

## Comparison of Taking Essays Exams in Law School and on the Bar Exam

### Organization

#### **IRAC Format**

Law School: Preferred by most profs and disdained by others. Some profs prefer melding rules and analysis. Possible to get a high grade without using IRAC.

Bar Exam: Difficult to get a passing grade without using IRAC. Bar graders read so many essays that they get into a rhythm. Not using IRAC upsets that rhythm. The format must be used with distinct parts so the grader can quickly read and score hundreds of essays.

#### **Rote IRAC** (e.g. “The issue is...” “The rule is...”)

Law School: Discouraged by all professors although sometimes allowed in the first semester.

Bar Exam: If it helps you remember to use IRAC, by all means use it.

#### **Writing Style**

Law School: Most profs do look at the writing style. Pay attention to how you write your essay. Some professors are more forgiving and will spend some extra time to try to figure out what you are trying to say.

Bar Exam: It is your job to communicate the answer to the bar graders. Bar graders do not read closely enough to be concerned with writing style. However, since they grade “holistically”, an awkward or poor writing style and spelling errors do not leave a positive impression. But, rather than fret over which word to use or how to phrase it, just get it down on paper.

#### **Call of the Question**

Law School: Often “discuss” – usually not very helpful. Organization of issues not as important as discussing the issue itself.

Bar Exam: Very specific, especially for complex issues. Follow the sequence provided in the call. The specific calls are there to help you organize your answer. Also, note which party you represent, their arguments should be addressed first.

### Issue Spotting

#### **Length of Fact Pattern**

Law School: Questions can vary anywhere from one page to multiple pages. Fact patterns tend to be longer and some contain background, irrelevant facts and even red herrings

Bar Exam: Questions are one page or less. Facts patterns are concise and lean. Almost all the facts are relevant.

**Call of the Question**

Law School: Often “discuss” – usually not very helpful.

Bar Exam: Usually helpful to spot issues and often states the specific issue you need to discuss.

**Major Issues** (those that require an extensive discussion) or

**Hot Issues** (those that require an extensive discussion because the facts can be interpreted differently by both sides)

Law School: Profs are interested in both the hot issues and bonus issues. You may get a passing score without even spotting all the hot issues if you spot enough of the other less important issues.

Bar Exam: Must discuss all the major or hot issues to get a passing score.

**Obvious or “gimme” issues** (the facts clearly prove an element)

Law School: Some professors do not care if you address these issues or not. They are looking for your discussion of the major or hot issues.

Bar Exam: Bar graders are looking for your ability to systematically go through the rule and prove each element. You need to establish these issues as part of the prima facie case. One or two sentences will suffice. Do not omit the discussion nor spend too much time on it.

**Non-Issues** (no facts are given support a discussion)

Law School: When facts supporting an issue are not present, they were probably left out for a reason. However, some profs will give you partial credit for discussing it.

Bar Exam: When the facts supporting an issue are not present, they were left out intentionally, i.e. do not discuss it. Do not use the opportunity to rule dump, just to show you know the rule. Bar graders do not care if you know the rule to an issue they did not raise. You do not “lose” points. But, doing so will waste lots of valuable time. If you are not sure, write one sentence at most.

**Issue Statement**

Law School: Profs want a full statement of the issue. You are being tested on your ability to “frame” an issue.

Bar Exam: Bar graders will accept the issue as a heading. Sometimes a full statement of the issue is needed to identify a similar issue involving a different party or to serve as a transition from one issue to the next issue.

**Rules of Law****Depth**

Law School: Some professors want to see if you learned all there is to know about a specific rule. So state all the rules that relate to an issue

Bar Exam: State only those rules that help you resolve the issue.

**Statement of Rule of Law**

Law School: Professors grade on your statement of rule. Some profs want precise statements of the rule, just as they taught it in class. They do not necessarily want the rule of law as stated in commercial study aids if it differs from their interpretation of the rule.

Bar Exam: Bar graders look at elements of the rule. They also prefer a concise and precise statement of the rule of law. On the bar, it is okay to use the rules provided by commercial bar review providers.

**Inaccurate or Incomplete Rules**

Law School: Some profs will grade down or give no credit for an analysis based on the wrong rule.

Bar Exam: Bar graders will give partial credit for an inaccurate or incomplete rule if your analysis is consistent with the inaccurate or incomplete rule.

**Analysis**

The Analysis consists of two major steps:

1. extracting facts and matching them to the appropriate element of the rule
2. providing an explanation or argument to prove/support the match

**Using Facts**

Law School: You can get a passing score (C) without providing an analysis or without using any facts.

Bar Exam: You cannot earn a passing score without using facts in your analysis. You are specifically instructed to identify and apply the material facts to the relevant element of the rule of law.

**Making Arguments**

Law School: You are graded on the quality and quantity of the arguments supporting your analysis.

Bar Exam: You are graded on the internal consistency of your analysis.

**Types of Arguments**

Law School: The more types of arguments the better, e.g., logic, case comparison, public policy, etc.

Bar Exam: You are instructed to argue to a logical conclusion. Thus, logical reasoning alone is all that is required. However, be aware that some subjects, such as Professional Responsibility, may require public policy arguments.

**Assuming Facts Not Presented in the Fact Pattern**

Law School: Most professors give credit for discussions based on facts not presented, e.g. "Assuming plaintiff ...."

Bar Exam: Never assume facts not presented. Any facts not included in the fact pattern were intentionally omitted.

**Counter-Arguments**

Law School: You can get a passing score without arguing both sides on a hot issue.

Bar Exam: To show the graders that you have spotted a major or hot issue, you must present both sides. They are looking for a full and complete discussion of the issues.

**Conclusions****Reaching a Conclusion**

Law School: You must state your conclusion. Some professors grade on which side your conclusion supports.

Bar Exam: You must state your conclusion. Which side you support is irrelevant provided it logically follow from your analysis, except when you must conclude a certain way in order to logically discuss a subsequent issue.

**Reaching A Wrong Conclusion**

Law School: Most professors allow you to conclude the wrong way and continue with a subsequent issue by using “assuming that...”. Some professors may prefer one conclusion and expect students to reach that same conclusion to be “right”.

Bar Exam: All of your conclusions should line up so that you can logically discuss all the relevant issues.

**Other Items****Exam Length**

Law School: Varies

Bar Exam: Strongly recommend doing one question per hour. Do not go over one hour since it will take time away from the remaining questions.

**Cross-Over Subjects**

Law School: None

Bar Exam: Possible. Cross-over questions will be identified in the calls of the question. So, read the calls of the question very carefully.

**Length of Time to Grade**

Law School: Varies by professor. Some just read through it and give it a score. Some carefully read through the answer multiple times and/or provide comments.

Bar Exam: Quick reads taking from 3 to 5 minutes. No comments are provided.