

Readers' Expectations, Discourse Communities, and Effective Bar Exam Answers

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I. INTRODUCTION

“The discourse of law thrives on the written word . . .”¹ From the first day of law students' training, they learn to speak and write in a new language unique to the legal

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1. RUTH ANN MCKINNEY, *READING LIKE A LAWYER* 264 (2005).

profession.² In addition to papers and essay exams, law students learn to write legal documents such as office memoranda, motion memoranda, and appellate briefs.³

After investing thousands of dollars and years of time in law school, graduates face their final hurdle for becoming licensed: the bar exam.⁴ Graduates must write effective essay and performance answers to pass their bar exams and obtain their law licenses.⁵

Once licensed, attorneys spend their entire careers writing documents like client letters, inner-office memoranda, contracts, wills, motion memoranda, and appellate briefs.⁶ Indeed, lawyers are professional writers: “Most lawyers write and publish more pages than most novelists, and with greater consequences hanging in the balance.”⁷ Thus, to be an effective lawyer, one must be an effective writer.

This article focuses on effective writing for one of the most stressful writing tasks that new law graduates must complete: bar exam answers. Although students who are accepted into and graduate from law school are usually “good” writers, to perform well on bar exams it is necessary for students to understand the types of questions asked and to adapt their writing for their readers—bar exam graders.

Law school provides a foundation of knowledge for subjects tested on bar exams, but law schools do not traditionally address writing for bar exams.⁸ After graduating from law school, bar review courses provide large groups of students an efficient means for reviewing the law tested on bar exams. However, bar review courses are not well situated to assist students with analytical and writing skills.⁹

2. *Id.* at 13.

3. Lucia Ann Silecchia, *Legal Skills Training in the First year of Law School: Research? Writing? Analysis? or More?*, 100 DICK. L. REV. 245, 285 (1996).

4. For example, the cost of attending a public university’s law school for one academic year (nine months) is approximately \$28, 013 (\$11,981 tuition and fees; \$12,128 books and living expenses; \$1,278 travel; and \$2,626 miscellaneous expenses). UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW 2005-06 QUICK FACTS (2005).

5. *See, e.g.*, Richard Cabrera, *Working to Improve: A Plan of Action for Improving the Bar Exam Pass Rate*, 27 WM. MITCHELL L. REV. 1169, 1170 (2000).

6. Silecchia, *supra* note 3, at 285.

7. LINDA EDWARDS, *LEGAL WRITING: PROCESS, ANALYSIS, AND ORGANIZATION* 1 (3d ed. 2002).

8. Some law schools provide supplemental bar exam programs or workshops that include a writing component. For example, the University of North Carolina provides a series of bar preparation workshops covering the bar review process, the bar exam process, and essay writing techniques. In recent years, law schools have been increasingly providing bar preparation services. *E.g.*, Cabrera, *supra* note 5, at 1170-71 (advocating for law school bar preparation programs). Since the ABA has approved law school for-credit bar preparation courses, law school programs are certain to increase. *See* ABA Standard 302, Interpretation 302-7; Memorandum from John A. Sebert, Consultant on Legal Education, to Deans of ABA-Approved Law Schools (Aug. 23, 2004), available at <http://www.abanet.org/legaled/standards/memor302and305standards.pdf>.

9. Suzanne Darrow-Kleinhaus, *Incorporating Bar Pass Strategies Into Routine*

This article advocates that law schools should provide bar preparation for their students, including instruction in writing effective bar exam answers.¹⁰ Regardless of students' levels of intelligence and motivation, their bar exam performance will be inadequate if they fail to communicate what they know to those grading their exams. In contrast, by understanding and meeting bar graders' expectations, bar takers' writing is more likely to be favorably received.

Students can be taught to adapt their writing skills for effective bar exam answers by using the "reader expectation approach" to writing, employing a step-by-step process for answering questions, completing practice questions, obtaining feedback, and reflecting on that feedback.¹¹ By doing so, law schools can increase their students' likelihood of success on bar exams.¹²

Teaching Practices, 37 GONZAGA L. REV. 17, 27 (2001-02).

10. Passing a bar exam depends on several factors, including aptitude, motivation, preparation, and attitude. DENISE RIEBE & MICHAEL HUNTER SCHWARTZ, *PASS THE BAR!* xvii (2006). This article only focuses on one factor, preparation—specifically, the preparation students need to engage in to adapt their writing style to the type expected in bar exam answers. This factor, like many other factors influencing students' likelihood of success (e.g., time management, motivation, and attitude) is a factor students can control.

11. See GEORGE D. GOPEN, *THE SENSE OF STRUCTURE: WRITING FROM THE READER'S PERSPECTIVE* (2004) [hereinafter *STRUCTURE*] and *EXPECTATIONS: TEACHING WRITING FROM THE READER'S PERSPECTIVE* (2004) 3-4 [hereinafter *EXPECTATIONS*] (explaining reader expectation approach); RUTH ANN MCKINNEY, *TEACHER'S MANUAL TO ACCOMPANY LEGAL RESEARCH: A PRACTICAL GUIDE AND SELF-INSTRUCTIONAL WORKBOOK 5* (4th ed. 2003) [hereinafter *TEACHER'S MANUAL*] (emphasizing importance of a step-by-step process and practice to master new skills); MICHAEL HUNTER SCHWARTZ, *EXPERT LEARNING FOR LAW STUDENTS* 30-31, 71-78 (2005) (emphasizing the importance of receiving and reflecting about feedback to learn and improve skills).

12. As a bar review director, bar exam consultant, and professor, I have spent fifteen years helping students pass bar exams. Since most bar exam information is confidential, many of my insights and recommendations are the result of years of first-hand experience working with students (especially repeaters who have the right to examine their exams). Law schools that provide bar preparation programs have reported a positive impact on bar passage rates. E.g., Linda Jellum & Emmeline Paulette Reeves, *Cool Data on a Hot Issue: Empirical Evidence That a Law School Bar Support Program Enhances Bar Performance*, 5 NEV. L.J. 646, 648, 671 (2005) (reporting that bar passage program significantly improved bar passage rates, especially for at-risk students; 28.5% improvement from at-risk non-participants to at-risk participants for the bottom half of the class). Positive results have also been reported at other law schools. See, e.g., Cabrera, *supra* note 5, at 1179 (reporting a positive impact at William Mitchell School of Law); Interview with Michael Hunter Schwartz, Professor, Western State University College of Law (May 7, 2005) (reporting a 35% increase in the bar passage rate, from 30% to 47%, in California where the state's overall passage rate is usually relatively in the 40% range).

