

**Monterey College of Law  
San Luis Obispo College of Law  
Kern County College of Law**



**Faculty Handbook  
2021-2022**

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## INTRODUCTION

The Law Schools are pleased and privileged to have you as a member of our faculty. From the very beginning, our law schools were created as community law schools taught by local lawyers and judges. A special feature of being small, state-bar accredited law schools is our ability to attract highly respected members of the local bench and bar to serve as faculty. Your dedication, loyalty, and energy are invaluable to our program.

This Faculty Handbook is intended to provide an overview of our schools' operations, to assist you in course preparation and grading, and to furnish a clear statement of faculty responsibilities. Suggestions regarding the law school policies and standards are welcome.

## ACADEMIC FREEDOM

Law school teaching methods historically have been as tradition-bound as the law itself. It is common for faculty members to be drawn towards teaching in the same manner in which they were taught. However, our schools have developed academic programs that incorporate best practices from higher education that incorporate digital media, quiz banks, skills training, out-of-class writing assignments, special projects, and in-class interactive exercises. It is the policy of our schools to provide and encourage academic freedom in the development and delivery of substantive content, legal analysis, and instructional objectives. In the expression of academic freedom, we also expect faculty to utilize the academic tools, course methodologies, and assessment protocols that contribute to a quality legal education.

## EXPECTATIONS

**Responsibilities to Students:** In addition to the information contained in this Faculty Handbook, faculty members are expected to follow the regulations in Appendices 4 & 5 taken from the schools' Student Handbook, that impose certain responsibilities on the faculty. In order to ensure compliance with accreditation standards, specific rules related to the number class sessions, class hours, and attendance requirements must be followed. Faculty are also expected to follow the schools' policies on grading standards, grade deadlines, and class rescheduling procedures.

### Course Planning:

Faculty members are expected to submit a Course Syllabus (see samples in Appendix 7) no less than **three weeks prior to the commencement of classes**.

### Class Preparation:

Class preparation and punctuality are essential. This is an important quality for any good lawyer or judge and models appropriate professional behavior for law students to follow. Attorneys are not expected to "wing it" in court and the same standard should apply to classroom instruction. Our faculty members serve as professional role models for our students. Preparation, professionalism, and competency in the classroom reflect the standards we expect from both our

students and our faculty. Course goals and objectives should be made clear to the students at the beginning of the semester. Faculty members are encouraged to monitor instructional progress and assess student knowledge and competency periodically during the semester. The use of MBE-style short quizzes are expected in all bar-tested subjects. Additionally, in-class exercises that provide student feedback are encouraged.

### **Class Meetings:**

Classes should be canceled and rescheduled only for the most compelling reasons. Please notify the Registrar if you need to cancel or reschedule a class session. This will ensure that a classroom is available and to avoid conflicts with other classes or events. If you need to cancel and reschedule a class, please notify the students via the Populi course page as far in advance as possible. Do the same for any other change of time or meeting place. If you have an emergency that will require you to be late or miss class, please call and e-mail the Registrar as early as possible and post the notice to the Populi course page. Please remember that for on-site courses, many of our students commute as much as an hour to attend class. Therefore, it is important to notify students as early as possible if a class is going to start late or be canceled.

### **Attendance:**

The law schools have a mandatory attendance policy. The accreditation rules require students attend no less than 80 percent of class sessions to receive credit for a course. Only the Dean of Academics has authority to address special circumstances that affect class attendance. Faculty should notify the Registrar as soon as a student misses two class sessions. The school will contact the student and notify them that upon a third absence, the student is subject to being administratively dropped from the class. Weekday classes generally meet from 6:30 p.m. until 9:30 p.m., with one 15-minute break around 8:00 p.m. Different break timing is allowed if it better fits the class sequence and timing. The accreditation rules require students to maintain "regular and punctual attendance". Faculty should include a policy related to late arrival in their course syllabus. If notice is provided in the syllabus, faculty may count a student "absent" if they arrive substantially late for a class session. The law school requires an official class record that shows the attendance record for every student. As a faculty member, you are required to take attendance at each and every class meeting. You may choose to take attendance at the start of class or after the first break. A class roster will be provided on the Populi course page before your first class. If a student is attending class and is not on the official roster, you must contact the Registrar. Please also contact the Registrar if a student is listed on the class roster, but is not attending class.

### **Student and Faculty Conduct:**

Disruptive Behavior: Any student behavior that disrupts the learning atmosphere of the classroom should initially be brought to the attention of the student through an informal private conversation or by email. If the issue is not resolved or continues to be problematic, the faculty member should confidentially report the issue to the Dean of Academics. Additionally, any issues

related to student honesty or plagiarism must be brought to the attention of the Dean of Academics.

**Anti-Bullying, Harassment, and Intimidation Policy:** The law school is committed to the establishment and maintenance of a safe, caring, equitable, and inclusive educational environment in order to maximize the learning potential of all students and to protect the health and safety of faculty, students, and staff. Faculty, students, and staff have the right to expect that the law school environment will be free from bullying, harassment, and intimidation. Therefore, this type of behavior is strictly prohibited in all law school-related settings (in-person and virtual), including classes, group and individual meetings, online and in-person verbal and written communication, and events.

**Bullying, Harassment, or Intimidation in a Zoom Classroom Setting:** Unwanted verbal, nonverbal, or physical attention that is meant to demean, intimidate, embarrass, or threaten may be considered harassment. This includes unsolicited comments about an individual's physical appearance or the appearance or setting of their Zoom environment. Harassment may also include comments (verbal or written), postings, jokes, images, or gestures that reference sex, gender, ethnicity, political or philosophical ideology, disability, or physical appearance in a manner meant to demean, intimidate, or threaten.

**Violations of Policy:** Violation of the school's anti-bullying, harassment, and intimidation policy may subject faculty, students, or staff to discipline that may include informal or formal warnings, participation in mandatory training or counselling, temporary suspension, or termination/dismissal.

## **FACULTY MEETINGS AND FACULTY SENATE:**

All faculty members are expected to attend faculty meetings in the Fall and Spring semesters. Topics generally include exam grading, curriculum development, student issues, teaching techniques, etc. All faculty are considered members of the Faculty Senate. The faculty select one of their members to serve as the chair of the faculty senate. Each campus faculty group also selects a representative to the law school board of trustees. The process for selection and term of office shall be determined by the Faculty Senate bylaws.

## **ETHICAL CONSIDERATIONS**

In addition to substantive content, as part of the course instruction, faculty are expected to include discussions of the ethical considerations related to the topics.

## **COURSE PREPARATION**

The two primary features of course preparation are content and process. The course syllabus should be developed as a "roadmap" for the course content. The law school has developed an approved template for overall course development and individual course syllabi. The law school's

academic development team will work with you to assure that your syllabus, course design, and course materials are in compliance with the school policies. You should contact the school's Registrar to discuss which textbooks and casebooks are available from the national law book publishers. In many cases, a Teacher's Guide for your casebook and supplementary teaching materials may be available on the publisher's website. Once you have selected the book for your course, register with the publisher and request access to the Teacher's resources. If you are teaching a bar-tested subject, the BarBri outlines and supplemental material available for your topic are available in the Populi Faculty Group files section. This information is being provided solely as a guideline to identify the topic areas that are anticipated to be tested on the California Bar Exam.

The process of instruction includes the teaching methodology and the atmosphere or climate created for learning. Most law teachers join a faculty because of their subject matter expertise, not their teaching experience. In addition to subject matter expertise, experience has indicated that the following teaching behaviors encourage a positive learning climate:

1. Minimize long lecture sessions;
2. Engage students by utilizing open-ended questions that encourage thinking and expression of student ideas;
3. Consider using classroom exercises that feature role-playing;
4. Consider using break-out sessions and small-group problem solving;
5. Offer appropriate praise and encouragement;
6. Emphasize learning rather than memorization;
7. Use humor and self-revelation when appropriate;
8. Stay on task by following the course syllabus and class assignments.

Keeping the classroom "fresh" and engaging throughout the semester will add interest and also support students who have different learning styles. Visual aids are useful to the learning environment as well. The classroom use of the whiteboard and PowerPoint type illustrations can help to clarify and cement ideas. Computers and projectors are available for each classroom. Please notify the Campus Administrator if you need to have a laptop and/or projector set-up for your class session. The Zoom classroom session use of polling and break-out sessions are also highly encouraged. Technical support is available for faculty who are teaching in the Zoom/Populi format who need assistance. Contact the Dean of Academics to discuss available resources.

## **BOOKS and INSTRUCTOR PREPARED MATERIALS**

### **Book Orders:**

You should provide the Registrar with the name and publisher of the books and materials that you intend to use for your course at least twelve weeks prior to the first class meeting. The law school does not have a bookstore. Students will order books through designated online bookstore services.

### **Materials Duplication and/or On-line Posting:**

All course materials, including excerpts, articles, cases, videos, or web links that are not otherwise published in the designated course textbook or casebook are expected to be posted on the course Populi page. If you need assistance posting materials for your course, contact the Dean of Academics and a technical teaching fellow will be assigned to assist you.

### **Computer Assisted Legal Research:**

The students have unlimited access to cases, statutes and public records via the web through our contact with Lexis – Nexis. There are no time, downloading, or printing limitations for the student accounts. Therefore, you are encouraged to provide citations or links to supplemental materials and require the students to use on-line research to obtain them.

## **COURSE GRADES**

Course grades may include a combination of final exams, quizzes, written assignments, and other projects. A major exam is given at the end of each semester of the class. A one-semester course has one final exam; a two-semester course has one Fall midterm exam and one Spring final exam. Each of the grading components should be clearly defined and detailed in the course syllabus. Class participation points are discouraged because students are expected to prepare and participate in every class session.

In the first year courses, if midterm exam grades are higher than final exam grades, the midterm will count as 50% of the final course grade. If midterm exam grades are lower than final exam grades, the midterm grade will not be used in calculating the final course grade. Unless otherwise defined in the course syllabus, for all second, third, and fourth-year courses, midterm exams are 50% and final exams are 50% of the final course grade.

## EXAM PREPARATION AND ADMINISTRATION

### Exam Format:

The length of the exam should be equivalent to the number of units allocated to the course. Thus, a 3-unit course should have an examination approximately 3 hours long. Instructors are encouraged to consider which exam format, or combination of formats is best suited for the course content (e.g., essay questions, short-answer essays, multiple choice questions, and performance type questions). Students must be informed of the type, length and grading method of the exams and other grading in the syllabus. Faculty are required to review the law school's grading guidelines and examination policies. The length of an exam question rarely should exceed one page, with a maximum of a page and a half. Each page of an exam question should be formatted in the top right corner as follows:

Course Name

Midterm or Final Exam Instructor's Name Semester, Year

Should a question require two pages, state "CONTINUED..." at the bottom, right hand side of the first page.

The end of EACH question should be followed by a complete line of asterisks (\*\*\*\*).

At the center bottom of each page, note the page number and the total number of pages of the entire exam (e.g. Page 1 of 4).

### Exam Drafting:

The law school policy is to use essay and "performance-type" examinations and Multi-State Bar Exam (MBE) style multiple choice questions. Courses tested on the multi-state exam lend themselves to multiple-choice questions as part of the exam. Please note that past law school exams and previous California State Bar exams may be consulted for format and design guidance, but should not be used as current exam questions. Each semester our law school students are provided exam-packs that include previous law school exams for the purpose of practice and preparation.

Exams should be related to the scope and coverage of course material in a proportional manner. Thus, the exam should reflect the instructor's emphasis on topics/issues, and not focus on obscure, tangential problems. The syllabus and actual course coverage notify the students which topics/issues are important to the instructor. Fairness in testing requires that the issues tested on the exam fairly reflect the nature and depth of the substantive topics covered in class.



In developing an exam question, it is important to avoid culturally or racially biased questions. Questions should not assume as general knowledge areas of particular interest such as sports, movies, literature, art, other cultural or political references, etc. Clearly state the hypothetical and then the "call of the question." Questions may be on integrated and related issues, or the "shotgun" variety (where there are numerous issues and the resolution of one does not depend on points raised by the others). Interrogatories should be clear and understandable, but may be in any format the instructor wishes to use. Make clear the three or four characters addressed and "answered" in your call of the question. Characters should be named in a non-descriptive manner. Avoid terms such as "Clara Clumsy" or "Randy Reckless" as this could be construed as "Randy who was reckless." You may use descriptive names as status, (i.e. Paul for Plaintiff and Dennis for Defendant) but not as a legal classification.

### Exam Review:

All exams are due to the Registrar **at least four weeks before the scheduled exam date** in order to provide an opportunity for the exam committee to review questions to ensure proportionality and clarity. **A model answer, outline, or issues checklist must accompany the exam.** Exams and model answers should be emailed to the Registrar at [schand@montereylaw.edu](mailto:schand@montereylaw.edu). The Registrar will contact the faculty member if there are any problems or issues with the exam.

All exams submitted for review must include directions designating whether the students may use specific books and materials during the exam. Students may not bring anything into the exam room or access any materials during an online exam except for the specific documents authorized by the instructor. Laptops are encouraged and students must have registered and downloaded ExamSoft prior to the exam session. The law school policy and California State Bar Accreditation Rules currently prohibit the use of iPads or other tablet devices for exams.

### Exam Administration:

The law school staff proctors all exams on the designated exam date and location. Exams are anonymous; therefore, instructors will be provided the test papers with a roster of student identification numbers. Grades should be placed on the test papers and the roster for each question, with a final grade in the appropriate column. **Test papers and grades on the roster are due back to the Registrar within 21 days after the exam date.** Faculty for fourth-year, Spring semester classes should return grades and test papers no later than two weeks after the exam because graduating students need to be certified for the July California Bar Exam. See Appendix 4 for the law school Examination Procedures.

Students are responsible for submitting legible exam answers. In the event an instructor cannot read an exam due to illegible handwriting, the Registrar should be notified. See the section in Appendix 4 on Illegible Handwriting for additional information.

**PLEASE NOTE: The grades assigned by Faculty are considered raw scores and are not recorded as final grades until they have been reviewed and approved by the Dean of Academics. Therefore, faculty should not discuss exams or grades with students until the grades have been posted in Populi as final grades.**

## **EXAM GRADING GUIDELINES**

It is the duty and responsibility of the Instructor to grade exams in accordance with the Committee of Bar Examiners guidelines (Appendix 3) and the Faculty Grading Guidelines (Appendix 2).

Steps for grading exams:

1. Establish a point basis evaluation based upon the combination of author's intent and level of response.
2. Grade individual questions in 5 point-increments (i.e., 65, 70, 75, etc.) After calculating the total grade (including all questions) the final grade should be "rounded" to the nearest whole number (e.g. 73.4 or lower becomes 73 and 73.5 or higher becomes 74).
3. Follow the Grading Guidelines in Appendices 2 and 3.
4. A grade of less than 60 is a failing grade. Although individual questions on an exam may receive scores of less than 55, a final grade for the semester less than 55 will be computed into the GPA as a 55.
5. As a general rule, if a student scores 65 or less in a bar-tested subject or required course, the course must be repeated. Failing a course a second time results in academic disqualification. A 65 or less in non-required courses may not require a repeat, although it may be recommended to meet the student's minimum cumulative GPA requirement.

Instructors should place the final grade on the top page of the test paper or on the exam roster for online exams. Please make comments in the body of the test papers to assist students in understanding the grade.

List the grades opposite the correct student identification number on the class roster. If you are including additional grades for other quizzes, projects, etc. provide a separate list to the Registrar with the "weight" that each graded item should be given towards the final grade. The Registrar will calculate the final grade.

Grades are not "final" until reviewed and approved by the Dean of Academics. Faculty are requested not to announce to their class that grades are available because no grades are released until they have been reviewed and approved. The Dean of Academics may choose to consult with faculty members

whose grades seem out of the normal range and reserves the right to request that grade distribution be reconsidered. Once approved and posted, the grades become final and are not subject to change except for computational errors or in instances of gross unfairness. While students and faculty are encouraged to discuss exams, such conferences should not result in faculty members requesting a change in the exam score unless the request is based on a computational error, a faculty grading error, or a determination that the assigned grade is the result of gross unfairness. Where a faculty member believes that grounds exist for a grade change, a written request to the Dean should explain the nature of the error and specify the requested change. Once grades have been finalized, unless the change is for a computational error, the Academic Standards Committee must approve the requested change.

After grades are provided to students, the test papers are made available to the students for review, along with copies of the grading key, model answer, or answer outline. Students are encouraged to schedule a conference with the instructor to review their exam answers. See Appendix 5 for the law school grading system.

## MAKEUP EXAMS

When a student is unable to take the examination at the scheduled time because of extraordinary circumstances or unusual emergencies, (sudden illness, traffic accident, natural disaster, etc.), the student must submit a request to the Registrar to reschedule the exam. **Under no circumstances should the instructor discuss rescheduling an exam with the student.** If the instructor is asked to prepare a make-up exam, depending on the circumstances, they may be compensated if they are required to draft an entirely new exam. Makeup exams should be graded in the same manner as the regular exams.

## CLE CREDIT

Faculty members are eligible to receive credit towards the Minimum Continuing Legal Education requirement as an adjunct professor at the law school. Credit hours for time spent teaching a law school class are computed by multiplying the number of units granted by the law school for the completion of the class by twelve. See Appendix 6 for CLE credit for teaching a law school class.

