Outlining a rule

Breaking a Statute into its parts
Robert Anderson, Professor of the Practice
University of Denver Sturm College of Law
3 IMPORTANT RULES FOR READING STATUTES

• Don’t read anything into the statute that is not there; give each word its ordinary meaning (plain meaning rule).
• Presume that the legislature included every word for a reason
• Also presume that the legislature did not intend an absurd result
Outlining a rule

• Why do we outline rules?
  • To give effect to the plain meaning rule
  • To simplify and order what can be complicated and disorganized rules

• Who do we outline rules for?
  • For ourselves, as a first step of legal analysis
Parts of a rule

- FIRST STEP: separate the parts
- Parts of a rule
  - Requirements
  - Result
  - Exceptions
  - Definitions
  - Purpose
Parts of a rule

- **Requirements**
  - May be positive prescriptions, negative prohibitions or discretionary guidelines
  - May be mandatory (elements) or discretionary (factors)
  - Look for a series or numerical list
  - Look for directives and conjunctions, e.g., “if-then,” “shall,” “may,” “and,” “or.”

- **Result**
  - Completes the condition: the “then” in “if-then.”

- **Exceptions**
  - Will usually be referenced explicitly as exceptions, or with clear language, e.g., “unless,” “until.”
Parts of a rule

• Definitions
  • Usually referenced with explicit language, e.g., “As used in this section, _____ means. . .”

• Purpose
  • Usually referenced with explicit language and by referencing the legislature as author, e.g., “The legislature intends/directs/recognizes. . .”
Separating requirements

- **SECOND STEP**: Within the requirements, set out each element or factor separately
  - Look for each independent idea
  - Conjunctive or disjunctive terms may indicate points of separation, e.g., “and,” “or.”
Identifying sub-elements

- THIRD STEP: Within the requirements, identify sub-elements or combine concepts that make no sense separately
  - Modifiers are tricky
    - They may indicate where you need to separate out sub-elements, e.g., “brown” from “car.”
    - But they may make no sense separately, e.g., “hot dog.”
More rules about rules

• Important corollaries to the plain meaning rule
  • Use only the language of the statute, i.e., don’t substitute your own words and don’t paraphrase
  • Presume that the legislature did not use words idly, i.e., each word means something
  • Give each word its ordinary meaning unless it is otherwise defined.