II. THE READER EXPECTATION APPROACH TO WRITING

A. *Introduction to the Reader Expectation Approach*

The reader expectation approach to writing provides one method for determining which rhetorical habits are most helpful to readers.¹³ Accordingly, it provides a means for communicating as precisely as possible and controlling readers' interpretations—tasks that should be at the heart of all lawyers' rhetorical agendas.¹⁴

Dr. George Gopen of Duke University, along with several of his associates, developed the "reader expectation approach" as a means for teaching students and professionals to increase the effectiveness of their writing skills. The reader expectation approach emphasizes reader-based perceptions of rhetoric and deemphasizes two components of the communication triangle—the writer and discourse itself.¹⁵

Fairly recently, it was discovered that "there are recognizable patterns in the interpretive process of most readers of English."¹⁶ Of course, not all readers read the same way.¹⁷ However, "most readers go through the same kinds of processes most of the time."¹⁸ Both writers and readers are creatures of habit: writers continually use and reuse the same strategies for the same types of writing tasks, and readers have "relatively fixed expectations of where in the structure of any unit of discourse to expect the arrival of certain kinds of substance."¹⁹

For example, at the sentence level, readers of English expect that the subject of a sentence will be followed almost immediately by a verb.²⁰ At the paragraph level, readers expect the issue of a paragraph to appear at the beginning of the paragraph.²¹ Readers then assume that a paragraph will develop the issue stated at its beginning.²²

The reader expectation approach deemphasizes language as an object of interest by itself, or as a means of self-expression, and shifts attention to how language functions.²³ It thus values readers more than writers and judges the effectiveness of a piece of writing by how the writing "is perceived by readers."²⁴ After all, once students graduate and enter the working world, no one will care how hard they work

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13. EXPECTATIONS, *supra* note 11, at 13.
 14. STRUCTURE, *supra* note 11, at 13.
 15. EXPECTATIONS, *supra* note 11, at 360.
 16. STRUCTURE, *supra* note 11, at xi.
 17. EXPECTATIONS, *supra* note 11, at 367.
 18. *Id.* at xvi.
 19. *Id.* at 11.
 20. STRUCTURE, *supra* note 11, at 31.
 21. *Id.* at 96-111.
 22. *Id.*
 23. EXPECTATIONS, *supra* note 11, at xvi.
 24. *Id.*

or improve with their writing.²⁵ For example, a judge does not look at a lawyer's brief and say, "This is a real mess; but it is so much better than the last one you turned in, you win the case."²⁶ "Real-world" writing is done almost entirely for the sake of readers.²⁷ Thus, writing is effective to the extent that readers receive the communication that writers intend to send.²⁸

B. Readers' Expectations

Some of the major rhetorical techniques that control a reader's interpretive process include diction, punctuation, sentence construction, complexity, specificity, reference, and structural location.²⁹ Although structural location may seem the least of all these techniques, it may actually be the single most important skill a writer can develop.³⁰ In fact, Dr. Gopen asserts that the meaning of writing is derived eighty-five percent from structure.³¹

Accordingly, the reader expectation approach is based on the premise "that the mere *articulation* of information conveys far fewer clues for interpretation than does the *placement* of that information."³² In other words, "*where* a piece of information appears has a great deal to do with *how* that information is processed."³³ Consequently, whenever possible, writers should consciously "try to locate the various types of substance in the structural locations where readers expect those types of substance to arrive."³⁴

Structural choices are "by no means merely cosmetic; they go to the heart of thought itself."³⁵ If material is not structurally located where readers will be expecting to find it, then the odds are low that readers will perceive the intended meaning.³⁶ Writers are essentially communicating, "*You* figure out what to do with [this]."³⁷ Writers who fail to communicate how a reader should connect information to form a whole train of thought risk having their writing efforts result in noncomprehension.³⁸ Consequently, writing that fails to conform to readers'

25. STRUCTURE, *supra* note 11, at 6.

26. *Id.*

27. *Id.*

28. *Id.* at xi.

29. STRUCTURE, *supra* note 11, at 9-12.

30. *Id.* at 12.

31. EXPECTATIONS, *supra* note 11, at 363.

32. *Id.* at 55.

33. *Id.* at xvi.

34. *Id.* at 78.

35. STRUCTURE, *supra* note 11, at 46.

36. EXPECTATIONS, *supra* note 11, at 16.

37. STRUCTURE, *supra* note 11, at 85.

38. *Id.*

expectations about structural location is interpretable, but is highly likely to be misinterpreted and ineffectively communicative.³⁹

In contrast, by consistently placing pieces of information where readers expect it, writers gain readers' trust.⁴⁰ Readers thus "ebb and flow" with the content and thought just as the writers intended them to and understand the messages being sent.⁴¹ Although substance with an expected structure "may not be interpreted the same way by all readers . . . the likelihood of shared interpretation increases greatly."⁴² More importantly, readers are more willing to accept the analysis of one who is considerate of their expectations.⁴³

C. Benefits of the Reader Expectation Approach

Most readers are intuitively aware of their expectations in their role as readers.⁴⁴ The reader expectation approach makes these expectations consciously available to writers.⁴⁵ By utilizing the reader expectation approach, writers can accomplish a number of objectives.⁴⁶

First, the reader expectation approach demystifies the writing-reading process and empowers writers.⁴⁷ By utilizing the reader expectation approach, writers send clear reading instructions and gain control over readers' interpretive processes.⁴⁸ Consciously meeting and working with readers' expectations increases the likelihood that writers' substance will be interpreted as intended.⁴⁹

Second, the reader expectation approach provides a method of invention.⁵⁰ It puts writers in touch with their own thought processes, thereby helping writers clarify and keep their own thoughts ordered.⁵¹ It also helps writers create and organize text by providing a method for making structural choices while drafting.⁵²

Third, in a similar vein, the reader expectation approach provides a method for revision, helping writers to clean up their own writing.⁵³

39. EXPECTATIONS, *supra* note 11, at xiv.

40. STRUCTURE, *supra* note 11, at 81, 83.

41. *Id.* at 83.

