

*SUMMATIVE STUDENT ASSESSMENT  
THROUGH ORAL EXAMINATION:  
A MIDTERM EXPERIMENT IN A SMALL DOCTRINAL  
CLASS SETTING AND PRELIMINARY THOUGHTS  
ABOUT SCALING THE CONCEPT TO A LARGER  
CLASS ENVIRONMENT*

*Legal Education at the Crossroads v. 3:  
Conference on Assessment*

Joan MacLeod Heminway



College of Law

# Presentation Outline

- ▣ What did I do?
- ▣ How did I do it?
- ▣ Why did I do it?
- ▣ How did it go?
- ▣ Will I do it again?
- ▣ If so, how will I improve it?
- ▣ Can it be extended to other courses?
- ▣ Can it be scaled up to larger courses?

# The Experiment

- ▣ Spring 2009
- ▣ Securities Regulation
- ▣ 10 students (not usually more than 20)
- ▣ Informed about midterm (incl. the week during which examinations would be rendered) in **Class Syllabus and Course Outline**
- ▣ Students signed up for times (30-minute slots) on TWEN a few weeks in advance
- ▣ **Oral Examination instructions and fact pattern (9 pages)**, but no questions, given out one week prior to the examination week

# The Experiment (cont.)

- ▣ Open-book format
- ▣ Facts and issues identified from them can be discussed among the students during the week before the examination
- ▣ Questions during this week are to be posted on the TWEN site
- ▣ Once the examination week begins, no discussions on the examination are permitted until all examinations are completed
- ▣ Grading done during the examination on a **Grading Sheet**
- ▣ 20% of final grade

# Motivation

- ▣ Concern about underperforming students (2007 & 2008)
  - Single, summative, written exam
  - Formative assessment in the form of writing assignments and oral exercises
- ▣ Reassessment of assessment tools in light of course objectives
  - Transaction planning and implementation require both oral and writing skills/oral and written analysis
- ▣ Belief that every summative tool can be formative (need for more “teaching moments”)

# Anecdotal Results

- ▣ Less variance in performance than the written final examination
  - Corroborated my informal observations
  - Provided better alignment of objectives with assessment tools
- ▣ Additional teaching and learning device for the substantive law and skills being taught in the course
- ▣ Closer, more collaborative working relationships among the students and between me and the students

# Drawbacks

- ▣ Five hours of student evaluation time added to the existing course burdens (not to mention the time spent in creating the evaluative tool)
  - First time I offered a midterm
  - Time spent is about the same, however, as that used in grading one or more written responses to essay questions worth the same percentage of the student's grade
- ▣ Assessment overload?
  - One student complained in the end-of-course evaluation that there was too much assessment in the course

# Meaningful Rubrics

- ▣ Content – analytic and holistic metrics
  - Issue spotting (analytic)
  - Knowledge of doctrine (analytic)
  - Legal analysis (holistic; using IRAC – really **IRCAC**; using the “Basic Process” to identify applicable **Rules**)
- ▣ Point weighting
  - Based on my assessment of the importance of the concepts and skills (**credit for citations to rules**)
- ▣ Using the instruction sheet to convey the essence of the grading criteria (key rubric)
  - Formative (well-conveyed rubrics continue the teaching)
  - Analytic (assess student performance in task completion)
  - Holistic (assess student performance in legal analysis)

# The Key Rubric

To receive maximum credit in analyzing a legal issue from the fact pattern, you should do four things (in addition to identifying the legal issue):

- (a) recite or describe any rule under applicable law (statutory or decisional) and/or regulation;
- (b) cite to that applicable law and/or regulation;
- (c) apply the rule from that applicable law and/or regulation to the facts; and
- (d) draw a legal conclusion from that application/analysis.

# Advantages of Rubric Transparency

- ▣ Mutual clarity of expectations
- ▣ Better student understanding of instructor critiques
- ▣ Better student understanding of deficiencies
- ▣ Increased objectivity
- ▣ Increased consistency
- ▣ Better alignment of teaching objectives and assessment metrics
- ▣ Reduced time in student evaluation
- ▣ Useful feedback on teaching and learning

# Loss of Anonymity

- ▣ Upper division offering
- ▣ Includes both an anonymously graded written final examination and non-anonymously graded midterm and writing exercises
- ▣ Formative aspects (opportunity for instructor/student engagement targeted at student improvement) would be lessened
- ▣ Lack of anonymity transitions students to law practice (where they will be evaluated non-anonymously and sometimes in front of their peers)

# Handling the Grading Practicalities

## UT College of Law policy:

“Instructors in these courses are asked to submit to the Student Records Office grades for each anonymously-graded exercise as well as grades for the exercises that are not graded anonymously. After receiving both sets of grades, the Student Records Office will compile a list indicating the grades a student earned on each component of the course, identifying the students by number. Only then will the Student Records provide the instructor with a list of all the grades each student was assigned on each component. The instructor then will calculate the final grades.”

# The Future

- ▣ To be used again in the same course (Securities Regulation) for Spring 2010 term
  - Enhance rubric (for me and for students)?
  - Your suggestions for improvement?
- ▣ Desire to use oral evaluation in Business Associations
  - Doctrinal course also taught principally from a transaction planning perspective
  - 50-72 students
- ▣ Scaling up?
  - Group evaluation?
  - Shorter time frame?
  - Final (all or part?), rather than midterm?
  - Your thoughts . . . ?