## EQUAL OPPORTUNITY AND NON-DISCLOSURE POLICY

The Law Schools operate in accordance with policies and procedures that comply with the Constitutions and all applicable laws of both the United States and the State of California so as to provide both equal opportunity and to prohibit unlawful discrimination.

## **HARASSMENT FREE ENVIRONMENT**

The law school is committed to the establishment and maintenance of a safe, caring, equitable, and inclusive educational environment in order to maximize the learning potential of all students and to protect the health and safety of faculty, students, and staff.

Faculty, students, and staff have the right to expect that the law school environment will be free from bullying, harassment, and intimidation. Therefore, this type of behavior is strictly prohibited in all law school-related settings (in-person and virtual), including classes, group and individual meetings, online and in-person verbal and written communication, and events.

### **What Can Constitute Bullying, Harassment, or Intimidation in a Zoom Classroom Setting?**

Unwanted verbal, nonverbal, or physical attention that is meant to demean, intimidate, embarrass, or threaten may be considered harassment. This includes unsolicited comments about an individual's physical appearance or the appearance or setting of their Zoom environment. Harassment may also include comments (verbal or written), postings, jokes, images, or gestures that reference sex, gender, ethnicity, political or philosophical ideology, disability, or physical appearance in a manner meant to demean, intimidate, or threaten.

### **Violations of Policy**

Violation of the school's anti-bullying, harassment, and intimidation policy may subject faculty, students, or staff to discipline that may include informal or formal warnings, participation in mandatory training or counselling, temporary suspension, or termination/dismissal.

Any student, faculty member, or employee who believes that they have been harassed should report the facts of the incident and the names of the individuals involved promptly to the Dean or the Sexual Harassment Officer. All harassment complaints shall be investigated in a timely manner and conducted in the strictest confidence and in accordance with established grievance procedures. After appropriate investigation, any student, faculty, or staff member, who is found in violation of this policy, is subject to appropriate discipline. Depending on the circumstances, disciplinary action may include expulsion or termination.

Please see appendix 8 for The Law Schools 'Sexual Harassment Policy.

## **APPENDIX DIRECTORY**

**APPENDIX 1-  
ADMINISTRATION--Staff Directory**

**APPENDIX 2 –  
EXAM SCORING GUIDELINES**

**APPENDIX 3 –  
COMMITTEE OF BAR EXAMINERS GRADING GUIDELINES**

**APPENDIX 4-  
THE LAW SCHOOL EXAMINATION PROCEDURES**

**APPENDIX 5 -  
GRADING SYSTEM**

**APPENDIX 6 -  
STATE BAR OF CALIFORNIA COMMITTEE ON MINIMUM CONTINUING LEGAL EDUCATION**

**APPENDIX 7 -  
SAMPLE COURSE SYLLABUS**

**APPENDIX 8 -  
THE LAW SCHOOL'S SEXUAL HARASSMENT POLICY**

## APPENDIX 1--Administration

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## APPENDIX 2—Exam Scoring Guidelines

The following descriptions outline the general characteristics of the respective assigned score:

85-90+ **Outstanding.** Unusually complete and thorough answer; correctly stated the law/rules; discussed issues using outstanding reasoning and analysis; organization is exemplary. Discussed all major issues and most minor issues. A model answer.

80 **Very Good.** May have missed some minor issues or lacked complete discussion of some fact or legal rule. Otherwise well organized and clear; reasoning clear and cogent. Analysis applied the facts to an accurate statement of the law and reached a conclusion. Answer reflected a qualify understanding of the subject matter.

75 **Satisfactory to Good.** Answer reflected a good understanding of the subject matter. Organization is satisfactory, but may need some improvement in identifying issues with heading and discussing in correct order. Analysis incorporated facts satisfactorily.

70 **Basic.** Answer reflects a minimal understanding sufficient to pass the class but needs improvement. Missed issues and organization lacking. Analysis cursory. Answer reflected a basic understanding of the subject matter but was deficient in significant areas. The answer does not reflect an understanding sufficient to pass the bar.

65 **Unsatisfactory.** An answer that warrants repeating the class. Weak, incomplete or poor analysis of the issues addressed. Lacks organization.

60 **Extremely Poor.** Little to nothing redeeming about the student’s answer. The answer did not reflect even a basic understanding of the subject matter.

55 **Failing.** Failure to address any major issue.

Professors may use the following components assessed as either very good, satisfactory, or fail to arrive at a numerical grade:

Issue Spotting	- Discusses all of the main issues. - Touches upon many of the	- Discusses all main issues. - Discusses some minor issues.	- Misses main issues.
Rule Statements	- Clear rule statements; accurate and detailed, containing all elements of the rule including applicable exceptions.	- Clear rule statements; may state the rule in own words or blend some of the concepts into	- Rule statements are confused, wrong or incomplete.
Analysis	- Understands and identifies operative/relevant facts. Clear and concise discussion of each element correctly applied to facts. *	- Understands and identifies operative/relevant facts. Rules are correctly applied to the facts. - Infrequent discussion of both sides of an issue, but still discusses major issues raised	- Does not apply rules to the facts - Analysis is wrong and/or doesn’t match the call of the question. - Analysis employs ‘kitchen sink’ approach: writes everything one knows about subject, hoping that something will be right, but fails to understand what is relevant. - Analysis fails to reach any conclusion, or reaches a
Conclusion	- Discusses both sides of an issue if necessary. - Includes a well reasoned conclusion that is		



Organization / Format	<ul style="list-style-type: none"> <li>- Headings and IRAC are used to organize issues discussed.</li> <li>- Issues are discussed in the correct order.</li> </ul>	<ul style="list-style-type: none"> <li>- Headings and IRAC are used to organize issues discussed.</li> <li>- Issues are discussed in the correct order.</li> </ul>	<ul style="list-style-type: none"> <li>- No headings or IRAC used.</li> <li>- Long paragraphs that do not highlight relevant issues and/or make it difficult to spot relevant issues.</li> </ul>
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Notes:

\*Recognizing the operative facts is extremely important. Students are advised that virtually every fact in an essay is there for a reason. Students who make a real effort to recognize and incorporate facts and grapple with them in their answers will generally score much higher. Students who just state a rule and conclude lose points for being ‘conclusory’ and failing to use the facts in their analysis.

\*\* Reaching a reasoned conclusion is an important component of a good answer. Students may think they can hedge their bets by writing an answer that says, “on the one hand, this...and on the other hand, that...” or “Plaintiff will argue...Defendant will argue...” without coming to any conclusion. However, most exams pose specific questions that should be answered. Sometimes there will be more than one correct way to conclude, but failing to conclude at all is a fault. Graders refer to that as being ‘non-responsive.’ Worse, writing a conclusion that is inconsistent with the analysis will likely result in a low score even if all the issues are addressed, since it makes the writer look like he or she actually does not understand the law.

## APPENDIX 3 - Committee of Bar Examiners Grading Guidelines

### General Instructions for Grading

The following suggestions for the grading of analytical-type examination questions have been taken from pages 213 et seq. of the 1968 edition of "A Manual for Bar Examiners."

### Analysis of the Problem

The grader must determine the extent to which an answer demonstrates an applicant's ability to diagnose the problem and to identify correctly the issues of law presented therein. Unless the applicant is one who, in writing their answer, specifically labels or states each issue prior to discussing it, or summarizes the issues at the beginning of their answer, the examiner must determine this element from the answer as a whole. In many cases, the discussion itself and the application of pertinent rules of law by the applicant will show that they have properly analyzed and recognized the several points of law involved. Such an answer, however, is to be distinguished from one which presents merely a general 'broadside' of the law, without any attempt by the applicant to emphasize or single out those particular rules which bear on the points at issue. As has been stated with respect to the latter type of answer:

Often such a panoramic display betokens a basic inability to single out a legal issue and to apply the law to its solution. Such an applicant may either be seeking merely to impress the examiner with the scope of their knowledge, or hoping that a blanket answer will by chance also cover the particular points involved, the presence of which they suspect but which they are unable or unwilling to identify for direct treatment.

Such an answer, from the point of view of demonstrating analytical ability, is obviously entitled to little credit.

Other types of answers indicating lack of analytical ability include the one which consists merely of a statement of the applicant's conclusions, without indicating the reasoning by which such conclusions were reached, and the answer in which the applicant directs his entire discussion to only one of the several points or issues involved in the question.

In between the good and the clearly deficient answers are the true border-line cases. It is to these that the examiner must give their most critical appraisal, endeavoring to determine whether the applicant has or has not actually recognized the issues sufficiently to be given a passing grade on analytical ability.

Another factor, related to analysis but sometimes considered as a separate element of the answer, is the one which has been described as 'Ability to articulate and classify the problem presented, that is, to state it in its proper category of doctrine.' In a sense, it is the way in which the applicant handles the problem - the impression, gained from the answer as a whole, as to whether the applicant has a proper understanding of legal proportions and relationships; whether, in other words, they 'know what it is all about' or is 'merely groping'. Experienced examiners and graders will recognize the presence of this element without necessarily being able to explain exactly how or wherein it is manifested. It is, however, one of the factors to

be considered in appraising the answer.

### Knowledge of the Law

While mere knowledge of legal rules and principles and the ability to repeat them accurately on the examination paper are not the most essential criteria of a good or a satisfactory answer, they are elements to be weighed with the others. If, as a part of their discussion and reasoning, the applicant sets forth a particular rule and their statement thereof is incomplete or incorrect, the error may be due either to faulty knowledge or to faulty memory. If, however, they proceed therefrom to reason logically and consistently to a conclusion which is compatible with the rule that they used, the answer is entitled to some credit even though their starting-point may be a faulty premise.

The proportionate amount of the grade which should be deducted for such an error will depend, obviously, upon the rule itself and the extent to which it is either basic law or a relatively remote and obscure principle. If it is so fundamental and well-known that every applicant should be reasonably expected to know and recall it accurately, the error would justify the giving of a lower grade than if it is a rule of negligible significance.

There is, with some examiners, a tendency to over stress the importance of mere knowledge and ability to remember rules correctly as an essential requirement of a satisfactory answer. While it is to be expected that a well-prepared applicant will have a broad working knowledge of fundamental rules and principles of law, this is but one of the several qualities required. It should be considered in determining the grade, but it should not be the sole factor governing success or failure of the applicant.

### Application and Reasoning

In addition to the applicant's analysis of the question and their knowledge of the rules of law, the examiner must gauge the applicant's ability to use or apply their knowledge. Generally speaking, this is a matter of determining whether the answer shows a capacity to apply the appropriate rule to the operative facts of the question as a step in reaching a conclusion.

Further evaluation of the applicant's ability to reason from their rules in logical and orderly fashion requires a careful check by the examiner to see that the applicant's expressed line of thinking is clear and consistent. If there are gaps or digression in their chain of argument, or inconsistencies in their reasoning, these are defects which should be noted and weighed in determining the grade to be given.

### Conclusions

If the question calls for a specific conclusion or result, such conclusion should clearly appear in the answer, usually either at the beginning or at the end thereof. If no definite conclusion is given by the applicant, their answer is at least partially incomplete. Similarly, as to each issue or point of law involved in the question, there should be a clear indication as to what decision the applicant reaches from their reasoning on that issue.

Even more faulty is the answer that consists entirely of mere conclusions, unsupported by any statements or discussion of the rules and reasoning on which they are based. Such answers to essay-type or problem-type questions are, of course, entitled to little or no credit.

Occasionally the examiner encounters an answer in which the conclusion reached is entirely inconsistent with the reasoning that preceded it. An inconsistency of this sort may indicate mere accidental error on the part of the applicant, or it may reveal a basic inability to think clearly. The examiner must use careful judgment in determining to which cause it should be attributed.

#### Objective 'Correctness' of the Answer

As the foregoing discussion has suggested, the basis emphasis in grading should be upon the applicant's demonstrated ability to analyze the problem and to reason logically and clearly rather than upon any objective standard of 'correctness' or 'incorrectness' of the final conclusions reached.

Discussing the matter of the weight to be given to the objective 'correctness' of an answer, a writer has commented:

There is a not uncommon disposition it is believed, to grade an answer either as correct or as a failure, depending on that ultimate result. In most decided cases some lawyer, judging from the decision, was on the wrong side. Even the best, experienced lawyers occasionally lose, yet no one should conclude from that that those lawyers are unfit to practice. Of the issues on which the case should turn, should it make much difference in his grade that they reached a conclusion at variance with the judgment of the examiner or even of a court of last resort, particularly if they pursued a reasonably plausible line of thought in reaching his conclusion?

The result of all this is that it is perfectly possible that two answers to the same question may deserve equally high (or low) grades though reaching diametrically opposite judgments.

As a further element, the ability of the applicant to express their thoughts in the analysis of the problem, the stating of their knowledge of the law, and the application of the rules of law to the facts, is entitled to consideration in grading. As between two applicants, one of whom writes a clear, logical, answer, and one whose answer shows lack of these qualities, the first should receive a higher mark than the second. ...The ability to express oneself clearly and concisely are entitled to credit in grading.

## APPENDIX 4 – Examination Procedures

### General Policy

There is a written final examination given in every course offered for credit, with the exception of Clinical Studies (including the Advisory Clinic), skills training, trial practice, or other designated courses in which substantial written work is required.

Exam grading by faculty is on an anonymous basis. Student identification numbers are used to identify Test papers. Faculty members are not given access to student social security or identification numbers. In order to maintain this anonymity, a student may not contact the instructor regarding any exam pending the release of grades for those exams. Questions should be directed to the Registrar or Dean.

All written examinations have a grade for each answer clearly marked on the Blue Book or exam copy. These grades indicate "raw points" rather than a final grade for the course.

### First-Year Exams

Midterm examinations are required in all two-semester courses. If the first-year midterm grade in any course is higher than the grade on the final exam, the midterm exam will be counted 50% in calculating the final course grade. If the final exam grade is higher than the midterm exam grade, the midterm exam grade **will not be used in any way**.

### Second-/Third-/Fourth-Year Exams

Midterm examinations are required in all two-semester courses. Both midterm and final exam grades are used in computing final course grades. Midterm exam grades account for 50% of the overall final grade and final exam grades account for 50% of the final course grade.

Courses that are one semester in duration as well as pass/fail courses, clinic courses, clinical studies, and similar courses are exempt from this policy. Such courses are governed by grading criteria set out in the course syllabus and approved by the Dean.

### Administration of Exams

No notebooks, outlines, books, papers, attaché cases, backpacks, jackets, computers, calculators, tape recorders, etc., may be brought into the examination room, unless approved by the professor. Chewing gum, eating, drinking, or smoking is not allowed in the examination room. No mechanical timers, including noise-making watches, are permitted. Students who handwrite examinations may use black or blue ink pens only. Pencil-written examinations are not permitted.

Students may use laptop computers to type examinations in designated rooms. Students using laptops must have registered and downloaded ExamSoft (Examplify) prior to the exam session.

## APPENDIX 5 – Grading System

The law school uses a numerical grading system to reflect the academic performance of its students. The following descriptors reflect the major scoring benchmarks. Grades between these benchmark categories are allowed.

85-90+	Outstanding
80	Very Good
75	Satisfactory to Good
70	Basic
65	Unsatisfactory
60	Extremely Poor
55	Failing/No Credit

Numerical grades are given for all required courses except Legal Writing and Advisory Clinic. Most elective courses are graded except for those indicated as Pass/Fail on the syllabus and Clinical Studies.

Certain other designations may be entered on a student’s transcript. None of these are included in the student’s GPA. For “Pass/Fail” coursework, the following designations apply:

P+	Pass with high honors (outstanding work equivalent to an “A”)	P	Pass
P-	Marginal but passing		
F	Failure (no credit)		

The remaining official designations of are: A/55 Administrative Failure  
A/D Administrative Dismissal W Withdrawal by permission I Incomplete  
NG No Grade

### Criteria for Final Course Grade

In most courses, final grades are determined by a final examination. Additional grading approaches (papers, quizzes, projects, etc.) are encouraged and should be detailed in the course syllabus. Class participation points are discouraged because students are expected to prepare and participate in every class session.

Pass/fail courses, clinic courses, skills courses, clinical studies, and similar courses are exempt from this policy. Such courses are governed by criteria set out in the course syllabus and approved by the Dean.

The length of the exam should be equivalent to the number of units allocated to the course. Thus, a 3-unit course should have an examination approximately 3 hours long. Instructors are encouraged to experiment with exam formats, (e.g., essay questions, short-answer essays, multiple choice questions, and performance type questions). Students must be informed of the type, length and grading method of the exams and other grading in the syllabus. Faculty may require completion of additional work assignments during the semester as well. Failure to timely

submit one or more required assignment may result in a failing grade for the course.

### Exam Packs

An examination packet for each class level, containing copies of the prior exams and instructor provided model answer outlines, is made available to students by the SBA. Prior to distribution, faculty are requested to review the sample exams being provided in their topic area. These exams are provided solely for the purpose of practicing analysis and exam writing in the selected topic areas. They are not intended to indicate or define the actual topic areas or specific exam format of subsequent exams.

### Grade Deadlines

Faculty are expected to return graded test papers within 21 days of the exam date.

