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Teaching IRAC to First-Year Students

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Findings

By the end of this assignment, the students had correctly and critically read two cases, two statutes, and an exam question. Perhaps for the first time, they had identified the issues raised in a question and had outlined an exam answer. Finally, they had written a full essay answer using an organized model format that forced them to identify effectively arguments and counterarguments by applying the facts to the law.

Most importantly, the students practiced the skills correctly. Because time is at a premium for struggling law students, this method served the students well. They did not waste time completing large portions of work only to discover they had done it incorrectly. Nor did they continue to use poor analytical skills. Also, those students who learn through modeling had an extended opportunity to do so. Overall, this exercise proved to be an effective technique that accomplished the goals we had set for our second-year students. Several students commented that this experience helped them address complex exam questions because they had experience with a format that was structured and because they had already practiced writing an extended essay and were comfortable with transitions and organization

Teaching IRAC to First-Year Students

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Teaching first-year students the structure of legal analysis is one of my most important and challenging responsibilities as a law teacher. I have come to realize that the most effective approach is a practical one: provide students with hypotheticals, have them write responses, and provide extensive feedback so they will see how an IRAC-based analysis actually works. Talking about it and reading cases is not enough—students must work through an analysis in their heads and on paper.

Writing should commence as soon as students have covered enough substantive law to analyze a factual situation, which occurs within the first two weeks of class. The problems should begin with a single issue and become increasingly more complex. Further, formats should vary between short fact patterns and long, complex fact patterns with multiple issues and parties. Each format presents a different challenge in issue identification and organization—whether for exams or memos. I have found the use of detailed evaluation sheets most helpful in allowing students to see whether they have answered the question appropriately. The goal is to show students how to critique their own work, identify flaws, and correct them by comparing them to

guidelines. In addition to employing this technique on a one-on-one basis and in teaching legal methods and Contracts, I now use teaching assistants (“TAs”) to guide small groups of from 10 to 12 first-year students in this process.

The program starts with teaching the teaching assistants. The TA is the group facilitator and directs discussion of the problem which varies weekly so that students practice problems in all the first-year subjects. Each TA attends weekly training sessions where we (the Assistant Director of Academic Development and I) provide hypotheticals, evaluation sheets, and specific guidelines in working through the material. We outline what should be covered in each TA session by providing a lesson plan and, in general, direct the TAs in what to cover, how to cover it, and how to deal with group dynamics.

After providing the TAs with their first problem (a short hypothetical dealing with assault and battery), an evaluation sheet, and a sample answer, I realized that they required further guidance in presenting IRAC to students. I provided the following outline for TAs to use in explaining IRAC. First, it provides specific language to guide students through formulating issues and rules. Second, it identifies and explains each step of the analytical process. Finally, it provides examples of how to do it. Although IRAC is a theoretical process, it needs to be presented in a practical manner so those new to it can understand enough to start working with it.

TA Outline for Explaining IRAC

What is IRAC?

IRAC stands for the “Issue, Rule, Application, Conclusion” structure of legal analysis. An effective essay follows some form of the IRAC structure where it is organized around an “issue,” a “rule,” an “application,” and a “conclusion,” for each and every issue and sub-issue identified as a legal problem.

While using IRAC doesn’t guarantee an “A” from the professor, it’s extremely useful in organizing an answer. And even though it’s not the only way to structure an answer, it helps to make sure that all the bases are covered. So until you achieve the level of mental and written fluency where you can weave together rule and fact in a seamless web and transition between thoughts without loss of either the substance or your reader, I strongly recommend that you rely on some form of IRAC to keep focused. While IRAC will never cover for a lack of knowledge nor substitute for a lack of analysis, you can use it as tool for organizing your thinking and your writing. Think of it as a supporting scaffold (or training wheels) to ensure that the necessary steps are followed. Once the process becomes instinctive, then the props can be discarded. But until then, you have something you can rely on to guide you through the process.

How to IRAC

1. Begin by stating the issue:

The issue is the most important element in the analysis because you need to know enough law to find the issue. The legal question is a blend of rule and the facts particular to the problem.

- Articulate the issue by formulating the legal question presented by the facts. To find the issue, ask yourself: “what is in controversy in these facts.” (Of course you need to know the law to find a legal question in the facts.)
- Use the “whether, when” structure to help you isolate and write an issue statement.

Some professors might not want to see this language – “the issue is whether.” You achieve the same result with other words – “Did” or “Can,” for example. Don’t get fixated on language. Follow your individual professor’s instruction and realize that either way, you achieve the same result: identification of the legal problem.

But you can always use the following language to guide your thought process.

Begin with:

“The issue is whether,”

... then identify and state the legal conclusion you want the court to reach...

Don committed a battery, (or an offer was made, or the court can assert personal jurisdiction)

... and connect to the “relevant” facts (the relevant facts being those facts which will determine the outcome)...

***when** he pushed Pam even though he knew she was in no danger of being hit by the bicyclist (or **when he said**, “would you buy my watch for \$500 in cash on next Tuesday?” or **when** the defendant conducted business in the forum state, had an office and a full-time staff, and paid state taxes.)*

When completed, the sentence will read:

“The issue is whether Don committed a battery when he pushed Pam even though he knew she was in no danger of being hit by the bicyclist.”

