



CREATING EFFECTIVE RULE STATEMENTS¹

1. Rule Statements: Definition and Types

A legal rule is “a formula for making a decision.”²

Carefully crafted rule statements are a crucial piece of any legal memo or brief. Rule statements articulate the legal concepts that ground the analysis, and in doing so, they “identify the legal consequences that flow from the specified factual conditions.”³ As a result, rules both predict the outcome of a particular legal issue and guide the reader to that outcome.

The law at issue will ultimately dictate the rule’s terms and structure, and the most common types of rule statements include:

- **elements tests**, which set forth elements that must be met for a party to prevail and establish the result that occurs when all, some, or none of the elements are present;
- **balancing tests**, which weigh countervailing considerations against each other;
- **totality tests**, which set out multiple factors and consider how these factors add up together in the aggregate; and
- **exceptions tests**, which identify one or more exceptions to a general rule and focus on why the exceptions either apply or do not apply.⁴

With any rule type, the purpose of the rule statement remains the same: to predict the outcome of a specific legal issue. Therefore, while balancing and totality inquiries may be more amorphous than elements tests, it is important that these multi-factor rules still offer clear guidance about how courts value and interpret the factors. Given this importance of crafting rules

¹ The original handout was written by Stacie Reimer Smith in 2013. It was revised in 2024 by Matthew Gayden.

² RICHARD K. NEUMANN, JR., *LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY AND STYLE* 9 (Aspen Law and Business, 6th ed. 2009).

³ CHRISTINA L. KUNZ & DEBORAH A. SCHMEDEMANN, *SYNTHESIS: LEGAL READING, REASONING AND WRITING* 13 (Wolters Kluwer, 3d ed. 2007).

⁴ See DIANA R. DONAHOE, *TEACHINGLAW.COM: THE ROAD TO LEGAL PRACTICE* (2016), <https://teachinglaw.com/writingRewriting/Rewriting/Analysis%2Band%2BMid-Level%2BOrganization>.

that provide effective guidance, the remaining sections of this handout focus on (1) the key features of rule statements and (2) how to synthesize a rule from multiple cases.

2. Key Features of Effective Rule Statements

Rules should be (1) grounded in authority, (2) accurate, (3) simply stated, (4) readily applicable, and (5) consistent with the subsequent analysis.⁵

Regardless of the rule type, for a rule to be valuable to a judge or another lawyer, it should establish what the outcome of a particular legal issue should, or likely will, be.⁶ To do so effectively, rule statements should adhere to the following principles.

- **Grounded in authority:** Rule statements are legal propositions, and as such, they should be derived from legal authority and contain citations to those authorities.⁷
- **Accurate:** Rule statements should be consistent with the law in the jurisdiction and, as a result, should be able to accurately predict the outcome of existing cases.⁸
- **Simply stated:** Rule statements should be digestible and “concise enough for the reader to grasp easily,”⁹ so avoid using long quotes and overly complicated syntax.
- **Readily applicable:** Rules should be able to be applied to similar cases.¹⁰ Therefore, they should use defined terms with unambiguous meanings and be “specific enough to give guidance for a new set of facts.”¹¹ If a rule’s terms are overly vague or too narrowly confined to the cases it was drawn from, it cannot be easily applied.
- **Consistent with the subsequent analysis:** The analysis following the rule should mirror the rule’s terms and structure. If new terms or legal concepts appear later in the analysis, the reader may struggle to see how the rule is being applied.

With these principles in mind, imagine that a lawyer, who is charged with creating a rule about eyewitness accuracy in a criminal case, drafts the following rule statement:

⁵ See Paul Figley, *Teaching Rule Synthesis with Real Cases*, 61 J. LEGAL EDUC. 245, 247 (2011).

⁶ See Thomas O. Patrick, *Using Simplified Cases to Introduce Synthesis*, 3 NO. 3 PERSP: TEACHING LEGAL RES. & WRITING 67, 67 (1995).

⁷ For a detailed discussion of how to determine what legal authorities to rely on, see the Writing Center’s handouts, “[How to Use Binding vs. Persuasive Authority](#)” and “[Which Court is Binding](#).”

⁸ Figley, *supra* note 5, at 247.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

“When a witness can get a ‘good look’ at the accused, the witness’s testimony about the accused’s appearance is likely accurate.”

Although this rule is simply stated, it is not readily applicable and, thus, does not easily predict an outcome. The phrase “good look” is too vague and cannot be easily applied, as there could be different understandings of its meaning. A stronger rule statement would therefore incorporate a more factually based standard and define “good look” in more concrete terms. Consider this revision:

“If a witness is able to see all of the accused’s facial features clearly, then the witness’s testimony is likely accurate.”