### Exam Review

A student may request a review of an examination paper by the faculty member. The purpose of such review is only to enhance the student's education by providing appropriate feedback. While students and faculty are encouraged to discuss exams, such conferences should not result in faculty members requesting a change in the exam score unless the request is based on a computational error, a faculty grading error, or a determination that the assigned grade is the result of gross unfairness.

### Grade Appeals

Grades are not "final" until reviewed and approved by the Dean. Faculty are requested not to announce to their class that grades are available because no grades are released until they have been reviewed and approved. The Dean may choose to consult with faculty members whose grades seem out of the normal range and reserves the right to request that grade distribution be reconsidered. Once approved and posted, the grades become final and are not subject to change except for computational errors or in instances of gross unfairness.

Where a faculty member believes that grounds exist for a grade change, a written request to the Dean should explain the nature of the error and specify the requested change. Once grades have been finalized, unless the change is for a computational error, the Academic Standards Committee must approve the requested change.

Apparent mathematical errors should be brought to the attention of the Registrar within 30 calendar days of the date that the grades are made available to the student. Upon confirmation of a computational error, the Registrar may change a grade.

Grade appeals based on gross unfairness in the exam or by the professor must be submitted as a written petition to the Dean within 30 calendar days of the date that the grades are made available to the student. Prior to filing a petition for a grade appeal, the student must first meet with the course professor to discuss the exam and grade. Once grades have been finalized, unless the change is for a computational error, the Academic Standards Committee must approve the requested change.

## APPENDIX 6- Continuing Legal Education

### Law School Classes [Attending - Rule 2.80; Teaching - Rule 2.82] [*participatory*] Approval Criteria:

- A law school does not have to be an approved provider.
- A law school does not have to be accredited.
- A class must be a regularly scheduled degree-related course.

#### Attending

- Attendees must officially register for and satisfactorily complete the class.
- Obtaining an LLM degree falls into the category of a law school class.

*Calculating Credit:* One hour of credit may be claimed for each hour you actually attend. [Rule 2.51(D)]

#### Teaching

##### *Calculating Credit:*

Credit hours for teaching a law school class can be computed by multiplying the number of units granted by the law school for completion of the class by 12.

(*Example:* 24 hours of credit may be claimed for teaching a two-unit law school class.) An attorney teaching a law school class that begins before the current compliance period may claim **pro rata** credit based on the percentage of the hours taught in the current compliance period.

An attorney who teaches a law school class and engages a guest lecturer or substitute teacher for one or more individual meetings or sessions of the class, qualifies for the CLE credit for teaching the entire class.

Credit hours for a guest lecturer or a substitute teacher in a law school class are computed by multiplying actual speaking time by four. (Note: Moot court judging does not count for credit.)



## APPENDIX 7-SAMPLE COURSE SYLLABUS

**Fall 2013**  
**Tuesdays, 6:30-9:30 pm**

Business Organizations II

Professor Sandra L. Caruba  
Attorney at Law  
100 Durham Street  
Santa Cruz, CA 95076  
Tel: 831-xxx-xxxx  
Fax: xxx-xxx-xxxx  
Email: professoratlaw@lawmail.com

Required Texts: 1. Corporations and Other Business Organizations, Cases & Materials, by M. Eisenberg & J. Cox, 10th Unabridged edition, 2011, Foundation Press, ISBN: 9781599414621

2. Eisenberg and Cox's Corporations and Other Business Organizations, Cases and Materials, 10th, 2013 Supplement, M Eisenberg & J. Cox, Foundation Press, ISBN:9781609304027 (*available 7/18/2013*)

3. Eisenberg and Cox's Corporations and Other Business Organizations, Cases and Materials, 10th, 2013 Supplement, M Eisenberg & J. Cox, Foundation Press, ISBN:9781609304027 (*available 7/18/2013*)

### I. Course Description

[Example: The student will learn the scope within which the law will enforce the private agreements of individuals; the necessary and prerequisites of an enforceable, binding agreement; and determination of fulfillment of a contract. The course will emphasize the common law of contracts, California Law of Contracts, and Articles I and II of the Uniform Commercial Code.] **[FILL IN THE COURSE DESCRIPTION USING THE PREVIOUS TEMPLATE AS A GUIDE]**

### II. Methodology

[Example: The course will be primarily taught in the Socratic method. Students will be chosen randomly without prior notice and will be questioned on the facts, legal principles, and judicial reasoning of the assigned material. Assigned cases for reading, although limited in number, will be carefully chosen out of respect for the time constraints of students. Hypotheticals will be employed. Collaborative learning will also be employed.] **[THE PREVIOUS IS A GUIDE, FEEL FREE TO EDIT AS NECESSARY]**

### III. Requirements

- |                     |  |
|---------------------|--|
| A. Reading:         | All assigned reading should be read prior to class. The syllabus may note if certain readings have been identified for special class discussion.                   |
| B. Attendance:      | Punctual attendance for all classes is required.   |
| C. Participation:   | Participation in class dialogues and discussions is required.  |
| D. Preparation      | Preparation of cases, including briefings, is required.  |
| E. Professionalism. | Students are expected to exercise a professional demeanor in the classroom and shall treat faculty, classmates, and guests with respect and courtesy at all times. |

#### IV. **Course Goal and Objectives**

- A. **Doctrinal Knowledge**: Substantive Law of \_\_\_\_\_, including: \_\_\_\_\_.
- B. **Doctrinal Knowledge**: Underlying policy and jurisprudence of \_\_\_\_\_ Law.
- C. **Critical Thinking**: Applied to case analyses; problem-solving analyses of new factual situations: public policy applicability.
- D. **Communication Skills**: Oral Presentations of critical thinking skills including case analyses, problem-solving analyses, and public policy applicability.
- E. **Professionalism**: Ethical obligations, demeanor, civility.

#### V. **Student Learning Outcomes**

- A. **Doctrinal Knowledge**: Students will master knowledge and understanding of pertinent principles and theories of the law, their relationships, and their limitations.
- B. **Professional Analytics**: Students will analyze the legal rules and principles applicable to a problem and formulate legal theories. Students will apply problem solving skills to diagnose a legal problem, generate alternative solutions, and develop a plan of action.
- C. **Communication Skills**: (oral and written) Students will communicate effectively, whether advocating, advising a client, eliciting information, or effectuating a legal transaction.
- D. **Professional Responsibility**: Students will have knowledge and understanding of established standards related to a lawyer's professional conduct including the ability to recognize and solve ethical issues and multicultural issues arising in practical situations.

#### VI. **Student Evaluation**

##### A. **General**:

The Student's performance will be based on the demonstration of competencies in the following areas:

1. A thorough understanding of the legal principles and policies of \_\_\_\_\_ Law.
2. The ability to analyze factual situations and apply the appropriate law and policy to predict outcomes.
3. Professionalism during in-class discussions.
4. Class preparation, class participation, and completion of assignments.
5. Knowledge of proper legal decorum and demeanor, including punctuality and professional courtesy.

B. **Attendance**: It is the policy of the law school that all students be prepared for and attend every class. Pursuant to the State Bar Guidelines Governing Accredited Law Schools, a student who misses more than 20% of the classes in a course may be administratively dismissed from the course. Upon the discretion of the professor, a student who is late or unprepared may be deemed absent from the full three hours of class. Faculty may not "excuse" absences. If special circumstances arise that

place a student at risk of administrative dismissal because of absences, the student must be granted approval by the Dean in order to continue in the course.

C. Grading: This is a graded class. A three-hour, closed book, written examination will be given in class at the conclusion of each semester. The course grade will be based upon the following criteria:

Grading

Criteria one: \_\_\_\_\_

Criteria two: \_\_\_\_\_

Grading will be according to The law school Academic policies:

Grade

85-90+	Outstanding
80	Very Good
75	Satisfactory to Good
70	Basic
65	Unsatisfactory
60	Extremely Poor
55	Failing/No Credit

**VII. Supplemental Resources**

The following supplemental materials are available to aid the student. They are not substitutes for the required texts or the assigned materials. They are supplemental, and not required reading materials.

Texts:

- Business Structures In A Nutshell, by Shade & Epstein, Thomson & West
- Text 2:

Course Schedule

Class	Date	Assignment	Subjects	Objectives
2	8/27	Chapters 1 & 2, pp. 1-	Agency	A,B,C,D,E
5	9/17	Chapter 4, pp. 168-	Foundations of a Corporation	A,B,C,D,E
6	9/24	Chapter 5, pp. 267-342	Foundations of a Corporation (continued) Legal Structure of Publicly-Held	A,B,C,D,E
7	10/1	No Readings	Legal Structure of Publicly-Held	A,B,C,D,E
8	10/8	Chapter 7, pp. 408-	Personal Liability in a Corporate Context	A,B,C,D,E
9	10/15	Chapter 8, pp. 452-	Special Problems of S/hs in Close	A,B,C,D,E
1	10/22	Chapter 9, pp. 588-	Limited Liability Companies	A,B,C,D,E
1	10/29	Chapter 10, pp. 622-	The Duty of Care and Duty to Act in Good	A,B,C,D,E
1	11/5	Chapter 11, pp. 708-	The Duty of Care and Duty to Act in Good	A,B,C,D,E

1	12/2-	Study Week-No Class		A,B,C,D,E

## APPENDIX 8 – Sexual Harassment Policy

### A. Introduction

The law school strongly reaffirms the values of free and open exchange of ideas and the creation and dissemination of knowledge. We recognize the constitutionally protected right to free speech enjoyed by all members of our community and we endorse the principles of academic freedom for our faculty, staff, and students. To sustain this freedom and openness, members of the law school community must adhere to the highest standards of objectivity, mutual trust, and confidence; they must also avoid coercion, intimidation, or exploitation. The standards of conduct within our community require that all members understand that sexual harassment or retaliation have no legitimate place in this environment and are inimical to achieving our objectives.

Students, faculty, and staff have the right to work and learn free from unwanted sexual advances. Advances made by faculty or staff toward students or by supervisors toward subordinates unfairly exploit the power inherent in those relationships. Unwelcome sexual conduct or advances between students interfere with the ability to participate in and benefit from law school programs. In both obvious and subtle ways, the very possibility of sexual harassment can destroy individual members of our community and can poison their academic and career relationships.

Members of our educational community have the right to work and learn in an environment that is free from verbal or physical sexual conduct that might either interfere with an individual's performance or create a work or educational climate that is hostile, intimidating, or offensive, whether that conduct originates with an instructor, a supervisor, a staff member, or a peer.

The law school is thus committed to creating and maintaining a community where all persons who participate in its programs and activities can work and learn together in an atmosphere free from all forms of harassment, exploitation, or intimidation. The law school will respond promptly and effectively to reports of sexual harassment, and will take appropriate action to prevent, to correct, and if necessary, to discipline behavior that violates this policy.

### B. Definition of Sexual Harassment

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submitting to or rejecting this conduct explicitly or implicitly affects a person's employment or education, interferes with a person's work or educational performance, or creates an intimidating, hostile or offensive working or learning environment. To prevent sexual harassment or retaliation, the law school will respond to reports of any such conduct.

Sexual harassment may include incidents between any members of the law school community, including faculty, academic appointees, staff, students, and non-student or non-employee participants in programs. Sexual harassment may occur in hierarchical relationships or between peers, or between persons of the same sex or the opposite sex. To determine whether the reported conduct constitutes sexual harassment, the record of the conduct as a whole and the totality of the circumstances will be considered, including the context in which the conduct occurred.

This policy covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the law school community may be subject to other policies. While romantic relationships between members of the law school community may begin as consensual, they may evolve into situations that lead to charges of sexual harassment, subject to this policy.

Every member of our community should also be aware of special considerations for relationships between instructors and students currently enrolled in their classes or academic programs. Because of the power possessed by an instructor, and the special need for trust inherent in the teacher/student relationship, an instructor's romantic or sexual advance to a student in her or his class or academic program may seriously compromise that relationship. Unwelcome romantic or sexual advances from an instructor to a student currently enrolled in her or his course must be regarded as a serious breach of professional ethics and proper standards of professional behavior. Such overtures can impair the educational environment, not only for the instructor and the student singled out for her or his attentions, but also for the other students enrolled in the course. Other students may believe they are negatively affected by the relationship, for example through unacceptable discrimination regarding grading, references, access to resources, and educational opportunities.

#### C. Retaliation

This policy also prohibits retaliation against a person who reports sexual harassment, assists someone with a report of sexual harassment, or participates in any manner in an investigation or resolution of a sexual harassment report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

#### D. Reports of Sexual Harassment

Any member of the law school community may report conduct that they believe constitutes sexual harassment under this policy. The report may be in writing or verbal (oral). In addition, supervisors, managers, and other designated employees are responsible for taking any action needed to prevent sexual harassment, to correct it when it occurs, and to report it promptly to the Sexual Harassment Officer (currently the Director of Admissions and Student Services) or other appropriate official designated to review and investigate sexual harassment complaints.

#### E. Response to Sexual Harassment

The Sexual Harassment Officer shall provide a prompt and effective response to reports of sexual harassment in accordance with these procedures. A prompt and effective response may include early resolution, formal investigation, and/or targeted training or educational programs. On findings of sexual harassment, the law school may offer remedies to the individual or individuals harmed by the harassment consistent with applicable complaint resolution and grievance procedures. Such remedies may include counseling, an opportunity to repeat course work without penalty, changes to student housing assignments, or other appropriate interventions. Any member of the law school community who is found to have engaged in sexual harassment is subject to disciplinary action up to and including dismissal.

Generally, disciplinary action will be recommended when the harassing conduct is sufficiently severe, persistent, or pervasive that it alters the conditions of employment or limits the opportunity to participate in or benefit from educational programs. Any manager, supervisor, or designated employee responsible for reporting or responding to sexual harassment who knew about the harassment and took no action to stop it or failed to report the prohibited harassment also may be subject to disciplinary action. Conduct by an employee that is sexual harassment or retaliation in violation of this policy is considered to be outside the normal course and scope of employment.

#### F. Intentionally False Reports

Because sexual harassment frequently involves interactions between persons that are not witnessed by others, reports of sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or “proof” should not discourage individuals from reporting sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by an investigation.

#### G. Free Speech and Academic Freedom

The administration, faculty, staff, and students of the law school enjoy significant free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This policy is intended to protect members of the law school community from discrimination, not to regulate protected speech. This policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

The law school also has a compelling interest in free inquiry and the collective search for knowledge and thus recognizes principles of academic freedom as a special area of protected speech. Consistent with these principles, no provision of this policy shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. But, freedom of speech and academic freedom are not without limit, and the college will not permit speech or expressive conduct that violates federal or state anti-discrimination laws.

#### H. Additional Enforcement Information.

The federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) also investigate complaints of unlawful harassment in employment. The U.S. Department of Education Office for Civil Rights (OCR) investigates complaints of unlawful harassment of students in educational programs or activities. These agencies may serve as neutral fact finders and attempt to facilitate the voluntary resolution of disputes with the parties. For more information, contact the nearest office of the EEOC, DFEH or OCR listed in the telephone directory.

#### I. Reporting Procedures

A report or complaint of sexual harassment shall be defined as any meeting or discussion with the Sexual Harassment Officer, or any formal written report or complaint made to inform the law school that sexual harassment may have occurred. Persons experiencing problems with sexual harassment are encouraged to report them as soon as possible. Once a report has been made, in whatever form, the law school official who has received the report should inform the SHO as soon as possible.

Oral reports of sexual harassment may be resolved informally. When a report is made in a written statement, informing the law school that sexual harassment may have occurred and providing information sufficient for further inquiry, investigation by the SHO is required and may result in disciplinary or corrective action after due process is provided to the accused, if it is found that harassment has taken place.

Any member of The law school's administration, faculty, or staff who receives reports of sexual harassment should report the matter to the SHO as soon as possible and also inform the complainants of their right to see the SHO or to file a formal complaint.

Although responsible officials will attempt to respect the wishes of the complainant with regard to action taken in response to the complaint, the law school will take appropriate disciplinary or corrective action whenever deemed necessary to meet the college's responsibilities to provide a safe and non-discriminatory environment for other students and employees. The only case in which a complainant ordinarily may ensure that no action is taken on the complaint is when the person does not disclose the name or other details that would identify the accused.

Repeated sexual harassment of one or more individuals by the same offender must be taken as a more serious offense for purposes of disciplinary action; therefore, all reports and complaints of sexual harassment must be reported to the SHO, who is authorized to keep records of sexual harassment reports and complaints.

#### J. The Sexual Harassment Officer

The SHO is authorized to receive and resolve reports and complaints of sexual harassment and conduct fact-finding investigations of sexual harassment complaints. The SHO may, at her or his discretion, conduct a survey of any class taught by a faculty member or instructor about whom a sexual harassment complaint has been made and may request the attendance of the dean at any meeting with a faculty member or instructor to discuss a sexual harassment complaint filed against that person. All members of the campus community will cooperate fully with the SHO in fulfilling his or her responsibilities.

The SHO shall serve as consultant to law school officials who receive and resolve reports of sexual harassment and shall serve as principal advisor on sexual harassment policy and procedures. The SHO shall maintain files of all reports and complaints of sexual harassment, separate from any other personnel files, and shall maintain information on the number, location, and nature of reports and complaints.

