QUICK REFERENCE GUIDE

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QUICK LIST OF TELEPHONE NUMBERS .................................. Back of Rear Cover
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### 2013 FALL ADMINISTRATIVE CALENDAR

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<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday, July 15</td>
<td>7:00 AM - Fall Registration Begins</td>
</tr>
<tr>
<td>Monday, July 29</td>
<td>First Day to Enroll from Waitlist (Phase I)</td>
</tr>
<tr>
<td>Thursday, August 1</td>
<td>1:00 PM - Last Notification of Eligibility to Enroll from Waitlist (Phase I)</td>
</tr>
<tr>
<td>Friday, August 2</td>
<td>8:59 AM - Deadline to Register from Waitlist (Phase I)</td>
</tr>
<tr>
<td>Wednesday, August 14</td>
<td>First Day to Enroll from Waitlist (Phase II)</td>
</tr>
<tr>
<td>Monday, August 19</td>
<td>Classes Begin</td>
</tr>
<tr>
<td>Thursday, August 22</td>
<td>9:00 AM - Deadline to Waitlist a Class</td>
</tr>
<tr>
<td></td>
<td>1:00 PM - Last Notification of Eligibility to Enroll from Waitlist (Phase II)</td>
</tr>
<tr>
<td>Friday, August 23</td>
<td>8:59 AM - Deadline to Register from Waitlist (Phase II)</td>
</tr>
<tr>
<td></td>
<td>All Waitlist Requests Expire</td>
</tr>
<tr>
<td></td>
<td>9:00 AM thru Saturday, August 24 6:59 PM - Registration Functionalities Unavailable</td>
</tr>
<tr>
<td>Saturday, August 24</td>
<td>7:00 PM - Open Add Period Begins</td>
</tr>
<tr>
<td>Monday, August 26</td>
<td>6:59 PM - Open Add Period Ends - Deadline to Add a Class</td>
</tr>
<tr>
<td></td>
<td>7:00 PM - Drop Only Period Begins</td>
</tr>
<tr>
<td>Monday, September 2</td>
<td>Labor Day Holiday Observed - No Classes *</td>
</tr>
<tr>
<td>Friday, September 6</td>
<td>3:59 PM - Drop Only Period Ends</td>
</tr>
<tr>
<td></td>
<td>-- Deadline to Drop a Class without a &quot;W&quot; --</td>
</tr>
<tr>
<td></td>
<td>4:00 PM - Withdraw Only Period Begins (With a grade of &quot;W&quot;)</td>
</tr>
<tr>
<td>Friday, September 13</td>
<td>Yom Kippur Observed - No Evening Classes</td>
</tr>
<tr>
<td>Saturday, September 14</td>
<td>Yom Kippur Observed - No Classes</td>
</tr>
<tr>
<td>Tuesday, September 10</td>
<td>Application Receipt Deadline for November 2013 MPRE Exam</td>
</tr>
<tr>
<td>Monday, September 30</td>
<td>(Tentative) First day to apply Online for the February 2014 Bar Exam (CBX)</td>
</tr>
<tr>
<td>Monday, October 7</td>
<td>Open Class Days** - First Year Mid-term Examinations**</td>
</tr>
<tr>
<td>Tuesday, October 8</td>
<td>Open Class Days**</td>
</tr>
<tr>
<td>Sunday, October 13</td>
<td>Major Legal Writing Graded Assignments Due at 10:00 PM (via TWEN)</td>
</tr>
<tr>
<td>Wednesday, October 16</td>
<td>Monday Classes Meet - No Wednesday Classes</td>
</tr>
<tr>
<td>Thursday, October 31</td>
<td>(Tentative) Timely Filing Deadline for the February 2014 Bar Exam (CBX)</td>
</tr>
<tr>
<td>Saturday, November 2</td>
<td>MPRE Examination</td>
</tr>
<tr>
<td>Monday, November 4</td>
<td>Student Course Evaluations Begin</td>
</tr>
<tr>
<td>Thursday, November 14</td>
<td>Last Thursday Class</td>
</tr>
<tr>
<td>Friday, November 15</td>
<td>Last Friday Class</td>
</tr>
<tr>
<td>Monday, November 18</td>
<td>Last Monday Class</td>
</tr>
<tr>
<td>Tuesday, November 19</td>
<td>Last Tuesday Class</td>
</tr>
<tr>
<td>Wednesday, November 20</td>
<td>Last Wednesday Class</td>
</tr>
<tr>
<td>Thursday and Friday,</td>
<td>Flex Day for Day and Evening Classes***</td>
</tr>
<tr>
<td>November 21 and 22</td>
<td></td>
</tr>
<tr>
<td>Friday, November 22</td>
<td>Student Course Evaluations End;</td>
</tr>
<tr>
<td></td>
<td>Last day to Withdraw from a Class</td>
</tr>
<tr>
<td>Monday, November 25</td>
<td>Reading Period Begins</td>
</tr>
<tr>
<td>Thursday and Friday, November 28 and 29</td>
<td>Thanksgiving Holiday Observed - No Classes *</td>
</tr>
<tr>
<td>Sunday, December 1</td>
<td>Reading Period Ends</td>
</tr>
<tr>
<td>Monday, December 2</td>
<td>First Day of Examination Period</td>
</tr>
<tr>
<td>Tuesday, December 17</td>
<td>Last Day of Examination Period</td>
</tr>
</tbody>
</table>

*Administrative offices are closed and auxiliary services are not available.
2014 Spring Administrative Calendar

Monday, October 7
7:00 AM - Spring Registration Begins

Monday, October 21
First Day to Enroll from Waitlist (Phase I)

Thursday, October 24
1:00 PM - Last Notification of Eligibility to Enroll from Waitlist Sent (Phase I)

Friday, October 25
8:59 PM - Deadline to Register from a Waitlist (Phase I)

TBD
Orientation Part II - (Mandatory for all first year day and evening students)
Wednesday, January 8 First Notification of Eligibility to Enroll from a Waitlist Sent (Phase II)
First Day to Enroll from Waitlist (Phase II)

Monday, January 13
Classes Begin

Tuesday, January 14
(Tentative) Deadline to Submit Online Application for the February 2014 Bar Exam (CBX)

Thursday, January 16
9:00 AM - Deadline to Waitlist a Class
1:00 PM - Last Notification of Eligibility to Enroll from Waitlist Sent (Phase II)
9:00 AM Friday, January 17 to 6:59 PM Saturday, January 18, - Registration Functionalities Unavailable

Saturday, January 18
7:00 PM - Open Add Period Begins

Monday, January 20
Martin Luther King Jr. Holiday Observed - No Classes*

Tuesday, January 21
6:59 PM - Open Add Period Ends - Deadline to Add a Class
7:00 PM - Drop Only Period Begins

Friday, January 31
3:59 PM - Drop Only Period Ends - Deadline to Drop a Class without a "W"
4:00 PM - Withdraw Only Period Begins

TBD
Major Legal Writing Graded Assignments Due at TBD (via TWEN)

Friday, January 31
Application period begins for the July 2014 California State Bar Exam (CBX)

Monday, March 3
First Year Day Mid-term Examinations
**Open Class Day**

Tuesday, March 4 thru

Friday, March 7
Spring Break -- (All Administrative Offices are Closed on Friday, March 7)

Monday, March 31
Cesar Chavez Holiday Observed - No Classes *

TBD
Major Legal Writing Graded Assignments Due at 7:30 AM (via TWEN)

Monday, April 1
Timely Filing for the July 2014 California State Bar Exam (CBX)

Tuesday, April 1
Monday Classes Meet

Wednesday, April 16
Last Wednesday Class

Thursday, April 17
Last Thursday Class

Friday, April 18
Good Friday Observed - No Classes *

Monday, April 21
Monday Classes Meet; Last Monday Class

Tuesday, April 22
Last Tuesday Class

Wednesday, April 23
Friday Classes Meet; Last Friday Class

Thursday, April 24 and

Friday, April 25
Flex Days ***

Friday, April 25
11:59 PM - Deadline to Withdraw from a Class

Saturday, April 26
Reading Period Begins

Wednesday, April 30
Reading Period Ends

Thursday, May 1
First Day of Examination Period

Friday, May 16
Last Day of Examination Period

Sunday, May 18
Graduation (Westchester Campus)

Monday, June 16
Final Filing Deadline for the July 2013 California State Bar Exam (CBX)
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GENERAL INFORMATION

1.1. Faculty Appointment Letter

For each semester that you teach, you will receive a contract from the Dean of the Law School. It will state the course title, semester, day and time of your class, any co-teachers, and the honorarium you will receive for each course. Please read it carefully. If any of the information in the letter is incorrect, please contact Byllie Richardson, Administrative Assistant, Office of the Dean, at (213) 736-1038.

1.2. Adjunct Involvement in the Law School’s Intellectual Life

We welcome adjunct participation in the intellectual life of the Law School. Throughout the year the Law School hosts faculty workshops featuring works-in-progress presentations by Loyola faculty and faculty from other law schools. The schedule for these workshops can be found at http://faculty.lls.edu/workshops/2013fall.html and http://faculty.lls.edu/workshops/2014spring.html. Attendance at workshops is free, but an RSVP to Bridget Klink (213-736-1407 or bridget.klink@lls.edu) is appreciated. You should also contact Bridget a week or two before the workshop to make sure it is still on; sometimes they are rescheduled.

The Law School also hosts a variety of practitioner-oriented events throughout the year. These are primarily for the benefit of the local legal community. A schedule of these events can be found at http://events.lls.edu/. Sometimes these events are fully booked, and attendance cannot be guaranteed. If you wish to attend one of these events, please contact the Associate Dean for Faculty as early as possible.

The Law School and its student groups often host speakers and other events that might be of interest to adjunct faculty. Check the weekly publication In Brief, which gives notice of these events. In Brief can be found online at www.inbrief.lls.edu.

1.3. Adjunct Coordinator

Byllie Richardson, serves as the Law School’s coordinator for adjunct faculty. Her office is B200, in the Dean’s Suite on the second floor of the Burns Building; her telephone number is (213) 736-1038 and her e-mail address is Byllie.richardson@lls.edu. Ms. Richardson can assist you with questions or problems that arise at the Law School.

1.4. Adjunct Faculty Office

The adjunct office is located on the second floor of the Rains Library building, room R201 on a first come first serve basis. The office is equipped with phone, computer, printer, Internet connection and general office supplies. Please feel free to contact the Information Center at 213-736-1001, to reserve it. You may also use the Faculty Lounge on the 3rd floor of the Burns Building.

1.5. Identification Card & Access to Faculty Areas at the Law School
You must obtain a picture ID card at the beginning of the semester. Please contact Esther Martinez of Campus Planning at (213) 736-1409 to obtain a card. Your identification card allows you access to the Faculty Computer Center (Burns 318), Instructional Media Center (3rd Floor Girardi Building), Faculty Lounge, and access to Burns Building, Rains Building and Casassa Building during times when the buildings are locked. All administrative records will use this ID number so please be sure to get your ID from Campus Planning. Please see Appendix L for electronic submission of ID Photo.

1.6. Payroll

Currently the Law School pays on a bi-weekly schedule. Employees have the option of receiving that pay via a negotiable check or automatic deposit. Should you choose to be paid via a negotiable check, it will be mailed to your home or office as you designate. Withholding tax, automatic deposit and distribution forms will be included in the packet you receive with your contract. Your contract will identify the beginning and ending pay dates. Should you have any questions, please call or email Marti Reynolds (213-736-1020 or marti.reynolds@lls.edu) or Rosie Branconier (213-736-8105 or rosie.branconier@lls.edu).

1.7. Mailing Address

We will send all Loyola-related mail to you at your office address unless you specify otherwise. Please make sure that you inform Byllie Richardson (213-736-1038 or Byllie.richardson@lls.edu) of the Deans’ suite of your current address and of any address changes.

