

A Quick Guide to “Issue-Spotter” Questions

“Issue-spotter” questions (also called essay questions) provide you with a hypothetical (fictional) fact pattern (story). You should always read the question or prompt at the end of fact pattern, but in general your job is to: (1) identify all of the potential legal issues in the fact pattern; (2) identify and state the relevant legal rule(s); and (3) apply those rules to the facts presented to resolve the legal issues.

I. Reading the Exam

A. Managing Your Time

- When you receive the exam, count the pages to make sure you have the whole thing.
- Look at the number of questions on the exam and the points allocated if listed. Some professors give you the amount of time they think each question should take. Write down what time you will start and stop each exam question and stick to it. Even if you are not done, leave room. You can always come back and finish if there is more time.
- Generally, it is best to spend 1/4 to 1/3 of your time reading the question and outlining an answer. The rest of your time will be spent writing as fast as you can to get to all the points you want to make.
- Remember, there is no rule that says you have to answer the questions in order.

B. Reading the Question

- When you first approach a question, look at the last line or two to figure out what you will be writing about. This is the prompt or the *call of the question*.
- Read the fact pattern at least twice.
 - The *first time through*, you can probably spot some of the major issues.
 - The *second time through*, you can underline relevant facts, make notes in the margin, and jot down issues and claims.
- If you aren't sure that a particular issue is really worth spending time on, it is a good to glance over the calls of other questions on the exam.
 - If you know there is a question really aimed at remedies, for example, you know not to spend too much time on that in other questions.
 - Some people do this first thing when they get a multi-question exam.
- If you have any trouble spotting issues: Stop. Think. Breathe. Take a moment, and then hit it again.
 - If you really don't see any issues when you read a question, it's okay to do the next one and go back. Just remember that every exam question you look at will at first glance be “oh no! I don't know anything,” then,

“well, there is one issue I can see...” before you get to the “ok, so here we go” stage.

C. Outlining and Organizing Your Answer

- *Decide how you want to organize your answer up front by writing a brief outline.* Depending on the question, you may want to organize your answer by causes of action, by parties, or by major issues. Look at the question and decide which organization is the most logical and will keep you from repeating yourself. Make sure that your answer has a logical order. A good answer is generally easy to read, clearly expressed, and well organized.
- *Your outline should include major issues, parties, claims, relevant facts, cases, statutes, and Restatement sections you may want to use.* Outlining will help organize your answer and will help you to remember all of the arguments that you come up with.
- *Deal with the major issues first, so that if you don't have time to get to peripheral issues, it won't be a big deal.*
- *Follow IRAC or CRAC.* Although it isn't technically a requirement and need not be followed religiously, IRAC is a great tool when you have to write a lot of information in a short amount of time.

II. Writing the Exam

- A. A good exam will demonstrate your *analytical ability* by recognizing issues, your *understanding of the law* by proper application of the rules and by discussions of the theories and reasons for the rules, and your *reasoning ability* by developing factual arguments.
- B. *Use headings to keep issues and parties distinct.* When you get an exam, there may be seven parties and ten issues, all of which you may or may not want to discuss. Headings are a great way to show the reader where you're going with a section. They also help to keep you focused.
- C. *Underline or highlight important points.* The easier it is for a professor to see what you are getting at, the easier it will be for her to give you a point.
- D. *Keep your sentences short and to the point.* Do not try to express too many thoughts in one sentence. Shorter sentences are easier to read and understand. For the same reason, it is helpful to put distinct arguments into separate paragraphs.
- E. *Use the law.* State the rules, cite cases, and discuss splits in authority between jurisdictions or between editions of the Restatement. Reason by analogy to cases.

- F.** *Use the facts.* Spend most of your writing time on the “application” section of IRAC. Discuss facts in detail and analogize to and distinguish other cases. A skillful use of the facts might lead to the discovery of issues initially passed over.
- G.** *Use policy, but sparingly.* Policy arguments take time, but they may be useful to make an exception, extend a rule, or indicate a resolution where courts are split. Use policy as a tiebreaker, *e.g.*, argue why rule X leads to unfair results or why a particular outcome would be preferable in terms of the purpose of the rule or the behavior the outcome would incentivize/disincentivize.
- H.** *Argue all sides and then identify the most likely outcome.* You are being tested on *your ability to spot issues, argue all sides of each issue, and explain why you think the case will come out one way or the other.*
- You must come out with a conclusion at the end of your analysis. It is not enough to say, “This is a difficult issue that could go either way.”
 - If you reach a conclude that in real life would preclude further discussion of the elements or defense, be sure discuss the other elements and defenses anyway. If you don’t, you can’t get any more points.
 - Have fun with it! A wise old ASP tutor once said, “Why’d you come to law school if not to argue?”