The SHO shall attempt to resolve any reports of sexual harassment by informing, educating, mediating,



or negotiating informal agreements. If no resolution can be reached that is acceptable to both parties and to the law school, the SHO may institute a sexual harassment investigation, at the request of the complainant, when the report is made in writing.

The goal of early resolution is to resolve concerns at the earliest stage possible, with the cooperation of all parties involved. Early resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for resolution shall be flexible and encompass a full range of possible appropriate outcomes. Early resolution includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted educational and training programs, or remedies for the individual harmed by the harassment. Early resolution can also include options such as discussions with the parties, making recommendations for resolution, and conducting follow-up after a period of time to assure that the resolution has been implemented effectively. Steps taken to encourage resolution and agreements reached through early resolution efforts should be documented.

The SHO shall investigate all written complaints of sexual harassment in a timely manner. The SHO may also determine that an investigation is warranted without a written complaint, either because of the severity of the allegations reported, or because of the frequency of allegations against the accused, or for any other reason.

#### 1. Fact-finding Investigation

The SHO shall investigate the circumstances of the alleged offense to the extent necessary to make a determination as to whether the allegations contained in the complaint constitute a violation of the Sexual Harassment Policy. This investigation should normally be completed within thirty (30) calendar days. If the investigation cannot be completed within that time, the SHO will so inform the complainant and the accused.

The SHO will interview anyone and examine any evidence deemed necessary to investigate the complaint fully. If the complainant or the accused request, her/his initial interview with the SHO will be tape-recorded, and a copy provided. Although the SHO may seek the advice and assistance of the dean or Board of Directors in conducting the investigation, the investigation will normally be conducted only by the SHO.

#### 2. SHO's Report

The SHO shall prepare a written report that includes a determination either that: (1) the facts do not support the allegations and the complaint should be dismissed; or (2) evidence of a violation of the Sexual Harassment Policy warrants remedial action. The SHO in cooperation with the relevant law school officials will ensure that the appropriate remedies are provided to the complainant, regardless of the outcome of the disciplinary process.

If the case is to be dismissed, a copy of the report with information related to third parties deleted, will be sent to the complainant, the accused, and kept in the SHO's files. The complainant has the right to

appeal the dismissal and/or proposed remedies to the Advisory Council within fifteen (15) working days after notice from the SHO.

Even if the SHO does not make a finding of a violation of the Sexual Harassment Policy, but the SHO believes the behavior complained of may constitute misconduct, the SHO may refer the matter to the Dean or the Board of Directors.

#### K. Appeal of Sexual Harassment Officer's Findings and Proposed Remedies

An Advisory Council for the SHO shall be appointed by the president of the Board of Directors of The law school. The Council will be composed of the Personnel Committee of the Board of Directors, plus two faculty members, one of whom is male and one of whom is female, to be named by the Dean and the president of the Board of Directors.

The Advisory Council shall meet as required with the SHO to review issues and incidents of sexual harassment, providing advice when appropriate. All incidents are to be discussed without names or identifying details, and all discussions will be confidential to the extent required by law and due process considerations. The Advisory Council will be informed of the outcome of the resolution of cases.

The complainant may appeal the SHO's findings and/or proposed remedies to the Advisory Council within fifteen (15) working days of the receipt of findings/proposed remedies. The Advisory Council shall review the complainant's appeal and provide the SHO the opportunity to respond to the appeal in writing and to amend the findings/proposed remedies within fifteen (15) working days of receipt of the appeal from the complainant. The Advisory Council shall notify the complainant, the SHO, and the accused of the outcome of this review, any amended findings/proposed remedies, and the next step to be taken, within fifteen (15) working days after Council review is completed.

#### L. Privacy

The law school shall protect the privacy of individuals involved in a report of sexual harassment to the extent required by law and law school policy. A report of sexual harassment may result in the gathering of extremely sensitive information about individuals in the law school community. While such information is considered confidential, applicable policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual harassment. In such cases, every effort shall be made to redact the records to protect the privacy of individuals. An individual who has reported sexual harassment may be advised of sanctions imposed against the accused when the individual needs to be aware of the sanction in order for it to be fully effective (such as restrictions on communication or contact with the individual who made the report).

Information about disciplinary action taken against the accused shall not be disclosed without the accused's consent, unless it is necessary to ensure compliance with the action or the safety of individuals. Letters of warning and records of other disciplinary actions concerning sexual harassment are to be kept in staff or faculty personnel files and in a student's confidential file. Where there has been a finding, after a due process hearing or after investigation, or an acknowledgment of wrongdoing by staff or faculty, notice shall be placed in their personnel files. Where there has been a finding, after a

due process hearing or after investigation, or an acknowledgment of wrongdoing, notice shall be placed in the student's confidential file.

#### M. Maintaining Records and Files

The Sexual Harassment Officer will maintain confidential records of all reports and complaints of sexual harassment. The file will contain all information, including complaints and reports, formal review documents, investigation reports, any response by the accused to the report, any record of appeal, any findings, remedies and the result of the appeal, and a record of correspondence notifying the complainant and accused of actions taken and the progress of the complaint.

Files will be maintained on all reports of sexual harassment, whether they result in a formal investigation or not. The files are considered "confidential" for purposes of access and will be maintained in a secure location. Both the complainant and accused may have access to the record to the extent permitted by existing law. The name of any complainant or informant requesting confidentiality will not be included in the file. Other law school officials may have access if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired. Access may also be given in response to a subpoena, court order or other compulsory legal process.

Before the disclosure, the SHO should reasonably attempt to notify the individual to whom the record pertains, if law does not prohibit the notification.

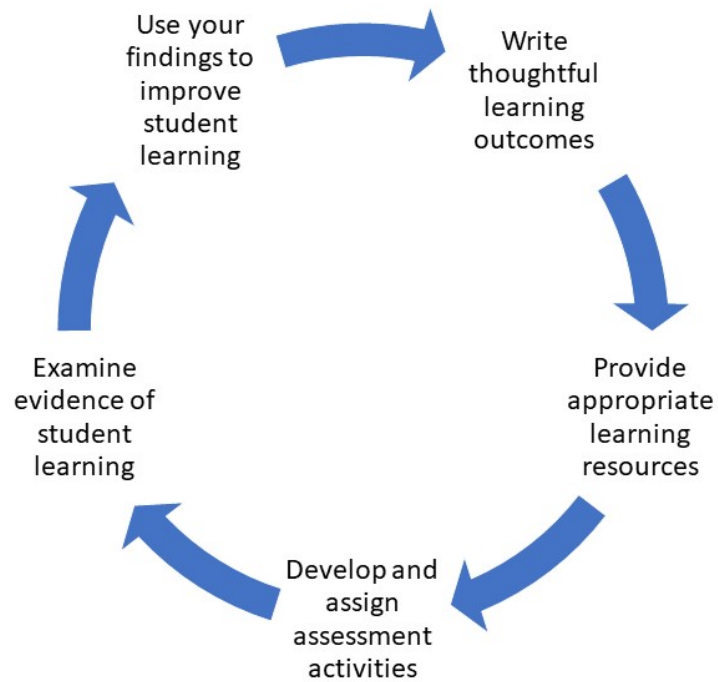
SHO files will be retained until five years after separation of the accused from law school employment or in the case of a student until five years after graduation; provided there has been no further report or complaint concerning the conduct of the accused for five (5) continuous years, from the date of the last report or complaint, the file will be destroyed. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from legal counsel.

#### N. Confidentiality of Reports of Sexual Harassment

Certain persons may have an obligation to respond to reports of sexual harassment, even if the individual making the report requests that no action be taken. An individual's request for confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of the law school's efforts to ensure a working and learning environment free from sexual harassment and the due process rights of the accused to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the law school will comply with requests for confidentiality to the extent possible.

## APPENDIX 9 – Learning and Assessment Guide

# Learning & Assessment Guide



Writing Learning Outcomes

Assessment Activity Ideas & Best Practices

Improving Instructions

Rubrics

Evaluating Assessment Activities to Improve Student Learning

Closing the Loop



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## Writing Learning Outcomes

The learning outcomes we are incorporating in our course planning are **the destination** for each week. Where will your students be in relation to your course curriculum at the end of the week?

Learning outcomes are not the learning process or the journey. They are where you want your students to end up (how exciting!). When writing your learning outcomes, it is helpful to consider why you are asking your students to complete the assigned learning resources (textbook pages, articles, videos, etc.) and complete all of the assessment activities (discussions, quizzes, essays, etc.) each week. **What do you want them to get from completing these assignments?**

Keep the following in mind while writing your weekly learning outcomes:

1. Clarify fuzzy terms, such as "students will... learn / understand / become aware of / appreciate / think critically." These are SO hard to measure! Instead, use verbs that measure these goals. For instance, "students will ... explain / discuss / describe / compare." If a learning outcome is not clear to you, it will not be clear to your students. If the learning outcomes are not clear, how will you be able to measure them at the end of the week or the end of covering a topic?
2. Use concrete action words that describe, in explicit, observable terms **what students can DO** after they have learned what you want them to learn each week. Attached to this document is the Blooms Taxonomy Action Verbs PDF to provide you with action verbs you may choose to include in your weekly learning outcomes. Concrete action words help students understand what you want them to learn and make the assessment activities self-evident as to why they are being assigned.
3. Limit your learning outcomes to around three per week. Students will struggle to master more than a few learning outcomes each week. You need to be able to meaningfully assess whether the learning outcomes are being met (you do this through the assessment activities – Populi discussion, reflections, quizzes, essays, projects, etc.). Having too many learning outcomes muddies the water for both student learning and meaningful faculty assessment of the outcomes.
4. Consider involving your students in identifying some of the learning outcomes! For instance, you could ask your students (during your synchronous session, within a Populi discussion or as a reflection assignment) what THEY hope to be able to do at the end of covering a certain topic or at the end of the semester / year. Ask them to identify between one and three areas of law or skills they hope to be able to master through taking your course. What a great way to get to know your students and what interests them and is important to them.
5. You are very welcome and encouraged to collaborate with your colleagues on these learning outcomes! Please, share away! Ask one another for feedback! If you do not have the contact information for the other professors teaching your subject, please let Chelsea know and she will connect you. Elizabeth and Chelsea are also very happy to schedule follow-up Zoom meetings with all of the professors teaching your subject to work through any aspect of your course planning, including the learning outcomes.

Recommended next steps:

1. Review the Blooms Taxonomy Action Verbs attachment.
2. Review the learning outcomes Chelsea suggested for the first 2 or 3 weeks of your course (they are in your matrix, which you can edit and will find in your subject folder). Please let Chelsea know if you need the link to your subject folder or your individual learning matrix resent.
3. Edit the learning outcomes in any way you see fit. Feel free to delete them and start over!
4. Email Chelsea, Denise, Elizabeth or your colleagues with any questions, ideas, draft learning outcomes, etc.

### Action Words for Bloom's Taxonomy

Knowledge	Understand	Apply	Analyze	Evaluate	Create
define	explain	solve	analyze	reframe	design
identify	describe	apply	compare	criticize	compose
describe	interpret	illustrate	classify	evaluate	create
label	paraphrase	modify	contrast	order	plan
list	summarize	use	distinguish	appraise	combine
name	classify	calculate	infer	judge	formulate
state	compare	change	separate	support	invent
match	differentiate	choose	explain	compare	hypothesize
recognize	discuss	demonstrate	select	decide	substitute
select	distinguish	discover	categorize	discriminate	write
examine	extend	experiment	connect	recommend	compile
locate	predict	relate	differentiate	summarize	construct
memorize	associate	show	discriminate	assess	develop
quote	contrast	sketch	divide	choose	generalize
recall	convert	complete	order	convince	integrate
reproduce	demonstrate	construct	point out	defend	modify
tabulate	estimate	dramatize	prioritize	estimate	organize
tell	express	interpret	subdivide	find errors	prepare
copy	identify	manipulate	survey	grade	produce
discover	indicate	paint	advertise	measure	rearrange
duplicate	infer	prepare	appraise	predict	rewrite
enumerate	relate	produce	break down	rank	role-play
listen	restate	report	calculate	score	adapt
observe	select	teach	conclude	select	anticipate
omit	translate	act	correlate	test	arrange
read	ask	administer	criticize	argue	assemble
recite	cite	articulate	deduce	conclude	choose
record	discover	chart	devise	consider	collaborate
repeat	generalize	collect	diagram	critique	collect
retell	give examples	compute	dissect	debate	devise
visualize	group	determine	estimate	distinguish	express
	illustrate	develop	evaluate	editorialize	facilitate
	judge	employ	experiment	justify	imagine
	observe	establish	focus	persuade	infer
	order	examine	illustrate	rate	intervene
	report	explain	organize	weigh	justify
	represent	interview	outline		make
	research	judge	plan		manage
	review	list	question		negotiate
	rewrite	operate	test		originate
	show	practice			propose
	trace	predict			reorganize
	transform	record			report
		schedule			revise
		simulate			schematize
		transfer			simulate
		write			solve
					speculate
					structure
					support
					test
					validate



## Assessment Activity Ideas for the First Three Weeks

The following are ideas for assessment activities you can include on your matrix for the first few weeks of class. You are very welcome to assign more than one of these assessment activities per week. You are also welcome to re-visit activities again. Participation in “getting to know one another” activities may be quite different three weeks in than it is during the first week when you are all strangers. The skills and practice activities mentioned below build nicely on each other and are worth adding to and/or repeating with some variation throughout the semester. As always, please feel free to discuss your questions, ideas, concerns, plans, etc. with your colleagues, Chelsea, Denise and Elizabeth.

### Three Types of Assessment Activities Within Populi

There are many types of assessment activities we can help you with, but here are some you may find worthwhile and approachable for the first few weeks of the semester. You do not need to set up these activities on Populi. Our instructional designer, Denise Castro, will do that for you. The entire online learning team is very happy to discuss logistics with you and provide further suggestions and resources.

**Populi Discussion Boards:** All of the students will be able to see one another’s comments and replies once they have posted their comment to the discussion, along with your comments and replies to other students. You can ask your students to reply to a certain number of their classmates’ comments and Populi can automatically grade whether a student has posted a comment and whether they have replied to the applicable number of comments required. Within a discussion, students are able to upload files and/or photos.

**Reflections:** Assignments between only you and each individual student. Other students will not be able to see what other students submit or your feedback to other students.

**Peer Review:** Students complete an assignment (such as a case brief, essay, outline, etc.) and upload it to Populi. The students then use a rubric to grade a number (usually 3) of their classmates’ assignments. Finally, students evaluate the feedback they have received from their peers using a separate rubric. You need two rubrics: one for the assignment and one for the peer review feedback. We have sample rubrics to share with you.

### Three Areas to Consider Assessing Within the First Three Weeks

#### **1. Getting to Know One Another**

Asking students to introduce themselves at the beginning of your course will facilitate social interaction and communication between the students and yourself. It will help promote increased participation and engagement later in the course. Please note, students may not feel comfortable sharing in class and may wish to contact you privately.

- **Address the current situation:** What have your students found challenging, surprising and inspiring about the past six months during the COVID-19 pandemic? How do they feel about completing your course online this semester? What do they have going on in their own lives?
- **Expectations:** What do your students expect and/or hope to learn in your course this semester, and what questions do they have right off the bat? Do they have any concerns?
- **Who are they?** Below are some sample prompts: Note: they will want to know about you as well!
  - **Please respond** to any of the following prompts you feel comfortable discussing and reply to at least three of your classmate’s posts: Do you have a nickname? What name do you like to go by? What is your education / work background? Tell us a bit about where you’re from and what hobbies you enjoy. What do you hope to do after law school? What else would you like us to know about you?
  - **Two lies and a truth:** Ask students to introduce themselves and provide three statements—two of which are lies, one of which is true. The other students try to guess which statements are true and which are lies. *You could also do this during your synchronous Zoom session in breakout rooms for 5 minutes, then spend 5 minutes having students report back some interesting things they learned about each other to the entire class.*
  - **Desert Island Discussion:** “If you knew you would be stranded on a desert island for 1 year, which 5 objects would you bring with you? Keep in mind there is NO electricity on the island! Choose your objects carefully then explain your choices in a short paragraph. Once you have completed your selections and posted your explanation, read and respond to at least 3 peers.”

## 2. Study Skills

Getting students started on the right foot is so important! How will they synthesize their notes? Study the material? Let's give them a solid start in your course by assigning one or more of the following assessment activities early on.

- **Case Brief:** Assign a specific case, or ask them to choose one from the reading. Have them post their case brief on the discussion board or make it a peer review assignment. We have sample instructions, examples and a rubric you are welcome to use.
- **Learning Resource:** Have the students spend time deciding how they will organize the information for your course and write a brief paragraph on which method they have chosen and why (outline, flashcards, mind map, flow chart, other). Then, ask them to work on their learning resource for the topics you cover in the first and/or second week. Finally, have them upload what they have completed to the discussion board or as a file submitted only to you.
- **Note Taking:** Ask your students to synthesize their notes from the first 3 weeks and upload them to Populi. We have resources for this assignment, which are being used in the First Year Institute.

## 3. Practice

What can the students do to practice applying the law to facts early and often? The following are some ideas to use right from the start to get them in the habit of analyzing the law they are learning with you to real life scenarios.