1.7.1. E-mail

You will be given an official Loyola Law School e-mail address. It is: Firstname.Lastname@lls.edu. Check your Loyola e-mail frequently because students and staff will send messages to this address. This is the email address that all administrative offices will use. Please see Appendix K for forwarding your LLS email to an alternate account. Your grades must be submitted using your LLS email account otherwise the system will reject them as spam.

1.8. Parking

The Loyola Law School parking structure is located on the west side of Albany Street between Olympic Blvd. and James Wood Boulevard. Parking is available to adjunct professors on a per semester basis by paying the vehicle registration fee of $211.36, or the daily rate of $2.00 per 1/2 hour with a $6.00 maximum. Weekend parking rates are $3.00 a day. If you elect to pay the vehicle registration fee for the semester, you will receive a parking card to permit access to the parking structure. This will be done at the orientation meeting for new adjuncts prior to the beginning of each semester, or you may make individual arrangements by contacting Esther Martinez, Office of Campus Planning, at (213) 736-8391.

Parking spaces are available for disabled members of the Law School Community. To park in these spaces (blue coded) a special placard must be displayed at all times. The placard
must be obtained though the Department of Motor Vehicles or the Automobile Club of Southern California (AAA). Under California law, there can be no exceptions to this policy. Loyola Law School would be cited by local authorities accordingly. Anyone parking in a disabled space must either have a valid law school parking card or pay the daily parking rate.

1.9. Continuing Legal Education

You may receive M.C.L.E. credit for teaching. (See the State Bar of California’s MCLE Rules and Regulations Section 5.4 - Credit for Teaching a Law School class.) If you need documentation, or have any questions in this regard, please contact Ms. Alicia Mejia at (213) 736-1070.

1.10. Faculty Support Services

The Faculty Support Office is located in the Burns Building, room 320. Unfortunately, we cannot provide regular secretarial support for adjunct faculty members. Bridget Klink at (213) 736-1407 (bridget.klink @lls.edu) will assist you with posting of your assignments and can direct you to the appropriate departments for other assistance. Ms. Klink will send you an email detailing the scope of her duties regarding adjunct faculty.

First Assignment — Please submit your reading assignment for the first day of class to Faculty Support so that it may be posted on Loyola’s website on the internet. Assignments should be sent to Ms. Klink as soon as possible, but no later than 10 days before the first day of class. Even if you do not have an assignment, please inform Ms. Klink so that she can post a notice to that effect.

Seating Chart — Available from Faculty Support and on the Web at https://my.lls.edu/facultysupport/classroomseatingcharts

1.11. Photocopying/Distribution of Materials

If you have any material for reproduction, you may deliver it to the Graphics Department located in the basement of Founders Hall. The Department’s hours of operation are 9:00 a.m. - 7:00 p.m. Monday through Thursday and 9:00 a.m. to 4:00 p.m. on Friday. The telephone number is (213) 736-1012. Please coordinate with Graphics and allow them sufficient time (preferably 3 days turnaround) to photocopy your materials. It is important that you number the pages of your material(s) in case the photocopier jams and your material(s) get out of order. Being ecologically minded, we photocopy on both sides of the paper unless you specify otherwise. Once your document is photocopied, you may pick it up from Graphics for distribution to your class.

Adjunct faculty members are responsible for obtaining permission to duplicate copyrighted materials, in excess of what is permitted by fair use, for classroom handouts or for casebooks or other compilations sold to students by the Graphics Department. The copyright law doctrine of “fair use” permits relatively little copying. It would not permit, for example, copying of an article or book chapter. Permission to copy law review articles usually may be obtained without charge, simply by writing to the journal in which the article appeared (and in some cases to the article’s author as well). Permission to copy material from books may be more
difficult to obtain, especially if the book is still in print and is published for the education market. Therefore, permission to copy material from books should be requested far enough in advance so that alternatives (such as putting the book on reserve in the Library, or selecting different material altogether) can be arranged, if permission is denied.

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- Approximate number of copies being distributed
- Purpose and format of use

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Fax: (651) 687-7551
Address: West A Thomson Business,
Copyright Services,
610 Opperman Drive, Eagan, MN 55123
E-mail: copyright.west@thomsonreuters.com
Copyright Service Contacts: Anne Barnard: x76387 Donna Gies: x77870
The foregoing arrangement will permit the unrestricted copying of National Reporter System opinions and West Annotated Statutes for classroom use. Also, our company will be informed with regard to the nature and extent of the use of our copyrighted material.

1.12. Instructional Technology

The Instructional Technology Department, located on the 3rd floor of the Girardi Building, provides support and training for classroom technology equipment, audio and/or video capture and recording. For training on specific equipment or to consult on ways to use technology in your teaching, contact Corinne St. Claire, at (213) 736-8351.

Instructional Technology has a number of studios that can be used to videotape depositions, mock negotiations, oral arguments, and interviews. Technicians can assist you in creating and planning media presentations for your class. Should you wish to use any of these services, please contact Stuart Miller or Arnold Diaz at (213) 736-1111 or email instructional-technology.dpt@mailman.lls.edu to assure that the services and personnel are available. Our office is open Monday through Thursday from 8 a.m. to 9:00 p.m. and Friday from 8:00 a.m. to 3:00 p.m.

Generally, classes are audio-recorded for individual students, with a link to the recording sent to the requesting student. If you want to enforce a recording policy other than this (e.g., a more restrictive policy, or general taping with links to the recordings posted to your class website), please contact Instructional Technology at (213) 736-1111.

1.13. Supplies

Adjunct faculty members must request all supplies through the Adjunct Coordinator, Byllie Richardson (213) 736-1038. The Associate Dean for Faculty must approve any supplies ordered by faculty in excess of $25.

1.14. Bookstore and Book Orders

The Bookstore will be located in the basement of the Casassa Building until approximately mid-September. It will then move to its new permanent location on the main floor of the Burns Building. The telephone number for the Bookstore is (213) 736-1032. The Bookstore carries required texts, hornbooks, outlines, stationery supplies, Loyola apparel and a variety of other items. The manager for the Bookstore sends a book order form to each faculty member well before the beginning of each term. Please cooperate with the manager by returning book orders in a timely fashion.
1.15. **Evaluation Process**

Adjunct faculty may be evaluated in three ways. First, student evaluations are conducted by the Office of the Registrar. These evaluations are made available to adjunct faculty members after grades have been finalized. Copies of the statistical summary of the evaluations are kept on file at the Circulation Desk of the Library. Second, adjunct faculty may be evaluated by a member of the Law School’s permanent faculty. Third, evaluations are reviewed annually by the Dean and Associate Dean for Faculty. They are used in the Dean’s decisions to rehire Adjunct Faculty.

1.1.6. **Student Handbook**

A variety of information concerning students and academic rules is contained in the *Student Handbook*. A copy of the handbook is available from Byllie Richardson.

1.1.7. **Student Problems**

There are occasions when a problem with a student may arise -- situations ranging from excessive absence to sudden illness or disability. Such problems should be referred to Matthew Riojas, Director of Student Affairs, at (213) 736-8152, or Helen Albertson, Associate Dean for Student Affairs, who can be reached at (213) 736-1028.

1.1.8. **Class Web Page**

Faculty Support will establish a web page for your course where you can post your syllabus, notices, handouts, and other pertinent items. Call Bridget Klink at (213) 736-1407 for details. Many students refer to the class web pages as their first source of class information during the semester, so please consider keeping your page current.
2. GETTING STARTED: CHECKLISTS

2.1. Checklist #1: Before the Semester Begins

_____ Order casebook(s). Contact the manager of the Bookstore at the Law School at (213) 736-1032.

_____ Send first day's assignment to Bridget Klink (bridget.klink@lls.edu) Faculty Support Services, to post on the law school website. (Even if you do not have an assignment, please notify her so she can post a notice to that effect.)

_____ Transmit course syllabus and any class materials and handouts to be copied to Graphics Department for photocopying and, if necessary, distribution to students. You may either send your materials directly to Graphics ((213) 736-1187) or send them to Bridget Klink, who will forward them. Either way, all materials must be transmitted in camera-ready form, with whatever pagination and other marks you wish. Neither Graphics nor Bridget can edit your materials.

_____ Notify Circulation Desk in Library of any items to be placed on reserve. (213) 736-1181.

_____ Have you received an initial class roster? Many names may change before the end of the add/drop period. You will receive an interim update at the adjunct faculty orientation (also available at the Information Center if you missed the orientation), another during the first week of class, and another update after the add/drop period, available at the Information Center. If you have questions, please call Jerome Thompson, Office of the Registrar, at (213) 736-1016. You can also download and print an updated roster for your class at https://webxo.lls.edu/regapp/SWS_WEBLOGIN_PKG.UI_Login. Your login name is the same as your email login. Unless you changed it yourself, your default password is your initials and the last six digits of your Loyola ID number (the number on your Loyola ID card). Thus, for Joseph Garcia the default password would be “jg” plus the last six digits of his Loyola ID card.

_____ Pick up a seating chart for your classroom from Faculty Support Services (B320), or download from http://classes.lls.edu/charts/.

_____ Please return your signed contract, a completed I-9 (Employment Eligibility Verification form), State and Federal withholding forms, the vehicle registration form and the check designation form to Administrative Assistant, Byllie Richardson. Sometimes the contract packet will have other forms for you to sign and return as well.
2.2. Checklist #2: First Day of Class

_____ Call the roll if the Office of the Registrar has notified you that your class is closed. Add names of those who say they have enrolled and note those absent. If there is a waiting list, you must report first day absences to the Office of the Registrar. A new class roster will be available at the Information Center at the end of the first week and again about two weeks after classes begin, after the add/drop period. The official class roster is that provided by the Office of the Registrar; you cannot enroll students in your class or let students in from the waiting list. See Section 2.1, above, for instructions on how to download and print a roster from the Internet.

_____ Tell students how they can best reach you and when you are available to discuss the course. Students are given your office telephone number unless you instruct us otherwise. Neither Faculty Support Services nor the Information Center is able to take messages.

_____ Review syllabus and academic calendar with class. Are there any holidays that affect the class (e.g., class days rescheduled due to holidays)? Are any days during the last week of the class scheduled for a day other than the regular day (e.g., if the last Monday class is scheduled for a Tuesday)? Have you rescheduled any class meetings? (Please see § 4.2 for policy on rescheduling classes).

_____ Discuss plans for evaluation of students. Will there be an exam or paper or both? Do you have an attendance policy? Will class participation be taken into account in the final grade? If so, tell the students. (See § 5.2.4 infra for the relevant policies.) Will the final exam be closed or open book? If a paper, what are the due dates? Please repeat this information during the second week for the benefit of students adding the class during the first week; in the past problems have arisen when students have claimed ignorance of rules because they added the class after the first week. Please provide your grading policies to your students in writing.
2.3. **Checklist #3: Examinations and Grading**

_____ Define the type and length of your exam and, if possible, indicate it on your syllabus (you will get questions from the students, and they will base enrollment decisions on your answer)

_____ If you are giving an examination, begin writing the examination well before the last week of the term.

_____ Provide an electronic copy of your typed and proofread examination to Faculty Support (either via e-mail attachment or on disk in Word format) at least one week before the exam is scheduled.

_____ Proofread your examination very carefully. Make sure that your instructions are clear and precise.

_____ The Office of the Registrar will notify you when your examination is ready to be picked up for grading.

_____ Submit your raw grades for normalization to the Office of the Registrar.

_____ Complete your grading by the deadline set by the Registrar. Deliver your grades to the Office of the Registrar in person or by fax or email.

_____ Return examinations or papers to Faculty Support, which will send them to the Graphics Department for pickup by students.

