



TAFT LAW SCHOOL
THE TAFT UNIVERSITY SYSTEM

*A Suggested Approach
to
Online Law Study*

*Juris Doctor
Attorney TrackSM Program
Directed & Independent Study*

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Taft Law School

“A Suggested Approach to Online Law Study”

Juris Doctor Attorney TrackSM Program

Directed & Independent Study

by David L. Boyd,

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The study of law through distance study has been a viable alternative for many individuals for over three decades. Set forth below are suggestions which I believe will assist you in your law studies.

1. Establish a Study Schedule

The law programs at Taft Law School are designed to allow the student great flexibility in arranging their study schedule. The directed and independent study programs follow a weekly schedule throughout the academic year. However, within a particular week, students are free to follow a study schedule to fit their specific circumstances. This has made our programs particularly attractive to individuals who have non-traditional work hours and/or family commitments that might prevent them from attending class or logging on at a particular time of day.

Most successful students report that they establish a pattern of study that they generally adhere to throughout the academic year. I recommend you attempt to be realistic in establishing a study schedule. For example, if you're a big football fan, planning to study for three hours on Monday nights might not be the best idea.

However, regardless of when students study, most successful students will not permit themselves to fall behind. While most students find the majority of legal concepts not particularly difficult, there is a great deal of material which can be tested on the final examinations. Earning a law degree is a long journey but it's accomplished in small weekly steps.

2. Study Environment

It is important to study in a quiet environment with a limited number of distractions. It is very difficult to study law in a house with small children or with a television set on in the background. Many successful students' study in a library or office.

3. Make Effective Use of Your Time

Most distance learning law students are employed on a full-time basis. Accordingly, the allocation of time is critical. If possible, it is preferable to study in relatively short periods of time (2-3 hours per day) as opposed to spending 8 hours a day on Saturday and Sunday. Do not study for more than an hour without taking a break of 5-10 minutes. Fatigue will drastically affect the comprehension ability of an individual.

"A Suggested Approach to Online Law Study"

4. Lesson Assignments

Each law school course will contain a specific number of Lesson Assignments. The number of lessons will vary depending upon the number of semester units assigned to the particular course. Each Lesson Assignment is designed to be completed in one week.

With a few exceptions the Lesson Assignments will contain all or a part of the following:

- a) A reading assignment in a course outline;
- b) A reading assignment in a textbook or "*Gilbert's*";
- c) A reading assignment in a "*casebook*";
- d) A series of self-testing questions covering the material in the Lesson Assignment; and
- e) A writing assignment electronically submitted for review and credit.

In a traditional law school situation, students will spend the majority of their time utilizing the casebook. Students will "brief" cases and be expected to recite the facts and discuss the case in class. All casebooks are designed for this type of use and, in the opinion of this writer, are of limited utility outside of a classroom environment.

Further, this writer believes casebooks are a very inefficient way to learn the law for purposes of final examinations and the bar examinations. Casebooks will often cover in detail the history of a rule of law and students must be cautioned that a given case in the casebook may not represent the current majority view. Nevertheless, casebooks can on occasion be very helpful if a student is unclear on a given subject after reading the other materials. Casebooks are also important in courses such as *Constitutional Law and Criminal Procedure* where the majority of the law is established through case law.

For purposes of final examinations and the bar examinations, the rules of law as set forth in the outlines are sufficiently comprehensive when combined with the writing and analytical skills discussed below.

Ideally, the faculty would hope students would complete 100% of all Lesson Assignments. Realistically, of course, this will rarely happen. **Students should not spend the majority of their time in the casebook and not complete the balance of the Lesson Assignment.** Most successful Taft law students will spend no more than 20% of their study time working with the casebook.

5. Midterm Examination

Midterm examinations are *required* in first year courses and for most advanced courses. (See the *school catalog* for detailed information on midterm examinations.) These exams can be a

"A Suggested Approach to Online Law Study"

valuable tool to assess the progress of the student at the midyear point and identify problems which can be addressed prior to the final examination period.

Midterm examinations are submitted for grading and returned to the student with a recommended grade along with a grader prepared *Exam Analysis*. The Exam will have comments disclosing the grader's opinion on how the student approached the question and an Issue Analysis disclosing the issues in the question which should have been discussed by the student. It is recommended first year students wait until they receive the analysis of the first midterm submitted before answering the remaining midterms.

6. Final Examinations

The final examination grade generally constitutes 50% of the course grade in the *Juris Doctor-Attorney TrackSM Program*. Final examinations must be taken during the period set forth in the *Student Handbook*.

Final examinations will generally consist of two essay questions answered in a two-hour time period. *Contracts, Torts, Criminal Law, Evidence, Constitutional Law, Criminal Procedure, UCC, Professional Responsibility, Property, and Advanced Legal Reasoning* final examinations will include multiple-choice questions in lieu of the second essay question.

