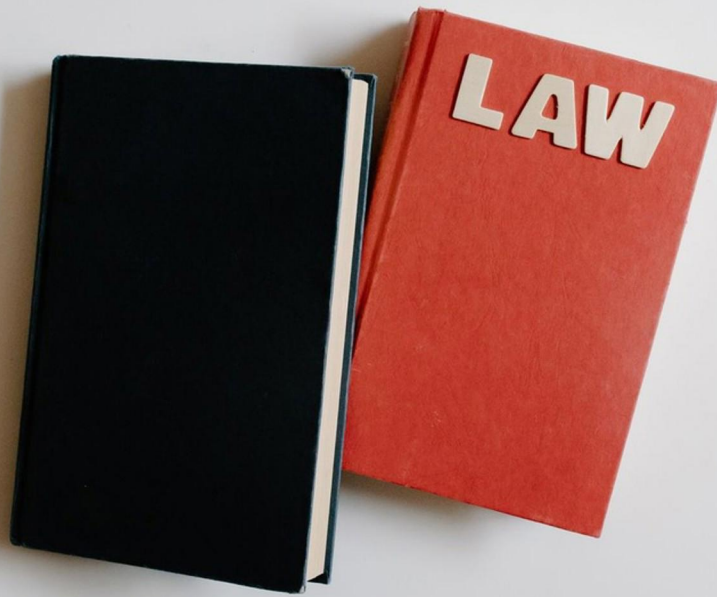


MBE EVIDENCE PRACTICE EXAM (SAMPLE)

STUDY GUIDE



**SAMPLE STUDY GUIDE
WITH LIMITED QUESTIONS**

**VISIT US ONLINE FOR
THE FULL VERSION STUDY GUIDE**

<https://mbeevidence.examzify.com>



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Introduction

Preparing for a certification exam can feel overwhelming, but with the right tools, it becomes an opportunity to build confidence, sharpen your skills, and move one step closer to your goals. At Examzify, we believe that effective exam preparation isn't just about memorization, it's about understanding the material, identifying knowledge gaps, and building the test-taking strategies that lead to success.

This guide was designed to help you do exactly that.

Whether you're preparing for a licensing exam, professional certification, or entry-level qualification, this book offers structured practice to reinforce key concepts. You'll find a wide range of multiple-choice questions, each followed by clear explanations to help you understand not just the right answer, but why it's correct.

The content in this guide is based on real-world exam objectives and aligned with the types of questions and topics commonly found on official tests. It's ideal for learners who want to:

- Practice answering questions under realistic conditions,
- Improve accuracy and speed,
- Review explanations to strengthen weak areas, and
- Approach the exam with greater confidence.

We recommend using this book not as a stand-alone study tool, but alongside other resources like flashcards, textbooks, or hands-on training. For best results, we recommend working through each question, reflecting on the explanation provided, and revisiting the topics that challenge you most.

Remember: successful test preparation isn't about getting every question right the first time, it's about learning from your mistakes and improving over time. Stay focused, trust the process, and know that every page you turn brings you closer to success.

Let's begin.

How to Use This Guide

This guide is designed to help you study more effectively and approach your exam with confidence. Whether you're reviewing for the first time or doing a final refresh, here's how to get the most out of your Examzify study guide:

1. Start with a Diagnostic Review

Skim through the questions to get a sense of what you know and what you need to focus on. Your goal is to identify knowledge gaps early.

2. Study in Short, Focused Sessions

Break your study time into manageable blocks (e.g. 30 – 45 minutes). Review a handful of questions, reflect on the explanations.

3. Learn from the Explanations

After answering a question, always read the explanation, even if you got it right. It reinforces key points, corrects misunderstandings, and teaches subtle distinctions between similar answers.

4. Track Your Progress

Use bookmarks or notes (if reading digitally) to mark difficult questions. Revisit these regularly and track improvements over time.

5. Simulate the Real Exam

Once you're comfortable, try taking a full set of questions without pausing. Set a timer and simulate test-day conditions to build confidence and time management skills.

6. Repeat and Review

Don't just study once, repetition builds retention. Re-attempt questions after a few days and revisit explanations to reinforce learning. Pair this guide with other Examzify tools like flashcards, and digital practice tests to strengthen your preparation across formats.

There's no single right way to study, but consistent, thoughtful effort always wins. Use this guide flexibly, adapt the tips above to fit your pace and learning style. You've got this!

