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significance of the decision. Often, students in crisis are only able to respond to immediate, short-term concerns and are blinded to a long-term, big-picture perspective. An outsider who is not experiencing a crisis is often able to provide a valuable, long-term perspective.

In the last analysis, passing a bar exam depends on a combination of individual knowledge and skills. Students should be educated about the pros and cons of going forward with a bar exam; they should consider their own individual factors; and they should be encouraged to make a thoughtful decision that is right for them. And, whatever that decision, students should assume the responsibility for moving forward with a solid plan—thereby increasing their likelihood of exam success.

Denise is the author, with Michael Hunter Schwartz, of Pass the Bar! (Carolina Academic Press 2006) (available Dec. 2005 at www.cap-press.com).

Dissecting Problems Areas with Answering Multiple-Choice Questions

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Students often find answering multiple-choice questions more challenging than writing essay exams. In contrast to essay questions where there's some leeway, you're either right or you're wrong with multiple-choice questions. Moreover, because multiple-choice questions are such an integral part of the bar exam and have come to figure more prominently in law school exams, students must learn to master them.

What follows is a step-by-step process—addressed to the student—showing how to practice multiple-choice questions and what to do when one has been answered incorrectly.

When practicing multiple-choice questions, if you answer a question incorrectly, you must go back to that question and re-read it to reflect on what you were thinking the first time you read the question. Specifically, your task is to recreate your thought process, retrace your steps, and compare your reasoning in the two instances to find the flaw in your analysis. This may be the only way to figure out how you made a mistake. And until you know why you select wrong answer choices, you can't make the necessary corrections. That's why it's essential—*absolutely essential*—that you answer only one question at a time when working with multiple-choice questions. If you try to answer more than one at a time, you won't remember what you were thinking when you selected an answer choice with respect to a particular question.

How to proceed:

1. Answer a question by:

- Reading actively from the stem (or call-of-the-question) and then to the fact pattern
- Finding the issue
- Moving from the issue to articulation of your own answer
- Translating your “answer” to fit an available “answer choice”

2. Check your answer.

(a) *If you answered correctly:*

Read the explanation for the correct answer choice if explanations are available. Even if you answered correctly, you want to make sure that you did so for the right reason. If you got the “right” answer for the “wrong” reason, proceed as if you answered incorrectly.

(b) *If you answered incorrectly:*

If you made an incorrect answer choice, you must go back to the question and read it again, beginning with the stem. As you read, pay close attention to what you are thinking and compare what you are thinking now to the first time you read the question. As you proceed, ask yourself the questions I've outlined below and really, really try to answer them.

What's most important in this exercise is the real-time feedback. If I were sitting with you while you were reading, I would stop you every 30 seconds or so and ask you to tell me what you were thinking. This process forces you to put into words exactly what's going on in your head at the moment, something you're probably not doing—at least not consciously—but that you must do. That's because the only way to identify if you've gone down a wrong path is to do so while your thoughts are fresh in your mind.

You can learn to see why a thought is the wrong one to be having at the time by answering the questions I've posed for you below. Even though I'm not with you to lead you through these steps, you can do it for yourself by asking the questions I would ask:

- (1) Look at the question stem: was my first answer choice one that answered the precise question that was asked?
- (2) As I re-read the fact pattern, am I noticing facts that I overlooked the first time?
- (3) Did I confuse the parties and that's why I evaluated the problem incorrectly?
- (4) Did I overlook legally significant words, such as “reasonable,” “unexpectedly,” or “accurately”?

- (5) Do I find my mind wandering as I read?
- (6) Am I re-reading the same sentence because I have trouble remembering what I've just read?
- (7) Am I reading into the problem words and facts that are not there?

The problem addressed in question #7 is difficult to detect, but it is a primary reason for incorrect answer choices. You therefore must find out if this is something you tend to do. This is how:

- Start by examining your incorrect answer choice. Re-read it and ask yourself what led you to choose that answer.
- This requires that you go back to the fact pattern and see if you can find which words or facts led you to select that particular answer choice.
- Identify the basis for your answer. There had to be a reason—some basis you relied on for selecting that particular answer. We know it was the wrong reason, but we still need to know what your reasoning was at the time in order to step in and correct it at that point.
- Determine whether you “read into the facts” or added your own. This alters the nature of the problem. *You must never “assume” facts.* Your professor has carefully constructed the question to contain all the facts you need to answer the question. You must rely solely on these facts and no others. Of course you may draw reasonable inferences, but you cannot fabricate your own facts or create “what if” scenarios. Unfortunately, far too many students allow their creative side to surface when reading these questions, and they stray from the fact pattern.
- Don't let yourself go off on tangents based on possible theories you see raised in the facts. Sometimes when you read a fact pattern, you'll see the potential for a number of possible causes of action. Let the stem, or interrogatory for the question, guide your analysis.
- Sometimes you don't “add” facts but see implications which have no basis in the facts. This leads you astray in your analysis as well. Let the facts dictate your direction.