42. EXPECTATIONS, *supra* note 11, at xiv.

43. EDWARDS, *supra* note 11, at 263.

44. EXPECTATIONS, *supra* note 11, at 12.

45. *Id.*

46. *Id.*

47. *Id.* at xvi.

48. *Id.* at 12.

49. STRUCTURE, *supra* note 11, at 110.

50. EXPECTATIONS, *supra* note 11, at xvi.

51. STRUCTURE, *supra* note 11, at xii.

52. *Id.* at 45-46, 84.

53. *Id.* at xii.

Finally, utilizing the reader expectation approach can help to minimize the amount of “reader energy” that must be summoned to read, interpret, and contemplate a piece of writing.⁵⁴ If readers’ expectations are violated, readers are forced to devote a disproportionate amount of reader energy to the discerning of structure.⁵⁵ In contrast, by meeting readers’ expectations, a writer can minimize the amount of reader energy necessary to discover the structure of a piece of writing, making more reader energy available for understanding and contemplating its substance.⁵⁶

D. Historical Support for the Reader Expectation Approach

Focusing on readers’ expectations is nothing new. Many reader expectation concepts “have been articulated many times over the course of the history of rhetoric.”⁵⁷ Indeed, “the lines of development can be traced all the way back to the beginning of the Western rhetorical tradition.”⁵⁸ Although the ancient rhetoricians were dealing with Greek and Latin prose that was heard and not read, their insights demonstrate their recognition of the importance of structure to the perception of substance.⁵⁹

For example, readers expect to be provided context at the beginning of a unit of writing to help them make sense of what follows.⁶⁰ Readers’ needs for contextualizing information is so pressing that they will tend to use whatever is stated first to make sense of what follows.⁶¹ In the fourth century, B.C., Aristotle communicated this sentiment in *On Rhetori*: “The unlimited leads astray; he who gives, as it were, the beginning into the hand [of the audience] allows him, by holding on, to follow the speech.”⁶²

The importance of structure to communication was noted as far back as the first century, A.D., by Marcus Fabius Quintilian, a Roman rhetorician.⁶³ Quintilian stated, “for it is not only of consequence what we say, and how we say it, but also where we say it; there is need therefore also for *arrangement*.”⁶⁴

54. EXPECTATIONS, *supra* note 11, at 10-11.

55. *Id.* at 11.

56. *Id.* at 12.

57. *Id.* at 379.

58. *Id.* at 11.

59. EXPECTATIONS, *supra* note 11, at 379.

60. STRUCTURE, *supra* note 11, at 67, 96, 109-10.

61. *Id.* at 108.

62. EXPECTATIONS, *supra* note 11, at 384 (quoting ARISTOTLE, ON RHETORIC 3.14.6 (George A. Kennedy trans., 1991)).

63. *Id.* at 380.

64. *Id.* (quoting MARCUS FABIVS QUINTILIAN, INSTITUTES OF ORATORY Bk.III, Ch. III 2 (John Selby Watson trans., 1892) (addressing the structural location of arguments)).

Another example is provided by the concept of reader energy—the amount of effort a reader must use to read and interpret a piece of writing.⁶⁵ Communicating this point, Hugh Blair stated:

If we are obliged to follow a writer with much care, to pause, and to read over his sentences a second time, in order to comprehend them fully, he will never please us long. Mankind are too indolent to relish so much labour. They may pretend to admire the author's depth, after they have discovered his meaning; but they will seldom be inclined to take up his work a second time.⁶⁶

and

We are pleased with an author, we consider him as deserving praise, who frees us from all fatigue of searching for his meaning; who carries us through his subject without any embarrassment or confusion; whose style flows always like a limpid stream, where we see to the very bottom.⁶⁷

As a final example, readers have a need for, and expect, closure at the end of a piece of discourse.⁶⁸ This concept was articulated in the first century, B.C., by Cicero, a Roman rhetorician:

My ear, at any rate, rejoices in a full and rounded period; it feels a deficiency, and does not like an excess. Why say 'my ear?' I have often seen the whole assembly burst into a cheer, in response to a happy cadence. For the ear expects the words to bind the sentence together.⁶⁹

E. Readers' Expectations and Discourse Communities

In addition to generally shared expectations of readers of English, individual professional communities have their own particular sets of expectations.⁷⁰ For example, there are unique discourse communities—groups “of individuals who share a common language, common knowledge base, common thinking habits, and

65. *Id.* at 10-11.

66. *Id.* at 385 (quoting HUGH BLAIR, 1 LECTURES ON RHETORIC AND BELLES LETTRES 185 (Harold F. Harding ed., 1965)).

67. EXPECTATIONS, *supra* note 11, at 385 (quoting BLAIR, at 186).

68. STRUCTURE, *supra* note 11, at 126.

69. EXPECTATIONS, *supra* note 11, at 382 (quoting MARCUS TULLIUS CICERO, ORATOR 1.168 (H.M. Hubbell trans., 1971)); *see id.* at 385 (quoting fourth century Greek philosopher Aristotle in ON RHETORIC 11 (George A. Kennedy trans., 1991)).

70. MCKINNEY, *supra* note 1, at 14.

common intellectual assumptions”—for the medical, scientific, and legal discourse communities.⁷¹

Discourse communities expect their conventions to be adhered to, in effect directing their community members that “[‘this is] the way we do things here.”⁷² Relying on a certain amount of communal certainty in communications assists discourse communities in functioning effectively.⁷³ Thus, learning to write well depends on learning to recognize and utilize the expectations of the discourse communities to which one belongs.⁷⁴

F. *The Legal Profession’s Community Conventions and Expectations*

In the legal profession, as in other professions, the type and style of documents written are “founded on a similarly indigenous set of community expectations.”⁷⁵ Thus, “scholars of rhetoric . . . would call the unique world inhabited by lawyers a ‘discourse community.’”⁷⁶

The rhetoric of legal discourse is clear, orderly, linear, and rational.⁷⁷ It follows a “methodical march”—a reader should know when you leave home, your route, your destination, and your time of arrival.⁷⁸ Further, in legal writing, a writer’s purpose is usually to persuade a reader to believe something or to do something.⁷⁹ To have that type of effect on readers, writers must work through not only what they have to say, but also how it can best be heard by readers.⁸⁰

Legal readers are frequently busy, skeptical, and “impatient with delay in getting to the bottom line.”⁸¹ They appreciate clear organization and road maps.⁸² Since readers need to be informed or persuaded, writers need to send them instructions for

71. *Id.*; see also Linda L. Berger, *Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context*, 49 J. LEGAL EDUC. 155, 158 (1999) (discussing the new rhetoric outer-directed school which analyzes the conventions of particular discourse communities).

