

Wisconsin's Diploma Privilege



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Overview

- History of DP
- Review WI Supreme Court Rules
- How DP operates in WI
- Statistics/Advantages
- DP and attorney discipline
- Litigation
- Reciprocity
- Final thoughts
- Questions



HISTORY

- The diploma privilege is not a Wisconsin invention
- Since 1842, 32 states and the District of Columbia have granted the diploma privilege
- As late as 1977, 5 states retained the privilege
- WI is the last one standing
- But in 2020 Utah offered a temporary hybrid



Three Primary Forms of the Diploma Privilege

- Universal (Diploma from any U.S. law school)
- Statewide (Graduate of any school within the state)
- State law school (Graduate of the in-state law schools only)



- Beginning in 1971, the WI Diploma Privilege took a stricter turn with the adoption of the “30 credit” rule and its companion “60 credit” rule.
- Students who attend either Marquette University Law School or the University of Wisconsin Law School must take and complete not less than 84 semester credits.
- Of those 60 credits, 30 must be in 10 designated subject areas.

Wisconsin Supreme Court Rules



SCR 40.03 (2) (a):

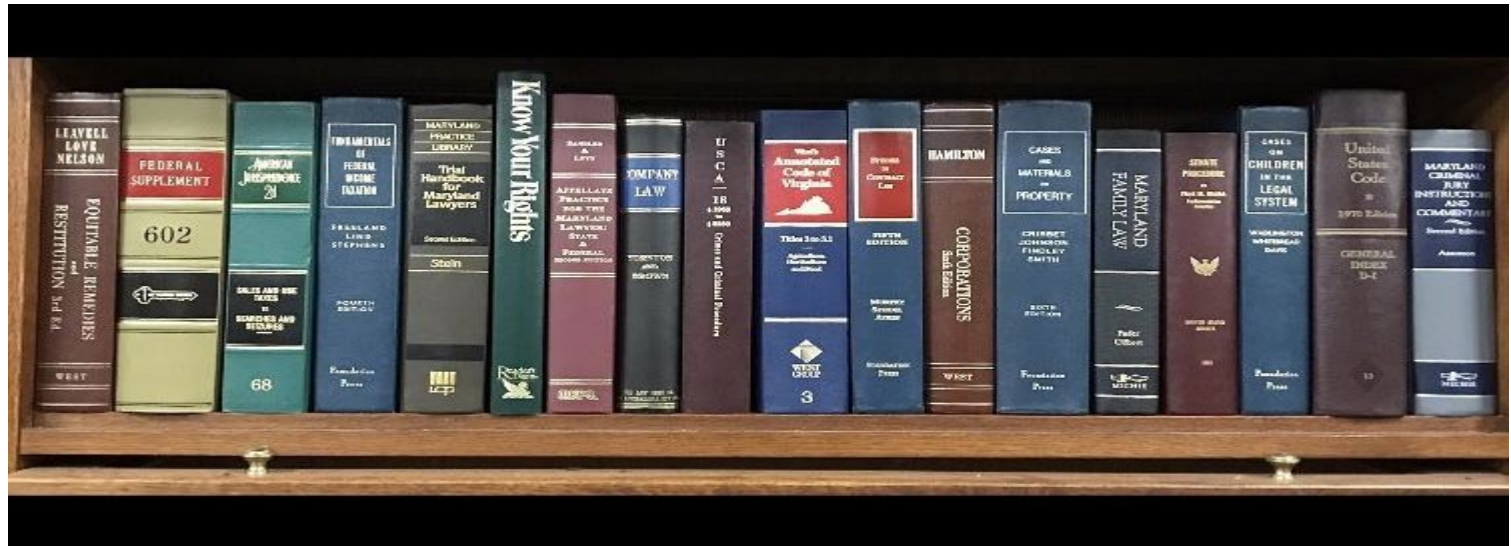
Not less than 60 semester credits must be earned in mandatory and elective subject areas

SCR 40.03 (2) (b): Not less than 30 of the 60 semester credits must be earned in 10 subject areas

SCR 40.03

The Ten Topics

Include:



- Constitutional law
- Contracts
- Criminal Law & Procedure
- Evidence
- Jurisdiction of Courts

- Ethics & Legal Responsibilities of the Legal Profession
- Pleading and Practice
- Real Property
- Torts
- Wills & Estates

How does the Wisconsin Diploma Privilege actually work?



- May graduates may apply for admission beginning in October of the year preceding their graduation
- Students must file an application, an authorization and release, and the application fee
- A character and fitness investigation is conducted for all applicants
- Graduation from a Wisconsin law school does not automatically guarantee admission



Statistics and Advantages of the WI Diploma Privilege

Over the past five years:

- 51% were admitted via Diploma Privilege
- 19% were admitted via the WI Bar Exam
- 30% were admitted via Proof of Practice (on Motion)

Advantages:

- No bar exam---lower cost to students
- Graduates tend to stay in state
- WI law schools tend to be more involved in local and statewide legal communities
- Fosters a close relationship between the judiciary, bar, and the law schools

Other Issues?



- No differences noted between DP admittees and those who took the WI bar exam in terms of disciplinary matters
- Far more issues attributable to other matters such as business acumen, interpersonal skills, financial pressures, AODA, mental health, etc.
- Competency as a factor in public disciplinary decisions is extremely low (approximately less than 1%)



Wiesmueller Decision

- In 2007, Christopher L. Wiesmueller, a student at Oklahoma City University School of Law, filed a Section 1983 claim against the WI BBE and the WI Supreme Court
- Wiesemuller asserted that WI's diploma privilege discriminated against interstate commerce because it afforded a DP in lieu of a bar exam only to individuals who graduated from WI law schools
- Although the case went before the 7th Circuit twice, Wiesemuller ultimately settled the suit with in March of 2010



STRICT -VS- FLEXIBLE

STRICT: Identical requirements or an agreement between jurisdictions

FLEXIBLE: Sufficient practice experience to enable admission

Conundrum: Is passage of a bar exam required?



Final thoughts about DP

“As someone who has graded the WI bar exam, I can tell you that an essay that will pass for bar exam purposes would fail if submitted to a UW Law School course.”

“I am much more likely to fail a WI law student because I know that there is no bar exam to do the job for me.”

“Bar exams force students into those classes covered by the examination, none of which are skills oriented. Thus bar exams work to make students less prepared for practice by emphasizing bar exam subjects in place of clinical skills.”

ANY QUESTIONS?



Thank You!

