Exam Preparation Strategies

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I wish law school exams were comically easy multiple choice...

- dump truck
- purple
- promissory estoppel
- hungry
Exam Preparation Strategies Workshop

• WHAT WE WILL COVER
  • Preparing for a final exam
  • Taking a law school Final Exam
  • Being Your best
preparing for a law school exam
midterms
Summative Assessment
Formative Assessment
- teacher assessment and feedback
- peer assessment and feedback
- revise and edit

Formative self-assessment
- understanding and specific feedback to form their understanding and work towards meeting the objective and standard.

Through activities, experiences, and formative assessment with feedback, students build their knowledge and understanding of a concept. They use the formative assessments and specific feedback to form their understanding and work towards meeting the objective and standard.
How to gain the most from your midterms?
Midterms & Practice Questions

Studies have shown that the **single best** thing you can do to perform well on finals is to study your midterm & take practice exams...

“Students who [took] practice exams … raised their GPAs by 1.5 points … Since law school exams are, as a group, rather different from other sorts of tests, students who actually write out a dry-run test or two are less likely to be shocked into writer's block when they face their first real exam.”

-Journal of Legal Education, Volume 45, Number 2, Page 188-189
Best Practices for Taking Practice Questions

1. Write them out (“thinking through” not the same)
2. Work individually (review with others)
3. Take both untimed and (later) timed
4. Take in “exam conditions” if you can
   • Phone off / Earplugs / Computer v. handwrite / Music off / Chair v. bed
Outlines

YES!
WHY:

• **Outcome:**
  • Have a meaningful document to review / have / bring to open book exams

• **Process:**
  • Consolidation of your learning

1) **Contract Formation**
   a) **Offer**
      i) **Rule:** An offer is a manifestation of intent to enter into a contract.
      ii) **Elements.** An offer requires both:
         1) **Intent** and
            (a) Look at this from the position of a reasonable person.
            (b) **Fairmount Glass Works v. Crunden:** Even if one or more terms (below) are left open, a contract does not fail for indefiniteness if the parties intended to make a contract.
         2) **Specific terms.** The specific terms are:
            a) **Price,**
               (i) **Harvey v. Facey:** Saying “lowest price you’ll accept” is not an offer. Need the price.
This is the skill you have to demonstrate on exam day. (Can’t prepare other than by practice.) But without clearly-stated rules, you can’t properly apply...
Structure: Outline of the Outline

• Outline organization should follow the format of:
  • Syllabus
  • Casebook
What to Include on an Outline

• **Emphasize the Rules / Doctrine**
  • Sub-rules / Exceptions to rules
  • Core reasonings and policies / tensions
  • **Completely & Precisely**

• **Case references**
  • But not full case briefs
  • Cases (mostly) useful for analogizing in analysis
1) **Contract Formation**
   a) **Offer**
      i) Rule = An offer is a manifestation of intent to enter into a contract.
      ii) Elements. An offer requires both:
         (1) **Intent** and
             (a) Look at this from the position of a reasonable person.
             (b) *Fairmount Glass Works v. Crunden*: Even if one or more terms (below) are left open, a contract does not fail for indefiniteness if the parties intended to make a contract.
         (2) **Specific terms.** The specific terms are:
             (a) **Price,**
                 (i) *Harvey v. Facey*: Saying “lowest price you’ll accept” is not an offer. Need the price.
             (b) **Quantity,** and
             (c) **Identity of the offeree.**
                 (i) *Owen v. Tunison*: If offeree is not identified (in this case, a land sale contract) there is no offer.
                 (ii) *Lefkowitz*: Coat case. This was an offer because all terms were identified (first person in store gets coat for $1.)
final exams
Types of exam questions

• **Hypothetical / Issue Spotting**
  • Testing application of legal rules to a fact pattern

• **Multiple Choice**
  • Testing intricacies of the rules

• **Open Book / Closed Book**
Tip #1:

know what you have to work with
Instructions:

This exam consists of six (6) short-answer questions on thirty-three (34) pages inclusive of this instruction page. Before beginning, be sure you have all pages and that they are in the correct order.

This examination is worth 80 percent (10%) of your final grade and each question is worth 13 points, for a total of 78 points. Students will receive an additional 2 points for responding to each of the six questions. Take time to organize your answer before you begin writing. Be concise. Your grade will be based on how well you prioritize and the clarity of your reasoning as well as on the substance of your answer. If you feel any part of the question is ambiguous, make a reasonable factual assumption, state what you are assuming, and explain its significance.