2 State the controlling rule of law.

After you have identified the issue, you must articulate the rule. A useful guideline to writing the rule is to write enough about the law to provide the context in which you will analyze the facts. The rule and the facts are inextricably linked. Your analysis of the facts will not make sense unless you have first identified the rule which determines the legal meaning to be attributed to those facts.

Use building blocks for writing the rule of law by considering:

- elements
- definitions
- exceptions to the general rule
- limitations to the rule
- defenses

When writing, follow a hierarchy of concepts by:

- moving from the general to the specific
- defining each legal term of art

Identify:

The consequences of applying the rule – what will happen?

What are the consequences of this rule in this situation?

Which leads you to consider:

What does application of the rule mean here? What will be its effect? These questions help transition to analysis.

3 Analyze the facts in light of the law (“Application”):

The analysis or application is the heart of the discussion. It is where you examine the inferences/implications raised by the facts in light of the rule. As you write your analysis, work from your articulation of the rule to guide your application of the facts. Here, your statement of the rule provides a blueprint to follow for your discussion of the facts. You simply match up each element/factor you’ve identified in the rule with a fact, using the word “because” to make the connection between rule and fact.

“Because” is the single most important word to use when writing the analysis. Using the word “because” forces you to make the connection between rule and fact. You’ll find that you can also make use of the words “as” and “since” — they serve the same function as “because.”

Examples of how “because” works to change recitation (or conclusion) to application:

What not to write:

In this case, while Pete the police officer was giving Dan a sobriety test, he noticed that Dan fit the description of an eyewitness to the robbery, giving the police officer probable cause to arrest Dan.

What you should write:

*In this case, Pete the police officer realized that Dan fit the description of the suspect, providing probable cause for arrest **because** Dan was extremely tall at 6’4”, was wearing a green and tan sweater with purple patches and pointy-toed alligator cowboy boots, fitting the description provided by the eyewitness to the robbery.*

What not to write:

ABC Inc. engaged Dr. Jones to develop a drug that reduced hair loss. Dr. Jones worked in his own laboratory, hired and fired his own assistants and set their working hours as well as his own. He meets with the President of ABC every Friday morning to discuss progress on the project, and at this time, Dr. Jones submits his timesheet for payment. The President pays Dr. Jones weekly.

What you should write:

*Here, Dr. Jones can be considered an independent consultant for ABC Inc. **because** he completes all the research and development work in his own laboratory, in a separate facility from that of ABC, where he has direct control over the employees **because** he hired his own assistants, setting their work hours. He also exercises direct control over his own work **because** he sets his own work hours and only meets with ABC once a week. Further, **since** he only meets with the President of ABC on a weekly basis to discuss progress on development of the hair loss product, the President does not supervise Dr. Jones on a daily basis as to the work which goes on in the laboratory.*

4 Conclusion:

State your conclusion with respect to each issue. There is no right or wrong answer. There is only logical analysis based on the rule and the facts which lead to a reasonable conclusion.

Note: Repeat the process for each issue you identify — each issue forms the basis for a separate IRAC analysis.

Editor's Postscript: The Relevance of Writing

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Late this March, the academic support listserve was full of activity as many ASPers weighed in on the discussion regarding students' use of laptops to take notes in class. Apart from anyone's particular thoughts on the subject, the discussion made me reflect generally on the differences that exist between typing and handwriting as ways of processing and disseminating information. For most students today, I suspect that typing is as natural, if not more natural, as writing. As a consequence, and as several posts to the listserve indicated, typing can become

so natural that students become mere note transcribers rather than notetakers. These students can type so quickly that they simply transcribe on autopilot in a way that handwriters could never do.

We in the ASP community thus need to confront the rise of the laptop and educate our students about how interfacing with information via a computer may advance or hinder the learning process. I admit that I have not given the topic the amount of thought that it deserves. What I have discovered this past semester, however, underscores that real differences exist between typing and writing information.

First, in my discussions with students who are struggling academically, I sometimes recommend that they change their note-taking style. More than any semester in the past, I encountered this semester students who reported how they benefited from transitioning from typing to handwriting their class notes. Several students commented to me how handwriting their notes enabled them to engage better with the class discussion and process better the information being discussed. They also observed that, although their handwritten notes were often shorter than their typed notes had been, the handwritten notes were more focused and to the point.¹ A few further observed that they seemed to get more out of reviewing their handwritten notes in composing their outlines than they had in converting their typed notes into their outlines.

In reflecting on my experience and the listserve comments, I wonder if this anecdotal evidence points to a trend that, as students get more and more comfortable in front of a computer and are likely to disengage as they simply transcribe class information, more students may see cognitive benefits to reverting to handwriting their class notes. Moreover, this difference highlights how individuals' learning styles interact with their note-taking style and that students should reflect on how they learn best and not simply take notes in the method that seems the easiest for them.

Second, I encountered this semester the handwriting versus typing scenario in another setting as I was grading my Professional Responsibility exams. During the grading, it seemed to me that those who handwrote their essay answers were not doing as well as those who typed. I noticed this difference even though I was conscious not to penalize any handwriters simply because their answers were not as easy to read as the typed responses.

¹ In her e-mail to the listserve on March 22, 2006, Elizabeth Stillman of Suffolk University Law School similarly reported that a "fair amount" of students she advises do not go back to typing once they try handwriting their notes.

² Herb Ramo, now of New England School of Law, made a similar point in his e-mail to the listserve dated March 22, 2006.