72. Berger, *supra* note 71, at 159.

73. EXPECTATIONS, *supra* note 11, at 10.

74. *Id.*

75. STRUCTURE, *supra* note 11, at 146.

76. MCKINNEY, *supra* note 1, at 14; see also Berger, *supra* note 71, at 158 (discussing the new rhetoric outer-directed school).

77. Berger, *supra* note 71, at 155.

78. *Id.*

79. *Id.* at 181.

80. *Id.* at 169 (“The ‘outside reader’s eye’ predominates when the focus shifts to reviewing the emerging text to see whether it meets the purposes of an outside reader, and the ‘outside writer’s eye’ is used when the writer concentrates on having an intended effect on an outside reader.”).

81. EDWARDS, *supra* note 7, at 263.

82. *Id.*

how to pull together the information communicated.⁸³ Those instructions are sent mostly by depositing information in the structural locations where readers will look for it.⁸⁴

Law-trained readers expect the macro-organization of a legal document to be structured around the overarching, applicable rule.⁸⁵ Once the overarching rule is identified and broken down into its component parts, those components can serve as the “backbone” for the organizational structure.⁸⁶ Those components also provide topics that can be used for headings within a legal document.⁸⁷ Using headings that conform to the component parts of an overarching rule makes legal documents reader-friendly.⁸⁸

For each issue addressed in a legal document, law-trained readers expect the structure of a legal analysis to be based on deductive (or syllogistic) reasoning.⁸⁹ Indeed, deductive reasoning provides the structure for legal analyses in almost all legal writing—whether one is writing law school assignments, bar exam answers, or documents produced in legal practice.⁹⁰

Deductive reasoning is the statement of a logical relationship made up of a major premise (a rule), a minor premise (the application of that rule), and a conclusion.⁹¹ Law students are usually taught to follow the deductive reasoning process with paradigms like “CRAC”—Conclusion, Rule, Application, Conclusion.⁹² Whatever terminology is used, the purpose of these paradigms is to ensure that students’ writing is logical and adheres to the expectations of law-trained readers.⁹³

Utilizing the CRAC paradigm, legal writers should begin an analysis by stating their conclusion first.⁹⁴ By stating a conclusion at the beginning of a unit of writing, writers provide readers context.⁹⁵ Readers have a pressing need for contextualizing information before they have to deal with new information, and context helps readers

83. STRUCTURE, *supra* note 11, at xii.

84. *Id.* at xii-xiii. As noted above, structural placement is also a valuable technique for writers to use to generate, organize, and revise their thoughts. *Id.* at 45.

85. EDWARDS, *supra* note 7, at 29-30.

86. *See, e.g., id.* at 30-36.

87. *Id.*

88. *Id.* at 31.

89. *Id.* at 88.

90. *See, e.g.,* EDWARDS, *supra* note 7, at 8, 87-88 (explaining rule-based reasoning; providing paradigm based on the deductive reasoning process); JAMES A. GARDNER, LEGAL ARGUMENT: THE STRUCTURE AND LANGUAGE OF EFFECTIVE ADVOCACY 3-13 (1993) (explaining how legal writing is based in the deductive reasoning process).

91. GARDNER, *supra* note 90, at 4.

92. RIEBE & SCHWARTZ, *supra* note 10, at 146, 149.

93. *Id.* at 149.

94. *Id.* at 146.

95. STRUCTURE, *supra* note 11, at 67.

understand all that follows.⁹⁶ In addition, establishing context makes readers receptive to the arrival of subsequent information.⁹⁷

An initial conclusion provides context by informing a reader about the area of law involved in a specific case and what result is being predicted or advocated.⁹⁸ Additional context may be provided by using an introductory section after the initial conclusion to provide an applicable procedural standard or appellate standard of review, or to set out overarching rules (for example, elements of an offense) that will be discussed in an analysis.⁹⁹

After providing context, legal writers should explicitly state the applicable rules.¹⁰⁰ Law-trained readers want to know what law applies in a given situation, and then how the law applies to a specific factual scenario.¹⁰¹ The end of an analysis should restate a writer's conclusion to meet readers' needs for closure.¹⁰²

In addition, writers should use transitions to lead readers through a piece of discourse.¹⁰³ Whenever a reader departs from a unit of discourse, "the possibilities of where 'the next sentence' [or paragraph] may go in any piece of discourse are infinite."¹⁰⁴ Accordingly, it is important for writers to provide connections to make it clear how readers are to proceed; in other words, a writer's mission is to "[t]ake your reader with you."¹⁰⁵ When readers are told the direction in which a writer is proceeding and which way they should turn, they are pleased, relieved, and willing to follow.¹⁰⁶

III. USING THE READER EXPECTATION APPROACH TO WRITE EFFECTIVE BAR EXAM ANSWERS

A. Bar Exam Writing Tasks¹⁰⁷

There are three common types of bar exam questions: multiple-choice, essay, and performance questions.¹⁰⁸ Only the last two, essay and performance questions,

96. *Id.* at 108-10.

97. *Id.* at 67.

98. RIEBE & SCHWARTZ, *supra* note 10, at 146.

99. *Id.*

100. *Id.* at 146, 150.

101. EDWARDS, *supra* note 7, at 87.

102. STRUCTURE, *supra* note 11, at 126.

103. EDWARDS, *supra* note 7, at 96.

104. STRUCTURE, *supra* note 11, at 136-37.

105. *Id.* at 144.

106. *Id.* at 137, 141.

107. *See generally* RIEBE & SCHWARTZ, *supra* note 10, at chapters 5, 15, 16.

108. *Id.* at 39-43.

require students to utilize writing skills; both of these types of questions are explained below.

1. Bar Exam Essay Questions¹⁰⁹

All states use essay questions on their bar exams. About a third of the states have adopted the National Conference of Bar Examiners' ("NCBE") Multistate Essay Exam ("MEE")¹¹⁰ as a part of their bar exams.¹¹¹ Other states use state-created essays.¹¹² For either, students must understand the types of questions used and the subjects tested on their exams.

