warning. Beavis's car proceeded through the red light and wound up crashing into Penelope, who was sitting on a bench in Hart Plaza.

Penelope sues Dimitri's Auto Planet. Penelope will:

- (A) Lose, if defendant exercised reasonable care in inspecting and furnishing the MG to Beavis.
- (B) Win, if the brakes on the MG were defective at the time defendant sold the car to Beavis.

Which answer is better? Here, answer choice (B) is clearly better. If we knew that Penelope were suing for negligence, then (A) would be gold (see previous example). But we don't know what cause of action Penelope is bringing. We don't know, because the question itself did not specify a cause of action, and the situation described (a product malfunctioning) may give rise to a negligence action or a strict products liability action.

Answer choice (B) avoids this difficulty. If the brakes were defective at the time defendant sold the car, then Penelope will prevail (under the strict liability theory). In other words, in (B) the reason is sufficient to guarantee the result.

In (A), in contrast, the reason is not sufficient to guarantee the result, because Penelope can recover — in strict liability — even if defendant was utterly careful in every way!

Capiche?