This exam is MODIFIED OPEN BOOK. You may use your classroom textbook, handouts, and notes, as well as a statutory supplement which contains the Restatement (Second) of Contracts or Article 2 of the Uniform Commercial Code.

Please write your exam I.D. number in the space provided in the upper right-hand corner of these exam questions. These question-and-answer pages must be handed in. If you are hand-writing your exam answers, you must use the lined pages in this exam booklet.
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Tip #2:

clarity on what is being asked
Question #2 – 20 (/100) points (3 hr exam)

Paul, a citizen of Missouri, and Donna, a citizen of Colorado, collided as a result of negligently operating their motor vehicles on an Interstate highway in Colorado. Paul suffered severe personal injuries in the collision. Donna suffered no personal injuries, but her vehicle, worth $25,000, was totally destroyed in the collision. Paul filed a civil action against Donna in the United States District Court for the District of Colorado seeking $1,000,000 in damages based on state negligence law. Donna filed a counterclaim, seeking damages for her destroyed vehicle. No other litigation is or had been pending between Paul and Donna.

Discuss whether: 1) the court has subject matter jurisdiction over Paul's claim against Donna; and 2) Donna's counterclaim against Paul is proper and whether the court has jurisdiction to hear Donna's claim.
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Discuss whether: **1) the court has subject matter jurisdiction over Paul's claim against Donna; and 2) D's counterclaim against P is proper and whether the court has jurisdiction to hear D's claim.**
Question #2 – 20 (/100) points (3 hr exam)

Paul, a citizen of Missouri, and Donna, a citizen of Colorado, collided as a result of negligently operating their motor vehicles on an Interstate highway in Colorado. Paul suffered severe personal injuries in the collision. Donna suffered no personal injuries, but her vehicle, worth $25,000, was totally destroyed in the collision. Paul filed a civil action against Donna in the United States District Court for the District of Colorado seeking $1,00,000 in damages based on negligence law. Donna filed a counterclaim, seeking damages for her destroyed vehicle. No other litigation is or had been pending between Paul and Donna.

Discuss whether: 1) the court has subject matter jurisdiction over Paul's claim against Donna; and 2) D's counterclaim against P is proper and whether the court has jurisdiction to hear D's claim.
Tip #3: be methodical
How to Approach a Law School Essay Question

(Read the Question Properly)
Question #2 – 20 (/100) points (3 hr exam)

Paul, a citizen of Missouri, and Donna, a citizen of Colorado, collided as a result of negligently operating their motor vehicles on an Interstate highway in Colorado. Paul suffered severe personal injuries in the collision. Donna suffered no personal injuries, but her vehicle, worth $25,000, was totally destroyed in the collision. Paul filed a civil action against Donna in the United States District Court for the District of Colorado seeking $1,000,000 in damages based on state negligence law. Donna filed a counterclaim, seeking damages for her destroyed vehicle. No other litigation is or had been pending between Paul and Donna. Discuss whether: 1) the court has subject matter jurisdiction over Paul's claim against Donna; and 2) D's counterclaim against P is proper and whether the court has jurisdiction to hear D's claim.
Step 2: Quickly Read / Skim Fact Pattern

• **Stay calm**: Accept that you are still several steps (and minutes) from actually *writing*

• Get **very general** idea of what’s going on. What’s the story? Who are the players?

• Notice issues but **resist the urge to write**. Sit on your hands if you must.
Step 3: Reread the Call

Discuss whether: **1) the court has subject matter jurisdiction over Paul's claim against Donna;** and **2) D's counterclaim against P is proper** and whether the court has jurisdiction to hear D's claim.

*Only* focus on what you’re **TOLD** to do.

• **Do** discuss everything you need to
• **Do not** discuss what is not included
Step 4: Read the fact pattern carefully (actively)

- Read at a much more deliberate pace.
- Circle names and ##s. Underline.
- Write notes & thoughts in the margins.
- Highlight any **legally significant words** (“clue words”) (e.g. “knowingly / purposefully / carelessly”)
- Don’t Rush: Misreading / Skipping / Creating key facts will hurt you.
BUT: Knowing the law is only half the battle

Midterms illustrate a key point:

“Knowing” the law does not necessarily translate into superior – or even satisfactory – essay answers.
Tip #4: IRAC / CRAC format
Tip 3: Use IRAC (or CRAC, or ...)  