_____ If you are giving a take-home examination or paper that will be due during the examination period, please refer to the Vital Examination Memo attached hereto as Appendix D.

_____ You are responsible for grading student work. You may not delegate this central part of your job to anyone else.

_____ Review the Exam Memo from the Associate Dean that is distributed at the end of each semester.

_____ Use the same evaluation mechanisms for all students. Do not, for example, allow some to write papers and others to take exams.

_____ For other general matters please review the Vital Examination Matters memo attached hereto as Appendix D.
3. **LIBRARY SERVICES**

3.1. **Rains Library Building**

The William M. Rains Law Library offers a wide range of services to assist adjunct faculty with their teaching responsibilities.

3.2. **Circulation**

To borrow books and other materials from the Law Library, adjunct faculty members should present their Loyola identification card at the Circulation Desk located on the first floor of the Library. Adjunct faculty members may check out books for a period of one semester or summer session. They may be renewed by phone; to do so, please contact a member of the Circulation staff at (213) 736-1117.

All patrons must have a bar code label affixed to their I.D. cards for use with the automated circulation system. Please present your Loyola I.D. card to the Circulation Desk for bar coding.

The Library staff request that adjunct professors promptly return materials that are no longer used for teaching purposes, materials that have been recalled, and any items adjunct faculty members have outstanding at the close of their teaching semester or summer session.

3.3. **Reserve**

The Public Services Department of the William M. Rains Law Library keeps books and articles on reserve at the Circulation Desk for class assignments requested by any teaching faculty. Course Reserve materials may be checked out by students with a valid Loyola I.D. card for a period of two hours. They may be renewed at the Circulation Desk, unless a hold has been placed on the item.

To place materials on Course Reserve, contact David Burch, at (213) 736-1115, and/or email – David.burch@lls.edu. You may also contact a Public Services staff person at (213) 736-1117, Monday through Friday between 9:00 a.m. and 5:00 p.m. Adjunct faculty members are advised to send lists of materials to be placed on Course Reserve at least one month prior to the beginning of the semester, and one week in advance of the assignment during the semester. It is highly recommended that adjunct faculty members contact the David Burch directly regarding all Course Reserve materials.

3.4. **Contents Pages**

*The Contents Pages and Acquisitions Lists* are publications listing the latest books acquired by the William M. Rains Library and the Tables of Contents of recently received journals. The *Contents Pages* may be viewed at [http://library.lls.edu/eresources/contentspages/](http://library.lls.edu/eresources/contentspages/) and one may go to [http://library.lls.edu/eresources/acqlist/](http://library.lls.edu/eresources/acqlist/) to view the *Acquisitions Lists.*
3.5. Reference Service

To assist adjunct faculty in researching topics related to their teaching responsibilities, the Library provides reference assistance in legal and non-legal areas. For bibliographic verification and basic reference assistance, contact the Reference Services Librarian at (213) 736-1177, or visit the Reference Desk, located adjacent to the Circulation Desk on the 1st floor of the Library.

3.6. Hours

The Library schedule will list hours the Library is open. A professional reference librarian is on duty Monday through Thursday, between 9:00 a.m. and 9:00 p.m., Friday from 9:00 a.m. to 5:00 p.m., and Saturday and Sunday from 9:00 a.m. to 5:00 p.m. during the academic year while classes are in session.

3.7. Library Liaison

Your library liaison is David Burch. His telephone number is (213) 736-1115, and his email address is david.burch@lls.edu.

4. CURRICULUM AND ACADEMIC STANDARDS

4.1. Student Attendance

4.1.1. Attendance in General

Rule 305 of the Policies of the Council of the Section of Legal Education and Admissions to the Bar and of the Accreditation Committee states in pertinent part:

(c) A full-time student, to satisfy residence study requirements, shall devote substantially all working hours to the study of law and shall not engage in remunerative employment for more than 20 hours per week, whether outside or inside the law school. Regular and punctual class attendance is necessary to satisfy residence and class hours requirements. The Law School has the burden to show that it has adopted and enforces policies relating to class attendance.

The Law School adheres to Standard 305. With the exception of first-week class meetings, which are discussed below, it is the obligation of individual faculty members to establish policies in their classes which ensure compliance with Standard 305. That policy must be announced to the students in the class. If a student is at risk of violating a faculty member’s attendance policy and being excluded from class attendance, the professor should make every effort to warn the student in writing before the violation occurs. The Office of the Registrar will assist faculty members in communicating with students who have attendance problems.
4.1.2. **Attendance During First Week of Classes**

Professors who teach upper-division (i.e., non first-year) classes will be notified by the Registrar prior to the first class meeting if their class is “closed” (i.e., no more seats are available and students are listed on a waiting list). Professors receiving such notification must take roll for each session that the class meets during the first week of the semester. The Office of the Registrar will distribute class rosters to professors for such purpose.

After each class meeting during the first week, the professor must immediately send to the Office of the Registrar a list of all students who did not attend a class meeting and whom the professor did not excuse from attendance. A professor may, in his or her discretion, for good cause excuse a student from attending a class meeting during the first week, if the student contacts the professor prior to the time the class meets. Thereafter, the Registrar will drop all students who have no excuse for missing a first-week class meeting, and a student on the waiting list will be notified that he or she may register for the class. Professors have no control over waitlist decisions or registration. Please refer students to the Office of the Registrar with any questions or concerns about course registration.

The policy of dropping students who do not attend during the first week of class does not apply, however, to required upper-division classes such as Constitutional Law II, Ethical Lawyering, and Evidence. Students are sometimes assigned involuntarily to sections of these classes, and a student may not avoid such an involuntary assignment by missing the first week of class. This policy is administered by the Office of the Registrar and faculty members should address questions regarding the policy to the Registrar.

4.2. **Postponement of Classes**

The Dean has established the following policy on canceled and “make-up” classes.

4.2.1. **Rescheduling for Professional Reasons**

Faculty members are expected to teach their classes when scheduled. However, on rare occasions, faculty members may reschedule classes for professional reasons. Each faculty member may reschedule a maximum of two class meetings during the course of the academic term. The faculty member shall inform the Associate Dean for Faculty of such class cancellations in advance, and shall include information in that notice concerning make-up classes. Rescheduling in addition to the two-day maximum for professional reasons must be approved in advance by the Associate Dean for Faculty.

4.2.2. **Cancellations During the First and Last Weeks of Class**

Faculty members are urged not to cancel classes during the first or last week of class without very good reasons. Cancellations during the first and last week for reasons other than illness or family emergency should be approved in advance by the Associate Dean for Faculty.
4.2.3. **Rescheduling for Reasons of Illness or Family Emergency**

Classes canceled because of the faculty member’s illness or family/personal emergencies are not included in this limitation on cancellations. However, written notice of make-up classes should be provided to the Associate Dean for Faculty at the earliest possible time.

4.2.4. **Definition of Canceled Class for the Purposes of this Policy**

Rearranged or exchanged classes with other professors, and classes in which there are guest lecturers when the professor is not present, are canceled classes for the purposes of the limitations in this policy.

4.2.5. **Requests for Waivers**

If a professor seeks an exception to this policy to permit the rescheduling of a greater number of classes, a written request must be made in advance to the Associate Dean for Faculty. Permission will be granted only under extraordinary circumstances. Excess unexcused, rescheduled, or missed classes will be taken into consideration in evaluations, salary determinations and rehiring decisions.

4.2.6. **Modifications of Class Schedules for Academic Reasons**

This policy does not affect modifications of class schedules when required as a part of the academic process (i.e., individual student conferences, review of drafts of papers, etc.)

4.3. **Other Policies on Academic Credit and Student Behavior**

The Law School’s policies on academic credit and on student behavior are included in the *Student Handbook*. A copy of the handbook is distributed to each first-year student at the beginning of the academic year. You may obtain a copy of the *Handbook* from Vlasta Lebo in the Dean’s Suite.

The handbook also contains the Law School’s policies on student discipline. If a faculty member believes that a student has violated any of the policies in the handbook, the faculty member must report the matter to the Associate Dean for Faculty.

Note that different versions of the *Handbook* exist for different entering classes, due to changes made to rules that cannot be applied retroactively to students already enrolled. Before you enforce a *Handbook* rule make sure it applies to your students (in most cases instructor-enforced rules have not changed in recent years). See the Associate Dean for Faculty if you have any questions.

4.4. **Teaching Standards**

Loyola Law School prides itself on teaching excellence. Adjunct faculty is expected to perform at the highest level of professional instruction.
4.4.1. **Team Teaching**

With the approval of the Associate Dean for Faculty, team teaching of courses is permitted. Both teachers for a course are expected to attend courses regularly and to assume all responsibilities as an instructor for that course.

4.4.2. **Availability to Students**

Faculty must be available to students outside the classroom. The most practical way for adjunct faculty to accomplish this is to be available by phone or email. One of the most frequent complaints concerning adjunct faculty is that they do not return phone calls. This is also one of the most common reasons adjuncts are not rehired.

5. **FINAL EXAMINATIONS AND GRADING**

5.1. **Examination Policies**

5.1.1. **General**

Each semester the Associate Dean for Faculty, in conjunction with The Office of the Registrar and the Director of Student Affairs, updates the law school’s examination policies. These policies are reflected in a memorandum distributed to all faculty by the Associate Dean for Faculty. The most recent memorandum is attached hereto as Appendix D and is hereby incorporated by reference into this Handbook.

5.1.2. **Required Closed-Book Examinations**

All examination for bar classes must be closed to all materials except for materials provided by the Registrar as part of the exam.

5.1.3. **First Year Exams**

In first-year courses other than Legal Research and Writing, at least 50% of the mid-year grade and the final exam shall be determined by means of one or more multi-issue essay questions.

5.1.4. **Multiple-Choice Examinations**

The usual policy for multiple-choice examinations is to require students to mark answers on their Scantron forms and not to award credit for answers marked only or differently on the question sheet. If you depart from this usual practice, please include directions as to how the examination will be graded in the event that a student fails to fill out the Scantron form.

Scantron examinations are scored by the Office of the Registrar. The Office of the Registrar can provide to the faculty member a spreadsheet with the identification numbers, raw scores and normalized scores for students taking the multiple-choice portion of an examination.

5.1.5. **Problems During Examination Administrations**

If problems arise during an examination, the student will first inquire of the proctor, who will inform the Office of the Registrar. The Office of the Registrar will then communicate
directly with the faculty member. Faculty members shall communicate to the Office of the Registrar where they can be reached during the administration of their examinations, either on campus or by telephone. Faculty members are encouraged to review their examination instructions carefully, and to include an exam instruction addressing how students should handle ambiguities, breaks, and access to materials during breaks for closed book examination.

5.1.6. Examination Rescheduling Policy

An examination may be postponed by student request if the request is for one of the reasons set forth in the Student Handbook. Postponements may not be granted by individual professors but must be approved by the Registrar to ensure that student requests for postponement are treated uniformly. In some cases, the Law School may be required to reschedule an examination as an accommodation to a student with a disability under the Americans with Disabilities Act. In such cases, the request for an accommodation will be processed by the Office of Student Affairs in coordination with the Disability Committee.

The policy on rescheduling of student examination set forth in the Student Handbook is as follows:

If a student's examination is approved to be rescheduled, it is left to the discretion of the Office of the Registrar, in consultation with the professor, to determine the day and time that the examination is to be administered.

Even with the professor's approval, an examination may only be rescheduled for one of the following reasons:

a. A time conflict exists between examinations.

A time conflict is defined as two or more examinations scheduled on the same calendar day (not within a 24 hour period). Examinations that do not occur on the same calendar day are not considered in conflict and will not be rescheduled. For example, a morning examination that is directly preceded by an evening examination is not subject to rescheduling.