The level of difficulty of final examination essay and multiple-choice questions is intended to be comparable to the level of difficulty for the subject matter on the *First Year Law Students' Examination (Baby Bar)* and the *California General Bar Examination*.

The following instructions will be read at the Bar examination:

“Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationship to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions and discuss all points thoroughly.

"A Suggested Approach to Online Law Study"

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

Unless a question expressly asks you to use California law, you should answer according to legal theories and principles of general application."

7. *Know the Characteristics of Final Exam Essay Questions*

No Clear-Cut Answers - Most final examination essay questions will have no clear-cut answer. Many questions will test comparatively unsettled areas of the law, or areas where two conflicting doctrines are arguably applicable. The question will be designed to test your analysis and reasoning powers, not merely your knowledge. The graders are less interested in your conclusion but more interested in how you got there. Papers reaching totally opposite conclusions can be equally outstanding. A good answer will discuss each reasonable approach to the problem before reaching a plausible conclusion.

Multiple Issues - Every final examination question will contain multiple issues. There are two types of multiple issue questions which will appear on final examinations.

Many questions will involve clearly distinct sub-parts where the answer to one subpart has no effect on the answer to other sub-parts. These questions are ordinarily denominated by separate inquiries marked by letters or numbers. This type of question is invariably used for essays in Evidence and is frequently used in testing Criminal Law and Procedure.

Every question, even those with sub-parts, will have issues within issues; that is, in order to resolve a distinct major issue, it will be necessary to resolve one or more subordinate issues. Each element of a major issue must be fully discussed. In point of fact, the major issue will often not require a lengthy independent discussion, it being nothing more than a conclusion dictated by resolution of the subordinate issues.

Insufficient Time - Time is almost always a major problem on final examination questions as well as the Bar Examination. Once a student has spotted the issues, he can easily write for all the time allocated. Sixty minutes is allocated for each final examination essay question. (The time allowed per essay question is consistent with the General Bar Examinations.) Even the question writer himself, who knows all the issues in the question may not be able to write a totally complete answer in this time.

Even though a student lacks the exam-writer's insight into the question and may miss a few issues, the student will be forced to make judgments on how and what issues to spend time. A student's ability to make these judgments and separate the really important problems from comparatively minor ones is a primary analytical skill that is being tested. Those who go to the "heart of the question" will score highest while those who struggle endlessly in the underbrush will do poorly.

"A Suggested Approach to Online Law Study"

Cross-Over Questions - A cross-over question is a question, sometimes found on the General Bar Examinations, which tests issues in more than one subject area (e.g., a single question containing both contract and tort issues). School final examinations will not contain cross-over questions.

8. Use a Structured Approach to Answering Final Examination Essay Questions

This writer strongly recommends the following procedure be used in answering a final examination question:

- A. First, read the call of the question normally at the end of the question. Keep re-reading the question throughout and outlining;
- B. Keeping in mind the call of the question, quickly read the question itself underlining important words, phrases, and dates.
- C. Read the question through again, slowly and carefully. Squeeze every word and phrase to raise all potential issues. Ordinarily it should not be necessary to read in or stretch the facts to reach the issues. Instead, the student should confine herself to the facts given and the logical inferences which can be drawn there from.
- D. Outline the question. Always make a detailed outline and use it as you would a road map when traveling. Itemize exactly what you are going to write on the essay and *CHECK IT OFF* after you have written it in your exam answer. Don't start writing until your analysis and organization is *COMPLETE*. Most students will find it necessary to spend at least 25% of the time allocated for the question in the above steps before they start to write the question.
- E. Writing your answer. When you are ready to commence writing, the I-R-A-C format is recommended for handling each issue raised:
 - a) First, specify the **ISSUE**: State the issue in precise legal terms (e.g., "Did Defendant's mistake in computing his bid prevent the formation of an enforceable contract?"). Avoid generalizations and fence-straddling phraseology (e.g., "Can the offeree sue for breach of contract?").
 - b) Next, state the applicable law. The **RULE** applicable to the issue: If the courts dealing with the problem have expressed divergent views, don't make the mistake of just discussing the "general view" or "majority view." Consider and evaluate all relevant views. Again, make certain that you express the underlying rationale behind each view or rule of law.
 - c) Then, **APPLICATION** the law to the facts. Avoid the common error of stating a rule and then jumping to the conclusion that the rule should be applied. Your grader will not infer a supporting argument for you - you must spell it out. Therefore, with respect to each element of law involved, show which facts in the

"A Suggested Approach to Online Law Study"

case support (or prevent) application of the rule. Discuss and weigh the facts given and logical inferences to be drawn there from. But again, do not read in or stretch the facts to reach some distorted application of the rule.