The MEE is a three-hour exam consisting of six, thirty-minute essay questions.¹¹³ The NCBE states that the purpose of the MEE is for students to:

- a. Identify legal issues raised by a factual situation;
- b. Separate relevant from irrelevant information;
- c. Present a reasoned analysis of the issues raised in a clear, concise, and well organized manner;
- d. Demonstrate an understanding of the law relevant to resolve the factual situation; and
- e. Demonstrate an ability to communicate effectively in writing.¹¹⁴

Although the MEE is written by the NCBE, the weight accorded the exam is determined by individual states and, like state-created essays, the MEE is graded by state examiners—there is no national grading.¹¹⁵ The NCBE provides detailed exam

109. See generally *id.* at chapters 5 and 15.

110. See NCBE, THE MULTISTATE ESSAY EXAM 2005 INFORMATION BOOKLET (2005), http://www.ncbex.org/tests/Test%20Booklets/MEE_IB2005.pdf [hereinafter MEE INFORMATION BOOKLET].

111. NCBE, 2004 Statistics, THE BAR EXAMINER 6, 26 (May 2005), http://www.ncbex.org/pubs/pdf/740205_2004statistics.pdf [hereinafter 2004 Statistics]. In 2004, the MEE was used in seventeen jurisdictions: Alabama, Arkansas, the District of Columbia, Guam, Hawaii, Idaho, Illinois, Kansas, Kentucky, Mississippi, Missouri, Nebraska, North Dakota, the Northern Mariana Islands, South Dakota, Utah, and West Virginia. *Id.* See the NCBE's Web site for the most current information about which states use the MEE. *Id.*

112. *Id.* (jurisdictions using state created essays: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Mexico, Ohio, Oregon, Oklahoma, Pennsylvania, New Jersey, New Hampshire, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, Wisconsin, and Wyoming).

113. MEE INFORMATION BOOKLET, *supra* note 110, at 1.

114. *Id.* at 1-2.

115. *Id.* at 1.

information, topical outlines for subjects tested,¹¹⁶ and sample essay questions on its Web site.¹¹⁷ Students can order additional sample essay questions from the NCBE.

For states using state-created essay questions, students should ask their states' licensing entities which subjects are tested as well as for information about the format, length, number of questions, and time allotted for the essay portion. Most states provide sample essay questions. They may be available directly from states' licensing entities, from bar review companies, or through law schools (for example, many schools have sample questions on reserve in their libraries).¹¹⁸

Although essay questions vary from state to state, they tend to be fairly similar.¹¹⁹ "In general, they are more specific, concrete, and concise than the long hypothetical questions traditionally used on law school essay exams."¹²⁰ Students are not asked to analyze broad questions of public policy or theorize; rather, bar exams typically use relatively short hypothetical situations followed by a specific question or "call" and require students to identify issues, apply rules to facts, and predict outcomes.¹²¹ This is not surprising given the fact that most bar examiners are practicing lawyers with a "real-world" perspective.¹²²

Since bar exam questions tend to be specific and concrete, many students find them easier than those typically found on law school exams.¹²³ On the other hand, bar exam questions provoke anxiety in some students because their specificity leaves less margin for error.

Another unique aspect of the types of questions asked on bar exam essays is that, unlike law school questions which focus on one law school course at a time and come with subject labels ("Contracts Exam"), "bar exams often combine multiple law school courses in a single essay question."¹²⁴ Again, this is more similar to what attorneys actually do in practice than what students experience in law school.¹²⁵

Frequently, questions combine a procedural standard or appellate standard of review together with an area of substantive law.¹²⁶ For example, questions might ask:

116. *Id.* at 1-14. The following subjects are tested on the MEE: agency, commercial paper, conflict of laws, corporations, decedents' estates, family law, federal civil procedure, future interests, limited liability companies, partnership, sales, secured transactions, and trusts. *Id.* at 1.

117. MEE INFORMATION BOOKLET, *supra* note 110, at 15-30.

118. For more information about state-created essay exams, see RIEBE & SCHWARTZ, *supra* note 10, at chapter 15.

119. Soc'y of American Law Teachers, *Society of American Law Teachers Statement on the Bar Exam*, 52 J. LEGAL EDUC. 446, 446 n.1 (2002).

120. RIEBE & SCHWARTZ, *supra* note 10, at 142.

121. *Id.*

122. *Id.* at 150.

123. *Id.* at 142.

124. *Id.* at 143.

125. RIEBE & SCHWARTZ, *supra* note 10, at 144.

126. *Id.* at 143.

“Did the trial judge err in granting the motion to dismiss on the contract claim?” or “Should the trial judge grant Defendant’s motion for summary judgment on the tort claim?” or “Did the court err in denying Defendant’s motion for judgment of acquittal?”¹²⁷ Consequently, students must be prepared to address procedural postures and standards of review.¹²⁸

2. Bar Exam Performance Questions¹²⁹

Performance tests require bar takers to perform practical lawyering tasks.¹³⁰ As with essay questions, states can either use state-created questions or the NCBE’s Multistate Performance Test (“MPT”). For either, students should understand the types of questions typically asked, review sample questions and answers, and develop their own system for answering performance questions.

The MPT has been adopted by a little more than half of the states as a part of their bar exams.¹³¹ The NCBE provides three ninety-minute MPT questions per exam administration.¹³² States using the MPT may include one, two, or all three of

127. *Id.*

128. *Id.* Commonly tested motion standards and appellate standards of review are: Rule 12(b)(6) motion to dismiss, Rule 56 summary judgment, Rule 41 motion to dismiss, Rule 50 motion for a directed verdict, Rule 50 motion for a judgment notwithstanding a verdict (“JNOV”), motion to compel discovery, evidentiary rulings (i.e., admitting testimony, striking an affidavit, using interrogatories, suppressing evidence), criminal motion to dismiss, criminal defendant’s request for jury instructions on a defense, criminal case request for jury instructions for lesser included offenses, *de novo* standard of review, any competent evidence standard of review, abuse of discretion standard of review, and substantial evidence standard of review. RUTH ANN MCKINNEY WITH KENNETH S. BROUN AND RICHARD ROSEN, GUIDE TO NORTH CAROLINA STANDARDS FOR CONSIDERATION OF TRIAL COURT MOTIONS (Feb. 2000) (unpublished handout available from the Writing and Learning Resources Center at the University of North Carolina Law School and on file with author) [hereinafter GUIDE TO NORTH CAROLINA STANDARDS]; KAREN GWALTNEY, AS EDITED BY RUTH ANN MCKINNEY, GUIDE TO NORTH CAROLINA’S APPELLATE STANDARDS OF REVIEW (2001) (unpublished handout available from the Writing and Learning Resources Center at the University of North Carolina Law School and on file with author) [hereinafter GUIDE TO NORTH CAROLINA’S APPELLATE STANDARDS].