Questions

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- 1. A bystander tells an officer 'He just tried to take it, that hooligan in the red jacket! He had a gun!' and another officer repeats the description. The statements fall under which hearsay exception?**
 - A. The statements are admissible only if the declarant is unavailable.
 - B. They are admissible as excited utterances.
 - C. They are admissible as non-hearsay under the dying declaration exception.
 - D. They are admissible as present sense impressions and therefore not hearsay, regardless of availability.

- 2. Attorney-client privilege generally protects communications for seeking or receiving legal advice, with limited exceptions.**
 - A. Yes; the privilege applies to all communications, regardless of purpose.
 - B. No; there are no exceptions.
 - C. Yes; the privilege generally protects communications made for seeking or receiving legal advice, with limited exceptions.
 - D. No; the privilege only protects documents, not communications.

- 3. Evidence of prior acts to show motive or plan is allowed under Rule 404(b). Which purpose is permissible?**
 - A. Admissible only to show propensity.
 - B. Not admissible at all.
 - C. Admissible for purposes such as motive, opportunity, plan.
 - D. Admissible if the prior acts were admitted into evidence.

- 4. In a jurisdiction with a rebuttable presumption that a person missing for more than seven years is dead, which statement about burdens is correct?**
 - A. It precludes contrary evidence from being considered.
 - B. It shifts the burden of production, but not persuasion, and may be overcome by contrary evidence.
 - C. It shifts the burden of persuasion to the opposing party.
 - D. It requires the judge to direct the jury to accept the presumption automatically.

- 5. May a court admit a summary of a voluminous statistical dataset under FRE 1006?**
- A. Yes; but the underlying data must also be admitted.
 - B. No; the entire dataset must be produced.
 - C. Yes; a summary may be admitted with appropriate foundation.
 - D. Yes; summaries are admissible without any foundation.
- 6. When a witness's memory is refreshed with a writing, which statement is true?**
- A. The writing may be introduced as evidence of the matter.
 - B. The witness's memory must be refreshed by the writing only.
 - C. The adverse party has no right to inspect the writing.
 - D. The writing may be produced for examination, and if the witness cannot recall fully, the record may satisfy the recorded recollection exception.
- 7. Which item is not subject to the best evidence rule?**
- A. A contract written on paper.
 - B. A video recording.
 - C. A three-dimensional scale model.
 - D. A photograph.
- 8. Which of the following elements is necessary for the business-record exception to apply?**
- A. Kept in the regular course and made at or near the time of the act
 - B. Must be notarized
 - C. Must be created by a public official
 - D. Must be authenticated by a custodian
- 9. Under FRE 804(b)(1), former testimony is admissible if the declarant is unavailable and the party had an opportunity to examine.**
- A. Yes; former testimony is admissible when the declarant is unavailable and the party had an opportunity to examine.
 - B. No; former testimony is never admissible.
 - C. Yes; but only if the testimony was given at a previous trial.
 - D. No; the declarant must testify at the current trial.

- 10. A witness testifies to a fact; the opposing party seeks to introduce evidence of the witness's bias against the party. Is bias admissible under FRE 607-609?**
- A. No; bias cannot be proven by extrinsic evidence.
 - B. It is admissible only to show bias regarding the party calling the witness, not generally.
 - C. It is never admissible under FRE 607-609.
 - D. Yes; bias is a valid impeachment basis and may be proven by extrinsic evidence in many cases.

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Answers

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1. D
2. C
3. C
4. B
5. C
6. D
7. B
8. A
9. A
10. D

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Explanations

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1. A bystander tells an officer 'He just tried to take it, that hooligan in the red jacket! He had a gun!' and another officer repeats the description. The statements fall under which hearsay exception?
- A. The statements are admissible only if the declarant is unavailable.
 - B. They are admissible as excited utterances.
 - C. They are admissible as non-hearsay under the dying declaration exception.
 - D. They are admissible as present sense impressions and therefore not hearsay, regardless of availability.**

Present sense impressions describe what a person perceives or describes as the event is happening or immediately after. Here, the bystander states what he just observed—someone trying to take something and having a gun—essentially at the moment of perception or right after. The statement conveys the event in real time, not a delayed reflection, and the fact that another officer repeats it doesn't remove that immediacy. This exception applies regardless of whether the declarant is available, so availability isn't required. It's not a dying declaration, which hinges on an expectation of imminent death, nor is it necessarily an excited utterance, which focuses on a declarant's own emotional stress about the event. So these statements fit the present sense impression exception.

2. Attorney-client privilege generally protects communications for seeking or receiving legal advice, with limited exceptions.
- A. Yes; the privilege applies to all communications, regardless of purpose.
 - B. No; there are no exceptions.
 - C. Yes; the privilege generally protects communications made for seeking or receiving legal advice, with limited exceptions.**
 - D. No; the privilege only protects documents, not communications.