One of the examinations in conflict will be rescheduled by the Office of the Registrar to the next available examination day. The student will be notified of the rescheduled examination date in writing prior to the beginning of the examination period. If a student does not wish to have his/her examination rescheduled, he/she should notify the Office of the Registrar in writing.

b. Religious observation prevents the student from taking the examination on a particular day.

At least three weeks prior to the beginning of the examination period, the student must submit a petition to the Office of the Registrar with documentation and signed verification an appropriate member of the clergy.

c. The student has a serious documented illness or other medical emergency.

The student must submit a petition to the Office of the Registrar with documentation and signed verification by a licensed medical professional.

d. The student has a death in the immediate family.
The student must submit a petition to the Office of the Registrar with a copy of the death certificate or notice.

e. There are extraordinary and compelling circumstances beyond the student's control.

The student must submit a petition to the Office of the Registrar with any pertinent documentation.

The Student Handbook also sets forth the procedures which a student must follow to obtain a rescheduling of an examination.

5.1.7. Mid-Term and Mid-Year Examinations

5.1.7.1. Mid-Year Grades in Year-Long Courses

In all courses taught over two semesters, at least twenty-five percent (25%) of a student’s final grade (exclusive of participation) must be determined during the first semester. Mid-year grades are not reported on a student’s transcript. However, the grades are reported to the Office of the Registrar and made available to students on their individual web accounts. Mid-year grades are used for academic-support assessment and other administrative purposes.

There is no required curve for mid-term examinations, although faculty members are encouraged to give midterm grades that will not mislead students as to their final grade. Accurate information can be conveyed in several different methods. One method is to normalize midterm grades on the same scale as final grades.

If this method is chosen, students should be warned that the collapse of standard deviations on multiple components may push out grades at the extremes, i.e. low grades may become even lower and high grades even higher. Another method is to use a slightly higher standard deviation for the midterm, for example 7.00 instead of 6.00 for a first year class. Another method is to give out raw scores and communicate information about the mean and range.

5.1.7.2. Interim (Mid-Term and Mid-Year) Grades in Five-Unit, First Year Courses

In all required five-unit, first year courses (i.e., Civil Procedure, Contracts, Property and Torts) taught in five credits in one semester, at least twenty-five percent (25%) of a student’s grade (exclusive of participation) must be based on graded evaluation(s) other than the final examination. If the graded evaluation is an in-class exam, the grade shall be determined in part by means of one or more multi-issue essay questions. Beyond the grade(s), students must be provided with feedback on the professor’s evaluation(s). This requirement can be met by, for example, specific comments on individual exams or general feedback such as the providing of a sample or model answer. In particular, professors are strongly encouraged to review with the individual student exams earning a grade of C or lower.

5.1.7.3. Proctoring Services for Mid-Semester Examinations

The Office of the Registrar cannot guarantee the availability of proctoring services for mid-semester examinations that are not required by Law School rules. If you will need such services, please make your request by the end of the first week of the semester. Although the Office of the Registrar will attempt to accommodate your request, proctors may not be available for such optional mid-semester examination dates.
Proctoring services are available for mid-year examinations in year-long courses and for mid-semester examinations in one semester five-unit required courses.

5.1.8. Collection of Final Papers and Take-Home Examinations

Please refer to the Vital Exam Memo attached hereto as Appendix T for the most current policies governing Final Papers and Take-Home Examinations.

5.1.9. First Year Exams

In first year courses other than Legal Research and Writing, at least 50% of the mid-year grade and the final exam shall be determined by means of one or more multi-issue essay questions.

5.2. Grading Policies for J.D. Candidates

These policies apply to grading J.D. candidates. If you teach a course containing any LL.M. students, special rules apply. Please see Professor Jennifer Kowal (213-736-8349, or Jennifer.kowal@lls.edu) if you have Tax LL.M students or Joel Mosemann (213-736-1446, or, Joel.moseman@lls.edu) you have International LL.M students.

5.2.1. Deadlines for Grades

It is the responsibility of each professor to turn in grades in a timely manner. At the direction of the Dean, at the end of classes, the Registrar issues to each professor a deadline for handing in grades for that semester. Grades for objective examinations are due two weeks for the date of the examination; three weeks for essay or combination; and four weeks for first-year classes.

Faculty members are expected to adhere to this deadline. If they cannot adhere to it, they should notify the Associate Dean for Faculty of the reason why they cannot meet the deadline.

5.2.2. Grading Scale and Normalization Policy

Grades given by faculty members must conform to the grading policy established by the faculty. This policy governs the scale as well as the mean and standard deviation of grades. Grades that are submitted in violation of the policy will not be accepted by the Office of the Registrar. If grades in violation of the policy are submitted, the grades will be returned to the instructor for regrading in accordance with the grading policy. If an instructor fails to submit grades that accord with the policy within a reasonable time, the Registrar in consultation with the Associate Dean for Faculty shall normalize the grades in accordance with the grading policy.

5.2.2.1. Grading Range

The normal grading range is from 55 to 100. The number grades correspond to letter grades as reflected in the chart below. The minimum passing grade is 70 (C)*. Grades between 55 and 69 (D and F) are considered failing grades for which unit credit is not earned. While unit
credit is not earned for a failing grade, point value is assigned for a D and an F for purposes of computing grade point averages.

<table>
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<tr>
<th>Numerical Score</th>
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<th>GPA Value</th>
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<tbody>
<tr>
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<td>F</td>
<td>.333</td>
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<tr>
<td>67-69</td>
<td>D</td>
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<tr>
<td>70-72</td>
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<tr>
<td>94-100</td>
<td>A+*</td>
<td>4.667</td>
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* The minimum passing grade is C, with the following exception for required courses (i.e., California Civil Procedure, Constitutional Law Survey, Ethical Lawyering, Evidence, Contracts, Criminal Law, Legal Research and Writing, Property, and Torts). (For purposes of this rule, a first year Day Division elective course is not considered a required course.) Any student who has a cumulative grade point average of 2.43 or lower at the conclusion of an academic year must repeat any required course for which a C (or lower) was earned during that year as well as in a subsequent year. (To clarify, once a student earns a cumulative grade point average of 2.43 or lower at the conclusion of any academic year, for the academic year in which the 2.43 or lower was earned as well as from that point onward the student must repeat any required course for which a C or lower was earned.) A student required to retake a course must do so no later than the succeeding academic year. The student must retake the course until he/she receives a grade of at least a C+. (Reference should be made to the section on Repeating Courses, 5.8.)

Note: Regardless of a student’s cumulative grade point average, a D or F grade is a failing grade and no unit credit is awarded. (Reference should be made to the sections on Definition of Grading Notations, 5.5. and Repeating Courses, 5.8.)

5.2.2.2. Normalization and Translation

Final grades are normalized (curved). Normalization may be accomplished via a normalization program that is available on the network, by a spreadsheet, or by manual calculation. If the raw scores for a given course already meet the normalization criteria, they may be submitted as is; there is no need for use of the normalization procedures. Normalization requirements do not apply to component or partial grades; only final submitted grades must conform to these rules. However, faculty are urged to use compatible normalization criteria in determining component grades to assure consistency in grading.

\[1\] Rules 7.2.2.1 was modified by the faculty to reflect a change in the grading system adopted by the faculty on March 12, 2010.
5.2.2.3. Two Decimal Place Rule

The normalization rules apply to two decimal places. Means and standard deviations are expressed to two decimal places for the purposes of the Law School’s normalization rules. The two decimal point rule constrains ultimate grades in courses in which a range of means or standard deviations is permitted. In courses for which there is a set mean and standard deviation, e.g., \(6.00\) and \(81.00\) in first year courses, the set value shall be used in normalizing grades. If this is done using one of the approved normalization programs, the two decimal place rule shall be deemed satisfied.

5.2.2.3.1. Grading Rules for First-Year Courses

All first year courses, with the exception of Legal Research and Writing and the First Year Elective, \(i.e.,\) California Civil Procedure, Contracts, Criminal Law, Property, and Torts) will have a mandatory mean of \(81.00\) and a mandatory standard deviation of \(6.00\). This rule applies to both the Day and the Evening Divisions, even though, with respect to the latter, some of these courses will be taken in the second year.

The mean for the First-Year Elective, with the exception of Law and Process, will be determined based on the mean grade point average of the students enrolled in the class, as calculated using the final grades from all courses other than the elective course. There will be a mandatory standard deviation of \(4.00-6.00\) for the First Year Elective.

Legal Research and Writing and Law and Process will have a mandatory mean of \(81.00\) and a mandatory standard deviation of \(4.00-6.00\).

5.2.2.3.2. Grading Rules for Advanced Courses

The following represents the grading range for the mandatory mean and the mandatory standard deviation (S.D.) for all upper division courses, except as otherwise noted:

a. Mandatory Mean and Standard Deviation

<table>
<thead>
<tr>
<th>Number of Students</th>
<th>Mean</th>
<th>S.D.</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 or more students</td>
<td>82.00</td>
<td>6.00</td>
</tr>
<tr>
<td>8 - 30 students</td>
<td>82.00</td>
<td>--</td>
</tr>
<tr>
<td></td>
<td>85.00</td>
<td>None</td>
</tr>
<tr>
<td>7 or fewer students</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

b. Exceptions to the Mandatory Mean and Standard Deviation

(1) Ethical Lawyering will have a mandatory mean of \(85.00\) and a mandatory standard deviation of \(5.00\).

(2) Small Classes

If the mean cumulative grade point average for a class with 8 -30 students exceeds \(85.00\), a professor may use a class mean above \(85.00\), but no higher than the mean cumulative grade point average. The mean cumulative grade point average shall be computed using only grade point
averages of J.D. students enrolled in the class as of the last day for withdrawing from the course. Grades earned at other institutions will not be included in the grade point average calculation. This exception does not apply to Ethical Lawyering.²

(3) **Normalization in Classes with Mixed Assessments**
If a professor in a given course permits students the option of taking an examination or writing a paper, grades for all of the students will be normalized together.

(4) **Calculation of the Mean and Standard Deviation in Mixed J.D. and LL.M. Classes**
In applying the grading rules to courses in which Juris Doctor and Master of Laws students are enrolled, only Juris Doctor students will be counted in determining the applicable mean and standard deviation, and only Juris Doctor students will be included in the relevant grading curve.

5.2.2.3.3. **Non-Scoring**

Every student must be included in the class mean and standard deviation for the purposes of determining compliance with the grading policy. Non-scoring of a student (removing a student from the calculation of the class mean and standard deviation) may only be done for compelling reasons with the express approval of the Associate Dean for Faculty. Non-scoring request must be made prior to the final grades being posted publically by the Registrar.

5.2.2.3.4. **The Normalization Formula**

Normalization is usually accomplished via one of the normalization programs or with a spreadsheet. Raw scores are converted to normalized grades using a formula that calculates a normalized score for each student based on that student’s raw score. The basic formula for normalization is as follows:

\[ N_i = FM + ((R_i - MRS) \times (FSD/SDRS)) \]

Where:

- \( N_i \) is the Normalized score for student i,
- \( FM \) is the Forced Mean for the class,
- \( R_i \) is Raw score for student i,
- \( MRS \) is the Mean of the Raw Scores,
- \( FSD \) is the Forced Standard Deviation, and
- \( SDRS \) is the Standard Deviation of the Raw Scores.

Application of the normalization formula to a set of raw scores will result in normalized grades that meet the limits on mean and standard deviation, if the Forced Mean and Forced Standard Deviation used are within the approved limits.

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² This section was modified by the faculty to include the last paragraph of Rule 7.2.2.3.2. on April 24, 2009. The change was applied to classes beginning with the 2009 Summer Session.
5.2.3. **Upper Division Writing Requirement**

This requirement may be fulfilled at any time after completion of the first year day or evening. In order to fulfill the requirement, the student must complete a 2-unit research paper or papers, as more specifically set forth below.

