

Duties of Governmental Entities

Midterm Prep Wrap-Up

Responses to student questions:

1. How do we connect to core values?
2. What supplements should we use?
3. How do we structure an exam answer?

How do we connect to core values?

What supplements should we use?

For Review:

- Understanding Torts
- Gilbert Law Summaries: Torts

For Practice Problems:

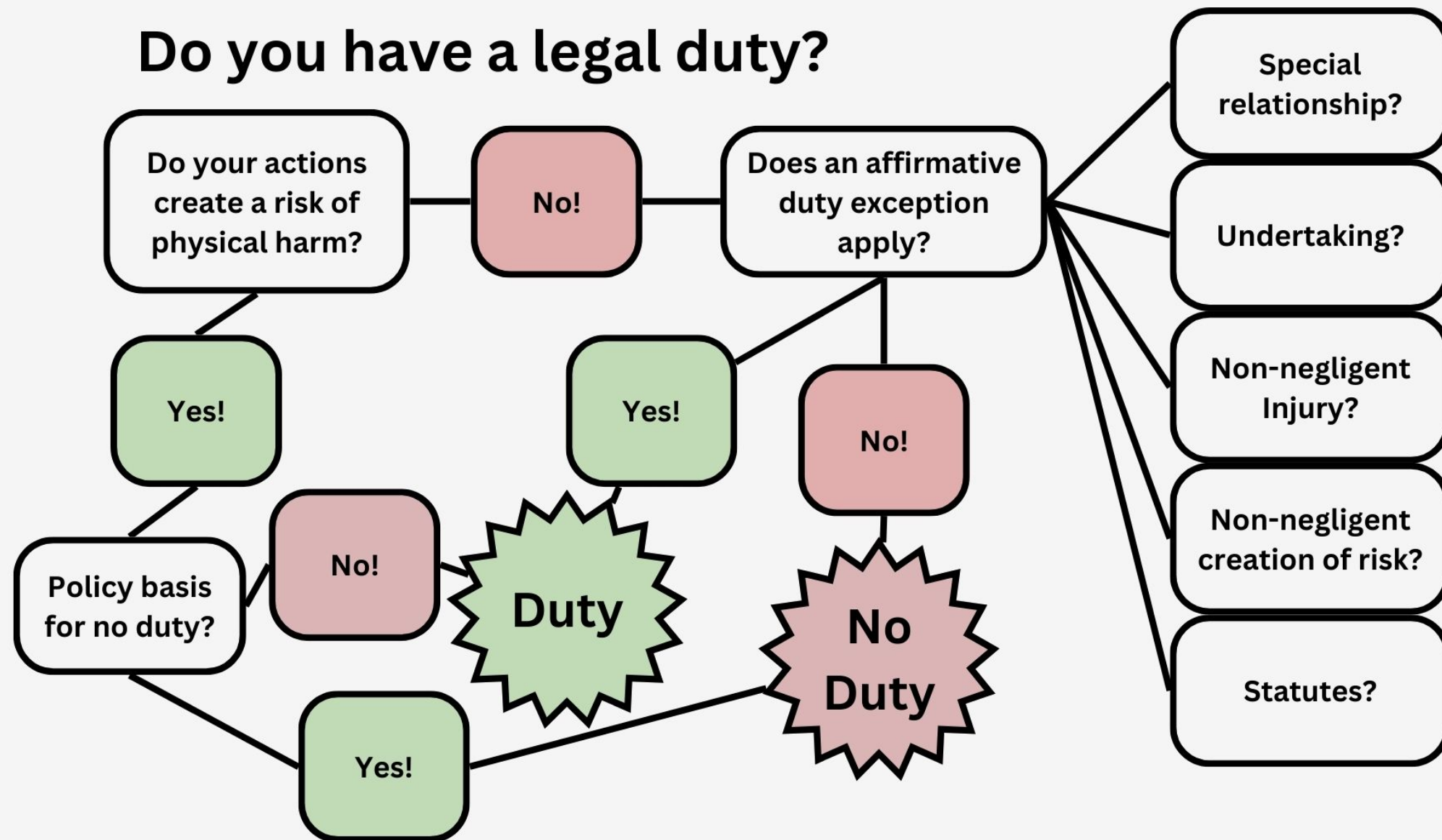
- Tort Law and Practice

How do we structure an exam answer?

Two parts:

1. Personal notes: organized and exhaustive
2. Actual answer: organized and selective

Practice Question Structure: Personal Notes



Structure: Actual Answer (Example)

Main Issue

- Introduction

- Rule

- Analysis

 - Subissue # 1

 - Rule

 - Analysis

 - Conclusion

 - Subissue # 2

 - Rule

 - Analysis

 - Sub-subissue

 - Rule

 - Analysis

 - Conclusion

 - Conclusion

- Conclusion

Practice Question Structure: Actual Answer

- Introduction (basically your holding / conclusion)
- Rule for duty
- Acknowledgment that this is a close call and both paths will be analyzed.
- First path: Actions created a risk of physical harm
 - Rule
 - Analysis
 - Subissue: Policy basis exception
 - Rule
 - Analysis
 - Conclusion
- Second path: Affirmative duty
 - Rule
 - Analysis
 - Subissue: Exceptions
 - Rule
 - Analysis
 - Subissues: Each exception that warrants a full analysis
 - Rule (when does this exception apply?)
 - Analysis
 - Conclusion
- Conclusion

Duties of Government Entities

Riss v. City of New York

Riss v. City of New York

Proprietary functions

vs.

Governmental functions

Because we owe a duty to everybody, we owe it to no one.

Rationale for no governmental duty

1. Lack of expertise (judge & jury)
2. Separation of powers
3. Limited government resources

Lauer v. City of New York

Lauer v. City of New York

Discretionary functions

vs.

Ministerial functions

Waiver of immunity \neq Existence of duty

Duty is always relational