Attorney-client privilege is designed to protect the confidentiality needed for honest and thorough legal advice. It covers communications between a client and a lawyer that are made for the purpose of seeking or receiving legal advice, with the understanding that the information is intended to be confidential within the context of the legal representation. That's why the correct statement says yes, with limited exceptions. Think of it this way: the privilege helps ensure that the client can be candid with counsel, which is essential for providing effective legal help. But it isn't absolute. It has well-defined limits. If a communication is not made for obtaining legal advice, or if confidentiality is destroyed—such as by a third party being present or the client sharing the content outside the necessary legal context—the protection may not apply. There's also the crime-fraud exception, where seeks or uses legal advice to plan or commit wrongdoing; in those cases, the privilege does not apply. And while the privilege protects the communications themselves, it does not blanketly shield every factual detail or every form of document outside the confidential exchange that was meant to facilitate legal advice.

3. Evidence of prior acts to show motive or plan is allowed under Rule 404(b). Which purpose is permissible?

- A. Admissible only to show propensity.
- B. Not admissible at all.
- C. Admissible for purposes such as motive, opportunity, plan.**
- D. Admissible if the prior acts were admitted into evidence.

Under Rule 404(b), evidence of other acts is allowed when it helps prove a fact about a defendant's motive, opportunity, or plan, not to show that the defendant is simply a bad person. So prior acts can be used to explain why the charged conduct happened, or to show a pattern or scheme, as long as the evidence is relevant to a specific issue other than character. This makes the evidence probative for reasons like motive, opportunity, or plan, rather than proving propensity. That's why the best answer says it's admissible for purposes such as motive, opportunity, plan. It isn't about showing propensity, and it isn't automatically admissible in all circumstances or only if the acts were already admitted.

4. In a jurisdiction with a rebuttable presumption that a person missing for more than seven years is dead, which statement about burdens is correct?

- A. It precludes contrary evidence from being considered.
- B. It shifts the burden of production, but not persuasion, and may be overcome by contrary evidence.**
- C. It shifts the burden of persuasion to the opposing party.
- D. It requires the judge to direct the jury to accept the presumption automatically.

A rebuttable presumption acts as a provisional rule that kicks in when the triggering fact is shown, but it isn't a final resolution. Here, showing that a person has been missing for more than seven years creates a presumption that the person is dead. That presumption helps move the case along, but it isn't conclusive. Once the presumption applies, the burden of production shifts to the party against whom the presumption operates. That party must bring forward evidence to rebut the presumption and show that the person is alive or that death hasn't been established. The ultimate burden of persuasion, however—deciding whether death has actually occurred—remains with the party who would have to prove the death in the first place. The presumption can be overcome by contrary evidence. So the statement is correct because it accurately describes how a rebuttable presumption works: it shifts the burden of production but not the burden of persuasion, and it may be overcome by contrary evidence. The other options misstate how the burdens or the effect of the presumption operate.

5. May a court admit a summary of a voluminous statistical dataset under FRE 1006?

- A. Yes; but the underlying data must also be admitted.
- B. No; the entire dataset must be produced.
- C. Yes; a summary may be admitted with appropriate foundation.**
- D. Yes; summaries are admissible without any foundation.

Under FRE 1006, you can present a summary of voluminous writings or data when the materials are too bulky to examine conveniently in court, as long as the originals or duplicates are available for inspection or copying. The key is providing appropriate foundation that the underlying materials exist and can be reviewed by the opposing party. That's why the best answer is that a summary may be admitted with appropriate foundation. The admissibility of the summary does not require admitting the entire dataset; it just requires that the underlying materials be available for inspection, ensuring transparency and the right to examine the originals if needed. The other options aren't correct because they either demand admission of the entire dataset or say no foundation is needed, which misstates the rule.

6. When a witness's memory is refreshed with a writing, which statement is true?

- A. The writing may be introduced as evidence of the matter.
- B. The witness's memory must be refreshed by the writing only.
- C. The adverse party has no right to inspect the writing.
- D. The writing may be produced for examination, and if the witness cannot recall fully, the record may satisfy the recorded recollection exception.**

When memory is refreshed with a writing, the writing serves to jog the witness's recall rather than automatically proving the facts. The opposing side has the right to inspect that writing. If the witness still cannot recall the details, the writing can be read into evidence under the recorded recollection exception, provided the writing was made when the event occurred or near that time and the witness can vouch for its accuracy. This combination—production for examination and the possibility of reading the writing under the recorded recollection exception—is why this option is correct. The other statements aren't accurate: the writing isn't automatically evidence of the matter, memory isn't required to be refreshed only by writing, and the adverse party does have a right to inspect the writing.