- Mini hypotheticals with a rubric for peer grading on one issue that they have read about and discussed in class to be done after your Zoom session.
- MBE questions: Select one of the MBE questions we have uploaded to your course folder and ask the students to explain why each answer is correct/incorrect.
- Populi discussion of one of the cases you assigned but may not have time to cover in your synchronous Zoom session (what was the holding, did they agree with it, how would they have held, what did they find particularly interesting/confusing/frustrating about the way the court held, what are some questions they would ask of the parties or justices if they meet with them?)

### Recommended next steps:

1. Review the three types of assignments and three areas of assignments above and choose at least one assessment activity you would like to incorporate into your learning matrix for each of the first three weeks of the semester.
2. Contact your colleagues, Chelsea, Denise, and/or Elizabeth with any questions or just to discuss the activities you are interested in having your students complete for the first three weeks.
3. Enter each assessment activity into your learning matrix under the appropriate category in the "Assessment Activities" section.

*Note: If you need help with the matrix, please let us know. Also, please feel free to send us your plans via email or Zoom with us to discuss your assessment activities further if you are uncomfortable working within the matrix.*

4. If you are happy to do so, share your assessment activity ideas with your colleagues! Feel very free to borrow assessment activity ideas from one another.

## ASSESSMENT ACTIVITIES HANDOUT

To develop a successful assignment that has value for your students, please keep the following in mind when creating the assessment activity:

- (1) What do you expect the students to learn from completing the assignment? What is the assignment's purpose? How will it help your students to be successful in your course or their career? Ultimately, why are you asking your students to complete this specific assignment?
- (2) What skills and/or knowledge do you want your students to demonstrate on this assignment? Explicitly ask for the outcomes you are seeking from your students.
- (3) What should the completed assignment look like? What should be included in the completed assignment? What format should the students use? Who is their audience? What is the optimal length of the assignment?
- (4) Include all of the assignment details. How much time do you expect students to spend on the assignment? How should they focus their time and energy? How much will this assignment count towards their course grade? What readings, reference materials, technologies, and other resources are they expected to use? Can they collaborate with others, and if so, to what extent? What is the deadline for the assignment? How will you score/grade the assignment? Will there be any feedback throughout the course of the assignment (drafts, etc.)?

Our online education team would be delighted to discuss these ideas for assignments with you further and help you incorporate them into your course curriculum on Populi.

- Abstract or executive summary of a key case or black letter law concept.
- Advertisement or commercial that ties in with a case or legal concept.
- Annotated bibliography, which can be done with videos, websites, and/or articles they find online.
- Biography or fictional diary from a key player in your field or party in one of the cases you are covering.
- Case brief to share with their classmates after you have discussed the case in your Zoom session or as a Populi discussion. This could be in writing, in presentation form, illustrated, in a video, etc.
- Brochure, pamphlet, handbook or instructional manual on one of the topics or cases in your course.
- Client report on one of the parties in one of the cases you are studying.
- Collaborative group activity: we can help design a google survey so the students can give anonymous feedback on their group members. You can even base part of their grade on the feedback they receive from group members.
- Debate or discussion about the holding of one of the cases you are studying or a current case in the news.
- Interview questions to ask one of the parties in one of the key cases for your course.
- Dramatization of one of your cases: in writing, on Zoom or as a pre-recorded video.
- Editing and revision of a poorly written paper.
- Evaluation of opposing points of view or the pros and cons of alternative solutions to a problem: On a discussion board they could argue against the holding and support their proposed holding with legal arguments/case law.
- Game invention: create a short game to review for the final exam or review a particularly difficult concept in your course.
- Diagram, flowchart, illustration, political cartoon, poster, display or exhibit or other visual aid for a legal concept.
- Presentation, demonstration or slideshow of a case or legal concept.
- News report on a case you have covered in your course.
- Proposal for and justification of a solution to a problem.
- Reflection on what and how one has learned, either through an "entry ticket" (could be a poll on Zoom) or a short answer quiz on Populi. You could also have them do an "entry ticket" type activity where the students answer a brief questions on an assigned reading.
- Peer review of writing assignments: the students respond to a prompt, use a checklist and/or rubric to grade their classmate's work and provide feedback, then comment on the feedback they received from their classmates ([we have software available to facilitate this](#)).
- Teaching a concept to a peer, child, classmate, parent, etc.
- Video recordings where the students present, explain, discuss, argue or defend a concept that has to do with what you are covering in your course.
- Dramatic dialogues: Students create an imagined discussion of a problem or issue between two real or imaginary characters.
- Three-minute message: In three minutes, students deliver a compelling argument supported with convincing examples, facts and law.
- Student generated rubrics: Students use an exemplary model answers (could be from the exam pack, BarBri, Kaplan, the California Bar, a previous assignment you received from a student with names removed, etc.) to create a rubric articulating the key traits of effective work.

Adapted from Suskie, L. (2018). *Assessing student learning: A common sense guide* (3rd ed.). San Francisco: Jossey-Bass.

## Improving Instructions for Assessment Activities

*We achieve fairness by spending sufficient time on directions.*

A fair assessment is one in which students are given equitable opportunities to demonstrate what they know. The following are steps we can take to ensure our assessment methods as fair as possible.

- Write learning outcomes, rubrics, assignment prompts, and feedback using simple, clear vocabulary that entry-level students can understand, including defining any terms that may be unfamiliar to some students.
- Match your assessments to what you teach and vice versa.
- Help your students understand what your most important goals are. What do you expect from them? Don't hide the ball.
- Give them a list of the concepts and skills to be covered on exams and the rubric you will use to assess their work.
- Because all assessments favor some learning styles over others, it is important to give students a variety of ways to demonstrate what they've learned. Avoid assigning the same type of assessment activities every week. Give students a variety of ways to demonstrate their learning: PowerPoint slides, poster, infographic, mini-class, graphic novel, or video presentation, to name a few.

Helping students learn how to do the assessment task.

- The quality of student work is far higher when we provide more support via clear instructions and examples of what we are looking for.
- New learning is related to students' prior experiences and what they already know, through both concrete, relevant examples and challenges to their existing paradigms. How can you relate new ideas to concepts students might be familiar with already?
- Students learn best by doing, through hands-on practice engaging in multidimensional real world tasks, and by collaborating with other students—face-to-face and/or online—including those unlike themselves. What can you do to facilitate real world experiences and collaboration in your assignments?
- Recognize that students for whom English is a second language find it particularly hard to demonstrate their learning through written assignments and oral presentations. They may demonstrate their learning more effectively through non-verbal means such as a chart or infographic.

Engaging and encouraging your students, giving them a can-do attitude.

- The performance of many students, especially those who tend to think more holistically than analytically, is greatly influenced by faculty expressions of confidence in their ability. Positive contact with faculty may help students of non-European cultures, in particular, achieve their full potential.
- **Expressions of Caring:**
  - Statements of confidence ("This is a challenging assignment, but I have listened to all of you speak and read the work you have submitted each week. I know you can all do this assignment. In fact, I know you can all do this assignment really well!")
  - Care in directions (Spend time creating instructions that students will read and use, as well as time explaining your directions to students verbally. Be clear. Be patient.)
  - Checking for understanding
    - ✓ Ask: Would you like a different explanation, repetition, or an example? (Instead of asking if there are any questions.) Alternatively, ask the students to say what is still confusing to them.
    - ✓ Have your students use the Zoom icons to indicate whether they understand: hand raise, happy faces, sad faces.
    - ✓ When asking students to respond to a question, have them indicate how sure they are by also holding up a number (1, 2 or 3) with their answer (1 = guessing, 2 = kind of think so and 3 = really sure). Looking at the numbers students are holding up will give you a great idea of how confident they are in their understanding.

Evaluate the outcomes of your assessments.

- If your students don't do well on a particular assessment, ask them why. Sometimes your question or prompt isn't clear; sometimes you may find that you simply didn't teach a concept well. Revise your instructions and/or your examples and your assessments are bound to be fairer the next time that you use them.

Driscoll, A. (2020). Beginning to Think About Equity in Our Practices [PowerPoint presentation]. WSCUC ALA XI.

Suskie, L. (2019, June 8). Culturally Responsive Assessment. Linda Suskie. <https://www.lindasuskie.com/apps/blog/categories/show/2167997-good-assessment?siteId=115520809&locale=en-US>

Suskie, L. (2000). Fair assessment practices: Giving students equitable opportunities to demonstrate learning. AAHE Bulletin. [https://uncw.edu/cas/assessment/docs/resources/fairassessmentpractices\\_suskie.pdf](https://uncw.edu/cas/assessment/docs/resources/fairassessmentpractices_suskie.pdf)

## Populi Discussion Assignment

Discussions are engaging for your students, encourage them grapple with the material without extra effort on your part and facilitate interaction with their classmates. We suggest setting the discussions so students must post a comment before they are able to see other students' responses. Discussions can be set to autograde (less work for you!) and we can require students to reply to any specific number of their classmates' comments to spark meaningful conversation. You are able to reply to individual comments or to the discussion as a whole.

### Pro Tips for Creating Meaningful Populi Discussions

- Ask questions requiring a creative answer. Encouraging students to challenge the holding or find a work-around will help students explore the limits of the cases and understand them on a deeper level.
- Avoid asking students to regurgitate the facts, analysis, or holdings. Students will only read the case close enough to answer the questions and no more.
- Request students to present arguments. Discussions can be a great place to work in some advocacy skills. Considering assigning them an argument to make, and then have them reply to other students with counterarguments so they learn both sides and practice objectivity (especially on cases where student biases will be substantial).
- Have students come up with their own fact pattern that tests the holding of each case. The creativity involved helps with long-term memory and forces the students to thoroughly understand the issue they are testing. You can also ask other students to answer some of the fact patterns in reply posts.
- Consider requiring students to respond to each other's posts. We suggest asking them to provide a thoughtful response to at least two of their peers. This engages them and encourages them to consider different viewpoints that might highlight defects in their own understanding.
- Allow students to overstep and make mistakes. Allowing students to go "off the rails" a little bit helps students understand the limits of the law better.
- Try not to let students get away with a partial answer. Follow up on any comment that falls short right away to encourage them to revisit the answer. If students know you're holding them accountable, they will give the questions the necessary thought. (We recommend using email for this so as not to embarrass students and keep the discussions "safe" to make mistakes.)

### Sample Instructions

*Note: These can easily be edited and tailored to your individual course.*

The purpose of these discussions is to start to dig into some of the cases in the reading. We will not be discussing every single case in our synchronous classes. These online discussions are your opportunity to work as a class to develop your understanding of the cases, pose questions (for me and your peers), and figure out what you can learn from the reading.

Your participation in these discussions is required. Every person brings unique insight into these discussions, so you will be expected to share thoughtful insight with the class to get credit. Although Populi will automatically assign points for your participation, if your posts do not demonstrate thoughtful consideration of the issues, you will be contacted privately outside of Populi and asked to revisit the discussions. Although there are minimum responses required to get credit, you are welcome to contribute as much as you want.

If you are having trouble figuring out what to contribute, here are a few suggestions:

- Relate something in the discussion to something you have seen in the news that ties into the topic.
- Make up a fact pattern to pose a what-if question, or speculate on the answer to another student's question.
- Play Devil's Advocate: Argue a position contrary to your beliefs to develop the discussion.

Disagreement and debate are encouraged, but please keep it constructive and civil.

## Hypothetical Essay Instructions

Note to the professor: Please select an appropriate essay question. There are questions available in your subject specific Google folder. Additionally, you may provide a question you write or find elsewhere. In your matrix or instructions to Denise, please include the title of the essay question you select or upload to your Google folder. Many of the essay questions we have provided have checklists. They should all have model answers. If you are providing your own essay question, please provide a model answer and/or outline and/or checklist. Please also indicate which rubric you would like to use. There are a variety of rubrics available in your course specific Google folder. This assignment can be given to have the student grade their own essay, and there is a great deal of value in that. You may also wish to have your students complete a peer review of one another's responses, which is an excellent learning opportunity for them. If so, please indicate a date and time when you would like their essay submitted, and a separate date and time when you would like them to submit all of their peer reviews. Please be sure to tell us how many essays you would like your students to review. You may choose to grade the essays yourself and/or create a short video recording of you working through the question and how you would respond to the interrogatories. It is absolutely fine (and even encouraged!) to collaborate with your colleagues and use videos other professors create.

### Instructions for the Students

- Please review your notes and/or outline covering the following topic(s): \_\_\_\_\_
- Carefully read through the rubric provided for this essay question.
- The essay assignments are closed note, closed book, and to be taken independently. Please do not share information regarding the questions or your responses with any of your classmates after the due date.
- On the California Bar Exam, you will have one hour per essay question. Please note the time limit for this assignment, which is \_\_\_\_\_ from the time you open the essay assignment.
- Go to Populi and click on the appropriate essay assignment you have been asked to complete.
- Be sure you allow yourself enough time to complete this assignment before the due date, which is \_\_\_\_\_
- Carefully review all the interrogatories. What is the call of each question?
- Read the fact pattern in its entirety, then re-read the interrogatories. Consider the issues being raised. Think about which rule(s) you are being asked to apply. Which facts are significant?
- Spend 5-10 minutes identifying the issues and writing out your outline. You may use the outline as your headings once you begin to write.
- Write out clear headings that state the issues as you go if you have not already done so with your outline.
- Explain the applicable rule for each issue.
- Apply the relevant facts to all elements of each rule.
- Conclude on each issue.
- Proofread your essay when you have finished to make sure it is organized appropriately and reads well.
- When the model answer is released at the close of the testing window, compare your essay to the model answer.
- If there is a checklist provided with the model answer, carefully review your essay using the checklist and tick the boxes you have addressed in your essay. Total your score when you have finished grading your essay with the checklist.
- What did you do well? Which issues did you respond to appropriately? What did you struggle with? Did you miss any issues? Which ones? Did you struggle with any of the rule statements? How was your analysis (application of the facts to the law) compared to the model answer? How did your organization compare? What did you learn from this assignment?
- Upload your responses to the questions posed above to the corresponding Discussion / Reflection on Populi.



## Peerceptiv Essay Instructions

You will be completing at least one peer review assignment this semester. The software we are using to do so is called Peerceptiv. Prior to submitting any work for peer review, please read the following instructions carefully. Additionally, please read the two articles and watch the four videos linked at the bottom of this page.

### About Peerceptiv

Peerceptiv is an anonymous peer-review tool that increases collaboration, provides learners with more feedback more quickly on assignments, and has been shown to help you improve students' critical analysis and writing skills.

### Logging in to Peerceptiv

Not following the log-in information below may mean you do not join the correct class or your Peerceptiv grades will not pass back to your instructor's grade book. If you have problems logging in or joining the correct class, please contact [support@peerceptiv.com](mailto:support@peerceptiv.com).

You should always go through this Populi page to get to your Peerceptiv assignment. **Please do NOT attempt to log in to Peerceptiv directly.**

1. Please use Chrome or Firefox as your browser. Your browser needs to be set to accept cookies, and you may need to clear your browser cache.
2. Log into Populi and access your course's site.
3. Click on the assignment link within the appropriate lesson. This will register your account, place you in the correct course, and give you access to all published Peerceptiv assignments.
4. For each assignment, you will need to click on that specific assignment link within Populi, which will take you to the current assignment. Once in Peerceptiv, you can view your grades or review your submissions, reviews, and feedback for any published assignment.

- Upload your completed essay before \_\_\_\_\_ on \_\_\_\_\_ (time estimate: about 2 hours).
- Review the model answer and the checklist, review three of your peers' essays and complete BOTH the Legal Writing Rubric AND the Checklist Rubric for each of those three essays before \_\_\_\_\_ on \_\_\_\_\_ (time estimate: about 4 hours).

For this peer review assignment, you will be grading three essays. You will also be using two separate rubrics. The first one is called the "\_\_\_\_\_ Rubric," which is included with these instructions. The second rubric is a checklist that is used by bar graders to grade bar essays (the "Checklist Rubric"). It will take time to review the checklist and then compare the essay you are providing feedback on to that checklist. Please complete BOTH the Legal Writing Rubric AND the Checklist Rubric for each of the THREE essays you are providing feedback on before \_\_\_\_\_ on \_\_\_\_\_. This portion of the assignment should take between three and four hours.

- Please be sure to complete your back evaluations regarding how helpful the feedback you received was from your peers before \_\_\_\_\_ on \_\_\_\_\_ (time estimate: less than an hour).

***Again, please do not log into the Peerceptiv website for any activities relating to courses that are using Peerceptiv within a course website.***

*Please note: Populi is our Learning Management System. You are using a "Learning Management System" to log in, upload and review assignments.*

### **Videos**

[Student Introduction and Overview](#)  
[Peerceptiv Login and Submission](#)  
[How to be a Helpful Reviewer](#)  
[How to Review Documents in Peerceptiv](#)

### **Articles**

[How to Review Peer Documents](#)  
[Understand and Improve Your Review Grade](#)

## MBE Analysis Assignment

Note to the professor: For this assignment, please select one or two MBE questions. There are questions available in your subject specific Google folder. However, you may provide additional questions you come across elsewhere. In your matrix or instructions to Denise, please include the entire MBE question with all possible answers and the correct answer identified. Please also identify the issue(s) addressed in the MBE question(s) you select. To review the question(s) with your students, you may wish to discuss it during your synchronous Zoom session. Alternatively, you may wish to create a short video recording of you working through the question and possible responses.

