

активного виконання потрібних мовленнєвих дій. Різноманітні ситуації приносять цікавість у колективну діяльність, створюють важливі передумови успіху у навчальній роботі.

### **Список використаних джерел**

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## **THE TOP DOWN AND THE BOTTOM UP ANALYSIS**

First-year students must be trained to formulate an analytical “game plan” for every issue on which they might be tested. Since different issues are governed by different rules and precedents, every analytical game plan will be unique in its particulars — but in formulating these game plans, students must be given a basic approach that they can follow time and time again. Such approach comprises the first step in a two-step conception of legal analysis that proceeds, as we describe it, “from the top down and the bottom up.”

First-year students find it helpful to think of legal analysis as proceeding in two fundamental steps. The first step — “top down” — is to spot a given issue (by looking at the facts closely enough to figure out what issues may be in play), and then to assemble the legal framework for analyzing it, starting from a big-picture perspective (the general subject area or doctrine that governs the issue) and then adding layers of detail (identifying the applicable rule, breaking it down into elements, and then using the case law to fill in the finer points of each element). Then the facts are examined to determine whether they satisfy each of those elements. Only after this “top down” approach has been performed (applying facts to rules) should a student proceed to step two (“bottom up”) — focusing at a micro level on the factual details to see if they suggest the applicability of any legal issues that might have been overlooked during the “top down” process. Essentially, “bottom up” means retracing your steps with a fine-tooth comb, sifting the factual details for any issue you might have missed. Left unguided, many students will gravitate toward a haphazard variation of “bottom up,” with no “top down” counterpart. They’ll blow through the facts, hanging legal labels on some

of them, but they'll miss entire sub-issues that would have been evident in a "top down," step-by-step analysis. And if a key fact implicates two different issues, they tend to spot only one of those issues because they normally assign only one label to any given fact. The goal here is to guide students away from quick, conclusory characterizations of facts to an understanding that legal analysis is about recognizing the requirements of a particular rule and then, in step-by-step fashion, demonstrating that the rule is or is not met. We believe that students need lots of practice performing this two-step process in the classroom, particularly through the use of problems that focus on the legal doctrines they have just learned. Take a closer look at step one — spotting the issue and erecting the legal framework (the "game plan") for analyzing it. We advise our students to start from the broadest big-picture perspective and to zero in, more and more specifically, on the applicable doctrine, the governing rule, the elements of that rule, and the finer points of each element. To illustrate, we can say that we've been given a fact pattern in which the plaintiff is seeking to enforce a promise made to him by the defendant. Since we're dealing with the enforceability of a promise, we are probably in the realm of contract law. The facts offer no indication of mutual assent or consideration, but it does appear that the plaintiff relied on the promise and suffered injury because of that reliance. Thus, within the realm of contract law, it appears that we're looking at a promissory estoppel issue. So what do we know about promissory estoppel? To begin with, we know how it's defined: A promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee or a third person and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise.

Rules like this are too dense, too unwieldy for precise application when sifting through the facts. Any rule that contains multiple requirements, clustered together in a single block of text, is all too susceptible to misapplication. If the individual requirements do not stand out separately and clearly, they are easily blurred or overlooked. Accordingly, we urge our students to break down every doctrine, rule, cause of action, or defense into separate, specific requirements — elements — so that it's easier to single out the facts that pertain to each requirement. These elements essentially serve as questions to be asked of the fact pattern. (Did the defendant make a promise to the plaintiff? Did the plaintiff rely on that promise?) Promissory estoppel's dense definition can be reduced to five concise elements. Those elements will comprise the basic structure of our analytical game plan, but they do not suffice by themselves. Now we must push the students to dig deeper, to extract from the case law any lessons they learned about the finer points of each element. As an illustration, let's use the promise element of promissory estoppel. Standing by itself, the word promise does not tell

us how strictly or loosely we should interpret this requirement. But the case law does tell us. The modern cases make clear that promise requires the expression of an affirmative and unqualified commitment; in language offering no suggestion that the promisor's obligation is optional or discretionary. This interpretation of the promise element must be added to our analytical game plan. Likewise, we must add to our game plan any comparable interpretations, glosses, or limitations that the case law has imposed on the other elements of promissory estoppel, as well as any "gray areas" (commonly disputed situations or borderline applications). By incorporating these finer points from the case law, we have given the elements a more accurate and sharply defined form. Policy arguments can also be added, those specific to a particular doctrine and those of more general applicability. Ultimately, by going through this exercise, the student is prompted to recall, in an organized and useable manner, everything that she has learned about the given topic. In other words, she is prompted to identify everything the legal system considers relevant to the analysis of this problem, so that she can look at the facts and see more clearly whether they satisfy the governing elements. In effect, the "top down" approach tells students what questions they need to ask of the facts, just as it would tell an attorney what questions to ask of her client. Thus, after working our way through step one, we have produced a detailed legal framework for analyzing the facts in our promissory estoppel problem. The "top down" approach can be used by students to create analytical game plans for any legal issue. They can use the approach whenever they're required to perform legal analysis on the spot; it helps them to stay organized and to proceed in an orderly fashion. The approach can also be used in advance of exams, enabling students to prepare analytical game plans for any of the issues on which they might be tested.

This approach is highly recommended not only because it's helpful to students, but because it's employed by the best trial lawyers, who always reduce their claims and defenses to elements. This simply underscores the fact that legal analysis is always the same enterprise — in the classroom, the law office, and the courtroom. The facts will come to us in varying levels of detail and uncertainty, the rules in different degrees of clarity and "settledness," but in the end legal analysis always entails identifying the governing rule and sifting the facts to determine whether they satisfy that rule. Breaking the rule into elements simply makes it easier to achieve a complete and accurate meshing of law and facts.

### References

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## **INNOVATIVE TECHNOLOGIES AS THE MEANS OF TEACHING FOREIGN LANGUAGES**

Learning a foreign language is considered as a compulsory component of training the specialists of any type, and language as a factor that increases the degree of specialist in demand in the labour market and at the same time as an indicator of the level of education of modern people.

Public graduate training requirements allow to define the components of the result of learning a foreign language as a system of skills: phonetically, lexically, grammatically, stylistically correctly, Psych freely express their thoughts in a foreign language in writing and orally, to conduct a conversation in a foreign language, own language means aimed at attracting the attention of listening, providing feedback, to understand authentic texts, read the original artistic, scientific and socio-political literature, interpret the text, enter into a discussion on current problems of cultural, scientific, public and political life of the community using foreign language.

The credit system of teaching involves mainly self-taught subjects students, and it requires a serious restructuring of the prevailing stereotypes. We need to help students to adjust to the new conditions of learning, to mobilize their strength and ability to overcome difficulties. We should help students to discover their unexploited opportunities effectively to apply the known information, gradually approaching the management of their own learning. We should overcome all existing students gaps in knowledge through appropriatin the training and development initiatives. An important goal of modern teacher is "teach to learn", i.e., the transition from "teaching" to "learning

A sign of change in the methodology of foreign language teaching at the present stage can be considered on a substituted teacher-student paradigm-book "paradigm" student-book-teacher ". What is the essence of this substitution? This is a completely new role of a teacher who from absolute authority in the classroom becomes to a consultant who just organizes and directs the learning process. The role of the student becomes very active, the object of training activities, the student becomes more active subject of education..