

Final exam questions in law

Law



Final Exam Questions 2 The Fifth Amendment privilege against self-incrimination can be overcome with three different types of immunity from the government; two types of immunity are “ transactional immunity” and “ use immunity.” This can only occur at the grand jury stage or in a criminal proceeding (atypically, a trial). Transactional immunity is a broad term. In the case of this type of immunity, a witness cannot be persecuted for the offense of which they are being tried. This is the main distinction between transactional immunity” and use immunity. At the same time, a transactional Immunity candidate can still be prosecuted for perjury, while with use immunity, it’s a bit more of a grey area.

“ Use Immunity” is a bit narrower in its classification in terms of what can be used within the trial and what the Fifth Amendment Privilege protects. In use immunity, statements made by the witness cannot be used against the immunized person. At the same time, the persecution is not in agreement that it will not persecute the person given use immunity. This type of immunity does not give definite protection under the Fifth Amendment privilege; at a later date, the court under independent or untainted types of evidence may persecute the person. Finally, testifying without asserting one’s right against self-incrimination wouldn’t receive transactional immunity, but is a viable candidate for use immunity. These are two of the three different types of immunity classified under ones Fifth Amendment rights.

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“ Sovereign Immunity” is the immunity that says that the state or government entity cannot commit legal wrongdoing. It is based in the English roots of our country, generally exalting the concept that the crown or <https://assignbuster.com/final-exam-questions-in-law/>

higher governmental power is always right. For this reason, it is sometimes called “ Crown Immunity.” Much like the name, sovereign immunity holds a state or federal entity immune from any or criminal prosecution unless they expressly consent to waiving this right. This is true in many cases where the United States, the concept of sovereign immunity is waived by the government or the government gives its consent to suit. The differentiation between federal and state sovereign immunity is defined and explained, though it isn’t the most clear-cut outline and is constantly being debated. In the eleventh amendment, it describes suits between the federal government and states, between states themselves and between individuals in different states. Federally, the government prefers to re-channel the broader federal cases into more appropriate and specific avenues of personnel and litigation. The federal sovereign immunity also protects and defends the government from liability more than it does a “ get out of trial free card.” Statewide, the concept of sovereign immunity is generally more upheld. The eleventh amendment reiterates the state’s rights to act under sovereign immunity, and state sovereign immunity, in some cases, can be seen to be upheld more literally than federal sovereign immunity.