### Instructions for the Students

- Please review your notes and/or outline covering the following topic(s): \_\_\_\_\_
- Go to Populi and click on the appropriate MBE Analysis Assignment you have been asked to complete.
- Be sure you allow yourself enough time to complete this assignment before the due date, which is \_\_\_\_\_
- Carefully review the call of the question (what is the question you are being asked to respond to after you have been given the facts?).
- Read the MBE question in its entirety, then re-read the call of the question.
- Complete the following six parts for each MBE question in the MBE Analysis Assignment:
  1. What is the issue being addressed?
  2. What is the rule you are being asked to apply?
  3. Is option “a” correct or incorrect? Why? Please explain.
  4. Is option “b” correct or incorrect? Why? Please explain.
  5. Is option “c” correct or incorrect? Why? Please explain.
  6. Is option “d” correct or incorrect? Why? Please explain.
  7. What did you find interesting, challenging or confusing about this particular MBE question?



## MBE Quiz Instructions

Note to the professor: For the MBE quizzes, please select between 10 and 20 MBE questions. There are questions available in your subject specific Google folder. These questions are organized by sub-topic. There are sample previous quizzes uploaded there as well. If you like the questions selected on a previous quiz, you are very welcome to use that quiz. Additionally, you may provide questions you find elsewhere. In your matrix or instructions to Denise, please include the MBE quiz number (for example, "MBE Quiz 1," all of the questions you have selected (please be sure we have the correct answers indicated somewhere, we do have them for the MBE questions in the subject specific Google folder) and the sub-topics addressed in the MBE questions you select. Chelsea will be providing you with the five most commonly missed questions in your Populi report. You may choose to review any number of the MBE questions you like. You may also choose to review MBE test-taking strategies. There are materials covering MBE strategies in the "Teaching Resources" folder within your subject specific Google folder. You may wish to review the questions and/or strategies live with your students during your synchronous Zoom session. Alternatively, you may choose to create a short video recording of you working through the question and possible responses. It is absolutely fine (and even encouraged!) to collaborate with your colleagues and use videos other professors create. You are very welcome to have Denise upload PowerPoint presentations, handouts, etc. to Populi to assist your students in studying for the MBE quizzes. However, we kindly ask you do not share the quizzes and/or answers/explanations with your students in writing. Thank you in advance for all of the time and energy you put into making these quizzes valuable for your students!

### Instructions for the Students

- Please review your notes and/or outline covering the following topic(s): \_\_\_\_\_
- Go to Populi and click on the appropriate MBE Quiz you have been asked to complete.
- Be sure you allow yourself enough time to complete this assignment before the due date, which is \_\_\_\_\_
- The MBE quizzes are closed note, closed book, and to be taken independently. Please do not share information regarding the questions or your responses with any of your classmates until the close of the testing window.
- You will have about 2 minutes per question to select the most correct response.
- Carefully review the call of the question (what is the question you are being asked to respond to after you have been given the facts?). Read the MBE question in its entirety, then re-read the call of the question. Consider the issue being addressed in each MBE question. Think about which rule(s) you are being asked to apply in each MBE question.
- Select the most correct response for each question.
- When the correct answers are released at the close of the testing window, review each question and each correct answer.
- Reflect on the questions you answered correctly: Were you confident in your response? Was it a guess? Why did you select the response you did?
- Review the questions you answered incorrectly: Do you know where you went wrong? Do you understand why the correct answer is correct? What questions do you still have?
- Upload your responses to the questions posed above to the corresponding Discussion / Reflection on Populi.

## Case Briefing Instructions and Rubric

### Purpose

The purpose of reading in the practice of law is different from the purpose of reading in many other disciplines. In law, you read not just to familiarize yourself with someone else's ideas but to be able to use the information to answer a question. This requires understanding judicial opinions in depth and being able to use the information in a number of cases to formulate an answer to a new question. Therefore, passively reading cases is not sufficient; you must deconstruct the opinion into its component parts and state those components in your own words and in an easily accessible format. Then the information is at hand for you to apply to a new set of facts.

Briefing a case requires you to put the material into your own words. To do this, you have to understand it. Underlining text does not require you to understand it. Moreover, briefing a case reduces the volume of material so you can find what you need. Underlining does not accomplish this goal either.

### Assignment

You will complete a brief on the following case and upload it no Populi before \_\_\_\_\_ on \_\_\_\_\_.

### Assigned Case

### Instructions

Every lawyer briefs cases differently. A case brief generally consists of a series of topic headings with the specific information from the case under each heading. Most case briefs contain similar information but the headings and their sequence may be different. Some professors have a preferred briefing format. For this assignment, you are only required to follow the general format as set forth below.

The following is adapted from *A Practical Guide to Legal Writing and Legal Method* (Dernbach, et al., 2007).

1. **Case name:** Include the full citation, including the date of the opinion, for future reference and citation. An example would be as follows: *Pennoyer v. Neff*, 95 U.S. 714 (1878).
2. **Pincites:** Include pinpoint cites (cites to a particular page in the case) throughout the case brief so you can find material again quickly within a case.
3. **Procedural History:** What happened to the case before it arrived in this court? If it is an appellate case, list the decisions made by the lower court(s) and note what decision is being reviewed (e.g., jury verdict, summary judgment). You may need to look up procedural phrases with which you are unfamiliar.
4. **Facts:** Include only the facts that were relevant to the court's decision. You are unlikely to know what these are until you have read the entire opinion. Many cases may include procedural facts that are relevant to the decision in addition to the facts that happened before litigation.
5. **Issue:** The particular question the court had to decide in this case. It usually includes specific facts as well as a legal question. It may be expressed or implied in the decision. Cases may have more than one issue.
6. **Holding/Decision:** The legal answer to the issue. If the issue is clearly written, then the holding can be expressed as "yes" or "no." (Be careful not to confuse the holding with implicit *reasoning*. See # 8 below.)
7. **Rule:** The general legal principle(s) relevant to the particular factual situation presented in the case.
8. **Reasoning:** The logical steps the court takes to arrive at the holding. It can be straightforward and obvious, or you may have to extrapolate it from the holding. Some reasoning is based on social policy, which tells you why the holding is socially desirable. Understanding the reasoning behind a decision is essential.
9. **Disposition:** A statement of what the court actually did in the case (affirmed, overruled, etc.)
10. **Dissent/Concurrence:** Although this part of the opinion is not considered law, it may help you better understand some information about the legal reasoning in the case. Not all cases have a dissent or concurrence, while some may have more than one.
11. **Comments:** Include your own responses to the case here. For example, does the reasoning make sense? Is the holding consistent with other cases you have read? Is the case relevant to the question you are trying to answer? This is a good place to note connections between the case you are briefing and other cases you have read.

## Sample Case Brief

Remember, most case briefs contain similar information but the headings and their sequence may be different than what is outlined above. You should include in your brief all elements that you deem necessary whether or not they are included in the sample below.

### Name

*Luke Records, Inc. v. Navarro*, 960 F.2d 134 (11th Cir. 1992)

### Procedural History

Appealed from the trial court decision.

### Facts

Luke Records, Inc., a recording label, held a contract with the musical group 2 Live Crew. This group was well known in the genre of "Rap" music, which has repeatedly been accused of incorporating "obscene" lyrics into the music. Obscene, in this sense, pertains only to the legal definition of obscenity, not what any particular person or moral code may deem obscene. Luke Records, Inc. was a Florida Corporation and Nick Navarro was the sheriff of Broward County at the time. The sheriff obtained an ex-parte injunction (this means an injunction without both parties being present at the initial hearing) granting the sheriff an injunction (a court order to "stop" doing a particular act). This injunction was served on local record stores in an effort to have the music removed from Florida retail sale. After the local Florida Circuit Court in Broward County issued the injunction, the decision was appealed to the United States District Court for Southern Florida where the Court ordered the sheriff to stop enforcing the injunction, but did, in fact, rule that the music was obscene, especially the song "As Nasty As They Wanna Be." The sheriff appealed the case to the United States Court of Appeals, 11th Circuit, in Atlanta.

### Issue

Is this music obscene under Florida state law and/or federal Constitution?

### Holding/Decision

No

### Rule

Obscenity must meet three part rule. Based on Supreme Court case *Miller v. CA*. All three parts must be met:

(a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest;

(b) whether the work depicts or describes, in a patently offensive way, sexual specifically defined by the applicable state law; and

(c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

### Reasoning

The burden of proof could be clear and convincing or preponderance of the evidence test: however, at the time the sheriff was granted the music, he offered nothing into evidence except a tape of the music played before the court. There was no additional evidence presented that showed an average person applying contemporary community standards would find the song appealing only to a prurient interest. Further, the sheriff failed to prove part (b) and (c) of the test as well simply because he made no attempt to enter any other testimony or evidence into consideration before the court. The sheriff failed to meet his burden, although it is well possible that had he submitted all evidence as required, he could possibly have met the test.

### Comments

Case really determined by the sheriff's failure of proof. No discussion of nature of music. No discussion of rule. No proper evidence submitted to the court.

## Scoring Rubric

Students will complete the assignment with attention to the following criteria:

<u>Rating Scale</u>	<i>Exemplary:</i>	Corresponds to an A- to A (90-100%)
	<i>Proficient:</i>	Corresponds to a B- to B+ (80-89%)
	<i>Basic:</i>	Corresponds to a C- to C+ (70-79%)
	<i>Novice:</i>	Corresponds to a D to D+ (60-69%)
	<i>Not Attempted:</i>	Corresponds to an F (0-59%)

Elements	Criteria					Score
	<i>Not Attempted</i> (Criterion is missing or not in evidence)  <b>0-14.99%</b>	<i>Novice</i> (does not meet expectations; performance is substandard)  <b>15-17.49%</b>	<i>Basic</i> (works towards meeting expectations; performance needs improvement)  <b>17.5-19.99%</b>	<i>Proficient</i> (meets expectations; performance is satisfactory)  <b>20-22.49%</b>	<i>Exemplary</i> (exceeds expectations; performance is outstanding)  <b>22.5-25</b>	
Case Name Citation and Procedural History <b>25%</b>	There was little or no evidence of proper citation of the case and procedural history.	Case citation and procedural history is evident, but the citations are incorrect as to form, spelling, numeric correctness or the essential procedural history of the case is incomplete.	The case brief addresses most, but not all, of parts of the citation and history, but the procedural history is out of sequence or difficult to discern or minor formatting or spelling errors have occurred.	The case brief addresses all parts of the citation and procedural history in full, but same is not entirely clear or straight-forward.	The case brief citation and procedural history are correct and adequately addresses all parts of clearly and in proper chronological sequence.	___/25
Length Requirements <b>25%</b>	There was little or no evidence of a case brief.	The case brief is entirely too short.	The case brief contains a great deal of "fluff" and still does not meet the length requirement.	The case brief is just a little on the short side and/or it meets the requirements only because it contains "fluff" that could use trimming.	The case brief falls within the required length requirements without going over and without straying from the main topic.	___/25
Mechanics of Writing <b>25%</b>	Little to no evidence of proper writing mechanics.	The grammar of the case brief greatly impedes understanding of content, and/or the paper contains no citations.	The case brief needs a good deal of improvement with respect to grammar, citations, spelling, and/or style.	The case brief is mostly free of errors with respect to grammar, citations, spelling, and/or style, but needs some improvement in this area.	The case brief is nearly perfect with respect to grammar, citations, spelling, and style.	___/25
Understanding <b>25%</b>	The case brief exhibits a complete lack of understanding of the text and/or course materials.	The case brief exhibits very little understanding of the text and/or course materials.	The case brief exhibits basic understanding of the text and/or course materials, but needs improvement in this area.	The case brief exhibits sufficient understanding of the text and/or course materials, but some improvement needed.	The case brief does an excellent job demonstrating an accurate understanding of the text and/or course materials.	___/25

**Total Score: \_\_\_/100**

**Comments/Feedback:**

## **Note Taking and Synthesis Instructions**

1. Begin by reading and briefing the cases assigned to you by your professor. Use your case briefs to organize and guide your notetaking during your synchronous session. (See Sample Note-Taking Template #1: Case-Brief Supplement Method)
2. If you have not briefed all of the cases, another notetaking option is the Cornell Method. (See Sample Note-Taking Template #2: The Cornell Method)
3. Once you have your notes from a given topic, for instance, battery, you can organize the information in a way that will help you study. (See Torts Outline)
4. As you review the material, you should work on making your notes succinct, while still including necessary information you need to remember about the topic. (See Sample Torts Synthesis for Battery)

**Date of Class (TOPIC):**

<p><b>Case Name (Court &amp; Year) (Page # in Casebook)</b>                      (your case brief, which was filled out before class)</p>		<p><b><u>Your Notes from Class</u></b>                      (modifications to your case-brief; ideas that emerge from class discussions, what your professor thinks is important, etc.)</p>
<b>Parties</b>	<ul style="list-style-type: none"> <li>-Pl/P and Δ/D; or appellant and appellee</li> <li>-Status/relationship</li> </ul>	
<b>Underlying Facts</b>	<ul style="list-style-type: none"> <li>-Who did what to whom, when, where, and how?</li> <li>-Legally relevant/determinative/key facts</li> </ul>	
<b>Procedural History</b>	<ul style="list-style-type: none"> <li>-Cause of action/claim and defense</li> <li>-What happened in lower court(s)?</li> </ul>	
<b>Issue(s)</b>	<ul style="list-style-type: none"> <li>-Overarching issue(s) or legal question(s)                             <ul style="list-style-type: none"> <li>-Any sub-issues</li> </ul> </li> <li>-What should be the correct rule? Or who wins when the already-established correct rule is applied to facts?</li> <li>-Use the “under-does/whether-when” formula</li> </ul>	
<b>Holding(s)</b>	<ul style="list-style-type: none"> <li>-Answer(s) to each issue or sub-issue above</li> </ul>	
<b>Rule(s)</b>	<ul style="list-style-type: none"> <li>-Existing rule(s) + where from</li> <li>-What did court do with existing rule(s)?</li> <li>-What new rule(s) did the court establish/create?</li> </ul>	
<b>Court’s Reasoning</b>	<ul style="list-style-type: none"> <li>-Reasons for the court’s holding(s)/why court agreed/disagreed with a given party’s arguments:                             <ul style="list-style-type: none"> <li>-Legally relevant/determinative/key facts</li> <li>-Ambiguous rules/facts and how interpreted</li> <li>-Factual comparisons with precedent(s)</li> <li>-Policy reasons</li> </ul> </li> </ul>	
<b>Disposition/ Procedural Result</b>	<ul style="list-style-type: none"> <li>-What did the court order?</li> <li>-If appellate decision, did it affirm, reverse, or vacate/remand lower court decision?</li> </ul>	
<b>Dissent(s) and/or Concurrence(s)</b>	<ul style="list-style-type: none"> <li>-If dissent, why disagree with majority on outcome and reasoning?</li> <li>-If concurrence, why agree on outcome but disagree on reasoning?</li> </ul>	
<b>Other Notes</b>	<ul style="list-style-type: none"> <li>-Your thoughts and questions</li> <li>-Your own reasons for agreeing/disagreeing with opinion</li> <li>-How this case ties into the topic/concept you’re learning</li> <li>-How this case relates to another case you’ve read</li> </ul>	

Date

**Topic/Concept Heading (taken from your course syllabus or casebook's table of contents)**

<b><u>Topic Cues</u></b>	<b><u>Notes</u></b>
<b><u>Summary of Main Takeaways</u></b>	

# TORTS OUTLINE

**I. INTENTIONAL TORTS:** Battery, Assault, false imprisonment. Also: intentional infliction emotional distress, trespass land, trespass chattel

-Claim for damages for intentional torts: compensatory, pain and suffering, emotional harm, and punitive, and **even unforeseeable injuries** (there are some limits i.e. Gl example of hospital burning after D assaulted P sending P to hospital)

-**Transferred intent:** allows recovery when the actor attempts one intentional tort, but causes another

-If someone attempts one intentional tort but does another, they are liable for the one that actually happens. You can chose which one (if you are not actually injured by battery, you might sue for assault) but don't pile them up (Koffman)

Ex. Martinez (watermelon case): If you shot someone only intending to scare, but you hit them it is a battery. Any unwanted touching as a result is a contact.

## **A. BATTERY**

**Prima Facie case- Intentional infliction of a harmful or offensive contact with the person of the plaintiff (restat 2d)**

**Pol:** Do not want people to settle their disputes in violent ways.

**Review question:** D sent his dog to attack V. D knew dog was too weak. V trips over hose. Battery?

-Yes, the intent to assault can transfer to the intent to batter if a battery occurs even if assault is planned.

**Elements:**

1. Act (with the intent to: 2)
2. Done with intent to harm or offend or with knowledge with substantial certainty.
3. Causes (Gl. 4) harmful or offensive contact.

### **1. Act**

**External manifestation of an actors will.**

**Ex. Leichtman:** *Cunningham was just as liable because a person who encourages the battery is just as liable.*

**Reflexive movements are not an act**

**Ex. Polmatier-** case were dad beat is son, court noted: reflexive reaction: only "where mind and will have no share"

**Words can sometimes set act of touching in motion, and indirect acts count.**

**Ex. Leichtman-** blowing smoke

Review question: D making V think that the dog would be attacking V

**Irrational yet purposeful movement is an act**

**Ex. Polmatier-** irrational man killing son, we hold insane people responsible for their acts.

### **2. Done with the intent to harm OR offend. (Motive/desire, OR KSC)**

**Rule:** Acts with the purpose or with knowledge that the act will cause harm or offensive contact to the victim



-Intent requirement for battery is satisfied by either motive/desire or knowledge with substantial certainty that a harmful or unwanted contact will occur.

