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
1. 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
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>
</tr>
</thead>
<tbody>
<tr>
<td>Identify</td>
<td>Identify the facts that are relevant to resolving the legal issue</td>
</tr>
<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

Read the question or prompt first

Read the fact pattern once all the way through without taking notes

Read the fact pattern again and note the issues, underline key facts, etc.

Outline your answer with headings for each issue and sub-issue

Organize the issues chronologically

Use the IRAC structure to analyze each issue (use mini-IRACs for sub-issues)

Use policy considerations as a tie-breaker

Goal = clear and concise writing. Short paragraphs and short sentences.
<table>
<thead>
<tr>
<th>IRAC (exams)</th>
<th>CREAC (memos or briefs)</th>
</tr>
</thead>
<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>
</tr>
<tr>
<td><strong>Conclusion</strong></td>
<td><strong>Application</strong></td>
</tr>
</tbody>
</table>
STRUCTURE: IRAC WITH MINI-IRACS

**Issue**

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

**Sub-Issue X**

**Rule**

**Application**

**Conclusion**

**Sub-Issue Y**

**Rule**

**Application**

**Conclusion**

**Overall Conclusion**
ISSUE
Basic Rule: $X$ and $Y$

Sub-issue $X$
Sub-rule for $X$
Key cases/examples (briefly)
Key policy considerations

Sub-issue $Y$
Sub-rule for $Y$
Key cases/examples (briefly)
Key policy considerations
EXAM ANSWER

ISSUE

The issue is ______. The rule is X, Y.

Sub-issue X

The rule for sub-issue X is _______. Here, [discuss the facts relevant to sub-issue X]. The facts here are similar to [case], where the court held ________, because __________. [More discussion of the facts and more case comparisons.] A court would likely conclude [conclusion on sub-issue X]. This outcome would be consistent with the policy considerations underlying rule because ______.

Sub-issue Y

The rule for sub-issue Y is ________. Here, [discuss the facts relevant to sub-issue Y]. The facts here are similar to [case], where the court held ________, because __________. [More discussion of the facts and more case comparisons.] A court would likely conclude [conclusion on sub-issue Y]. This outcome would be consistent with the policy considerations underlying the rule because ______.

Conclusion
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
SAMPLE ANSWER STRUCTURE

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)
GENERAL POLICY CONSIDERATIONS: FIEP

FAIRNESS

INCENTIVES & EFFICACY

PROCESS
## FAIRNESS, INCENTIVES, EFFICACY, PROCESS

<table>
<thead>
<tr>
<th>Fairness</th>
<th>Incentives &amp; Efficacy</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Does this make the victim whole?</td>
<td>• Does the rule effectively carry out the intended purpose?</td>
<td></td>
</tr>
<tr>
<td>• Is there fair notice?</td>
<td>• What behavior would this rule deter?</td>
<td></td>
</tr>
<tr>
<td>• Does this <em>feel</em> fair?</td>
<td>• What behavior does this rule incentivize?</td>
<td></td>
</tr>
<tr>
<td>• Is this fair to the defendant?</td>
<td>• Could this have perverse incentives?</td>
<td></td>
</tr>
<tr>
<td>Is it proportional?</td>
<td>• How would this impact insurance?</td>
<td></td>
</tr>
<tr>
<td>• Whom does this rule advantage/disadvantage and how?</td>
<td></td>
<td>• Is this judicially efficient?</td>
</tr>
<tr>
<td>• Disproportionate impact on a particular group?</td>
<td></td>
<td>• Is the jury equipped to resolve this issue?</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Would this dramatically increase the number of claims?</td>
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<td></td>
<td></td>
<td>• What sorts of resources would need to be expended?</td>
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<tr>
<td></td>
<td></td>
<td>• Has the rule been fairly applied in practice?</td>
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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.”