The requirement may be satisfied in one of three ways:

(a) Completion of a directed research paper, as described in section 5.2.5. (Directed Research), if the supervising faculty member certifies that the paper satisfies the writing requirement.

(b) Completion of an upper division course in which at least one-third of the grade is based upon the completion of one or more papers requiring substantial research. The total length of the paper or papers must be no less than 575 lines exclusive of footnotes, in 12-point type with one-inch margins, and in Times New Roman font. If the professor assigns only one paper in the course, it must be rewritten in response to the professor’s comments on an earlier draft. If the professor assigns multiple papers in the course, at least one of the papers should be no less than 280 lines in length (with the same font and font size requirements), and rewritten in response to the professor’s comments on an earlier draft. If multiple papers are being used to satisfy the requirement, they cumulatively must satisfy the length and font requirements. The professor must certify that the paper or papers satisfy the writing requirement.

(c) Completion of a note, case comment, or section of a multi-author student-written work for one of the Law Reviews, the text of which meets the length requirements for a directed research paper as described in section 5.2.5. (Directed Research), or the completion of two case comments for one of the Law Reviews, the texts of which in the aggregate meet the same length requirements. In either case, the work must have been edited at least three times by a student editor. In addition, a faculty member must have read and certified that the work satisfies the writing requirement after either reading the work or determining that it otherwise satisfies procedures that the Law Review’s Faculty Advisor has approved for certifying satisfaction of the writing requirement.

Students participating in the Scott Moot Court Honors program may use material prepared in conjunction with a moot court competition as a basis for a directed research paper. However, the final paper must be written by the student alone and must meet all of the requirements listed in Rule 5.2.5.

5.2.4. **Directed Research**

A student may earn academic credit for a research paper completed under the direct supervision of a full-time faculty member. An adjunct faculty member may not supervise a directed research.

A student normally may receive credit for only one (1) directed research paper. Under extraordinary circumstances and upon the recommendation of the faculty member, the Associate Dean for Faculty may waive this rule.
A directed research paper normally may be approved for two (2) units only. Under extraordinary circumstances and upon the recommendation of the faculty member, the Associate Dean for Faculty may approve a 1-unit paper.

Credit will be granted for a directed research paper only upon compliance with the following requirements:

a. The paper must reflect substantial research in areas that do not duplicate the student’s preexisting knowledge.

b. The student must complete a draft, receive the supervising faculty member’s comments thereon, and submit a revised final paper. It is the student’s responsibility to ascertain the due dates for both the draft and the final paper, arrange the method by which the draft and final paper will be submitted to the professor, and ensure—that the professor receives, in a timely manner, both the draft and the final paper.

c. The final paper must be a minimum of 575 lines in length, exclusive of footnotes, in 12-point type with one-inch margins, and in Times New Roman font.

A student may not repeat a directed research paper.

Approval of a directed research paper must be obtained according to the following procedure:

a. The student shall submit a Directed Research Request form to a member of the full-time faculty who has agreed to supervise the paper. This form requires a 250-word description of the paper and the citation of at least five (5) sources (which may include cases, law review articles or monographs) the student expects to be relevant to the paper. Under extraordinary circumstances, and upon the recommendation of the faculty member, the Associate Dean for Faculty may permit a student to submit the 250-word description and list of five sources no later than one week after the Associate Dean’s approval of the Directed Research Request.

b. After the student receives the signed proposal from the faculty member, the student must take the form to the Office of the Registrar. The deadline to submit the Directed Research Request to the Office of the Registrar is the last day to add classes as noted in the Office of the Registrar’s Administrative Calendar.

c. The Office of the Registrar will then forward a copy of the signed proposal to the Associate Dean for Faculty for approval. The Associate Dean will ordinarily approve or disapprove the proposal within five working days after the student has submitted it to the Office of the Registrar.

Ordinarily, a faculty member may not supervise more than four directed research papers in any academic year.

5.3. Incompletes

5.3.1. For Paper Courses

5.3.1.1. Criteria for Incompletes
A grade of “Incomplete” may be awarded in paper courses if either of the following two requirements is met:

5.3.1.1.  Faculty Determination

The faculty member grading the paper determines that the student has not written a satisfactory paper by the last day of the examination period, and the faculty member has determined that the paper should be rewritten rather than graded in its current form. This section does not apply to students in their final semester before graduation.

5.3.1.2.  Extraordinary Circumstances

There are very extraordinary circumstances as described below with respect to courses other than paper courses as described in Section 5.3.2.1.

5.3.1.2.  Definition of Paper Course

For the purposes of this rule, a paper course is a course in which the grade is determined solely on the basis of a paper. Examples of paper courses include: (1) directed research in which the project is a paper; and (2) seminar courses in which the grade is based solely on a paper with the exception of participation points. Take-home examinations are not papers for the purpose of this rule. A petition to request an “Incomplete” in a paper course should be obtained by the student from the Office of the Registrar and submitted to the faculty member who signs the form, indicates the due date for the paper and files the form with the Office of the Registrar.

5.3.1.3.  Deadlines

An “Incomplete” in a paper course must be made up by the end of the next regular semester (fall and spring), except for graduating students. The paper must be submitted to the faculty member grading the paper course by the last regular class day of the next regular semester or by an earlier date to be specified by the faculty member. Failure to make up an “Incomplete” will result in a grade of 55 or Fail being entered for the course on the student’s transcript. Graduating students may not receive an “Incomplete” in a paper course except for very extraordinary reasons as described below.

5.3.1.4.  Effect of Incompletes

The effects of “Incompletes” on the computation of grade point average and academic standing are described below (Section 5.3.2.7). Students should note that academic standing will still be determined for them even if they have an “Incomplete” grade on their record for the academic year. Students concerned about being placed on academic probation or being academically disqualified should carefully consider what effect an “Incomplete” grade might have on their academic standing.

5.3.2.  For All Courses Other than Paper Courses
5.3.2.1. Extraordinary Circumstances

Because of very extraordinary circumstances, a student may not be able to complete the course requirements in a timely fashion. For good cause shown, a student may be permitted to receive an “Incomplete.” Granting an “Incomplete” is a rare exception and not the rule. In all cases the burden of justification for not completing the course requirements rests with the student filing the petition.

5.3.2.2. Petition/Procedures

The petition for an “Incomplete” must be filed as soon as possible with the Office of the Registrar after the occurrence of the circumstances on which it is based. Delay in filing the petition, unless otherwise excused, may in itself be grounds for denying the petition.

5.3.2.3. Petition Requirements

No arrangements for fulfilling course requirements can be made by the professor until after a student has filed the petition, and an “Incomplete” has been granted.

5.3.2.4. Make-Up Deadlines for Examination Courses

Students who receive an “Incomplete” in a course requiring an examination must complete the course requirements no later than the next time an examination is regularly given in that course. Failure to do so will result in a grade of 55 in the course.

5.3.2.5. Make-Up Deadlines for Non-Examination Courses

Students who receive an “Incomplete” in a course not requiring an examination must complete the course requirements no later than the last day of classes of the next succeeding semester or by such earlier date as is specified by the instructor. Failure to do so will result in a grade of 55 in the course.

5.3.2.6. Subsequent Offerings

A student who receives an “Incomplete” in a course does not have a right to attend subsequent offerings of that class.

5.3.2.7. Effect on G.P.A.

An “Incomplete” grade will not affect the computation of a student’s term or cumulative grade point average. Academic standing (i.e., academic good standing, academic probation, and academic disqualification) will be determined for a student at the conclusion of the Spring semester of an academic year even if the student has an “Incomplete” grade on his/her record for that year.

When a grade to replace the “Incomplete” is determined, that grade will be recorded for the term during which the “Incomplete” grade was made up. The original “Incomplete” notation remains on the transcript. The final grade (which replaced the “Incomplete” grade) is posted
with the notation “Remove “I” grade” followed by the semester in which the Incomplete was posted and will then affect the computation of the student’s term and cumulative grade point averages.

5.4. **Post Examination and Grading Policies**

5.4.1. **Posting Grades**

Each instructor may distribute *anonymous* grade data, such as the class mean or range. This information can be handed back with the examinations, for example, as a handout inserted in each bluebook, or it can be distributed in another way. The important thing to remember is that individual student grades may not be associated with names or examination numbers.

The Office of the Registrar distributes individual grades to individual students via the Student Web Services web page. The Office of the Registrar does not distribute any information about student’s relative performance in individual classes, other than notifying students who are eligible to receive First Honors awards in those classes for which such awards are given.

No class grades will be posted until after the examination period is concluded.

5.4.2. **Transfer of Examination Materials**

Students must return examinations to the proctor with all examination materials sealed in a clear plastic bag. After grading the examination, faculty members should return these envelopes with all material received to Faculty Support where they ready the exams/papers to be distributed through the Graphics Department. The faculty member may also retain the examination materials himself or herself. Please take care to ensure that you do not return multiple-choice questions to Faculty Support for distribution to the students, if you intend to reuse the questions. Each faculty member is responsible for ensuring the confidentiality of past examination questions that may be reused; Faculty Support and Graphics cannot assume this responsibility.

5.4.3. **Grade Challenges and Changes**

The Student Handbook contains the following policy with regard to students who wish to challenge a grade:

A student may challenge a recorded grade only on the ground that it was inaccurately recorded due to clerical error, not on the ground that the student feels he/she should have received a higher grade. Where it is believed that a clerical error was made in recording a grade, the student must first contact the professor involved and the Registrar before invoking any challenge procedures.

The Student Handbook contains the following policy with regard to changes of grade:

Once submitted to the Office of the Registrar, grades will not be changed except (1) in case of clerical error or (2) in case the grades submitted for a course do not conform to the standards set forth in the Grading Rules for First Year and Advanced Courses above.
A faculty member who seeks a change of grade for the cause named must present a written petition to the Associate Dean for Faculty. A written petition for a grade change must be rejected by the Associate Dean for Faculty unless the petition itself contains an explanation of the clerical or computational error involved. If the written explanation is sufficient on its face to show a clerical or computational error, the petition must be approved by the Associate Dean. If it does not, the petition will not be approved.

The requested change will become effective only after the petition has been approved by the Associate Dean for Faculty and filed with the Office of the Registrar.

5.4.4. Review of Student Examinations

Students are entitled to reasonable post-examination review of their examination results. Faculty members may provide such review in a variety of ways: individual meetings with students, by preparation of grading sheets handed back with the examination, or by holding a general review of the examination open to all students. If individual students wish to discuss their examination with a professor, the professor has an obligation to meet with those students at mutually agreeable, convenient times and discuss the examination for a reasonable time. With respect to multiple choice examinations for which a faculty member wishes to preserve confidentiality, the faculty member may limit review of questions and answers to the faculty member’s office or another secure or monitored location, but students are entitled to post-examination review for all forms of examination.

5.4.5. Retention of Examination Books

Item 7 of the Council Statements of the American Bar Association Section of Legal Education and Admissions to the Bar states as follows:

Law Schools approved by the American Bar Association should practice the policy of retaining examination booklets for a period of one year. This policy applies only if the examination booklet has not been returned to the student.

Loyola Law School adheres to this policy. Accordingly, if a faculty member retains bluebooks rather than returns them to students through Faculty Support/Graphics Department, he or she must retain them for at least one year.

Accordingly, faculty members should retain all student examinations at least one year from the date that the examination originally was given. Alternatively, the faculty member may send the examinations to Faculty Support, which will make the examinations available to students through the Graphics Department and keep a record of which examinations were returned to students.