This revised rule helps a judge predict a likely outcome based on a new set of facts because it provides exact parameters for finding a “good look” and sets forth a factually based standard in place of the vague “good look” language. For instance, a judge could ask herself “Did the witness see all of the accused’s facial features clearly?” The answer to that question will determine the outcome of this element. Thus, be sure to give the reader a defined and easily measurable standard that can be applied to multiple cases.

3. Rule Synthesis

Rule synthesis is the “binding together of several opinions into a whole that stands for a rule or expression of policy.”¹²

a. Rule Synthesis Defined

Sometimes rules just consist of a statute or a controlling case that is directly on point.¹³ This typically happens when a legislature has created a statute that definitively addresses the issue or when the highest appellate court in the jurisdiction has a clear and controlling ruling on the issue.¹⁴ But frequently, stating a rule is not this easy. Because courts tweak existing rules and apply them in different contexts, rule statements often represent a synthesized principle from the relevant case law.¹⁵

Rule synthesis is the process of examining the authorities that have applied the relevant law, deriving from those applications the guiding legal principles, and stating those principles as a single rule that predicts the outcome of the issue at hand.¹⁶ Synthesis is therefore more than just

¹² NEUMANN, *supra* note 2, at 155.

¹³ Figley, *supra* note 5, at 246–47.

¹⁴ Jane Kent Gionfriddo, *Thinking Like a Lawyer: The Heuristics of Case Synthesis*, 40 TEX. TECH. L. REV. 1, 5 (2007).

¹⁵ See Figley, *supra* note 5, at 247.

¹⁶ *Id.*

a description of several cases or a mere combination of the language in different opinions; it involves a “reflective and recursive” process that requires the writer to see the entire legal landscape and understand the position of specific cases within that landscape.¹⁷

b. Common Mistakes to Avoid

Many students who are new to legal writing will often just pick a quotation from a single case to be the rule or individually present the legal concepts in their rules. However, fully synthesized rules will be more effective at predicting outcomes than these two strategies. Thus, be careful to avoid the following common mistakes with rule synthesis.

- **Not deriving rules from enough authority:** When legislatures and courts have not set forth directly applicable rules, rule statements should draw from multiple authorities, rather than rely on single features of single cases. Using multiple authorities grounds the rule in a wider range of cases, thereby increasing the rule’s accuracy and allowing for a more logically sound generalization.¹⁸
- **Successively presenting individual legal concepts:** When aspects of a rule are found in different cases, the rule statement should weave the relevant principles together into a single rule, rather than present the concepts individually. Using a “successive approach” reduces clarity, as it fails to provide a coherent standard and forces the reader to sift through seemingly distinct rules and infer how the concepts are related.

For instance, imagine that the lawyer from the earlier example now concludes that there is no directly applicable statute or case and finds the following rules from the relevant case law:

- **If a witness can see all the accused’s facial features clearly, then the witness’s testimony is likely accurate.**
- **For a witness’s testimony to be accurate, the witness must see the accused’s face for longer than a few seconds.**
- **Although not necessary, a witness who views a crime during bright daylight is assumed to have a more accurate testimony than a witness who views a crime at night.**

Now consider the lawyer’s draft rule statements based on these cases:

¹⁷ See Gionfriddo, *supra* note 14, at 6; Michael D. Murray, *Rule Synthesis and Explanatory Synthesis: A Socratic Dialogue Between IREAC and TREAT*, 8 LEGAL COMM. & RHETORIC: JALWD 217, 225 (2011).

¹⁸ Jennifer M. Cooper, *The Science of Legal Synthesis*, 95 ST. JOHN’S L. REV. 285, 308 (2021).

Draft 1: “If a witness can see all the accused’s facial features clearly, then the witness’s testimony is likely accurate. Furthermore, for a witness’s testimony to be accurate, the witness must see the accused’s face for longer than a few seconds. Finally, although not necessary, a witness who views a crime during bright daylight is assumed to have a more accurate testimony than a witness who views a crime at night.”

Draft 2: “If a witness is able to see all of the accused’s facial features clearly for longer than a few seconds, then the witness’s testimony is likely accurate, especially when the incident occurs during bright daylight.”

While Draft 1 is not incorrect, its successive presentation of the concepts not only requires more reading, but it also may confuse the reader by making them read through three seemingly independent rules. Draft 2, on the other hand, incorporates all the concepts into a single statement, giving the reader the full standard in one sentence. This synthesis makes the rule easier to understand, as it clearly establishes the relationship between the three concepts.

4. Conclusion

A student who can distill key principles from the relevant authorities, synthesize those principles into a readily applicable standard, and present the standard as a succinct and accurate rule that predicts an outcome is well on their way to creating effective rule statements.