*Transferred intent* - if D held the necessary intent with respect to person A, he will be held to have committed an intentional tort against any other person who happens to be injured.

### ***A. Intent to harm***

#### **Irrational intent is sufficient**

***Ex. Polmatier***- irrational man killing son

#### **Limit: Intent to contact, but not offend or harm is insufficient**

***Ex. White***- Alzheimer patient who hits nurse: To commit a battery, D must act for the purpose of inflicting a harmful or offensive contact on the plaintiff.

#### **Children- need ability to form the requisite intent to cause the touching**

***Ex. McAfoos***- kid ran into lady with tricycle from behind.

### ***B. Intent to offend***

#### **Rule: Offensive to a reasonable sense of personal dignity**

Limits: Gl: jostling in hall, Justice: hospital couldn't function

#### **Offensive intent is enough; do not have to intend to harm**

***Ex. Snyder v. Turk***: Doctor pushing nurse's head in body cavity when she gave him the wrong tool

***Ex. Leichtman***: Blowing smoke at antismoking advocate

#### **Offensive can mean unwanted**

Limits: jostling in subway and other everyday activities, Gl: was Romeo hugging girl he met a hug offensive?

Pol. Does not have to be creepy or morally heinous

***Ex. Cohen***: Male nurse touching the naked patient who did not want to be touched.

***Ex. Ashcroft***: doc did not giving family blood when it was requested

***Ex. Leichtman***: Blowing smoke at anti smoke advocate

***Ex. Hypo***: Striking the cane of a French ambassador

***Ex. Hypo***: Jehovah's witnesses and blood transfusions

***Ex. Gl***: Romeo and Juliet when Juliet tells Romeo not to help her up, and he does anyway

***Ex. Gl***: Romeo kissing Juliet while she is sleeping is still a battery (but courts don't care about minor incidents)

### ***C. Intent substitute: Knowledge Substantial certainty***

If the actor knows that the consequences of an act are certain or substantially certain to result from that act, and still goes ahead with it, he has committed an intentional tort.

Pol. Battery protects from unwanted injury

***Ex. Garrett***: Pulling out a chair from the woman sitting down. (on remand: was there a known risk she'd sit down?)

***Ex. Gl***: Throwing a shoe into a crowd of people

### **3. Causes harmful or offensive i.e. unwanted contact**

**Does not require physical injury, it only has to be offense to a reasonable person or unwanted & can be indirect act**

Ex. Gl: Romeo laces Tibault's drink with poison is indirect act. If Tibault or Juliet (transfer) it will be battery

Ex. Leichtman: H: smoke is contact in battery cases when D purposefully blew smoke in face of antismoker

-Smoke counts, but (Gl.) photons do not because it would open door to other things like horn blowing

**Not all contact is a battery**

-Pol Gl: socially acceptable contacts like getting jostled in a subway.

**If you intend contact, but not for it to be offense (dignatory offense), then no battery**

-Ex. White v. Muniz- Alzheimer patient hit nurse, but did not intend offensive contact

**Pol. Offensive= "reasonable" sense of personal dignity OR Offensive= unwanted by P and D knew**

**-'Dignatory trespass'**

**Pol.** Ex. Naked patient should be able to protect choices she makes about her body

Ex. Cohen: If naked lady was only seen, not touched, there would be no contact.

Ex. Hypo Jehovah's witnesses and blood transfusions

### **Contact**

-Can be contact with anything, throwing a rock, poking with a pole, tripping with a wire, etc.

-Also if thing is attached to your body is contacted, that is enough.

Ex. Leichtman: H: smoke is contact in battery cases when D purposefully blew smoke in face of antismoker

Smoke counts, but (Gl.) photons do not because it would open door to other things like horn blowing

## Sample Torts Synthesis for Battery

### I. Intentional Torts

A. Battery. To succeed in a battery claim, a plaintiff must prove: (1) the defendant acted intentionally or with substantial certainty that the conduct would have a particular result (e.g., pulling a chair from under an arthritic woman), (2) unwanted physical contact (e.g., blowing smoke in someone's face), and (3) harm/damages.

1. Intentionality. *Garratt*: The intent element is satisfied when the defendant knows or is substantially certain that his actions will cause a particular consequence. (boy pulled out chair from under arthritic woman)

2. Physical Contact. *Leichtman*: Blowing smoke in Plaintiff's face satisfies the offensive contact element of a battery claim.

3. Harm/Damages. Can be punitive. Policy: beyond compensatory in order to deter and punish intentional conduct.

\*Thin-skull Rule: We take plaintiffs as they are and, with intentional torts, the defendant must have known about the sensitives in advance.

4. Defense. Consent is a defense to battery so long as the defendant does not exceed the scope of consent. *Grabowski*: When a plaintiff's consents to undergo surgery with a particular doctor, that consent does not carry over to a different doctor. E.g., "punch my shoulder" does not mean "punch my stomach."

## RUBRIC GUIDE

*Rubrics are guides that provide traits, standards and/or levels of quality along a continuum for assessing student work. Using a well-crafted rubric to assess student assignments makes your life easier and improves student learning.*

### What are some benefits to using a rubric?

- Great for assessing thinking and performing skills (while multiple-choice tests are better at assessing knowledge / basic understanding and reflective writing is better at assessing attitudes / values).
- Makes scoring more accurate, unbiased and consistent by ensuring every assignment is assessed using the same criteria.
- Makes scoring easier and faster by keeping you focused on the big things you are looking for in student work (you also won't need to write as many comments on papers!).
- Leads to better curriculum design and assignments, as well as improve feedback to students.
- Reduces arguments with students by making assessment criteria explicit. Focuses conversations on how students can improve their performance, rather than defending your assessment practices.
- If a number of students aren't demonstrating adequate achievement of a particular skill, rubrics bring this to your attention and therefore improve feedback to faculty.

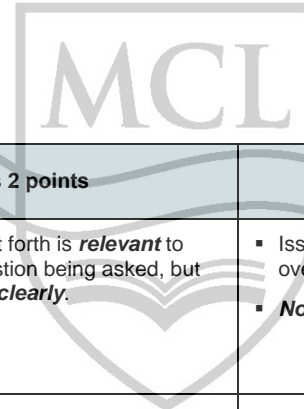
### What can rubrics do for my students?

- Clarify vague, fuzzy goals.
- Help students understand your expectations when rubrics are distributed with the assignment.
- Inspire better student performance by motivating students to aim for the standards you have identified.
- Help students self-improve if you encourage students to use the rubric to self-assess their work before submitting it.

### How do we create effective rubrics? (Note: We have sample rubrics available for various types of assignments in the assessment resources folder within your subject-specific Google folder.)

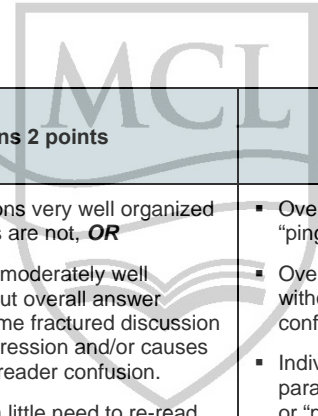
1. Identify how and where the rubric will be used.
2. Articulate clear learning goals for the assignment being assessed, and explicate them into traits. Consider:
  - Why are we giving students this assignment?
  - What do we want students to learn by completing it?
  - What are the skills we want students to demonstrate in this assignment?
  - What are the characteristics of good student work?
  - Which specific characteristics do we want to see in completed assignments?
3. If you have assigned similar work, use samples of student work submitted on a past assignment to guide you. For instance, midterm or final exams you have graded in the past:
  - What was some work considered high-quality? What are the defining traits of high-quality work?
  - Why was some work low-quality? What are the defining traits of low-quality work?
  - How do the high- and medium-quality samples differ?
  - How do the medium- and low-quality samples differ?
  - What kinds of student work represent minimally acceptable work? Why?
4. Create three to five performance levels (a rubric with only two levels is a checklist) and label each level with names, not just numbers (for instance, "exceeds standard," "meets standard," "approaching standard," and "below standard.")
5. Create descriptions of each trait at each performance level. Specify observable behaviors, using descriptive, objective terms. The descriptions should be clear enough to give students concrete feedback on how to improve weaknesses in their performance and clear enough that those who use the rubric simply match the students work to a description rather than make a subjective interpretation. Use brief, simple, clear, jargon-free terms that everyone understands. Clearly distinguish each performance level from the others.
6. Develop or review the assignment.
7. Test and revise the rubric.

## MCL ESSAY RUBRIC



	Earns 4 points	Earns 3 points	Earns 2 points	Earns 1 point
<b>Issue</b>	<ul style="list-style-type: none"> <li>▪ Issue as set forth is <b>dispositive</b> for overall question being asked.</li> <li>▪ Issue is <b>clearly stated</b> in a way that appropriately <b>links it to the specific facts</b> of the question.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Issue as set forth is <b>relevant</b> to overall question being asked.</li> <li>▪ Issue is <b>clearly stated</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Issue as set forth is <b>relevant</b> to overall question being asked, but <b>not stated clearly</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Issue as set forth is <b>not relevant</b> to overall question being asked, <b>OR</b></li> <li>▪ <b>No issue set forth at all.</b></li> </ul>
<b>Rule</b>	<ul style="list-style-type: none"> <li>▪ <b>Dispositive portions of relevant rule</b> are <b>stated fully</b> as given in outline (or are rephrased in a <b>legally equivalent</b> way).</li> <li>▪ <b>Non-dispositive</b> portions of rule (or relevant but non-dispositive rules) stated as <b>succinctly</b> as possible.</li> <li>▪ <b>Irrelevant rules are not mentioned at all.</b></li> <li>▪ <b>Rules</b> relied upon are <b>stated in a way that specifically applies to the facts</b> of the exam question.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Relevant rule</b> for stated issue is <b>set forth fully</b> as given in outline (or rephrased in a <b>legally equivalent</b> way).</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Relevant rule</b> for stated issue is set forth, <b>but</b> is either <b>not stated fully</b> as given in outline, <b>or is partially incorrect</b>, or is rephrased in a way that is not legally equivalent.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Wrong rule</b> set forth for stated issue., <b>OR</b></li> <li>▪ <b>Correct rule</b> set forth for stated issue but is stated <b>with such significant errors or omissions</b> that it functionally amounts to the wrong rule, <b>OR</b></li> <li>▪ <b>No rule</b> stated at all.</li> </ul>
<b>Application / Analysis</b>	<ul style="list-style-type: none"> <li>▪ <b>All relevant facts</b> in fact pattern are utilized. <b>No irrelevant facts</b> are mentioned.</li> <li>▪ Facts used are <b>clearly linked to the applicable elements</b> or sub-rules of the stated rule.</li> <li>▪ <b>Thorough</b> demonstration of <b>how each stated fact tends to prove or disprove the associated element</b> or sub-rule of the applicable rule.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Many</b> of the relevant available facts are utilized. <b>Few</b> irrelevant facts are mentioned.</li> <li>▪ Facts are <b>linked to applicable elements</b> or sub-rules of stated rule, but either not done with great clarity <b>OR</b> done inconsistently.</li> <li>▪ <b>Significant</b> demonstration of <b>how each stated fact tends to prove or disprove the associated element</b> or sub-rule, <b>OR</b> thorough showing but for only some facts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ At least <b>some</b> relevant available facts are utilized for at least some elements and/or <b>significant number</b> of irrelevant facts included.</li> <li>▪ At least <b>some</b> demonstration of how at least <b>some</b> of the relevant available facts tend to prove or disprove at least <b>some</b> of the associated elements or sub-rules of the applicable rule.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>No facts</b> stated, <b>OR</b></li> <li>▪ Facts set forth in <b>laundry-list style</b>, with <b>no linkage</b> to the applicable elements or sub-rules of the stated rule, <b>OR</b></li> <li>▪ <b>Some efforts</b> to use facts to prove or disprove elements or sub-rules of applicable rule, <b>but so poorly or wrongly done as to amount to no real analysis.</b></li> </ul>
<b>Conclusion</b>	<ul style="list-style-type: none"> <li>▪ Conclusion is <b>clearly stated</b> in a way that appropriately <b>links it to the stated rule and the ensuing analysis</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Conclusion is <b>clearly stated</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Conclusion is <b>stated</b>.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>No conclusion.</b></li> </ul>

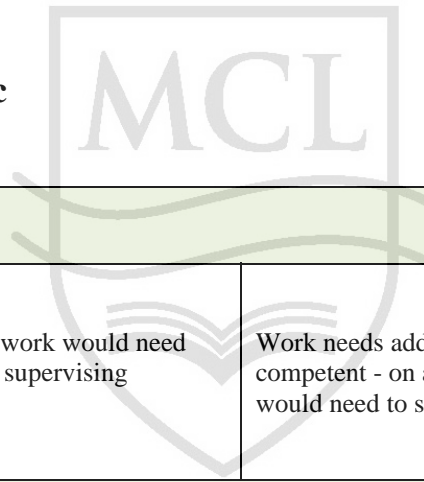
## ORGANIZATION AND WRITING



	Earns 4 points	Earns 3 points	Earns 2 points	Earns 1 point
<b>Organization</b>	<ul style="list-style-type: none"> <li>▪ Coherent essay structure for entire answer.</li> <li>▪ Good flow from paragraph to paragraph (or from issue to issue), causing no significant reader confusion.</li> <li>▪ Individual sections or paragraphs also well-organized and coherent.</li> <li>▪ Little or no need to re-read earlier portions of answer to understand argument and award all substantive points earned.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Every paragraph, issue, or other portion of an answer is coherent, but overall answer either somewhat lacking in flow or flow is somewhat confused or causes some reader confusion.</li> <li>▪ Some need to re-read earlier portions to understand argument and award all substantive points earned</li> </ul>	<ul style="list-style-type: none"> <li>▪ Some portions very well organized while others are not, <b>OR</b></li> <li>▪ All portions moderately well organized but overall answer includes some fractured discussion or some digression and/or causes substantial reader confusion.</li> <li>▪ More than a little need to re-read earlier portions to understand argument and award all substantive points earned.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Overall organization fractured or “ping-pongy.”</li> <li>▪ Overall answer difficult to read without significant reader confusion.</li> <li>▪ Individual sections and/or paragraphs may also be fractured or “ping-pongy.”</li> <li>▪ Significant re-reading of earlier portions required to make any sense of argument; substantive points earned difficult to identify.</li> </ul>
<b>Quality of Writing</b>	<ul style="list-style-type: none"> <li>▪ Consistently follows format requested in the call of the question.</li> <li>▪ Overall essay shows a sense of proportion and balance that signifies a substantial understanding of the relative importance of the various issues discussed.</li> <li>▪ Dispositive issues are treated thoroughly; relevant issues are given some attention; irrelevant issues are not discussed.</li> <li>▪ Sentences are consistently well-crafted in a highly readable style.</li> <li>▪ Traditional, moderately formal rules of English grammar are consistently followed.</li> <li>▪ Appropriate legal diction employed.</li> <li>▪ Jargon eschewed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Generally follows format requested in the call of the question.</li> <li>▪ Overall essay shows some sense of proportion and balance that signifies some understanding of the relative importance of the various issues discussed.</li> <li>▪ Dispositive issues are treated thoroughly, most relevant issues are given some (but not too much) attention, and very few irrelevant issues are discussed at all (and none extensively), <b>OR</b> some effort made to distinguish relevant importance of issues, but with some misidentification of dispositive issues.</li> <li>▪ Consistent use of complete sentences with very few (or no) incomplete sentences (fragments) or run-ons.</li> <li>▪ Traditional, moderately formal rules of English grammar generally followed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significantly departs from format requested in the call of the question.</li> <li>▪ All issues treated with the same degree of detail, <b>OR</b> significant errors made in identifying dispositive issues.</li> <li>▪ Moderately consistent use of complete sentences.</li> <li>▪ More than a few incomplete sentences (fragments) or run-ons.</li> <li>▪ Informal English grammar utilized (but generally correctly), <b>OR</b> appropriate grammar attempted but with significant or frequent errors in application.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ignores the format requested in the call of the question.</li> <li>▪ Treatment of most or all issues does not correlate to their relative importance.</li> <li>▪ Repeated use of incomplete sentences (fragments) or run-ons.</li> <li>▪ Other significant errors appear with sufficient frequency to produce an essay that is, overall, of unacceptable grammatical quality.</li> </ul>

*Adapted from Property Exam Writing Rubrics - University of Detroit Mercy School of Law*