Despite minor differences, notice the universal similarities:

<table>
<thead>
<tr>
<th></th>
<th>IRAC</th>
<th>CRAC</th>
<th>CRRPAC</th>
<th>CREAC</th>
<th>TREAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue</td>
<td></td>
<td>Conclusion</td>
<td>Conclusion</td>
<td>Conclusion</td>
<td>Thesis</td>
</tr>
<tr>
<td>Rule</td>
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<td>Application</td>
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<td>Conclusion</td>
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<td>Conclusion</td>
<td>Conclusion</td>
<td>Conclusion</td>
<td>Thesis</td>
</tr>
</tbody>
</table>
Solid structure is **required**

Assuming you know the material, a clear and **well-structured answer** is the only way to get full credit for that knowledge.

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**Tips for Clear Structure on Essay Answers**

1. **Organize before you write.** After you read the question, resist the urge to write immediately. Instead, collect your thoughts and devote time to outlining, sketching, planning, and organizing the legal rules and corresponding facts that will guide your analysis. Clearly link facts from the topical aspects relevant to each rule or portion of the rule. Decide the order in which you will address each major topic. Rule of thumb: spend 10% - 20% of total time planning/organizing.

2. **Use Readings & “White Space.”** On exams, clarity is king. Simple headings (Title: Nancy: Retreat) effectively and immediately tell your professor what you are (and where you are not) attempting to answer. Similarly, “hard returns” between paragraphs (white space) visually separates discrete thoughts and reduces the risk of confusing your grades. Use these visual organizations liberally. You cannot use too many.

3. **IRAC (or CRAC) helps you write what you’re thinking.** The IRAC structure is designed to teach the reader (here, your professor) (1) the governing rule and (2) how it applies to a given set of facts to resolve a legal problem. Try to imagine your answer as advocating so **modified** by an intelligent reader, as your professor (“who knows everything anyway”), which can result in you stating key rules or other important information. These following sentence templates can help draft more-clear CRAC essay answers:

   a. **Issue:** “The issue is whether [reference to law you’re about to write about] when [key fact(s) from hypo].” Examples:
      i. The first issue is whether Tom committed burglary when he took the backpack from Jane’s home, mistakenly thinking it belonged to him.
      ii. The next issue is whether Tom legally accepted Jane’s offer when he gave her a “thumbs up” but said nothing.

   b. **Rule:** State all the rules that are relevant to the discussion. You must know all the key rules cold - either via memorization (closed book) or having them fully articulated in your outline (open book). No sense in revising the issue statement – just state the governing rule(s) (rules is just a generic term for law, and is sometimes referred to as a test or mode of analysis).
      i. Try using “To” to prove negligence: To have personal jurisdiction; To establish standing.
      ii. “Sub-Rules” (“rules above rules”) A “sub-rule” defines, clarifies, or explains part of a broader rule (e.g. the “substantial certainty” rule is a rule about part of the definition (rule) of battery – it further clarifies the intent element). List subrules immediately after the primary rule.

   c. **Application:** Key words: “Here,” or “in this case” and “because” + fact(s) from hypothetical.
      i. In this case, the element of intent is satisfied because [fact from hypo].
      ii. No fact(s) about an element! Here’s a trick: “The facts suggest that...” or “Nothing in the facts suggests...” (opposite of obvious presumption), e.g. Nothing in the facts suggests that Tom did not intend to hit Jane with the chair.

   d. **Conclusion:** Your conclusion is the least important part (you’ve written strong I, R, and A sections). When professors talk about “necessity” they mean the C (not just R) – so don’t stress over your final answer. One sentence is plenty: “In conclusion, Jane probably can prove her battery claim.”
Tip 1: Think before you write.

Plan / Outline / Sketch Answer / Jot

Bottom line: Don’t just jump in!
Your professors expect you to plan.
Tip 2: Use headings & “white space”

**Visual organization signposts**

Don’t consider using them – **use them**.