5.5. Consideration of Class Participation in Grading

For the purposes of this rule, class participation is defined as a student's daily class work in contrast to papers, presentations, assigned critiques or exercises such as closing arguments and negotiations; a seminar is defined as a small advanced class usually of twenty students or less, in which the student's work, in the form of research papers, class presentation and/or substantial
non-examination oral and written work, in contrast to an examination, constitute a substantial component of the course; seminars shall be identified as such in the registration materials; a practical skills-related course is one which emphasizes the theory and practice of lawyering tasks such as counseling, negotiation, discovery, and trial and appellate advocacy.

A professor may take class participation into account in assigning a final grade. With the exception of seminars and skills-related classes, no more than three points, plus or minus, may be assigned for class participation. A professor who intends to take class participation into account in assigning grades shall make an announcement to that effect at the beginning of the course, and shall submit the class participation points to the Registrar no later than the time he/she submits the final grades for the course. No points will be taken into account once the grades are received by the Office of the Registrar.

In seminars and elective skills-related classes, a professor may count class participation up to one-half of the final grade, provided that:

a. the lowest grade for class participation is 55 on a 100 scale;

b. the professor announces in advance that class participation will be counted in accordance with this provision; and

c. the professor affords all students in the class an equal opportunity to participate and encourages all students in the class to participate.

Nothing in these rules is intended to interfere with or limit a professor's use of graded quizzes, oral presentations, papers or assigned exercises (other than daily class participation) as parts of the educational and evaluative processes in any course; provided that (1) the requirements of Standard 303 of the ABA Standards for the Approval of Law Schools and AALS Executive Committee Regulation 6-7.8 are met; and (2) the general policy favoring grading anonymity is followed to the maximum extent compatible with the academic goals of the class.

6. LAW SCHOOL ADMINISTRATION

6.1. In General

The Law School’s administrative structure is determined by the Dean, who consults with the faculty in appropriate cases. The principal administrative officers of the Law School, and their functions, are summarized immediately below.

6.2. Dean

The Dean is the chief administrative officer of the Law School. The Dean is appointed by the President of the University upon the recommendation of the faculty. Under the administrative structure of Loyola Marymount University, the Dean reports directly to the President of the University.

6.3. The Associate Dean for Faculty, the Associate Dean for Research and Academic Centers, and the Associate Dean for Clinical and Experiential Programs
The Associate Deans for Faculty; Research and Academic Centers; and Clinical and Experiential Programs are members of the full-time faculty and are the principal academic officers of the law school. They act as the liaisons between the faculty and other administrators at the law school. This Associate Dean for Faculty is responsible for curriculum development, the course schedule, hiring adjunct faculty, constituting faculty committees, enforcement of faculty rules and policies, student discipline, advanced degree programs, and retention and promotion of tenure-track faculty. The Associate Dean for Research and Academic Centers is responsible for fostering the scholarly mission of the law school. This includes overseeing faculty workshops, academic centers (such as the Civil Justice Center, the Center for the Study of Law and Genocide, the Sports Law Institute, and the Fidler Institute), research and sabbaticals, the library, publicity for faculty scholarship, support for professional activities, law reviews, academic events at the law school, advancement, and summer programs abroad. Finally, the Associate Dean for Clinical and Experiential Programs is responsible for overseeing and developing clinics, simulation classes, skills classes (such as Legal Research and Writing and Ethical Lawyering), externships, academic support, and public interest/pro bono programs. This includes moot court, trial advocacy and appellate advocacy activities, as well as the Advocacy Institute. The Associate Dean for Clinical and Experiential Programs also serves on any faculty committee charged with recommending the appointment of clinical professors.

6.4. The V.P. and Associate Dean for Finance and Administration

The V.P. and Associate Dean for Finance and Administration supervises the various support and administrative services that are not directly related to academic affairs or students. These services include all physical plant and maintenance matters, all fiscal affairs such as payroll and budget, all personnel matters, and computer services.

6.5. The Associate Dean for Student Affairs

The Associate Dean for Student Affairs supervises all administrative departments that relate directly to student life. These departments include Admissions, Career Services, Student Financial Services, the Registrar, and Counseling. The Associate Dean for Student Affairs works with the Associate Dean for Faculty and the Associate Dean for Academic Programs in the administration of the rules governing students.

6.6. Departments and Functions

All specific departments under the supervision of a particular Associate Dean are headed by a Director or an Assistant Dean who reports to that Dean. Faculty members with problems in a particular area should approach the department head in the first instance. In some cases, it may be appropriate to seek the assistance of the relevant Associate Dean. Among the departments and their functions are the following:

Admissions: The Admissions Office administers the admissions process, including efforts to recruit applicants.

Advancement: The Office of Advancement is comprised of the Alumni Relations, Development and Public Relations Offices. It is responsible for major gift
fundraising, the annual giving campaign, the relationship of the Law School with its alumni, media relations, and the production of all major law school publications. Donor related special events are coordinated by this office.

Budget and Auxiliary Services: The Office of Budget and Auxiliary Services is responsible for all budgeting as well as overseeing the Graphics Department and vendors providing bookstore, cafeteria, and vending services.

Career Services: Career Services provides career planning and job placement and development services to students and alumni, administers on-campus interview programs and coordinates major career programs and events throughout the year.

Campus Planning: Campus Planning is the coordinating department for the general daily operations of the Law School, including the physical plant facilities, parking operations, campus security, housekeeping, facility renovations, furniture and equipment acquisitions, shuttle and transportation program, ID cards, and signage and display systems. If you need any special work requests or encounter any problems with the facility please call x1409 or leave a message at the Information Center x1001.

Conferences and Events: This department supports faculty with the operational aspects of putting on academic conferences and events. Assistance includes general event planning, formulating and reconciling budgets, securing space, work with the Marketing and Communications department on the creation and mailing of brochures, securing housing for speakers, and updating event web site.

Externships / Pro Bono: This office administers the Law School’s externship and pro bono programs.

Faculty Support Services: This office provides secretarial support, computer training and budgetary coordination to faculty members.
Financial Aid: This office administers a variety of financial aid programs for students.

Fiscal Affairs: This office provides a variety of accounting, payroll, cashiering and other fiscal services and serves as the liaison between the Law School and the respective counterparts on the Westchester Campus.

Graphics: The Graphics Department provides duplication services (exams, course supplements, etc.) and retains examinations for student pick-up.

Housekeeping: This department provides interior janitorial and other services for Law School buildings.

Human Resources: This office serves as the Law School’s liaison with the Human Resources Office at the Westchester Campus and offers a variety of services relating to hiring, benefits and human resource development and management.

Information Center: The Information/Mail Center consists of mail processing (incoming and outgoing mail), message and reception center. The Center imparts general information regarding academic and class schedules, department and faculty office hours, housing, room locations, telephone questions, notary public services, updating electronic board and questions concerning room reservations, events or campus calendar.

Information Technology: The Information Technology Department is the primary provider for telecommunications and computer and related network-based technology services at the Law School. In addition to setting up and maintaining these services, the department provides hardware, software, training support and technology support in the classroom.

Physical Plant: This office provides a variety of maintenance and other services. Physical Plant personnel also perform tasks such as moving furniture or hanging pictures; a work order can be found at https://my.lls.edu/webforms/physicalplantworkrequest or arranged by Faculty Support Services. A member of the physical plant staff is on campus.
from 6:00 a.m. until 10:00 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. Saturday and Sunday. Hours vary during summer months and scheduled special events.

Registrar: This office provides registration services, administers examinations, and maintains student records.

Scheduling and Event Support Services: This office manages the scheduling of all space on campus and performs set up for all events. It also oversees storage on campus and the moving of boxes to and from storage.

Student Accounts: This office processes student fee bills.

Student Affairs: The Office of Student Affairs handles a variety of student issues and concerns, often acting as liaison between students and faculty members/administrative departments. Faculty members having concerns about a student(s) (e.g., attendance issues) are welcome to raise them with either the Director of Student Affairs or the Associate Dean for Student Affairs. Disability accommodation requests, general academic advising, and student organization-related issues are also coordinated through the Office of Student Affairs.

7. ADDITIONAL LAW SCHOOL POLICIES AFFECTING ADJUNCT FACULTY MEMBERS

7.1. No-Weapons Policy

Loyola Law School strictly enforces a no-weapons policy for its campus. No weapons are permitted on campus even for demonstrative purposes. This policy includes toy guns. Trial Advocacy courses should not use factual scenarios that would require the use of a weapon for student exercises.

7.2. Alcoholic Beverages

Ad hoc consumption of alcoholic beverages by students and faculty is not allowed on campus. Student organizations must receive prior written approval from the Director of Student Affairs to serve alcoholic beverages at any campus function. Faculty may not serve alcoholic beverages in their classroom. If you feel a need for an exception to this policy, see the Associate Dean for Faculty.

7.3. Sexual Harassment Policy
Loyola Law School has adopted a sexual harassment policy. Please see Appendix A.

7.4. **Student Disciplinary Matters**

Loyola Law School students are governed by a Standard of Conduct set forth in the Student Handbook. All disciplinary matters should be referred to the Associate Dean for Faculty.

7.5. **Faculty-Student Sexual Relations Policy**

Relationships of a sexual nature between a faculty member and any student with whom he/she is in a direct power relationship are prohibited even if consensual. Furthermore, faculty-student sexual relations are discouraged even when no power relationship exists. Additionally, faculty members who are closely related to a student by marriage, or who have a preexisting analogous relationship with a student, should eschew roles involving a professional responsibility for the student. These policies are rooted in the recognition that faculty-student relationships involve an inherently unequal distribution of power because faculty members have a professional responsibility for the student in such matters as teaching a course or in otherwise evaluating, supervising, or advising a student as part of the law school’s educational program. Moreover, sexual relationships between faculty and students often give rise to the perception by others of the existence or potential of favoritism or bias in educational decisions affecting students. These perceptions undermine the spirit of trust and mutual respect that is important to the Law School’s educational environment. Finally, this policy further bolsters the Law School’s efforts to provide an environment that is free from sexual harassment.
APPENDICES

APPENDIX A: SEXUAL HARASSMENT POLICY

The following policy was adopted by the faculty and appears in the Student Handbook. This policy applies to members of the Adjunct Faculty.

A. Policy Statement

As a law school in the Jesuit tradition, Loyola Law School strongly endorses and supports a learning environment that enhances the dignity of both men and women. This policy has been formulated to ensure the integrity of the educational process and the voluntary character of interpersonal relationships and to guard against inappropriate conduct or communication of a sexual nature.

Sexual harassment of a student by an administrator, faculty or staff member or another student is prohibited and is subject to disciplinary action. An act of sexual harassment may be considered moral turpitude. In the case of sexual harassment of a student by a student, the Student Code of Conduct and the processes of the Disciplinary Code will be used. In other cases the procedures described below will be used. The purpose of these procedures is to encourage those who believe they have been harmed by prohibited conduct to make informal or formal complaints while at the same time safeguarding the reputations and positions of respondents from unfounded charges.

B. Definition of Sexual Harassment

1. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when such conduct is unwelcome AND:

   a. Submission to or rejection of such conduct by a student is used as a term or condition of the student’s status in a course, program or activity of the Law School; OR

   b. Submission to or rejection of such conduct by a student is used as a basis for academic or other administrative decisions affecting such students; OR

   c. Such conduct has the purpose or effect of unreasonably (1) interfering with a student’s educational experience or (2) creating an intimidating, hostile or offensive law school environment; OR

   d. Submission to or rejection of such conduct by a student is used as the basis for any decision affecting the student regarding benefits or services, honors, programs, or activities available at or through the Law School.