129. *See generally* RIEBE & SCHWARTZ, *supra* note 10, at chapters 5 and 16.

130. *Id.* at 179.

131. In 2004, thirty-one jurisdictions used the MPT—including all states except Arizona, California, Connecticut, Florida, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Virginia, Washington, Wisconsin, and Wyoming. 2004 *Statistics*, *supra* note 111, at 27. *See* the NCBE Web site for current information regarding which jurisdictions use the MPT. NCBE, www.ncbex.org (last visited June 9, 2006).

132. *See* NCBE, THE MULTISTATE PERFORMANCE TEST 2005 INFORMATION BOOKLET 1 (2005), www.ncbex.org/tests/Test%20Booklets/MPT_IB2005.pdf [hereinafter MPT

the questions as part of their exams.¹³³ Each state determines the weight given the MPT portion of its exam and grades the exam—there is no national grading.¹³⁴

The MPT is like a closed office memorandum assignment.¹³⁵ Students are given a client “File” and a “Library” with applicable law (including cases, statutes, regulations, or rules) and are required to perform a specific lawyering task for a client’s case.¹³⁶ The MPT does not test substantive knowledge; rather, the “library materials provide sufficient substantive information to complete” the lawyering task.¹³⁷

Examples of performance tasks that students might be asked to complete include an office memorandum, a client letter, a motion memorandum, an appellate brief, a statement of facts, a contract provision, a will, a client counseling plan, a settlement agreement, a discovery plan, a witness examination plan, or a closing argument.¹³⁸

The NCBE states that the aim of the MPT is to test students’ ability to use fundamental lawyering skills, including:

- a. Separating relevant from irrelevant factual information;
- b. Extracting relevant principles of law;
- c. Resolving a client’s problem by applying applicable law to relevant facts;
- d. Identifying and resolving ethical dilemmas;
- e. Communicating effectively in writing; and
- f. Completing a lawyering task within time constraints.¹³⁹

Samples of previously administered MPT exams, including information about issues students should discuss and suggested resolutions of the problems, are on the NCBE Web site and may also be ordered from the NCBE.¹⁴⁰ In states using state-created performance exams, students should ask their licensing entities whether any sample questions are available and, if so, obtain them.

INFORMATION BOOKLET].

133. *Id.*

134. *Id.*

135. *Id.*

136. *Id.* at 1-2.

137. MPT INFORMATION BOOKLET, *supra* note 132, at 2.

138. *Id.*

139. *Id.*

140. NCBE, *NCBE Free Publications*, <http://ncbex.org/pubs/freepubs.htm> (last visited Feb. 20, 2006).

B. *Bar Examiners' Expectations for Bar Exam Answers*

The purpose of legal writing is usually “to persuade [a] reader to believe something or to do something.”¹⁴¹ In the context of the bar exam, writers’ goals are to persuade their readers—bar graders—that they are competent,¹⁴² and to give them passing scores.¹⁴³ As with other types of writing, to achieve that effect, bar takers must consider how their writing will be received by their readers.¹⁴⁴

Students should inquire as to whom will be grading the bar exam answers in order to ascertain the specific audience.¹⁴⁵ In general, bar exam graders are fairly similar.¹⁴⁶ “Graders are often practicing attorneys, who grade hundreds of essays rapidly.”¹⁴⁷ Like other legal readers, bar graders are frequently busy, skeptical, and “impatient with delay in getting to the bottom line.”¹⁴⁸

Bar graders who are practicing attorneys also have a “real-world” perspective: they are used to dealing with specific clients’ situations and are concerned with resolving those specific situations.¹⁴⁹ And, as in “real life,” they expect bar takers to be able to address multiple subjects that are implicated by a single factual situation and to address a procedural posture or appellate standard of review appropriately.¹⁵⁰ Thus, students must be prepared to meet graders’ expectations by demonstrating they are competent to analyze specific clients’ cases, integrating all applicable subject areas, handling any procedural posture or standard of review appropriately, and providing direct and concise answers to the questions asked.¹⁵¹

“Concise,” however, is a relative term; thus, it is often just as confusing to students as it is helpful.¹⁵² Bar takers should not make the mistake of being too concise—“writing so little that [they cannot] get full credit on essay questions.”¹⁵³

141. Berger, *supra* note 71, at 181.

142. See, e.g., Cabrera, *supra* note 5, at 1172; Soc’y of American Law Teachers, *supra* note 119, at 447; State Bd. of Bar Exam’rs, *How the Bar Exam is Written and Graded*, 9 NEV. LAWYER 26, 26 (2001).

143. See Cabrera, *supra* note 5, at 1170.

144. See Berger, *supra* note 71, at 181. “The ‘outside reader’s eye’ predominates when the focus shifts to reviewing an emerging text to see whether it fulfills its purpose and has its intended effect on an outside reader.” *Id.* at 169.

145. RIEBE & SCHWARTZ, *supra* note 10, at 144.

146. EDWARDS, *supra* note 7, at 162.

147. RIEBE & SCHWARTZ, *supra* note 10, at 144-45.

148. EDWARDS, *supra* note 7, at 263.

149. See RIEBE & SCHWARTZ, *supra* note 10, at 150.

150. *Id.* at 143.

151. See generally *id.* at 150.

152. *Id.* at 142.

