



## ARTICLE

# Between IRAC & a Hard Place: A Strategy for Winning Early Student Buy-In to the Paradigm

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Most students come to law school with a vague sense of the acronym IRAC (the traditional legal writing format of issue, rule, analysis, and conclusion), and some reluctant willingness to use it: they know they are graded on writing in IRAC form and they want to get good grades, so they try to use it. But in our first-year legal writing classes, we have learned that, for students to understand IRAC and to use IRAC effectively (both for their sanity and ours), they must truly buy into IRAC<sup>1</sup> as an effective mechanism for communicating clear legal analysis—and not just as a strange acronym.

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<sup>1</sup> It is beyond the scope of this article to debate the relative merits of IRAC as a legal-writing maxim, though we acknowledge that some reexamination of IRAC may be appropriate and that there may be other methods of legal writing. For purposes of this article and our

In this article, we will present an in-class problem that we use very early each year as a mechanism to bring students to an “aha moment”: when left to their own devices<sup>2</sup> to come up with an answer to a problem, they naturally arrive at IRAC as a format for delivering their conclusions. In other words, we seek to show students that they already use IRAC on their own. When students begin law school with such an aha moment with respect to the efficacy of IRAC, IRAC becomes a natural format for their writing and more easily imprints on them.

Reverse engineering a problem that we knew students would answer in a way that fit neatly into IRAC, without our ever mentioning the acronym beforehand, required us to brainstorm within a few parameters. The two most prominent parameters were that the problem be *inclusive* and *ripe for a reasonable-length discussion*. To be inclusive, we sought a problem that did not require any legal background or outside knowledge at all. For an early-semester problem in the students’ first year of law school, we saw this as a must, if we did not want any students to feel intimidated. It also allowed us to make the point, after the fact and once the students communicated their answers in IRAC format, that IRAC is not merely some overly complicated, legalistic way of communication, but rather a simple and logical mechanism. To be ripe for a reasonable-length discussion, we sought to come up with a problem that students would be interested to talk about and debate, without such complications that the discussion of an answer would spill beyond class time.

Indeed, to get students to buy into IRAC as an effective organizational tool, we made sure to place the exercise outside of any professional realm. Our goal was for students to see the practicality of IRAC in everyday life. As such, we structured the exercise with a “real world” problem and audience.

## 1. The Assignment:

The first part of the exercise was inspired by a fantastic exercise by Kris Franklin of New York Law School.<sup>3</sup> In that exercise, students are asked to examine three paintings that make up a gallery collection, determine their similarities, and then decide whether a potential fourth painting would fit into the gallery. We drew on that concept and updated it for the realities of 2020, in which many of us have been

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classes, however, IRAC remains an effective and straightforward way for our students to deliver their legal analysis to a legal audience.

<sup>2</sup> Kind of. As you will see, we quietly engineer the problem and the class discussion to be sure that the students end up where we want them!

<sup>3</sup> See Kris Franklin, “*Theory Saved My Life*”: *The Importance of Theoretical Work in Legal Education*, 8 N.Y.L. SCH. L. REV. 599, 613-21 (2005). Franklin’s article presents the idea of using paintings mid-semester to challenge students not only to reason by analogy, but to start to recognize the difference between material and immaterial analogies—a particular challenge for 1Ls who tend to think that every distinction or similarity is of equal weight.

tasked with creating a photogenic, non-distracting space from which to teach remotely. To that end, this year we asked students to help us select a new picture to feature in the background of our Zoom “studio” (our living rooms). We showed them the three pictures currently hanging on our wall and asked them to give us advice with respect to which of two possible additional pictures we should select. We aimed to keep the “art” accessible, looking for basic pieces with a clear theme (here, areas of Brooklyn<sup>4</sup>) that would not require any background in art history or privilege any one area of study. We then took the exercise a step further and asked the students to explain *why* they selected that new picture (and not the other). This is the part of the exercise where IRAC becomes apparent.

Below, we walk through the presentation and execution of this exercise in real time.

*The Prompt: Please help me choose which new picture to mount on the wall behind me when I'm on Zoom. The new picture has to share common themes, elements, or factors with the existing pictures on the wall. Please limit your consideration to just the pictures. Some other students are advising me on wall color and lighting.*

#### Current Pictures in my Zoom Studio:<sup>5</sup>



IMAGE 1  
DUMBO, Brooklyn (2011)

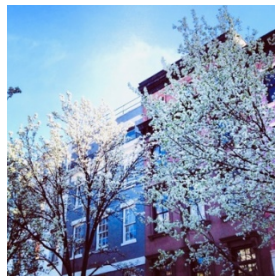


IMAGE 2  
Columbia Place, Brooklyn (2013)



IMAGE 3  
Gowanus Canal, Brooklyn (2018)

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<sup>4</sup> The choice of pictures offers a chance to choose a theme that is meaningful or interesting for each year's crop of 1Ls, depending on geography, type of course, or other elements.

<sup>5</sup> Images courtesy of the authors.

Choices for New Pictures for my Zoom Studio:<sup>6</sup>

OPTION A

Heights Promenade, Brooklyn (2007)



OPTION B

New Flowers Awakening in Brooklyn (2015)

## 2. How it Plays Out:

The exercise begins as a full group. We then present the students with just the current pictures—here, Images 1, 2, and 3.<sup>7</sup> As we discuss the task in front of us—selecting a new image—we agree as a class that we first must try to understand what the current three images have in common. We then ask that they, as a class, take a moment to look at the three images and come up with some common aspects among them. The similarities may be visual (for example, all three images feature similar shades of blue), subject-oriented (all three images are outdoor scenes), or time-related (all three images are from the last ten years). This part of the exercise tends to engage the students, picking up speed as they realize how many possible observations they can make. It continues until we have agreed, as a class, about the general themes and commonalities among the images.