- (8) Am I disregarding an important exception and jumping immediately to the general rule?
- (9) Am I not seeing the significance of the facts and that's why I can't identify the legal problem?
- (10) Does this question require application of statutory law and not the common law? Did I disregard this before?
- (11) Am I applying the minority view instead of the majority rule?
- (12) Am I misapplying the rule to the facts?
- (13) Am I “reacting” to answer choices instead of “acting” in response with an analysis of the issue presented?

- (14) Did I get emotionally involved with the problem and substitute my instincts for what I know is legally correct?
- (15) Did I become “practical” and replace the black letter law for what I thought would occur in actual practice?

3. Figure out what your answer means.

If you answered “yes” to questions 1 through 7, then you most likely have a reading problem.

You therefore choose the incorrect answer choices because you've misread a fact either in the fact pattern or the answer choice. This is usually the result of sloppy reading because you're intent on reading quickly rather than carefully. A hasty reader is likely to overlook the specific use of vocabulary and the significance of modifiers in the answer choices. These types of errors and omissions go directly to your reading of the problem, not necessarily to your knowledge of the substantive law or to your analysis of the legal question. In fact, your difficulties with reading may prevent you from getting to the actual problem in controversy.

If you've been able to identify your problem as one of reading, now you have a direction in which to work. You can and must learn to read questions “actively.” Because of time constraints on an exam, you may have time for only one reading of the fact pattern. However, you can't sacrifice a careful reading for a quick one. You must read carefully to spot signal words and legally significant facts. *Slow down and watch what happens.* Train yourself to look for the following as you read, and if you may write in your test booklet, do not hesitate to circle the relevant language:

- Relationships between parties that signal the area of law and legal duties: landlord/tenant, employer/employee, principal/agent, buyer/seller;
- Amounts of money, dates, quantities, and ages;
- Words such as “oral” and “written,” and “reasonable” and “unreasonable,” among others; and
- Words that indicate the actor's state of mind, such as “intended,” “decided,” “mistakenly thought,” and “deliberately,” among others.

If you answered “yes” to questions 8 through 15, then you may have a problem with either application or the rule.

It's often difficult to distinguish between the two problems because they are closely related in the dynamic of answering multiple-choice questions. Problems with analysis are process-oriented while problems with the rule are substance-based. But they can and do overlap as evidenced in these questions.

Analysis Problems

Conquering a problem with analysis not only involves close,

accurate reading of the text, but it also requires exactness in following the structure of legal analysis in the context of multiple-choice questions. This requires that as you re-read the question, you focus on answering the following:

- *Did you properly analyze the question?*
 1. Did you begin by reading the stem?
 2. Did you identify the issue in the fact pattern?
 3. Did you move from finding the issue to forming your answer?
 4. Did you fill the gap from “your answer” to find one of the answer choices?
- *Did you properly analyze the answer choices?*
 1. Did you identify the issue in each answer choice?
 2. Did you use the process of elimination by determining when an answer choice can't be correct?
 - (a) Was the answer choice completely correct?
 - (b) Did the answer choice misstate or misapply a rule of law?
 - (c) Did the answer choice mischaracterize the facts?

The basic cure for reading and application-based problems is practice—lots and lots of it. *There's no real secret: the more questions you work your way through, the more careful and conscious a reader you become.* In some ways, answering a multiple-choice question is more a science than an art, but rigor in application of the method will yield favorable results.

Rule Problems

Let's face it; if you don't know the black letter law, you can't distinguish between the answer choices. The key in analyzing the question after you've identified the issue is to articulate the rule of law that addresses that issue. If you don't know the rule, you can't get to this step. The only thing that works is complete and thorough understanding of the rule.

If you answered “yes” to questions 8 through 12, consider this: If you cannot summon to mind the relevant rule as soon as you've articulated the issue, you must return to your notes and review the substantive law in detail. Your problem is with knowledge of the rules, and you must be comfortable with answering the following questions as soon as you read a fact pattern:

- What is the legal problem presented by the facts?
- What area of law is implicated?
- What is the specific rule of law that governs under these facts?

On the other hand, if you answered “yes” to questions 13 through 15, then something slightly different may be happening which requires a different approach. Let's look at each one

individually.

If you react instead of act

When you find yourself “reacting” to answer choices instead of “acting” in response to them with a careful analysis of the issue presented, then some changes in procedure are required. This type of problem is basically one of control: Because you've lost control of your thought process in analyzing the problem, you've placed yourself at the mercy of the answer choices. They then pick you, instead of the other way around. How do you act and not react to the answer choices? *The answer is simple: formulate your own answer to the interrogatory before you even look at the answer choices.* Practice questions this way until it becomes habit and you'll see what a difference it makes.

If you ignore the rule:

If you find yourself substituting your instincts for what you know is legally correct, you're headed for trouble. You must apply the rule of law to the facts without equivocation. You can't afford to get emotionally involved with the parties and let your sympathies interfere with what you know is legally correct. It's not your place to find a criminal defendant not guilty when in fact her actions satisfy every element of the crime. Conversely, if an act doesn't violate the provisions of a given statute, then whatever you happen to think about the nature of the act (or actor) doesn't matter. It's not a crime if the jurisdiction doesn't make it one. Your job is to follow the law and apply it to the facts mechanically.

