EXAM WORKSHOP

Berkeley Law Academic Skills Program
October 7, 2020
October 28, 2020
November 18, 2020
STRESSED ABOUT EXAMS?

"Don’t think of it as a math test, think of it as binge solving."
MOTIVATION/FOCUS IN DIFFICULT TIMES

Healthy and safety come first
Self-care comes first
Your loved ones come first
Feed your soul
Focus on long-term goals
GROWTH MINDSET; LONG-TERM GOALS

Focus on the things you can control (how much work you put into your classes), not the thing you cannot control (grades).

You came to law school to learn how to be a lawyer, not to get good grades.

Focus on learning the skill of legal analysis.

Practice is the best way to improve, and you get more out of it when you put more into it.

Remind yourself why you are here -- what do you hope to do with your law degree?
TYPES OF LAW SCHOOL EXAM QUESTIONS

ISSUE-SPOTTER (“ESSAY”) QUESTIONS

MULTIPLE-CHOICE QUESTIONS

POLICY QUESTIONS
ISSUE-SPOTTER QUESTIONS

What skills are tested?

1. Identify legal issues
2. Identify the rules relevant to resolving legal issues
3. Perform legal analysis – apply the law to the facts
Identify **all** of the legal issues

But demonstrate an understanding of which legal issues (or sub-issues) are difficult and which are easy

Spend more time/space on the difficult issues (where the facts cut both ways) and far less time on the easy issues (where the conclusion is obvious)

Triage

1. IDENTIFY THE LEGAL ISSUES
2. Identify the Relevant Rules

State the rule(s) and sub-rules relevant to resolving the legal issues

Use IRAC structure with mini-IRACs for sub-rules

Use terms of art; avoid paraphrasing
### 3. PERFORM LEGAL ANALYSIS

<table>
<thead>
<tr>
<th>Apply</th>
<th>Apply the rule(s) to the facts</th>
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</thead>
<tbody>
<tr>
<td>Identify</td>
<td>Identify the facts that are relevant to resolving the legal issue</td>
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<tr>
<td>Discuss</td>
<td>Discuss the relevant facts in detail</td>
</tr>
<tr>
<td>Explain</td>
<td>Explain why the facts matter and why they point to one conclusion or the other (“So what?”) Spend more time on difficult issues and less time on easy issues</td>
</tr>
<tr>
<td>Compare</td>
<td>Analogize to and distinguish relevant cases</td>
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DEVELOP A PROCESS FOR ISSUE-SPOTTER QUESTIONS

1. Read the question or prompt first
2. Read the fact pattern once all the way through without taking notes
3. Read the fact pattern again and note the issues, underline key facts, etc.
4. Outline your answer with headings for each issue and sub-issue
5. Organize the issues chronologically
6. Use the IRAC structure to analyze each issue (use mini-IRACs for sub-issues)
7. Use policy considerations as a tie-breaker
8. Goal = clear and concise writing. Short paragraphs and short sentences.
# IRAC VS. CREAC

<table>
<thead>
<tr>
<th>IRAC (exams)</th>
<th>CREAC (memos or briefs)</th>
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<tbody>
<tr>
<td><strong>Issue</strong></td>
<td><strong>Conclusion</strong></td>
</tr>
<tr>
<td><strong>Rule</strong></td>
<td><strong>Rule</strong></td>
</tr>
<tr>
<td><strong>Application</strong></td>
<td><strong>Explanation</strong></td>
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<tr>
<td><strong>Conclusion</strong></td>
<td><strong>Application</strong></td>
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<tr>
<td></td>
<td><strong>Conclusion</strong></td>
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</table>
**Issue**

**Rule:** If X and Y, then rule is met.

**Sub-Issue X**

**Rule**

**Application**

**Conclusion**

**Sub-Issue Y**

**Rule**

**Application**

**Conclusion**

**Overall Conclusion**
CAUTION: DON’T JUST LIST THE ARGUMENTS

Plaintiff will argue X, Y, Z. Defendant will argue A, B, C.

What's missing?

The analysis!