- d) Finally, come to a **CONCLUSION** on each issue. Make sure that you have answered the question asked (e.g., if the question is "What advice would you give?" state clearly and explicitly your advice). Never leave an issue "hanging," or end your discussion of the problem with a question or "quaere." If a number of solutions are possible, discuss the merits of each, but always select one position as your decision and state why. Remember that in close cases, it is generally best to select the most practical and fair decision, and avoid a decision which disposes of the issues on purely technical grounds. Most law instructors appreciate and encourage independent and original legal reasoning. Therefore, don't consider yourself bound by the "general rule" or "majority view" in answering an exam unless the question clearly calls for such.

F. Proofread the answer for errors.

These additional pointers may also be helpful in writing exams:

- a) **Budget your time:** If you have allocated one-fourth of your time to analysis, you should write only in such detail that you will cover all points raised in your analysis in the remaining time. And always save at least two or three minutes at the end of the period to review your answer and to clarify and improve it. You may pick up grade points simply by making your answer more readable or by catching obvious errors.
- b) **Stick to the issues:** It's not advisable to go into matters not directly raised by the exam question. Avoid the temptation to recite broad segments of the law which you may have committed to memory, but which in reality have little to do with the problem raised. You will often find that you are short of time in writing a law exam, and it is therefore dangerous to digress from the actual issues.
- c) **Emphasize what counts:** Law exams are usually graded more heavily on certain issues than on others. Therefore, in writing your answer, spend as much time as possible on the more controversial or difficult parts of the problem. You should not minimize or skip over preliminary points, but your grader is usually more concerned with the way you handle the difficult issues of the problem and will grade accordingly. Except where the question clearly calls for it, discussions of historical materials, superseded doctrines or discredited cases should be kept to a minimum.
- d) **Make sure your answer is readable:** A grader is not likely to be impressed by the logic of an answer that cannot be read or is difficult to decipher. Therefore, if your handwriting borders on the illegible, it will be helpful for you to learn to answer the

"A Suggested Approach to Online Law Study"

questions on a laptop computer. Whether you write or use a computer, keep your sentences short and paragraph frequently. Leaving an extra line between paragraphs is also a good idea; it enhances readability and provides room for insertion of thoughts which occur to you later. A judicious use of underlining, for emphasis, is generally encouraged.

- e) Separate the discussions into party relationships.
(e.g. A vs. B, B vs. A, People vs. Smith)
- f) Put a title on each cause of action.
(e.g. Breach of Contract, Negligence, First Degree Murder)
- g) In typing your answer, double space and leave wide margins.
- h) In either case, writing or typing, compose BRIEF PARAGRAPHS. Use headings and sub-headings but do not make the answer look like an outline.
- i) Do not make unsupported conclusions. The following are examples of what not to do:
 - 1) "The facts indicate an offer is present." (Use those facts to show the offer);
 - 2) "The terms are definite and certain." (Do not assume the grader read the terms, set forth the terms you speak of);
 - 3) "The killing is murder because malice aforethought is present." (Establish the malice by using the facts);
 - 4) "D intended to kill V." (What facts indicate that intent? Cite them).
- j) Apply the facts to the problem. Do not merely repeat the facts. Students do not get any points for merely repeating the facts. Merely repeating facts and making unsupported conclusions can be prevented by using connecting words to apply the law to the facts of the problem. Common connecting words and phrases are "because", "since", "as", "in that", and "as evidenced by the facts."
- k) Always come to a conclusion after discussing an issue. Do not leave it "hanging."
- l) Always write in the third person. ("He", "she", "it", and "they" are examples of third person pronouns).
- m) If a student finds he must argue in such a way that it would negate the necessity to discuss other legal theories, (e.g., no contract found or prima facie elements of the crime not established and therefore no need to discuss any defenses in any case). Assume for argument's sake that the valid contract was found or that the prima facie elements of the crime were established and then discuss the applicable legal theories

"A Suggested Approach to Online Law Study"

(the defenses in the examples cited).

- n) It is sometimes a very fine distinction whether an issue is not relevant to the problem or whether it is relevant to the problem but not a valid theory because an element is not fulfilled. Beware of considering an issue not relevant to the exam problem simply because certain elements are not fulfilled. Sometimes the issue is present only for the purpose of showing that certain elements are not present.

It is not difficult to spot a relevant issue where only one or two elements are missing, but more difficult to spot where five of seven elements are missing, or three of four elements are missing. An example is the Statute of Frauds. It is not difficult to spot a Statute of Frauds issue if a contract is "oral" or "over the telephone". However, the issue should not be disregarded simply because the agreement is in writing, especially if details of the writing are given in the question. Is the writing sufficient to satisfy the statute?

Some law students elect to take an examination writing workshop outside of their law school during the first year of law study. *Fleming's Fundamentals of Law* offers such a workshop. Students desiring additional information can contact Fleming's at (949) 770-7030 or visit their website at www.lawprepare.com.

