

The background features a series of vertical lines in shades of green, blue, and purple on the left side. On the right side, there is a perspective grid of lines that recedes into the distance, creating a 3D effect. The overall color palette is vibrant and digital.

THE PROCESS OF EFFECTIVE WRITING

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- Writing is a process that involves at least five distinct steps. These are:
 - (i) Prewriting;
 - (ii) Drafting;
 - (iii) Revising;
 - (iv) Editing; NS
 - (v) Proof-reading.

PRE-WRITING: THE PSYCHOLOGY OF WRITING

- The psychology of writing deals with how you write and not why you write. Every time you write, you must be in a particular frame of mind.
- To get into the right frame of mind, consider the following when writing:
 - (i) Location – It is advisable to write in a quiet and relaxing location
 - (ii) Mood – Be relaxed, patient, receptive, curious, intuitive, and interested. Always remember that your mood will be reflected in your writing. It is a psychological fact.

- As part of socio-psychology of writing, note the following:
 - (a) Writing is hard for most people. The best writers are those who work hard at it. Endurance is the key. Keep at it until it is right.
 - (b) Write smart:
 - i. Initially concentrate on getting your ideas on paper; don't worry about grammar or complete thoughts. Worrying about proper grammar at this stage will bog you down.
 - ii. Don't worry about writing consecutively. Begin working on the easiest parts first.
 - iii. If you get 'writers block', e.g. can't think of how to express your thoughts, just jot down notes for later and move on to something else. Come back to the 'hard stuff' later.
 - iv. Work from a developing outline. Begin with a rough outline and develop it as you progress.
 - (c) Plan on numerous drafts and keep them organized; It will take many drafts to produce a great final result

OUTLINES AND WRITING PLANS

- Two common paradigms are used, i.e., IRAC and CREAC
- An effective piece of legal writing will apply the IRAC structure – Acronym for Issue, Rule, Application and Conclusion
- Issue
- First, identify the legal issue or question you will be analysing. Your statement of the issue should track the question asked at the end of the assignment. It orients the reader to the precise point you are about to discuss and is typically one sentence.
- State the issue in its own separate paragraph. Often, you will be able to state the issue in a single sentence.

Rule

The rule describes which law or test applies to the issue. The rule should be stated as a general principal, and not as a conclusion to the particular case.

Start with general rules then move on to the more specific rules.

Application

The analysis is the most important, and the longest, part of your answer. It involves applying the Rule to the facts of the question. You should use the facts to explain how the Rule leads to the conclusion. Discuss both sides of the case when possible.

Conclusion

The conclusion is your answer to the Issue. State the result of your analysis. If there are multiple issues, there must be multiple conclusions as well.

The conclusion should return the reader to the “big picture” of the overall issue at hand. Never add new information in the conclusion.

CREAC

- CREAC is an acronym for Conclusion, Rule, Explanation, Application and Conclusion.
- CREAC is mostly used in persuasive writing such as submissions.
- Conclusion: - include a one sentence thesis that summarises the writer's conclusion.
- Rule: - includes the legal principles applied to reach the conclusion stated at the beginning of the section
- Explanation: - include precedent case discussions that illustrate the rule and that will later be used as a case comparison to the client's facts. These illustrations need to include the key relevant facts, as well as the holding and reasoning of the court.

- Application: - Application of the rule to the current situation you are addressing; you will fact-match using analogy and distinction, and this is where you will be explicitly proving the conclusion that you stated at the beginning. Your counter analysis, where you predict the other side's argument and then refute it is also included in this section.
- Conclusion: -Gives the writers overall conclusion. It is detailed to the particular issue. It summarizes the R/E/A without introducing any new ideas and reinforces what you want the reader to take away from the document.

EXERCISE

Caroline was employed as a receptionist at Kenya School of Law (“KSL”). Her desk was located at the reception and her duties were to greet customers, answer telephone calls, sort mail, and respond to general information requests about KSL.

One day, while all the KSL managers were out of the office, a representative of Good Health Insurance Company (“Good Health”) stopped by to solicit KSL as a new client. He enquired from Caroline if KSL was interested in cancelling its present employee health insurance plan and adopting a plan provided by Good Health Insurance Company.

QUESTION

Although Caroline explained that all of KSL's managers were out of the office, the Good Health representative nevertheless described his company's health insurance plan in detail. When Caroline reacted by stating that Good Health's plan sounded better than the current KSL plan, the Good Health representative immediately produced a contract for Caroline to sign. Reluctantly, Caroline signed the contract accepting the offer for KSL to adopt Good Health's insurance plan. If Good Health seeks to enforce the contract against KSL, is KSL bound to the contract?

ANSWER

- Whether the insurance contract is binding on KSL depends on whether Caroline had actual or apparent authority to enter into it. Actual authority is the agent's power or responsibility expressly or impliedly communicated by the principal to the agent. Express actual authority includes the instructions and directions from the principal, while implied actual authority is the agent's ability to do whatever is reasonable to assume that the principal wanted the agent to do to carry out his or her express actual authority.

ANSWER

- Here, Caroline's express authority was to answer phones, direct messages, collect and sort out the daily mail, greet visitors, and schedule appointments for the company managers. Her implied authority was to do anything reasonably related to performing those duties. She was not given any express authority to sign contracts, and signing contracts was not related to or implied in her duties as a receptionist. As such, Caroline had no actual authority to bind KSL to the contract.

ANSWER

- Apparent authority arises when the principal's conduct, past dealings, or communications cause a third party to reasonably believe that the agent is authorized to act or do something. In this case, KSL did not communicate to Good Health that Caroline had authority to enter into an insurance contract, and no facts suggest that KSL and Good Health had done business in the past. The nature and typical responsibilities of Caroline's position as a receptionist does not make it reasonable for the Good Health's representative to conclude that she was empowered to select and approve health insurance plans for KSL's employees. In light of this, Caroline did not have apparent authority to authorize the contract. In conclusion, AS Caroline did not have either actual or apparent authority to sign the contract, it is not binding on KSL.

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- QUESTIONS?