7. Which item is not subject to the best evidence rule?

- A. A contract written on paper.
- B. A video recording.**
- C. A three-dimensional scale model.
- D. A photograph.

The main idea here is the Best Evidence Rule, which requires the original writing, recording, or photograph to prove its content. An original is the item itself or an exact duplicate with the same legal effect, and the rule covers writings, recordings, and photographs for proving the contents of those items. A contract written on paper fits the category of a writing, so its contents generally must be shown by producing the original contract or a true duplicate, subject to usual exceptions. A video recording is a recording, so its content typically must be proven with the original recording or an equally authentic duplicate. A photograph is a photograph, so the same principle applies. A three-dimensional scale model, however, is not a writing, recording, or photograph. It serves as demonstrative or physical evidence to aid understanding but does not prove the contents of a writing, recording, or photograph by itself. Therefore, it is not governed by the Best Evidence Rule in the same way; you can use the model alongside other evidence without needing the original contract to prove its contents. So, the item not subject to the Best Evidence Rule is the three-dimensional scale model.

8. Which of the following elements is necessary for the business-record exception to apply?

- A. Kept in the regular course and made at or near the time of the act**
- B. Must be notarized
- C. Must be created by a public official
- D. Must be authenticated by a custodian

The main concept is the reliability basis for the business-records exception: a record must reflect the regular course of business and be created at or near the time of the act. This contemporaneous creation and routine practice help show that the record is trustworthy and not a later fabrication. The essential element here is that the record is kept in the regular course of the business and made at or near the time of the act, by someone with knowledge or from information transmitted by someone with knowledge. That combination provides the foundation for admitting the record under the business-records rule. Not required are notarization, creation by a public official, or mandatory authentication by a custodian. A custodian may testify to the record's origin and contents, but authentication by a custodian is not itself a separate required element for the exception to apply.

9. Under FRE 804(b)(1), former testimony is admissible if the declarant is unavailable and the party had an opportunity to examine.

A. Yes; former testimony is admissible when the declarant is unavailable and the party had an opportunity to examine.

B. No; former testimony is never admissible.

C. Yes; but only if the testimony was given at a previous trial.

D. No; the declarant must testify at the current trial.

Under FRE 804(b)(1), former testimony is admissible if the declarant is unavailable and the party against whom the testimony is offered had an opportunity to examine the declarant about the same subject matter. The important points are unavailability of the declarant and the prior opportunity to cross-examine or examine on the record. This rule lets the weight of prior sworn testimony stand in the current case when the witness cannot testify now, preserving reliability and preventing surprise. So this is why it's allowed: the declarant is unavailable, and the opposing party had a chance to examine the declarant earlier, satisfying the procedural safeguards of confrontation and reliability. The option stating that former testimony is never admissible is incorrect. The option limiting admissibility to testimony from a previous trial is too narrow, since depositions and other prior sworn proceedings also qualify. The option requiring the declarant to testify at the current trial ignores the unavailability condition that the rule requires.

10. A witness testifies to a fact; the opposing party seeks to introduce evidence of the witness's bias against the party. Is bias admissible under FRE 607-609?

A. No; bias cannot be proven by extrinsic evidence.

B. It is admissible only to show bias regarding the party calling the witness, not generally.

C. It is never admissible under FRE 607-609.

D. Yes; bias is a valid impeachment basis and may be proven by extrinsic evidence in many cases.

Bias is a form of impeachment focused on the witness's credibility. Under FRE 607, any party may attack a witness's credibility, and evidence of bias toward or against a party is admissible in many circumstances to show the witness may not be truthful. Extrinsic evidence can be used to establish that bias, such as relationships, motives, or interests that would incline the witness to lie or tailor testimony. The rule isn't limited to bias against the party who called the witness; bias toward any party in the case is relevant to credibility. (That separate rule, FRE 609, governs admissibility of prior crimes for impeachment and is not the same thing as bias.) Because bias impeachment is recognized and often admissible, it may be proven by extrinsic evidence in many cases.

Next Steps

Congratulations on reaching the final section of this guide. You've taken a meaningful step toward passing your certification exam and advancing your career.

As you continue preparing, remember that consistent practice, review, and self-reflection are key to success. Make time to revisit difficult topics, simulate exam conditions, and track your progress along the way.

If you need help, have suggestions, or want to share feedback, we'd love to hear from you. Reach out to our team at hello@examzify.com.

Or visit your dedicated course page for more study tools and resources:

<https://mbeevidence.examzify.com>

We wish you the very best on your exam journey. You've got this!

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