9. Know the Characteristics of Multiple-Choice (Multi-State) Questions

One hundred multiple-choice questions are on the *First Year Law Students' Examination*. Students are typically allocated approximately 1.8 minutes per question. Final examinations which include multiple-choice questions will generally allow 60 minutes for 33 questions. Allocate your time accordingly. If time appears to be a problem (it often is) answer questions with short factual situations first. Since there is generally no penalty for guessing, always answer all questions. Effective June 2024, the First Year Law Students' Examination is exclusively multiple-choice. School final examinations in the subjects of Torts, Contracts, Criminal Law, Constitutional Law, Property, Criminal Procedure, UCC, Evidence, Professional Responsibility, and Advanced Legal Reasoning are allocated to 50% multiple-choice type questions. Students should consider the following approaches to multiple-choice questions:

- i. For a basic reading approach, it is recommended that students:
 - a) Read the call of the question(stem) first;
 - b) quickly skim over the fact situation;
 - c) proceed to read the question carefully;
 - d) read the facts carefully again; and
 - e) select the **best** answer from the options given.
- ii. In analyzing each question, first eliminate the clearly incorrect choices (often two alternatives are clearly wrong).
- iii. As a general rule, if two alternatives can be correct, select the narrower or narrowest

"A Suggested Approach to Online Law Study"

correct alternative.

- iv. As a general rule, an answer that reflects a correct statement of law is preferable to an answer that states a correct statement of fact.
- v. In *Criminal Law* questions, you should be aware that certain crimes may be committed without any bad intention, knowledge, recklessness, or negligence. Examples would be "general intent" crimes such as rape, battery, and arson. Defenses such as insanity, intoxication, ignorance, or mistake are not defenses to "general intent" crimes. (The crime is the act itself).
- vi. In *Criminal Law* questions, you should be aware of the difference between larceny, and embezzlement (i.e., effect of custody versus possession).
- vii. Multiple-choice questions are nothing more than a series of true-false questions. For each answer alternative ask yourself if the alternative is true or false. By this method you will quickly eliminate the clearly false alternatives.
- viii. It is important for the student to understand that Multi-state Questions do not involve a search for perfect or entirely accurate answers. They only seek to find the **best** answer on a relative basis, limited to the four alternatives.
- ix. Students should note that the *Uniform Commercial Code* provisions tested on the Multi-state only apply to the sale of goods and often only in transactions between merchants. A specific reference in a question to goods or merchants often is a clue that the question requires application of the UCC.

10. Maintain Your "Study Log"

All Taft law students are provided with a Study Log at the time of enrollment for each academic year. Study Logs need to be submitted to the Taft at the end of each academic year and each student must submit a certification stating he or she has devoted the required 864 hours of law study during the year. Be very careful when calculating your hours. Be sure the logs reflect at least 864 hours. A copy of the Study Logs should be kept by the student until he or she has taken the General Bar Examination.

11. The Baby Bar and Review Programs

The *First Year Law Students' Examination* administered by the Committee of Bar Examiners must be taken by all first-year students at the conclusion of the academic year. The exam is half day and traditionally consists of 100 multiple-choice style questions.

As an incentive to students to become involved in a structured review program (as opposed to simply reviewing on your own), the Taft has adopted a policy of reimbursement for students completing the Fleming's Baby Bar Review or Adapti-bar program.

"A Suggested Approach to Online Law Study"

Upon the completion of midterm examinations, students can contact the Director of Student Services for complete details.

12. A Special Comment for Transfer Students

If you are a transfer student and have not used the I-R-A-C method of answering law school and bar essay questions, we strongly suggest you obtain a copy of Fleming's Essay Exam Writing Workbook vol. 1. This book covers the I-R-A-C approach in detail. The book is available on Amazon or lawprepare.com.

13. A Comment on Self-Discipline

Most students will find the legal concepts studied, with a few exceptions, are not particularly difficult to understand. The problem is that there is a great deal of material for which a student can be held responsible.

15. Use a Laptop Computer for Your Examinations

Students should use a laptop computer for the Bar Examination. The Committee of Bar Examiners will deny that there is a grading bias, but the fact is that applicants who use a laptop pass at a higher rate than applicants who hand write the exam.

16. Work Hard!

The key to success in the study of law is hard work, and there is just no way around this fact. You must learn how to do the reading, analyzing, and organizing that are second nature to a practicing attorney. Accordingly, don't allow yourself to fall into the habit of skimming on your studies throughout the year and then attempting to "cram" a course just before exams. This generally doesn't work at all. You must wrestle with the issues throughout the course to obtain the perspective essential to a real understanding of the problems involved, and to doing well on your exams.

It is Taft's hope that the suggestions contained in this handbook will assist you in your study efforts, and in developing the abilities which will spell success for you in law school and as a practicing attorney.

Good luck!