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

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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
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
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”)

Motivation
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)
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)
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 . . . ?