**So You Want to go to Law School**

**Part 6**

*Special Edition 1*  May 13, 2020

**Taking Law School Essay Tests**

*[Or if you are taking a test in one of my classes]*

 So you’re off to law school in the Fall. Congratulations and good luck. Might I offer a few suggestions on taking a law school test [or if you are hanging around as an UH undergrad for a while yet and are unlucky enough to run into one of my tests in one of my classes].

 **Essay Questions**: You think you’ve taken an essay test or answered essay questions before. You probably haven’t, at least not like a law school essay test. Depending on your law school professor, you will most likely have an essay test. They aren’t easy. Promise. And if that isn’t pressure enough, your whole grade will depend on that one essay test over all the material covered in that semester. If you were unlucky enough to have me as a teacher, my essay-like/short answer questions were easy compared to a law school question, like a light shower compared to *Harvey.* And don’t forget, you are going to run into really smart classmates in law school – I mean really, really smart. The competition just got real.

 The best way to do well on the test is to know the material backward and forward and be a killer writer with flawless logic. For the other two wishes the genie gave you ask for a full-ride scholarship and a case of good, 12-year-old, single-malt scotch.

 Why do most students screw up on essay tests? True, I have never taught law school, but I did go to law school and have recently talked to several graduates and current law students about their tests. Also, I have been giving essay and short answer test since, well for a really long time. I recently found several older articles about the downfall of many students on law school tests. Those articles combined with my experience in law school and many years teaching undergrad law and political science courses have lead me to conclude that why students mess up on my tests and those who stumble in law school are similar. So here goes.

***What can cause one to get a bad grade***

***on an essay test or question?***

**Reason 1**. You misread or did not carefully read the instructions for the test. This is one of the biggest reasons. It could also be one of the easiest to fix. Read and make sure you know and understand what is required. You just make it harder on yourself if you don’t follow the simple instructions the professor gives you.

**Reason 2**. You did not follow the format or instructions the instructor gave you for answering questions.

 a. Professors often give a word limit on answers to single questions. Remember many law school tests are three or four hours long – all essay – and the professors have 50 to 100 or more tests to grade. They don’t want you wandering all over the cow pasture with 30-page answers.

 b. Law Professors really like it if you use the IRAC or some similar method of answering questions. Some professors may require it.

 i. I’ve tried to teach a little of the IRAC method to my students with varying success. Law students that have kept in touch tell me that the IRAC method was very helpful in law school. Several stated that they felt it gave them a leg-up over the other students that didn’t have a formula or system for organizing their answers. It also works in real life to solve your personal or your client’s problems.

 ii. What is IRAC? It sounds pretty simple, but many students fail to follow it even if they know it. Using it will show your strengths and, unfortunately if you misuse it, your weaknesses in the material.

 iii. I do want to mention that it’s not as hard as it looks. It is really quite simple to remember and to follow. The problem is most students don’t fully use it or don’t use at all.

**IRAC**

IRAC stands for Issue, Rule, Apply/Analysis, Conclusion. The idea of **IRAC** is that students should scour the exam facts/story, **identify** as many **issues** as they can, state the **rules** or **law** relevant to the issues identified, **apply** the **law** to the facts and **analyze** how the law and facts affect the outcome of a legal controversy by understanding and discussing both sides of the issue [pro and con], then arriving at the **conclusion** for each issue.

**I** Identify **all** the relevant legal issues.

 The issues are within the facts; sometimes almost hidden. Remember what class

 you are in; the issues likely are on that topic. If you are in a torts class, it is

 unlikely the professor wants you to discuss the crimes the person committed.

 I see this all the time from my students. (Sigh)

 If the issue is reasonably raised, you must discuss it, even if it turns out not to apply

 or affect the outcome of the primary legal issues. It was raised, discuss it.

**R** Relevant Law/Rules from cases and statutes.

 Not just any laws, but the one or ones raised by the facts and the issues you’ve

 identified.

 Knowing the law is not enough. You need to know the ‘test’ that the courts apply to

 determine if the law applies to the given facts.

 For example, if the question deals with whether a contract exists, you will need

 to know and understand the elements of a contract and the items that may negate

 what appears to be a valid contract. There is an offer and an acceptance, but are

 the party competent? Is the contracts illegal or against public policy?

 Statute of Frauds problem? And on and on.

 Or, in constitutional or criminal law, what is the test to determine whether the police

 need a warrant to search a residence? What cases are relevant to the facts?

 Reasonable/unreasonable? Expectation of privacy? Oh, and you do know

 which Amendment, right?

**A** Apply the Law/Rules to the facts/issues.

 Develop your legal argument by applying the law to the facts.

 Draw a tentative conclusion arguing both the pros and cons of the relevancy or the

 outcome of the legal issue of the law you’ve applied to the facts/issues.

 Remember: this will also entail knowing the current ‘test’ that the

 courts apply to ascertain the outcome of the legal issue based on the given

 facts.

 Recognizing the strengths and weaknesses of both sides of a legal issue is one of

the most important thing a law student and a lawyer needs to know how to

do.

**C** Conclusion: Draw your conclusion arrived at by the legal argument best suited by the

 applicable law and current test and the relevant issues/facts.