153. *Id.*

After all, bar graders are not mind readers; students can only get credit for what appears in their answers.¹⁵⁴

Achieving the correct level of conciseness requires “the exercise of judgment regarding which issues to discuss and in what depth.”¹⁵⁵ Students should “aim to spot all the issues, spend the largest amount of time on the most significant issues, and spend the least amount of time on the least significant issues.”¹⁵⁶

There are a couple of additional factors that can guide the exercise of judgment. “First, [students should] be aware that law-trained readers expect a certain structure.”¹⁵⁷ To meet these expectations, students should structure their writing according to the steps of the deductive reasoning process as reflected in the CRAC paradigm.¹⁵⁸ Second, students should use the full time allotted to each question.¹⁵⁹ Third, students should use the allotted space provided by examiners to write answers—not less or more.¹⁶⁰ In short, by exercising good judgment, “structur[ing] essays to meet the expectations of . . . law-trained readers, and by adhering to the time and space allotments for each [bar exam] question, [students are] likely to achieve the correct level of conciseness.”¹⁶¹

As with other types of legal writing, bar exam graders also value clear organization and road maps.¹⁶² Thus, bar takers need to send bar graders instructions for how to pull together the information being communicated.¹⁶³ “Those instructions are sent mostly by depositing information in the structural locations where the graders will most readily look for it.”¹⁶⁴

To meet the expectations of bar exam graders, bar takers should structure the macro-organization of whatever document they are asked to write consistent with the structure of the overarching, applicable rule.¹⁶⁵ The components of the overarching rule can also be used as topics for headings to make bar exam answers reader-friendly.¹⁶⁶ The analysis in each component part should be based on the deductive reasoning process as reflected in the CRAC paradigm.¹⁶⁷

154. RIEBE & SCHWARTZ, *supra* note 10, at 142.

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. RIEBE & SCHWARTZ, *supra* note 10, at 142.

160. *Id.*

161. *Id.* at 142-43.

162. EDWARDS, *supra* note 7, at 263.

163. *See* STRUCTURE, *supra* note 11, at 155.

164. *Id.* Structural placement is also a valuable technique for bar takers to use to generate, organize, and revise their thoughts. *See id.* at 45.

165. *See, e.g.,* EDWARDS, *supra* note 7, at 30-36; *see also* Darrow-Kleinhaus, *supra* note 9, at 31-32.

166. *See, e.g.,* EDWARDS, *supra* note 7, at 30-36.

167. RIEBE & SCHWARTZ, *supra* note 10, at 149.

Students should create their own templates, or default structures for writing bar exam answers, based on the deductive reasoning process as reflected in the CRAC paradigm.¹⁶⁸ Using a template which includes the CRAC paradigm will help ensure that students cover all the bases of a solid legal analysis and that their “essays have a logical, easy-to-follow flow.”¹⁶⁹

Legal professionals have templates for various types of legal documents. For example, any legal professional could likely visualize the structure of an office memorandum or appellate brief if asked to do so.¹⁷⁰ Having mental templates for documents “makes it easier to write them: [one] does not need to spend time imagining what one might look like.”¹⁷¹ By using a template, students “should have an easier time structuring” their answers, and their writing should flow smoothly—almost “on autopilot.”¹⁷² More importantly, on exam day students should be able to focus most of their efforts “on the substance of [their] essays rather than on the writing process.”¹⁷³

As with the organization of other legal documents, students’ answers should begin with a conclusion; provide an introductory section to address a procedural standard, appellate standard of review, or to set out overarching rules that will be discussed in the body of the answer; state the applicable rules; apply the applicable rules to the factual situation presented; and end with an explicit conclusion.¹⁷⁴ Students should also use transitional phrases to lead their readers through their answers.¹⁷⁵

Creating professional-looking answers is also important.¹⁷⁶ A professional appearance provides an impression of credibility and may help readers reach the conclusion that students are competent to practice law.¹⁷⁷ “Professional-looking essays are neat and organized, include sufficient white space in between paragraphs . . . , have paragraphs with half-inch indentations, and use headings to lead [bar graders] through” them.¹⁷⁸

168. *See id.* at 151 (Table 15-3 demonstrates examples of essay answers using the deductive reasoning process as reflected in the CRAC paradigm).

169. *Id.* at 146.

170. *Id.* at 145.

171. *Id.*

172. RIEBE & SCHWARTZ, *supra* note 10, at 145.

173. *Id.*

174. *See id.* at 146.

175. LYNN BAHRYCH & MARJORIE DICK ROMBAUER, *LEGAL WRITING IN A NUTSHELL* 39 (3d ed. 2003).

176. RIEBE & SCHWARTZ, *supra* note 10, at 148.

177. *Id.* at 149.

178. *Id.* at 148.

C. Recommended Writing Processes

By creating and utilizing a process to answer essay and performance questions, students can “minimize [their] focus on the writing process and maximize [their] focus on the substance of [their] answers.”¹⁷⁹ By doing so, students can also focus on ensuring that the substance of their answers meets their readers’ expectations.¹⁸⁰ For example, for a bar exam essay question, a student could proceed as follows:

1. Allot time for each question;
2. Answer the questions in the order presented;
3. Read the call of the question;
4. Read the entire question, highlighting key information;
5. Identify the applicable rule’s structure and use it as the macro-organizational structure for the answer;
6. Outline the issues, rules, and key facts for an answer;
7. Use the deductive-reasoning process (as reflected in the CRAC paradigm) to structure the legal analysis of each issue;
8. Create a professional-looking essay by being neat, providing white space to create margins and in between paragraphs, clearly indenting paragraphs, and using headings to make answers reader-friendly;
9. Proofread answers if there is time to do so, making any revisions as neatly as possible; and
10. Take a deep breath before beginning each new question.¹⁸¹

Similarly, for a bar exam performance question, a student could proceed as follows:

1. Allot time for the question, writing down both when the first half of the time (to read question materials and organize an answer) and the second half of the time (to write an answer) expire;
2. Skim the instructions;
3. Identify the specific lawyering task students are asked to perform;
4. Skim the file and library materials;
5. Read the library materials, discarding irrelevant material and organizing relevant materials by noting rules and, for cases, key facts and reasoning;
6. Use the rule’s structure to create a macro-organizational structure;
7. Use the deductive-reasoning process (as reflected in the CRAC paradigm) to structure the legal analysis of each issue;
8. Write the specified document, being clear, concise, and precise;

179. *Id.* at 146.

180. *See id.* at 146.

181. *See* RIEBE & SCHWARTZ, *supra* note 10, at 147-150.