Unsure if a section “deserves” a header? Just do it. Too many is better than not enough, and certainly better than (gasp) none.
IRAC: _Rule_

- No clever segue necessary. Immediately after issue, state the governing rule(s). Start with “To…”
- State complete rule: Don’t state & apply one element just because other two are not applicable – you need to demonstrate that you know the whole rule.
- State the rule accurately: You can (should) have perfect rule statement before you step foot in the exam. Think about it: you know what major rules you will have to recite and apply. Have them drafted perfectly ahead of time.
IRAC: Application:

• Most important **skill** you’re expected to develop
• You’ve proven that you know the rule. Now you show how it applies to the given facts and *why*.
• Avoid common exam criticisms:
  
  *Too conclusory*

  *Needs more analysis.*

  **Why?**

• What word answers the question, “*why*”?
BECAUSE

“Because” + Fact(s) from the hypo

(this is where it’s OK to restate facts).
Example

**Issue:** The issue is whether Ben committed vehicular homicide when he had a seizure and hit and killed Jane.

**Rule:** Crim. Code Sec. 3(a) states that a person commits VH by causing the death of a person while driving recklessly or while driving more than 20 mph over the speed limit.

**Subrule about the above rule:** Common law defines “recklessness” as being aware of but consciously disregarding a substantial and unjustifiable risk.

So far so good…
Now for the application...

“In this case, Ben acted recklessly, in violation of the statute”

• **Bad!** “Conclusory.” Begs the question, *why* do you assert he acted recklessly?

“In this case, Ben acted recklessly *because* he was aware of but consciously disregarded a substantial and unjustifiable risk.”

• **Bad!** This is a tautology, effectively saying, “Ben was reckless because his actions meet the definition of recklessness.” You haven’t shown *which* actions from the facts were reckless.

“In this case, Ben acted recklessly as defined by the common law *because* the facts state that he was fully aware of his history of seizures and of his doctor’s orders not to drive without medication, but he chose to do so anyway.”

• **Good.** This is actual analysis using specific facts from the hypo.
IRAC: Conclusion

• Bottom line: One sentence. Two *maximum*.
• Not a summary of your argument.
• If issue tells reader, “I’m going to start talking about this now,” conclusion simply says, “I’m done talking about this now.”
“Many IRACs”? The rule creates the structure...

To prove negligence, plaintiff must show that defendant had a duty, that he breached the duty, that the breach was the actual cause and the proximate cause of plaintiff’s injury.
Think in terms of ELEMENTS

To prove negligence, plaintiff must show (1) that defendant had a **duty**, that (2) he **breached** the duty, (3) that the breach was the **actual cause** and (4) the **proximate cause** of (5) plaintiff’s **injury**.
Each element requires “IRAC”

To prove negligence, plaintiff must show (1) that defendant had a duty, that (2) he breached the duty, (3) that the breach was the actual cause and (4) the proximate cause of (5) plaintiff’s injury (damages).

As an initial matter, Alice can easily prove that she suffered injury because… In this case, Alice can show that Tom had a duty because… Alice can show that Tom breached the duty because… Alice can show that the breach was the actual cause of her injuries because… However, she may have trouble showing that the breach was the proximate cause of her injuries because…
Tip #5: multiple choice
Multiple Choice Questions

**Preliminary: Allocate time:** (Total minutes / total # of questions / “Must do ___ every 15 minutes”)

1. Read the last sentence (“call”) **first** This is the only real “trick” – (“Can Tom remove his case?”)

2. **Read** the fact pattern/question **with the call in mind**

3. Try to **predict** the answer before looking at the choices.

4. Eliminate wrong choices ➔ “narrow” as best you can.
Tip #6: Do what your professor tells you to do

Information presented here is generally applicable to most law school exams, but professors create and grade their exams in the manner they see fit.

Know (i.e. learn) your audience and tailor your answers accordingly.
Tip #7: BE YOUR BEST!
Law school exams are **long** (3 to 6 hours) and demand prolonged mental focus, which requires plenty of both **mental** and physical **energy**.
Don’t hope it happens – plan for it to happen...
Eat in the morning.
On exam morning...
On exam morning... AVOID!
Take time to ENERGIZE & FOCUS yourself
No all-nighters

There is too much material to “cram.”

There’s certainly too much to cover in a single night.

Expectations in terms of clarity, organization, and thoroughness are high....

Pulling all-nighters really weakens those abilities.
exam morning

• Eat a nutritious breakfast
• *Briefly* look over outline (esp. issue checklist)
• Avoid talking about school with classmates, especially those who tend to stress you out
• Enjoy an activity that either motivates you (listening to a particular song) or calms your mind (stretching, yoga, meditation)
• Go in and do your best!
Academic Success Programs

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