Take an objective perspective: consider all of the facts on both sides and then determine how a court would decide the issue. Use case comparisons to guide your thinking.
SHOW YOUR WORK

• Don’t skip any steps
• Don’t jump to conclusions
• Discuss all of the issues and sub-issues (e.g., elements), regardless of your conclusion on prior issues
• Discuss relevant defenses even if you conclude the plaintiff’s claim likely fails

I think you should be a little more specific, here in Step 2
MULTIPLE-CHOICE QUESTIONS

• Less common on take-home exams
• Typically mini issue-spotter questions
• For mini issue-spotter/fact application questions, do IRAC on scratch paper and then look for the conclusion in the answer
• For other types of questions, read all of the answer choices, eliminate wrong answers, and then select the best remaining answer
• Answer every question, even if you must guess (after eliminating wrong answers)
• Read slowly and carefully
POLICY QUESTIONS

• Short essay format
• Asks you evaluate rules rather than apply them
• Both descriptive and normative arguments

• Typical questions:
  • A quote that takes a position – agree or disagree
  • “Discuss”
  • Proposed new rule
  • Implications of a doctrinal shift
HOW TO PREPARE FOR POLICY QUESTIONS

• Pay close attention in class and take notes on policy discussions

• In your outline, consider the policy considerations underlying every rule
  • What is the reason for or purpose of the rule?
  • Is the rule effective?
  • FIEP — Fairness, Incentives, Efficacy, Process

• Focus on the policy considerations discussed in class
GENERAL POLICY CONSIDERATIONS: FIEP

FAIRNESS

INCENTIVES & EFFICACY

PROCESS
FAIRNESS, INCENTIVES, EFFICACY, PROCESS

<table>
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<th>Incentives &amp; Efficacy</th>
<th>Process</th>
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</table>
| • Does this make the victim whole?  
• Is there fair notice?  
• Does this feel fair?  
• Is this fair to the defendant? Is it proportional?  
• Whom does this rule advantage/disadvantage and how?  
• Disproportionate impact on a particular group? | • Does the rule effectively carry out the intended purpose?  
• What behavior would this rule deter?  
• What behavior does this rule incentivize?  
• Could this have perverse incentives?  
• How would this impact insurance? | • Is this judicially efficient?  
• Is the jury equipped to resolve this issue?  
• Would this dramatically increase the number of claims?  
• What sorts of resources would need to be expended?  
• Has the rule been fairly applied in practice? |
1. Discuss/evaluate the old/current rule or the author’s position (use FIEP)

2. Discuss/evaluate the new rule or a contrasting position (use FIEP)

3. Take a position and explain the reasons for your position (use FIEP)
PREPARING FOR EXAMS

• Schedule time for reviewing and outlining
• Schedule time to take practice exams and do hypos
• Create a schedule for the exam period
  • Consider taking the exams that you are most worried about first
  • Consider taking the exam that you are least worried about last, when you are tired
  • Work backwards from your exam schedule to create a study schedule
• Communicate with family members and housemates about your exam schedule
OUTLINING

• No magic, not Mt. Everest
• Review your class notes and pull out the important stuff → what will help you on the exam?
• Include policy considerations
• Don’t get lost in too many resources
• Use another student’s outline as a template to get you started, but ultimately create your own outline
• An outline is a very personal tool; its value lies solely in how helpful and useful it is to you
WHEN IN DOUBT, PRACTICE!

Practice and testing are highly effective learning methods. Passively reviewing/reading information is not.

Practice way more than you think! If you are wondering whether you should review your notes or do a hypo, do the hypo.

First work through practice questions slowly to help you learn the material and develop a systematic approach.

Later do timed practices to simulate the pressure/adrenaline.

Compare your answer to a friend’s or a sample answer – look for IRAC structure and a detailed analysis of the facts. Or schedule a meeting with Senior ASP Fellow Haley Johnson.
TAKE CARE OF YOURSELF

GET LOTS OF SLEEP

MAKE TIME FOR MOVEMENT

CONNECT AND COMMUNICATE WITH LOVED ONES

VISIT NATURE
DAILY MINDFULNESS

1. Take a few deep breaths
2. Acknowledge how you are feeling
3. Connect with that emotion without judgment – name your feelings and welcome them
4. Extend compassion to yourself and others
TAKING OPEN-BOOK EXAMS

- Prepare for open-book exams as if they were closed-book
- Create a checklist of issues to make sure you don’t miss or forget anything
- Stay within the time limits for each question. If time limits are not provided, allocate time for each question.
- Develop a system for how to approach different types of exam questions and practice your system
- Make sure you know your professor’s policy on cutting-and-pasting or retyping directly from an outline
- Do not copy/paste or retype directly from any source other than materials you created yourself
RESOURCES

• Where can you find hypos and practice exam questions?
  ➔ Academic Skills Program website

• Where can you find more tips and advice?
  ➔ Academic Skills Program website

• Who can help?
  ➔ Academic Skills Program, Student Services, Berkeley Law Staff Psychologists, Tang Center

“Yes, love is the answer...but not on a math test.”