9. Create a professional looking document by being neat, creating margins with white space, indenting paragraphs one-half inch, and using headings to make the document reader-friendly;
10. Proofread the answer if there is time to do so, making any revisions as neatly as possible; and
11. Take a deep breath before beginning a new question.¹⁸²

*D. Writing Practice Bar Exam Answers and Receiving
and Reflecting on Feedback*

Just like the learning of any other skill, learning to write effective bar exam answers requires practice.¹⁸³ There is no shortcut for learning to write effective answers through practice, for only through “learn[ing] by doing” will students “own” the information learned at a depth that is not possible when information merely passes before them in a passive fashion.¹⁸⁴

In addition to writing practice answers, the evaluation and reflection loop is essential.¹⁸⁵ Students learn and improve their writing through self-evaluation or evaluation by others, reflecting on their performance, and integrating what they have learned in subsequent writing tasks.¹⁸⁶

Self-evaluation is a difficult task. It is challenging for students to be “clinical,” objective, and critical of their own writing.¹⁸⁷ Some students “are too hard on themselves.”¹⁸⁸ Others have a hard time being critical of their own work because, once they write something down, “they feel attached to it.”¹⁸⁹ They struggle to get enough distance from their writing to judge the likelihood of its communicative power and accuracy.¹⁹⁰ Writers know exactly what they intend their writing to mean, so when they read their own writing, they remember their intended meaning. Thus, memory, not objective perception, produces approval of their own work.¹⁹¹ In short, writers simply cannot read their own writing from the “fresh, unengaged vantage point” from which outside readers begin.¹⁹²

182. *Id.* at 185-87.

183. *See* MCKINNEY, *TEACHER’S MANUAL*, *supra* note 11, at 5.

184. *Id.* at 12.

185. *See* RIEBE & SCHWARTZ, *supra* note 10, at 153.

186. SCHWARTZ, *supra* note 11, at 8-9, 30-31, 71-78.

187. RIEBE & SCHWARTZ, *supra* note 10, at 153.

188. *Id.*

189. *Id.*

190. *EXPECTATIONS*, *supra* note 11, at 15.

191. *STRUCTURE*, *supra* note 11, at 16.

192. *Id.*

Writers need input from “new eyes.”¹⁹³ Students are likely to get more constructive feedback from an outside reader—a peer, professor, or bar review provider—because it is easier to evaluate writing decisions in the work of others.¹⁹⁴ Accordingly, students should be encouraged to seek out opportunities for practice and feedback from outside readers.¹⁹⁵

Although some students are hesitant to have others look at their practice efforts, most students feel satisfied “when they get feedback letting them know whether they have, in fact, accurately integrated” material they are trying to master.¹⁹⁶ Given the limitations of faculty resources, students should be encouraged “to team up with friends to engage in peer reviews of practice essays.”¹⁹⁷

“Both receiving and giving feedback” will help students improve their writing.¹⁹⁸ By receiving feedback, students will increase their chances of writing passing answers because “critical feedback is a prerequisite to improvement.”¹⁹⁹ In addition, “if [students] learn to accurately and constructively assess another person’s work, [it will] increase the likelihood [they] will be able to produce” effective answers, too.²⁰⁰ Additional benefits of peer review are that students avoid the isolating effects of studying alone and gain confidence about their abilities because they usually discover that their practice attempts are in the same ballpark as their peers.²⁰¹

The reader expectation approach provides a method for evaluation and revision.²⁰² For example, bar takers may ascertain whether they will meet the expectations of their bar graders by asking questions like the following:

1. Is the appearance professional, giving the reader the impression that the student is competent to practice law?
2. Will the reader find the tone and writing style confident, clear, and concise (not uncertain, rambling, and difficult to follow)?
3. Is the reader provided explicit answers to the call(s) of the question?
4. Is the macro-organization based on the structure of the applicable rules, consistent with the expectation of law-trained readers?
5. Does the micro-organization adhere to the deductive reasoning process as expected by law-trained readers?

193. Berger, *supra* note 71, at 179.

194. *Id.* at 179-80.

195. RIEBE & SCHWARTZ, *supra* note 10, at 153.

196. MCKINNEY, TEACHER’S MANUAL, *supra* note 11, at 33.

197. RIEBE & SCHWARTZ, *supra* note 10, at 153.

198. *Id.*

199. *Id.*

200. *Id.*

201. *See generally id.*

202. STRUCTURE, *supra* note 11, at 45.

6. Is the reader contextualized at the beginning of the answer (with the conclusion, communicating the issue and result predicted or advocated, as well as the overarching rules of law)?
7. Is the reader provided an explicit statement of the applicable rules of law?
8. Is the reader told how the applicable rules apply to the specific situation presented?
9. Is the reader provided a sense of closure with an explicit conclusion?
10. Are transitional phrases used to direct the reader through the answer?
11. Are headings used to make the answer reader-friendly?²⁰³

Finally, to maximize the learning opportunity that writing practice answers presents, students must take time to reflect on their performance and feedback.²⁰⁴ It is tempting for students to skip this step because, once they finish a task, they often want to move on to something new.²⁰⁵ It is erroneous to do so because reflection is a prerequisite to improvement and plays a large role in determining students' success when writing future exam answers.²⁰⁶

Students should use a four-step process to reflect about writing their practice answers. First, students should engage in self-evaluation by considering how well they thought they performed and how well they in fact performed.²⁰⁷ Second, students should consider what factors explain their learning results.²⁰⁸ When doing so, students should look for "correctable causes of undesirable results" (for example, failure to maintain focused attention or insufficient persistence) and "attribute successes to personal . . . competence."²⁰⁹

Third, students should consider their self-reactions, how their performance makes them feel, and how their performance compares with similar tasks performed in the past.²¹⁰ Finally, students should consider what adjustments, if any, should be made to ensure successful completion of similar tasks in the future.²¹¹

203. See RIEBE & SCHWARTZ, *supra* note 10, exercises 15-1 (checklist for effective bar exam essays) and 15-3 (self-evaluation or peer-evaluation checklist); DENISE RIEBE & BOBBI JO BOYD, PASS THE BAR!!! ESSAY EVALUATION (Mar. 2001) (unpublished handout used at the University of North Carolina School of Law's bar preparation workshops; on file with the author).

204. See, e.g., SCHWARTZ, *supra* note 11, at 8-9, 30-31, 71-78.

205. *Id.* at 71.

206. *Id.*

207. *Id.* at 72-74.

208. *Id.* at 75.

209. SCHWARTZ, *supra* note 11, at 75.

210. *Id.* at 76-77.

211. *Id.* at 77.

IV. CONCLUSION

Although law students are generally “good writers,” bar exam answers require a specific type of legal writing. Accordingly, students must understand the types of writing tasks required on bar exams and adapt their writing to the type expected by bar exam graders. By using the reader expectation approach and adhering to the conventions of the legal profession’s discourse community, students’ writing is most likely to be well received by their bar exam graders. More importantly, doing so will increase students’ likelihood of success on their bar exams.