## Legal Writing Rubric



Levels of Quality			
	<b>Exemplary</b>	<b>Competent</b>	<b>Developing</b>
	Advanced work – on a job, the work would need very little revision for a supervising attorney to use.	Proficient work – on a job, the work would need to be revised with input from a supervising attorney.	Work needs additional content or skills to be competent - on a job the supervising attorney would need to start over.
Legal Analysis Skills: Questions/Summary/Facts			
<b>QUESTIONS PRESENTED</b>	<input type="checkbox"/> Includes clear legal issue/s and jurisdiction and most significant facts	<input type="checkbox"/> Includes legal issue/s but may lack clarity or legal references or missing some significant facts	<input type="checkbox"/> Is unclear or identifies a different issue or missing major parts
<b>SUMMARY</b>	<input type="checkbox"/> Clear conclusion/prediction on issue/s Includes some key facts Uses and applies legal principles	<input type="checkbox"/> Somewhat vague or ambiguous conclusion Lacks sufficient key facts Lacks sufficient legal principles	<input type="checkbox"/> Unclear conclusion Lacks key facts Lacks accurate legal principles
<b>FACTS</b>	<input type="checkbox"/> Includes all material facts; excludes extraneous facts and legal conclusions <input type="checkbox"/> Includes facts supporting counterargument <input type="checkbox"/> Organized logically	<input type="checkbox"/> Includes most material facts; excludes most extraneous facts; includes no legal conclusions <input type="checkbox"/> Omits some key facts for supporting a counterargument <input type="checkbox"/> Organized reasonably logically	<input type="checkbox"/> Lacks significant material facts; includes many extraneous facts or legal conclusions <input type="checkbox"/> Omits key facts for counterargument <input type="checkbox"/> Disorganized or hard to follow
Legal Writing			
<b>ORGANIZATION</b>	<input type="checkbox"/> Document follows format; paragraphs effectively organized <i>and</i> well ordered to communicate logical progression; uses thesis and topic sentences	<input type="checkbox"/> Document follows requested format; paragraph organization and order usually effective; sometimes uses effective thesis and topic sentences	<input type="checkbox"/> Document does not follow format or paragraph organization and order usually ineffective; thesis/topic sentences rare or ineffective
<b>Writing Style and Conventions (see competencies)</b>	<input type="checkbox"/> Based on word choice, issue, location in paragraph, transitions, and grammar, sentences provide for efficient and fluid reading-writing is a pleasure to read <input type="checkbox"/> Writing is concise and uses nearly error-free mechanics and conventions	<input type="checkbox"/> Based on word choice, issue, location in paragraph and grammar, sentences are organized for somewhat efficient reading <input type="checkbox"/> Contains some excess words or legalese or some inaccurate mechanics or conventions	<input type="checkbox"/> Sentences are hard to follow; may have to be reread to understand <input type="checkbox"/> Contains excess words or legalese or inaccurate mechanics or conventions

Discussion – describing and explaining the law		
<p>Organizes around issues and sub-issues.</p> <p>When appropriate uses effective point headings throughout.</p> <p>Accurately identifies main rules.</p> <p>Accurately and thoroughly identifies sub- rules/sub-elements/sub-issues and exceptions</p> <p>Shows <u>how</u> the analysis applies to facts</p> <p>Explains <u>why</u> the analysis applies to facts</p> <p>Identifies and refutes counter-arguments</p> <p>Identifies and distinguishes law supporting counter-arguments</p> <p>Identifies and distinguishes key facts supporting counter-argument</p>	<p>Organizes around issues and sub-issues</p> <p>When appropriate, point-headings used, mostly effective</p> <p>Mostly accurate main rules</p> <p>Mostly accurate sub-rules/sub-elements/sub-issues and exceptions – missing nuances</p> <p>Somewhat shows <u>how</u> the analysis applies to facts</p> <p>Somewhat explains <u>why</u> the analysis applies to facts</p> <p>Somewhat identifies and refutes counter-arguments</p> <p>Somewhat identifies and distinguishes law supporting counter-arguments</p> <p>Somewhat identifies and distinguishes facts supporting counter-argument</p>	<p>Organization unclear or confusing and overlapping</p> <p>Point-headings somewhat effective</p> <p>Main rules inaccurate</p> <p>Sub-rules/sub-elements/sub-issues and exceptions – are inaccurate or missing</p> <p>Unclear how the analysis applies to facts</p> <p>Unclear <u>why</u> the analysis applies to facts</p> <p>Does not identify or refute counter-arguments</p> <p>Does not identify or distinguish law supporting counter-arguments.</p> <p>Does not identify or distinguish facts supporting counter-arguments</p>

*Adapted from UNH Law Legal Writing I Standard Rubric– Analysis and Writing*



## MCL Sample Law School Rubric

For each of the following three sections, give specific feedback on what was positive, what needs to be improved, and a suggestion for how to improve.

### 1. Statement of the Issue and the Applicable Rule: Does the submission correctly and concisely state the issue and applicable rule in the appropriate format?

The issue format follows: *The issue is whether [basic legal question and rule at issue, including names of parties] when [essential legally significant facts, including names of parties].*

Precisely-stated issue: Does issue statement correctly employ whether-when format, including placement of legal rule and facts?

- 7 - The submission identifies and presents the precise issue with clarity. The reader has no trouble understanding it.
- 5 - The submission identifies and presents the precise issue, but the reader has some difficulty understanding
- 3 - The submission fails to identify the issue presented in any reasonably discernible manner. it.
- 1 - The submission fails to identify the issue presented in any reasonably discernible manner.

Applicable Rule: Is the rule stated accurately and precisely with citation to authority?

- 7 - The submission states the rule accurately, includes only the portion necessary for application to the facts, and states the authority relied on (e.g., Fed R Evid, FRCP, NY common law, etc.).
- 5 - The submission states the basic rule so that it is either mostly accurate OR precisely accurate but without reference to the authority relied on.
- 3 - The submission states the rule only somewhat accurately, OR mostly accurately but with reference to the wrong authority.
- 1 - The submission fails to state the correct rule.

### 2. Application of the Rule to Facts in Reaching a Sound Conclusion:

Does the submission fully apply law to facts, thoroughly addressing any counterarguments and uncertainties, and reaching a principled conclusion?

Fully articulates application of rule to facts: Does the application demonstrate the relationship between the legally relevant facts and the rule (including any elements or factors), making reasonable arguments for all parties, and identifying uncertainties?

- 7 - The submission fully articulates the application of the rule to relevant facts, showing how each relevant fact tends to prove the conclusion, and including reasonable counterarguments and uncertainties.
- 5 - The submission articulates the application of the rule to the relevant facts but neglects to address no more than one relevant fact, OR neglects to include reasonable counterarguments and uncertainties.
- 3 - The submission articulates the application of the rule to the relevant facts but omits one or more relevant facts AND neglects to include reasonable counterarguments and uncertainties.
- 1 - The submission is significantly flawed because it applies the wrong rule, OR applies only some of the elements of the rule and neglects to include reasonable counterarguments and uncertainties.

States a reasoned conclusion: Is the conclusion reasonable (or correct in the case of a clear answer) and supported?

- 7 - The submission states and justifies correct conclusion, or, if debatable, provides a principled basis for choosing one conclusion over another.
- 5 - The submission states the correct conclusion but with little or no support.
- 3 - The submission states a reasonable -- albeit not completely correct conclusion -- and provides a principled basis for the conclusion.

1 - The submission fails to state a valid conclusion.

### **3. Large-scale Organization & Clear, Correct Writing**

Is the submission well written, as to both organization and grammar?

Large-scale organization: Is the submission clearly organized using IRAC ?

7 - The submission is a clearly organized IRAC with appropriate labels, roadmaps, and thesis sentences to guide the reader.

5 - The submission is organized using IRAC but does not provide clear guidance through labels, roadmaps, and thesis sentences.

3 - The submission is organized using something similar to IRAC but requiring effort on the part of the reader to locate the issue, rule, application, or conclusion.

1 - The submission is organized so poorly that the reader cannot find the components of IRAC.

Clear, correct writing: Is the submission clearly written and easy to read and understand?

7 - The submission is a pleasure to read. It uses active voice, proper punctuation, and proper grammar and syntax.

5 - The reader can understand the submission even though it may use passive voice or contain a few punctuation, grammar, syntax, or typographical errors.

3 - The reader can discern the meaning of the submission with difficulty caused primarily by overuse of passive voice and/or frequent punctuation, grammar, syntax, or typographical errors

1 - The reader finds the submission largely unreadable because it fails to follow basic rules of grammar, punctuation, and syntax. It may also contain significant typographical errors.



Points	Discussion Board Assignment Performance Criteria
4 Points	The comment is original, relevant, demonstrates that you read and reflected upon the assigned material (or your colleague's point of view in the case of a response), and is well written. Four point comments add substantial discussion to the course, and stimulate additional thought about the issue. Authority for sources considered beyond the reading is provided.
3 Points	The comment lacks at least one of the above qualities, but is above average in quality. A three point comment makes a significant contribution to our understanding of the issue being discussed.
2 Points	The comment lacks two or three of the required qualities. Comments which are based solely upon personal opinion or personal experience without reference to assigned readings and other authoritative sources often fall within this category.
1 Point	The comment fails to demonstrate analysis and/or reflection on assigned readings and/or posts of colleagues. However, one point comments may provide important class participation and contribute to a collegial atmosphere.
0 Points	The comment adds no value to the discussion

## Rubric for Evaluation of Class Participation

Performance Elements or Criteria	Inadequate (0 point)	Developing but below expectations (1 points)	Accomplished/ Meets Expectations (2 points)	Exemplary/Displays leadership (3 points)	Score
<b>Level of Engagement and active participation</b>	Student never contributes to class discussion; fails to respond to direct questions	Few contributions to class discussion; Seldom volunteers but responds to direct questions	Proactively contributes to class discussion, asking questions and respond to direct questions	Proactively and regularly contributes to class discussion; Initiates discussion on issues related to class topic	
<b>Listening Skills</b>	Does not listen when others talk, interrupts, or makes inappropriate comments	Does not listen carefully and comments are often nonresponsive to discussion	Listens and appropriately responds to the contributions of others	Listens without interrupting and incorporates and expands on the contributions of other students	
<b>Relevance of Contribution to topic under discussion</b>	Contributions, when made, are off-topic or distract class from discussion	Contributions are sometimes off-topic or distracting	Contributions are always relevant	Contributions are relevant and promote deeper analysis of the topic	
<b>Preparation</b>	Student is not adequately prepared; Does not appear to have read the material in advance of class	Student has read the material but not closely or has read only some of the assigned material in advance of class	Student has read and thought about the material in advance of class	Student is consistently well-prepared; Frequently raises questions or comments on material outside the assignment	

Example of a Rubric for an Oral Presentation

Performance Elements or Criteria	Beginning	Acceptable	Exemplary	Points earned
Organization	No apparent organization; Evidence is not used to support assertions (0-3)	Presentation has a focus and provides some evidence which support conclusions (4-7)	Presentation is carefully organized and provides convincing evidence to support conclusions (8-10)	
Content	Inaccurate or overly general. Listeners unlikely to learn anything or may be misled (0-6)	Content is generally accurate but incomplete. Listeners may learn some isolated facts but they are unlikely to gain new insights about the topic (7-13)	Content is accurate and complete. Listeners are likely to gain new insights about the topic (14-20)	
Delivery	Speaker appears anxious and uncomfortable; reads notes, little or no eye contact (0-3)	Speaker is generally relaxed and comfortable, but too often relies on notes. Some eye contact 31 (4-7)	Speaker is relaxed and comfortable, speaks without undue reliance on notes, and interacts effectively with listeners (8-10)	

# Evaluating Assessment Activities to Improve Student Learning

You have written your weekly learning outcomes and shared them with your students. You have incorporated thoughtful learning resources, such as specific textbook pages and cases, articles and videos. You have assigned assessment activities to allow your students to demonstrate what they are learning and how they are meeting your learning outcomes. Now what?

## Examine the Evidence

In looking at the assessment activities your students completed, consider the following questions:

- Did the students follow the directions for the assessment activity?
- Did the assessment activity indicate whether students achieved the learning goals?
- Why do you think they have or have not achieved your learning goals?
- Are there results that fell short of where you wanted them to be?

## Understanding the Evidence

Assessments of student learning tell us what students have and have not learned, but most of them do not tell us **why**. Consider the following factors affecting student learning:

- Why did students learn X but not Y?
- Why did some students master Z but others didn't?
- Which learning resources best prepared students to succeed on the assessment activities?
- Which instructional strategies most helped students learn to think critically?

## Factors to Consider

- Do other assessments corroborate your evidence? Are students able to demonstrate knowledge of learning outcomes in a discussion board or hypothetical, for instance, but not on an MBE or multiple choice quiz?
- Does the evidence fall in appropriate patterns? Students should generally do better on assessments towards the end of the semester than towards the beginning of the semester.

**Ask your students!** If you are not sure why your students performed poorly on a particular assignment, ask them! Students will give perceptive and useful replies.

**Collaborate!** Collaboration allows you to see your own teaching through different lenses and multiple lenses simultaneously. You learn from others' areas of expertise, see into others' teaching practice, and help others understand the experience of your students' learning.

- Make it inquiry based: what can we learn about student learning and about our teaching?
- Did the student make sense of the assignment, or is there evidence to the contrary?
- Is there evidence of confusion or misunderstanding of key concepts being taught?
- What is the evidence of student mastery of the outcomes?
- Is there evidence that students understood or misunderstood the evaluation criteria?

**Tip!** Swap your student work with the student work of another professor and score one another's student work. What feedback do you have for each other?

**Next Steps!** Look at your learning matrix and syllabi to figure out whether your students are getting enough opportunities to develop and achieve the learning outcomes being assessed. Always remember to celebrate success as well!

Adapted from:

Suskie, L. (2018). *Assessing student learning: A common sense guide* (3rd ed.). San Francisco: Jossey-Bass.

Driscoll, A., & Wood, S. (2007). *Developing outcomes-based assessment for learner-centered education: A faculty introduction*.

Sterling, Virginia: Stylus Publishing, LLC.

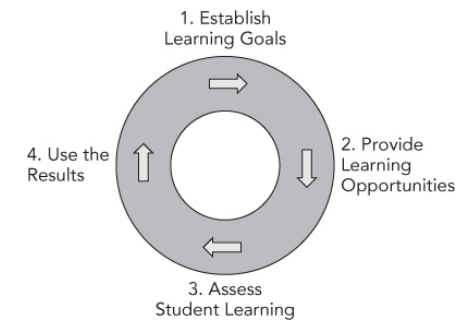


## Closing the Loop: The fourth step of the teaching-learning-assessment cycle

*The faster we can identify where students are struggling, the more opportunities we have to support them in meeting their learning outcomes in your course.*

### Teaching-Learning-Assessment Cycle

1. Establish clear, observable expected **goals** for student learning (the learning outcomes on the left of your matrix & posted to Populi).
2. Ensure students have sufficient **opportunities** to achieve those goals (using the learning resources you identify, preparing for and participating in your Zoom sessions and completing the assessment activities posted to Populi).
3. Systematically gather, analyze and interpret **evidence** of how well student learning meets your learning goals (browsing the discussion boards, reviewing student responses to prompts, analyzing quiz scores and utilizing Zoom polls are great examples).
4. Use the resulting information to understand and **improve** student learning. Are there concepts / issues / rules / cases you can help your students to better understand?



### Tips for Closing the Loop

- When reviewing assessment results, consider opportunities to improve student understanding. Speaking with your colleagues and your students are both excellent ways to go about analyzing data and pinpointing where your students need more support/practice.
- Once you know where the difficulty lies, the next step is to design and implement a learning intervention. Below are a few ideas, but feel free (and encouraged!) to come up with your own ideas for improving student understanding. Remember to recognize good outcomes and celebrate success with your students!
  1. **MBE Quizzes**: Choose 3 - 5 of the most commonly missed MBE quiz questions (see Populi Report email for more info). Review these questions in depth with your students, either during your Zoom session or in a recording posted to Populi. Address the issue, rule at play, why the correct answer is correct and why the incorrect answers are incorrect for each of the identified questions. Have your students complete an MBE Analysis Activity with one or two of the questions after your review and then include the identified questions on the next MBE quiz. This gives your students an opportunity to show you what they have learned and build confidence in their ability to answer those tough MBEs.
  2. **Hypos**: If a concept is not being adequately addressed on a discussion board, reflection or essay assignment, write out a sample response that addresses the issue(s) well. Work through the sample response with your students during your Zoom session or in a short, recorded lecture. Have the students use your sample and one of our rubrics to score and provide feedback on their own assignment as a breakout room activity with a small group of their classmates during your Zoom session or an assessment activity on Populi.
  3. **Fuzzy Understanding of a Topic**: Assign a mini research project on a specific topic / idea / rule / case. Ask the students to create a short video or presentation, a diagram, brochure or article that explains the concept. Let them choose their medium! Ask your students upload their work to Populi AND be prepared to present/share their work in your next Zoom session. Randomly call on two or three students to share (you could check their uploads ahead of time if you wanted to be slightly less random and call on better examples).

### Recommended Next Steps:

1. Choose one assessment activity to review (MBE quizzes, discussions, reflections, hypos, Zoom polls, etc.).
2. Review the assessment results. Where did your students seem to struggle?
3. Discuss the assessment results with your colleagues teaching the same subject as you. Have they noticed a similar pattern?
4. Are you able to identify where / why the students are struggling? Asking students any follow-up questions to understand the results is an excellent way to open dialogue with your students and understand where the difficulty lies.
5. Choose a learning intervention that you think will work best for your students and yourself. Implement your learning intervention (please remember to add it to your learning matrix and/or follow up with the Online Ed team)