2. Standards
a. The reasonableness standard to be applied to complainants with regard to the kind of conduct described in 1c and examples 3d and 3f is that of the perceptions of a reasonable person of the complainant’s gender in the complainant’s position.

b. Respondents who engage in conduct of the kind described in 1c and examples 3d and 3f, but who neither knew nor should have known that their actions might be perceived as causing the effects described therein, cannot be found to have violated the provisions of this policy. The standard to be applied to determine whether respondents should have known that their actions might be perceived as causing the effects described above is that of a reasonable person in the respondent’s position at the time of the complained of behavior.

3. Examples of “Conduct of a Sexual Nature”

As used in 1. above, “sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature” include, but are not limited to:

a. Physical assault;

b. Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;

c. Direct propositions of a sexual nature;

d. Subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic purpose;

e. A pattern of conduct (not legitimately related to the subject matter of a course if one is involved) intended to discomfort or humiliate, or both, that includes one or more of the following: (1) comments of a sexual nature; or (2) sexually explicit statements, questions, jokes or anecdotes; and,

f. A pattern of conduct that would discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that includes one or more of the following: (1) unnecessary touching, patting, hugging, or brushing against a person’s body; (2) remarks of a sexual nature about a person’s clothing or body; or (3) remarks about sexual activity or speculations about previous sexual experience.

C. Persons Covered by Policy and Procedures

1. Complainants. Students, applicants for admission, former students and graduates of the Law School are protected by this policy and may use these procedures to
redress complaints of sexual harassment which occurred while they were students or applying to become students at the Law School.

2. **Respondents.** Full-time and part-time faculty of the Law School, all other employees and other persons described in this section who are not employees must comply with this policy. Complaints against full-time and part-time faculty and employees of the Law School will be handled according to these procedures. Complaints against students covered by this policy will be handled according to procedures set forth in the Student Conduct Code. Complaints against other individuals covered by this policy will be handled at the Dean’s discretion.

   a. **Students.** Complaints against students are not covered by this policy unless the Law School has by employment, appointment or otherwise placed the respondent-student in the relationship of authority over the complainant in which the sexual harassment allegedly occurred. Examples of such students include but are not limited to Law Review editors, Moot Court justices and tutors.

   b. **Others.** Complaints against other persons who have allegedly harassed students in the context of their relationship to the Law School are covered by this policy. Examples include but are not limited to clinical supervisors and lawyers using the services of the Office of Career Services.

D. **Complaint Procedures**

1. **Student Sexual Harassment Informal Complaint Procedures.** Procedures for Complaints Against Faculty and Staff:

   a. **Encouragement to Pursue**

      Any student subjected to unwelcome sexual behavior is encouraged to pursue the matter through the informal or formal procedures described below.

   b. **Purpose of Informal Procedure**

      The informal procedures provide an opportunity for confidential discussion, advice, investigation and attempts at resolution short of adjudication. A student need not initiate or exhaust informal complaint procedures before making a formal complaint.

   c. **Initiation of Informal Complaint**

      A student may initiate an informal complaint by speaking to any member of the Sexual Harassment Committee.

   d. **Composition of Committee**
The Sexual Harassment Committee is a standing committee of five persons appointed by the Dean. It is composed of three full-time faculty members including at least one woman, at least one man and at least one tenured faculty member in addition to one staff person and one student. Faculty members are appointed for staggered three-year terms; other members are appointed for one-year terms.

e. Responsibility of Committee

Members of the Sexual Harassment Committee are to:

(i) advise the student whether the conduct complained of falls within the definition of sexual harassment or is more appropriately addressed through other procedures;

(ii) explain to the student the procedures available for resolving complaints and the ramifications of making such a complaint, including protection from retaliation and the scope of confidentiality;

(iii) counsel the student regarding ways he/she can resolve the matter directly with the respondent whose conduct is at issue;

(iv) with the student’s consent, and after the student has signed a written statement of the allegations, discuss the complaint with the respondent in order to resolve the matter informally;

(v) if informal resolution fails, advise the student on his/her option to pursue the matter through the formal complaint procedure; and

(vi) advise the complainant and the respondent that he/she may be assisted by a volunteer unpaid advocate at any stage of the proceedings.

f. Confidentiality of Informal Procedure

(i) The Sexual Harassment Committee will not reveal the name of the complaining student to the respondent whose conduct is at issue or to anyone else without the student’s permission.

(ii) The Committee will not reveal the identity of a respondent whose conduct is or has been complained of to anyone, with the following exception:

(a) the Committee may reveal such information to the Dean at his/her request or when the Committee believes the conduct
complained of occurred and poses a threat to the safety of other members of the Law School community;

(b) if the Committee reveals information to the Dean pursuant to subsection (a) above, the Dean shall inform the respondent, whether or not the Dean takes any action on the information;

(c) the Committee may reveal to a complainant who is considering bringing a formal complaint against a respondent after informal resolution has failed that the respondent has in the past been found through the formal complaint procedures to have committed sexual harassment, provided, however, that the Committee will not reveal the names of prior complainants without their permission.

(ii)(a) Any information disclosed by one party to the other party during the informal procedures which was not available to the other party outside the informal procedure will be treated as given in confidence. The fact that such disclosure was made shall not be used in the formal procedure except as agreed by the party making the disclosure.

(ii)(b) Any information disclosed to the parties in the informal procedure other than that covered by (ii)(a) above which was not available to the parties outside of the informal procedure shall be treated as given in confidence. The fact that such disclosure was made may be used during the formal proceedings; however, confidentiality shall be maintained and disclosure shall be limited to the Committee.

(iii) The Committee will keep written records of the complaints made to it, including the status and gender of the complainant and respondent involved, the nature of the complaint and its resolution, but not including any information that could be used to identify complainants or respondents.

g. Statute of Limitations

The period for initiating either the informal complaint procedure or the formal complaint procedure, if the informal procedure has been bypassed, shall be:

(i) one year from the date the incident allegedly occurred unless the complainant is enrolled in the respondent’s class or is a rejected applicant;
(ii) if the complainant is enrolled in the respondent’s class, it shall be one year after the complainant ceases to be enrolled in the respondent’s class; or,

(iii) if the complainant is a rejected applicant, it shall be six months after the complainant received notice of the rejection.

2. Formal procedures for complaints against faculty and staff.

   a. Written Complaint. In order to initiate the formal portion of the procedure, a student must file a written complaint with the Associate Dean for Faculty setting forth the alleged facts.

   b. Notification. The Associate Dean shall notify the respondent named in the complaint that a complaint has been filed, inform the respondent of the nature of the complaint, and provide a copy of the complaint to the respondent.

   c. Formal Investigation

      (i) The Associate Dean shall investigate the allegations in the complaint and shall speak to the respondent and the complainant. He/she may speak with any other person he/she thinks may be helpful to the investigation. The Associate Dean shall not require the complainant to repeat the details of his/her allegations except as necessary for clarification or to resolve inconsistencies.

         (a) If, after investigation, the Associate Dean finds the complaint to be well founded, he/she shall notify the Dean of his/her decision and may recommend a sanction.

         (b) The Dean shall inform the respondent of the Associate Dean’s decision and impose a sanction commensurate with the seriousness of the offense. The respondent shall have an opportunity to meet with the Dean regarding the sanction, but any appeal of the Associate Dean’s decision must be heard by the hearing committee described below.

         (c) The Associate Dean shall report his/her decision to the complainant, the respondent and the Sexual Harassment Committee.

         (d) The formal investigation will be confidential in accordance with the personnel policies of the Law School.
d. Formal Hearing

(i) Following an adverse decision by the Associate Dean, either the complainant or the respondent may request a hearing before a committee of three tenured faculty members specially appointed by the Dean. At least one member of the hearing committee shall be a woman and at least one member shall be a man. Faculty members who served on the Sexual Harassment Committee when the informal complaint was made shall not be appointed to the hearing committee.

(ii) The hearing committee shall hear the Associate Dean’s report, all the evidence from the complainant and the respondent and shall decide by majority vote whether sexual harassment occurred. The complainant and the respondent are entitled to an advocate of his/her choice from the Law School community, except that persons who served on the Sexual Harassment Committee during the informal proceedings on the complaint may not serve as advocates. A complainant or a respondent may be assisted by a private attorney retained at that person’s sole expense.

(iii) The formal hearing procedures will be consistent with state law requirements for private employers making decisions that could lead to suspension or termination of employment or with guidelines of the Association of American University Professors for making such decisions, whichever the respondent chooses.

State law does not grant a privilege against self-incrimination in such hearings.

(iv) The complainant and the respondent are entitled to copies of all witness statements pertinent to the complaint, as well as all statements of decision of prior formally adjudicated complaints.

(v) The hearing committee may require all students and employees to appear at the hearing in accordance with the Student Disciplinary Code and the Loyola Marymount University personnel policy.

(vi) The formal hearing will be confidential in accordance with the personnel policies of the Law School. The hearing will be open only to those persons who in the determination of the hearing committee have reason to be there. The decision of the appeal committee shall be made known to the complainant, the respondent, the Dean and the Sexual Harassment Committee.
Information revealed during a formal hearing shall be treated as confidential by all those who participate in the hearing process and protected from outside disclosure.

E. Correctional Measures

1. Sexual Harassment

Following a decision by the hearing committee that sexual harassment occurred, the committee shall, by majority vote, decide the following subsidiary questions.

a. Levels of Wrongdoing.

(i) Intentional Behavior: If the committee finds that the respondent either knew or was substantially certain that the conduct in which he/she engaged would be regarded as sexual harassment by the complainant or by a reasonable complainant, then the committee shall find that such conduct was intentional.

(ii) Reckless Behavior: If the committee finds that the respondent actually realized, or knew of facts from which he/she should have realized, that there was a strong probability that the behavior in which he/she engaged would be regarded as sexual harassment by the complainant or by a reasonable complainant, then the committee shall find that such conduct was reckless.

(iii) Negligent Behavior: If the committee finds that the respondent engaged in behavior which an ordinary reasonable person under the circumstances would have thought to be sexual harassment, then they shall find that it was negligent.

b. Corrections

(i) Amending Corrections: Private Apology, Public Apology. Respondents who have been found not to have engaged in sexual harassment, although the conduct would have been considered sexually harassing from the perspective of a reasonable person in the position of the victim, shall be encouraged to apologize. Public apology would be appropriate when the behavior involved more than one person (regardless of the number of complainants).

(ii) Educative Corrections: Education, Counseling. If behavior is found to be negligent, under no circumstances shall the respondent be given a more severe sanction.
(iii) Disciplinary Corrections: Private Reprimand, Public Reprimand. These corrections are appropriate for reckless or intentional behavior.

(iv) Punitive Sanctions:

   (a) Minor: Disqualification from eligibility for certain fringe benefits (limited to travel allowance, book fund, and research grants), limitation on increases in salary.

       These corrections are appropriate for reckless or intentional behavior.

   (b) Major: Suspension from duties, reduction in salary, termination. Major punitive sanctions shall be limited to those cases where the committee unanimously finds that the behavior was intentional.

   c. No sanction can be applied unless it is consistent with University policies and procedures.

   d. Relief to Complainant: The administration retains the discretion to provide remedies to students.

F. Prevention of Retaliation

Complaints of retaliation by any member of the Law School community against a complainant, witness or advocate in a sexual harassment complaint proceeding may be made to the Sexual Harassment Committee. The same procedures described above for substantive complaints of sexual harassment shall be applicable to complaints of retaliation.
The Ethical Obligations of a Teaching Lawyer
By Lee D. Hwang

The CLE Journal and Register is proud to publish the following winning entry selected from its 1992 national Essay Contest for law students on the ethical obligations of lawyers who serve as continuing legal educators. The author, Lee D. Hwang, is a 1992 graduate of the Harvard Law School. Mr. Hwang received his prize of $1,000 for this essay at ALI-ABA’s Luncheon for Authors and Lecturers in August during the ABA Annual Meeting in San Francisco.