 Support your conclusion.

If you took a law course or two at UH or somewhere else, you may have known the answers to the examples. I didn’t expect you to know right now. The examples were given as an illustration of the sort of questions you’ll be asking yourself to properly do IRAC, only there will be more questions to contemplate. Hopefully the professor will offer up the knowledge you need to excel. The learning and retaining part is up to you. In the *Special Edition 2,* I’ll discuss studying for tests in law school.

***Some more ways you may have messed up.***

**Reason 3**. Answer the SPECIFIC question asked for each fact pattern

 a. Too many students don’t answer all the questions posed within the question.

 i. Make sure you answer all the “?” that are in each question.

 b. Warning: many professors don’t give you any clues as to what the issues are. After a long fact situation, the professor may simply state: “Discuss all legal issues raised by the above narrative.”

 i. “**It's a trap**!” Admiral Ackbar recognized the trap to late and many students never realize that they’ve taken the bait and fallen into the trap. What many students do with an open-ended invitation is to spot the biggest, most obvious issue and write on that one issue. The trap is that they miss the other four minor issues that completely negate their analysis of the big issue.

 (a). Remember, the issues may be intertwined. For example, you read the ‘story’ the professor in your Con Law class has written and it is clear that Betty has a First Amendment issue concerning free speech. Yes, she does; there is no doubt. But is there also an equal protection issue based on her gender under the Fourteenth Amendment lurking there that needs to be addressed? If so, what is the test the courts currently use for gender discrimination? Or maybe it’s a *Yick Wo* problem under the Fourteenth Amendment and not a First Amendment problem.

**Reason 4**. Avoid making assumptions about the facts.

 a. Just use the facts you are given.

 b. Don’t add, delete, or change facts.

**Reason 5**. Avoid phantom issues that are not in the fact pattern.

 a. Is the issue *reasonably* raised by the facts? If so, discuss. If not, don’t.

**Reason 6**. Avoid brain-dumping information that is unrelated to analyzing the given issues.

 a. I often see this where a student isn’t sure of the answer, so they put on their hip waders, grab their shovel, and start piling it on. Even a city boy knows manure when he smells it.

**Reason 7**. Organize your answer in a logical manner that makes it easy to grade.

 a. This is not a game of hide-and-go-seek. Make it easy on the professor to follow your theory and conclusion. Make it flow.

 b. You may have the right answer, but if the professor can’t find it because you jump around and don’t have a carefully thought out plan to explain your conclusion, you just as well have not put it in.

**Reason 8**. Avoid verbose, convoluted, or flowery writing.

 a. Yes, we know you’re smart. You’re in law school. Don’t try to impress you professor with $5.00 words. As Joe Miller said in *Philadelphia,* “Explain it to me like I’m a six-year-old.” Okay maybe not that simple but you’re not going to win any points with the professor by making her go to the dictionary.

 b. And to your friends and family you may be funny, but save it for later. The professor is the only one that’s allowed to be funny on a test. You need to play it straight.

**Reason 9**. Budget your time.

 a. Don’t spend half of your time answering one question when you have to answer four questions. I often see this when a student knows one question and the answer backward and forward and spent most of their time answering that question. They often write a wonderful answer worth all the points. However because they spent so much time on that one question they either don’t have time to finish the test or only have time to draw conclusions or put their answer in the form of bullets for the rest of the questions without any analysis/discussion to support their conclusion. For the remaining questions they get minimal or no points.

 i. A conclusion without a supporting argument is just a guess.

 (a). Example from a sociology test: Question: ‘What are the root causes of poverty?’ Answer: ‘Lack of Money’. Correct but no cigar.

 b. Don’t rush. Again, budget your time. If you have to answer four questions and have three hours, don’t spend more than 45 minutes on a question.

 i. Better yet don’t spend more than 40 minutes on each question and then you have a little extra time to clean up an answer or a little extra time if you hit a brick wall on one of the questions.

**Reason 10**. Fence Sitting.

 a. Generally professors want an clear answer not someone waffling back and forth. Make up your mind what you believe the answer is and go for it. See **Reason 1**. What are the instructions on answering the questions? This should tell you what the professor is looking for.

 i. Often the legal answer could go either way. It’s the discussion and justification of your decision for which the professor is looking.

**Reason 11**. Your opinion.

 a. Unless the professor asks “what is your opinion”, she doesn’t really care. What the professor wants is your best argument on what the correct law is and how the issues raised by the facts should be decided by the court. “*I think*” should **not** be part of your answer. What does the statute say? What did a particular court case hold? “The court will hold . . .” That’s what they are looking for.

No one told me about the IRAC method of test taking when I went to law school. I learned the hard way. Basically, all the IRAC method is doing is giving you a way to come up with the right answer and having the ability to defend your answer while recognizing the strengths and weaknesses of your answer and the other possible solutions. The method is called many things and even when called IRAC some of the letters of IRAC are given different words to define them. But it all boils down to finding a system to get the right answer, a good grade, a good class rank, and your dream job.

No pressure.

The next special edition will cover some thoughts about studying in law school so that you can excel on the tests.