

Bar Exam Essays

**Pre-Bar:
Mini Session**

Why bar essays are different

- Purpose
- There **is** a right answer (but you can get points even with the wrong conclusion).
- More specific, concrete and concise than the typical law school exam.
- On UBE, multiple subjects in one essay.

What do bar graders want to see you do?

1. Analyze the facts of the question.
2. Spot the issue – find the legal problem.
3. Material v. immaterial facts.
4. Apply relevant legal principles to the facts provided.
5. Organize your answer and make it easy to read.

Answering a bar essay question

1. Read the call of the question
2. Read the question – circling important items
3. Re-read the call
4. Outline your answer
5. Write your answer
6. Re-read the call. Did you answer it?

Content of a bar essay

- Use the same legal analysis methods you learned in law school
- Determinative facts should take center stage
 - The graders know the facts. They don't need a recitation.
- Grammar, complete sentences and paragraphs matter
 - Be precise and concise
- Use headings
 - If given multiple prompts, label your answers and answer in the order asked.
- Acknowledge counterarguments where appropriate.
- Follow the same process for each answer. Develop a template.

Content of a bar essay

- CRAC
 - Conclusion – Be explicit. Begin with, “Yes, ...” or “No, ...”
 - Rule – State the applicable rule. Give the appropriate statute if you know it. “As a general rule...” or “Under the Texas _____ code, ...”
 - Analysis – Apply rules to relevant fact. “Here, ...” or “In this case, ...” or “Because.”.
 - Conclusion – Repeat your explicit conclusion. “In sum, ...” or “Therefore...”.
- CIRAC
 - You’ll often be encouraged to include an issue statement. Some students find that it helps them focus their answer. Make sure you use facts from the question.
 - Bad: The issue is whether a life estate was created.
 - Good: The issue is whether the phrase “until she dies” created a life estate for Donna.

Working with rules

- **Simple rules**
 - If A, then B
 - Think strict liability
 - If you sell alcohol to a minor, you're guilty a crime. Doesn't matter if they presented fake ID or looked 40.
 - If answer filed within 20 days of service, answer is timely. If not filed within 20 days, not timely.
- **Elemental Rules (most common)**
 - Example: Battery
 - (1)intent, (2) touching, (3) touching must be harmful or offensive, and (4) must be done to another.
 - Make sure you know the rule for each element.
 - Elements often have sub-elements (i.e. what's harmful or offensive? Transferred intent?)
- **Factor Rules**
 - If A, B and C weighed together justify Z, then Z.
 - A, B and C are factors. Unlike elements, you need not satisfy each one, but weighed together they get you to Z.
 - Example: Material Breach in contract law. Consider (1) Extent to which injured party will be deprived of expectation, (2) Extent to which injured party can be adequately compensated (3) Extent to which party failing to perform will suffer forfeiture, (4) Likelihood party failing to perform will cure his failure, and (5) Extent to which behavior of party failing to perform comports with duty of good faith and fair dealing.

Working with rules, cont.

- Rules with Exceptions
 - If A, then B, unless Z.
 - Look for “unless,” “except,” “but,” and “but if.”
 - Example: Recovery of Property taken via fraud – a person who has been induced by fraudulent misrepresentations to transfer title may recover the property UNLESS the person in possession was a bona-fide purchaser of the property.
 - Partners may not bind partnership without actual authority UNLESS an innocent third-party Vendor has reason to believe the partnership is bound.
- Alternative Rules
 - If A or B, then Z.
 - Look for “either” and “or.”
 - Example: Punitive damages may be awarded if the defendant exhibits fraud or malice.
 - A partner may violate his duty of loyalty to a partnership if he directly competes with the partnership. Duty is also violated if partner uses partnership property to gain profit and does not share that profit with the partnership.

What to NOT put in your answer

- Avoid lengthy discussions of law
 - No brain dumps
 - Tell the graders what they want to hear
 - They spend an average of two minutes (TX) to three-five minutes (CA) reading your answer.
- Do not assume any facts (unless the call directs you to do so).
- Citations

Let's look at an actual question and answer:

- <https://law.utexas.edu/student-affairs/student-services/bar-preparation/>