Next, we turn to the images of the two potential new pictures and the students break out. In pairs or small groups, in live classrooms or in Zoom breakout rooms, students debate the best option while they look at the visual of the two choices. Dropping into the student discussions, whether live or remote, we tend to hear students arguing for one side or the other, supporting their positions by digging deeply into the facts. The inclusive and “low stakes” nature of the facts usually helps with this. Students who might feel self-conscious debating a point of law or the takeaway of a dense judicial opinion with their new classmates tend to feel less

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<sup>6</sup> Images courtesy of the authors.

<sup>7</sup> Through trial and error, we have learned that numbering (or lettering) the choices can help avoid any potential discomfort from students who wish to participate but may not be certain of the pronunciation of a piece’s title or artist. This way, students are able to identify easily which piece they are referring to without using proper names. On Zoom, the use of the chat feature can also alleviate this concern.

inhibited when the facts at issue are whether a cloudy, orange-hued scene with park benches or a close-up of a pink flowering tree will work best with the rest of the wall.

The next step is to come back together to vote on which option to choose. The vote is usually about equally split between both options. *This is great.* Whether students vote for a new option live with a show of hands, or on Zoom using the poll feature, they are able to see for themselves that both answers have a good amount of support. Some students are surprised that there is no one right answer, and this sets them up for a concept we will return to over the course of the semester: there is not always a *right* answer, but there is always a supported answer (and an unsupported answer).

At this point, we seek volunteers to show the support for their answer. This part of the exercise always yields interesting feedback from students. The students tend to enjoy sharing their reasons and hearing their classmates'. We make clear to the students that there *is* no one answer and discuss with them the concept of supporting an answer.<sup>8</sup> Helpfully, the students' explanations lay the groundwork for analogical reasoning as they freely compare and contrast features of Options A and B with the themes in Images 1, 2, and 3.

And then it is time to establish the IRAC buy-in with the natural next step: once students have decided for themselves which answer is the right one, it is time to relay that answer to the person who asked the question (us). We ask for a volunteer to try to present to us a clear, supported answer as to which is the better picture to hang in our Zoom studio, encouraging students to help each other and contribute to the answer.

Sometimes the students start talking right away about aesthetics. *Wait, wait, wait, we say. Remind me, what were you recommending—the picture? The lighting?* In other words, the student has to start by giving us context. That is, they must start by telling us the **Issue**. Then the student takes a breath and says, "You asked me to recommend a picture to add to your Zoom background wall."

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<sup>8</sup> One of the concepts from this exercise we return to throughout the semester is somewhat inelegantly referred to as "the hump," and it prepares students to address weakness and counterargument in their predictive memoranda later in the semester. For example, for a student to choose Option A, that student has to get over the "hump" of it being shades of yellow and grey while all four other pictures feature bright blue hues. Taking it a step further, students might explain that they got over that hump because the combination of nature and buildings still felt more like Images 1, 2, and 3 than the extreme close-up (almost to the point of abstraction) in Option B. We then have the groundwork for an organic discussion of the weight of the different factors: in order to choose Option A, a student must believe that the inclusion of both nature and buildings in a "busy" scene is *more* important than whether the color scheme matches the current pictures. As the semester progresses, we will call back to the "hump" when determining a prediction in the first memo problem, and beyond. *Remember the pictures?* is a question we pose frequently in our classrooms throughout the semester.

After presenting the issue, students sometimes move next to recommending a particular picture, saying, for example, “I think you should choose Option B, because the colors are bright blue with pink.” This student has put the analysis before the rule, so it is a prime opportunity to show why the “RA” order makes more sense than “AR.” As students volunteer enthusiastic reasons to show why their answer makes sense, we stop them to ask for clarity, playing the role of the person who asked the original question. We might respond, *why does it matter if the picture has shades of bright blue?* This brings students to a natural understanding of the **Rule**. The bright blue shades matter because we have asked the students to make the new picture consistent with the existing pictures. An answer does not make sense without the clarity of and parameters established by the rule. Now, a student might answer, “You want the new picture to share consistent themes, elements, or factors with the current pictures. The current pictures include three photographs of Brooklyn. All three feature both nature (in the form of trees or water) and human-made structures (buildings and, in one case, a bridge) and all three consist of shades of bright blue and some white. There are no people in any of the pictures, and all date within the last ten years.”

Now that the students have synthesized a rule, they can get to the specifics of teasing out comparisons, contrasts, and counterarguments. In other words, it is time for the **Analysis**. A student might now tell us, “As between the two options, New Flowers shares the most in common with the current wall. It has shades of blue, similar to the blues in the three current pictures, and light pink making a similar contrast to the white in the current pictures. New Flowers is from 2015, which fits into the time period of the current pictures (which range from 2011-2018). Although there are no buildings or other human-made structures in New Flowers, the shades of blue and pink and the date still make it more like the others than the yellow-and-gray shaded picture of the Promenade.”

“So which option did you choose?” we ask, toward the end of the class. The student offers the **Conclusion**: “Therefore, you should choose New Flowers for your Zoom studio.”

Just before the end of class, we sum up what the students have done, and, for the first time in the semester, identify the elements of “Issue,” “Rule,” “Analysis,” and “Conclusion.” When the students back into IRAC in this way, it feels less like a structure thrust upon them because we say it is better, and more like an organic realization that it is a logical structure. For students, this summation is their “aha moment.” Perhaps one student best summed it up a few months ago: “So that is what IRAC is. It’s not that complicated!”

### 3. Conclusion

We love this problem and come back to it again and again. It lends itself to any number of “tweaks.” We can imagine (and have experimented ourselves with)

similar problems structured around vacation choices, restaurant decisions, event venues—the options are endless.