If you substitute “practice” for “theory”:

If you find that you become practical on exams and replace the black letter law for what you think would occur in the real world, then you're going to end up with some incorrect answers. Your exam is not the time or place to become “practical” and consider what you think would happen in actual practice. Many students have defended incorrect answer choices to me by explaining “I know it couldn't happen like that in practice. That's why I didn't choose that answer.” My response is that this isn't “real” life. It's a law school exam! This is not to say, however, that exam questions have nothing to do with the practice of law or the “real rules.” It's just that in law school, we are studying and working with the theoretical rule of law and what should be, not necessarily what is. When answering a question from your professor, apply the rule of law as you've learned it and you'll be fine.

I developed these approaches for bar exam re-takers to help them increase their MBE scores, but I soon found that the skills were equally useful for law students. As word got around, more and more students came to my office for help with answering multiple-choice questions. As a result, we included it as part of the training for teaching assistants in our First-Year Teaching Assistant Program. TAs then work with their groups of 1L

students on leading them through practice questions.

We hope that showing students how to engage in self-examination early in the law school learning process will yield positive results, but it's been too soon to tell.

An ASP Response to Classroom Conduct and the Learning Environment

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One of the lessons we stress in our Academic Success Program at Whittier is taken directly from Dennis Tonsing's *1000 Days to the Bar—But the Practice of Law Begins Now*. Law school is the “training ground” for practicing law, not a place merely to memorize laws. Therefore, what goes on in the classroom is a training ground for, among other things, what goes on in the courtroom, in the interview room, in the lawyer's office, or across a negotiating table. The skills a student learns, and the behavior a student undertakes, must be the same skills and the same behavior expected in professional settings. Too often, because law students forget this and think they are just in “school,” they act like they are in school: passing notes, answering cell phones, playing games, coming to class unprepared, “passing,” or answering inarticulately or with little attempt to speak confidently and defend their position against critique. The unnecessary distractions, classroom misconduct, and lack of preparedness had become something of a “culture” at our law school against which I had fought since I began here in August 2001.

We recently expanded the Academic Success Program at Whittier Law School in two ways. First, from a program with one Director, we added four new positions—a new Assistant Director (Prof. Rebecca Flanagan) and three full-time faculty (Professors Paula Manning, Rebecca Marciniak, and Eric Leach). Second, the program has been designated (as has the Legal Writing Program) an “Institute”—the Institute for Student and Graduate Academic Support—and both our Legal Writing Director, Professor Andrea Funk, and I have been appointed Associate Deans.

We as an Academic Support faculty decided early this semester to confront the distractions from a good learning environment which I have mentioned above. Our first-year Academic Success Program—a series of five group lectures by either Prof. Flanagan or myself on discrete skills such as note-taking, outlining, and exam writing, as well as seven small group sessions that are taught by the full-time ASP faculty and work further on those skills and provide individual feedback—is mandatory. Thus, we as an Academic Support faculty adopted “Rules of Professional Classroom Conduct.”

The preamble to the rules provides:

In an effort to develop an attitude and atmosphere of professionalism that is consistent with the highest standards of the legal profession, and in recognition that the classroom is the training ground for the courtroom, the Whittier Law School Academic Success Program faculty have adopted the following policies:

The policies are then divided into two types: those involving curricular preparation and classroom attendance, and those involving classroom conduct. The policies involving curricular preparation and classroom attendance read:

1. Attendance at every class session is mandatory.
2. In order to satisfy the attendance requirement, students must arrive before the scheduled class time in order to be prepared to begin class on time.
3. Students must be prepared to participate in each session, which requires completion of any required reading or other assignment prior to the commencement of each class session.
4. Unless otherwise excused beforehand by the professor, students must remain in class until the professor has concluded the session and dismissed the class.
5. Any student who fails to comply with any of these policies during any session will be deemed absent for that session.
6. Any student who is absent, for any reason, more than two times during a semester will be dismissed from the Academic Success Program. Dismissal from the program will result in a determination that the student has not satisfied the ASP requirement for graduation.

The policy involving classroom conduct reads:

1. When called upon to make a presentation students shall stand erect and shall speak in a clear voice.
2. Students shall not pass notes in class.
3. Students shall not play computer or video games during class.
4. All cell phones and pagers must be turned off.
5. Students shall treat each other, the TA and their professor courteously.

The most obvious criticism of these policies is that they seem Draconian, harsh, and perhaps counter to the natural inclination of academic support professionals to be nurturing and caring. But as we note in the conclusion of the rules, “these policies are intended to prepare students to enter a profession that does not tolerate lack of preparation, sloppiness, tardiness or failure to appear on a scheduled day and time.”

We believe that only in an environment where we expect professionalism will we get professionalism. We also believe that only in an environment where we expect that everyone is focused on, and dedicated to, only learning, and not distractions, will we