INTRODUCTION

Perhaps never more than today has the need to share information in the legal community exerted so much influence on the way lawyers seek to maintain their professional skills. This information-sharing may take place informally - through lunchtime meetings or talk in the office hallway, for example. But information-sharing also takes a more structured format, as in the case of continuing legal education (“CLE”). In particular, lawyers who teach CLE programs must often deliver their presentation by calling upon their own personal experience as practitioners. They tell stories, discuss strategies, run live demonstrations, play audio and video tapes, construct model simulations, hand out sample documents, write case studies - the list goes on.

This essay explores the ethical obligations of lawyers who use personal experience in educating other lawyers. The Model Rules\textsuperscript{5} and Model Code\textsuperscript{6} themselves offer little guidance, leaving unanswered the crucial question of when the use of personal experience creates a conflict of interest or reveals confidential information. As a result, it remains unclear whether a lawyer

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\textsuperscript{3} See, e.g., Faye A. Silas, Helping Hands: Lawyers’ date sharing grows, 71 A.B.A. J. 25 (October 1965).

\textsuperscript{4} See, e.g., ALI-ABA, ATTAINING EXCELLENCE IN CLE: STANDARDS FOR QUALITY AND METHODS FOR EVALUATION Standard 3.2 Comment at 47 (ALI-ABA, Philadelphia, 1991) [hereinafter CLE STANDARDS]-(explaining that CLE “has supplemented or, in many instances, replaced traditional self-learning”).

\textsuperscript{5} ABA MODEL RULES OF PROFESSIONAL CONDUCT (1990) [hereinafter MODEL RULES].

\textsuperscript{6} ABA MODEL CODE OF PROFESSIONAL CONDUCT (1990) [hereinafter MODEL CODE].
who discusses a client’s case in an educational setting must first obtain the client’s informed consent. In addition, because the Model Rules and Model Code conflict at certain points, it also remains unclear whether the client’s consent will suffice by itself apart from an inquiry into the reasonableness of the lawyer’s conduct.

This essay offers a more coherent ethical framework that takes the inquiry into reasonableness as its starting point. Specifically, we should ask whether the lawyer took reasonable steps not only to prevent identification of the client, but also to prevent prejudice to the client even if identified. This inquiry should depend on the particular audience and method of instruction involved, the duration and intimacy of the lawyer-client relationship, as well as the availability of the information in the public domain. By imposing a standard of reasonableness on the lawyer, this framework upholds the interests of both the individual client and the public in preventing abuses of information-sharing.

The essay contains three parts. Part I briefly describes how personal experience accommodates various methods of instruction as a powerful, though often underestimated, educational tool. Part II then examines how the duties of loyalty and confidentiality, as well as the related duties of zealous advocacy and public confidence, constrain these uses of personal experience. Part III concludes with specific recommendations for the fulfillment of these duties in teaching CLE programs.

I. USING PERSONAL EXPERIENCE

Of the many methods of CLE instruction available today, by far the most common is the lecture presentation. Indeed, a recent ALI-ABA survey of CLE organizations found that 97 percent use the lecture format regularly. Though designed to maximize the exchange of information within a given period of time, lectures still leave much room for the use of personal experience. Lawyers most typically draw on personal experience in the form of a narrative - anything from a brief anecdote about a particular case to the detailed unraveling of a lawyer’s career. Applied properly, narrative not only makes lectures more interesting, but also helps in provoking self-reflection and critical judgment in legal practice. As one law school professor explains, “[e]xposition tells; it gives us information. But narrative also belongs to a higher pedagogy; it demonstrates as it conveys human wisdom.”

Alternative methods of instruction utilize personal experience as well. For example, lawyers occasionally use case studies drawn from their own careers to explore legal issues with enough sensitivity to individual facts. To help the audience identify with a situation further, lawyers may play audio and video tapes relating to one of their past cases. Live demonstrations or dramatizations based on personal experience also help the audience to visualize actual

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7 See CLE STANDARDS, supra note 2, Appendix B at 173; see also Stuart G. Gullickson, Bridge-the-Gap Training: A Comparative Study, in CLE AND THE LAWYER’S RESPONSIBILITIES IN AN EVOLVING PROFESSION 150, 199 (ALI-ABA, Philadelphia, 1988) (finding an average of 92 percent of bridge-the-gap training time devoted to lectures).
8 John Batt, Law, Science, and Narrative: Reflections on Brain Science, Electronic Media, Story, and Law Learning, 40 J. LEGAL EDUC. 19, 23 (1990). Professor Batt goes on to explain: “narrative is open to interpretation, speculation, reflection, and analysis. Through intellect and imagination we expand the pedagogical effect of narrative.” Id.
problems faced between lawyer and client. Even mock trials, as well as negotiation and interviewing simulations, cannot stand on fiction alone; they gain depth and realism only through the selective use of personal experience. Finally, small discussion groups and workshops often lead to the exchange of ideas, strategies, and experiences between teacher and student.

Thus, lawyers use personal experience in more ways than one might initially imagine. Whether through traditional or alternative methods of instruction, personal experience brings legal education closer to the life of the law - and indeed, closer to life itself.

II. ETHICAL DUTIES THAT CONSTRAIN THE LAWYER’S USE OF PERSONAL EXPERIENCE

No matter how effective as an educational tool, the use of personal experience still raises four ethical considerations that limit the sharing of information beyond the lawyer-client relationship. First, by discussing a client’s case before an audience of other lawyers, a lawyer may place his or her personal interests above the client’s. Second, the lawyer may present the client’s case in such a way as to reveal confidential information, even though no pressing exigency allows the lawyer to do so. Third, in cases that involve ongoing litigation, the lawyer’s use of personal experience may prejudice the client in present or future cases. Finally, the public may lose confidence in the legal profession if it believes that lawyers maintain a network for sharing the details of clients’ private lives.

These four considerations correspond to the duties of loyalty, confidentiality, zealous advocacy, and public confidence. For the purposes of organization, Part II.A will focus on the duty of loyalty, whereas Part II.B will focus on the duty of confidentiality. The related duties of zealous advocacy and public confidence will be discussed insofar as they overlap with and reinforce these primary duties.

The following analysis makes one important assumption - namely, that the use of personal experience implicates a lawyer-client relationship, no matter how tenuous. If the lawyer uses a personal experience that does not involve a client at all, the duties of loyalty, confidentiality, and zealous advocacy would not apply in the first place. Nevertheless, a lawyer should still use reasonable discretion in presenting a non-client-based experience in the classroom. For example, in teaching a course on firm management, a lawyer may wish to discuss the internal affairs of his or her former law firm. However, to do so for motives unrelated to professional education would violate not only the duty to maintain professional integrity,9 but also ethical obligations of common decency that the Model Rules and Model Code leave unstated.10

II.A. The Duty of Loyalty

9 See, e.g., MODEL CODE, supra note 4, EC 1-5 (encouraging lawyers to be “temperate and dignified”).
10 See, e.g., MODEL RULES, supra note 3, Preamble: Scope (“The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules.”).
Whenever a lawyer gains employment as a teacher, the possibility for a conflict of interest arises. The conflict may stem from monetary compensation, no matter how small compared to the lawyer’s usual salary. Even the lawyer who teaches on a volunteer basis has a personal interest at stake - for example, recognition by fellow practitioners, self-advancement in the legal community, or perhaps the sheer satisfaction of teaching.

Of course, the mere possibility of a conflict of interest does not prevent a lawyer from using personal experience for educational purposes. Both the Model Rules and Model Code define a higher threshold; specifically, they require that the client’s representation be “materially limited” or “reasonably . . . affected” by the lawyer’s personal interest. At first glance, the most typical use of personal experience - simply telling an anecdote in the classroom - would hardly suggest this level of influence. However, this assumption may not always hold true, especially in sensational cases involving much publicity. Indeed, the high-profile lawyer might reasonably find teaching an excellent forum to spread his or her own name in the legal community. In such cases, the use of personal experience would threaten the lawyer’s independent professional judgment.

An analogy to literary or media rights may help to illustrate this point. In United States v Hearst, defendant Patty Hearst argued that F. Lee Bailey’s agreement to write a book on her life and trial gave rise to a conflict of interest that denied her effective counsel. In particular, Hearst claimed that Bailey had demanded she take the stand to heighten publicity even though her repeated use of the Fifth Amendment would hurt her case. Although Hearst based her argument on Bailey’s monetary incentives in publishing a book, the same rationale should apply to any lawyer who shares the details of a client’s case to advance his or her own interests.

For example, suppose that Professor Alan Dershowitz, instead of publishing his book Reversal of Fortune, used Klaus von Bulow’s case as a model for a CLE program in appellate advocacy. Dershowitz might impress his audience and gain more exposure in the legal community, but only at the cost of his client. Indeed, if Dershowitz introduced the case before all of von Bulow’s appeals had been exhausted, Dershowitz not only would sacrifice his client’s privacy interests, but would also expose his client to prejudice in future proceedings. He would have therefore failed in his duties of loyalty as well as of zealous advocacy. Only by waiting until after the exhaustion of all possible appeals would Dershowitz fulfill these duties and resist the temptation of pursuing his own interests. This approach accords with the Model Rules and Model Code, as well as the ABA Standards for Criminal Justice, all of which prohibit lawyers

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11 MODEL RULES, supra note 3, Rule 1.7(b).
12 MODEL CODE, supra note 4, DR 5-101(A).
14 See 466 F. Supp. at 1083.
15 See id.
16 As one commentator has noted, loyalty and zeal often overlap. See MONROE H. FREEDMAN, UNDERSTANDING LAWYERS’ ETHICS 174 (1990) (“[T]here is no distinct ethical imperative of loyalty. It can be equated with zeal, or it can serve as a convenient way of saying confidentiality, zeal, competence, and communication.”).
from entering publication agreements before the conclusion of all matters giving rise to representation.\textsuperscript{17}

The duty of loyalty does not simply end at that point, however. The duty would mean very little at all if lawyers could take the conclusion of all matters as free license to share the details of their private lives with others. Indeed, the duty should apply with even more force if the lawyer and client have had a long and intimate relationship.\textsuperscript{18} For example, if von Bulow had retained Dershowitz for many cases instead of just one, the attorney-client relationship would appear much more of a private matter involving greater trust and confidence. For Dershowitz to discuss von Bulow’s case anyway would compromise this trust and confidence, making the public more reluctant to seek legal assistance and chilling the flow of information between other lawyers and clients. In this sense, Dershowitz would have failed not only his duty of loyalty to his individual client, but also his duty to preserve public confidence in the legal profession.

II.B. The Duty of Confidentiality

For lawyers who pursue paths of less publicity, the duty of confidentiality may present a more substantial constraint on the use of personal experience. However, the Model Rules and Model Code approach the problem by offering two interpretations of confidentiality, neither of which imposes a standard of reasonableness on the individual lawyer. A better approach would require the lawyer to take reasonable precautions against identifying or prejudicing the client through the use of personal experience.

Reasonableness should depend on the audience and method of instruction involved, the duration and intimacy of the lawyer-client relationship, and the availability of information in the public domain. This approach maintains the full and free flow of communication between lawyer and client, while at the same time preserves public confidence in the legal profession.

The Model Rules and Model Code give rise to two possible interpretations of confidentiality, one broad and one narrow. The Code offers the narrow interpretation, defining confidential information in terms of “confidences” protected under the attorney-client privilege and “secrets” that may embarrass or prejudice the client.\textsuperscript{19} In contrast, the rules avoid the distinction between “confidence” and “secret,” defining confidentiality more broadly in terms of any “information relating to representation of a client.”\textsuperscript{20} However, both the Rules and Code fail to recognize that a lawyer may reasonably describe a personal experience in such general terms

\textsuperscript{17}See MODEL RULES, \textit{supra} note 3, Rule 1.8(d); MODEL CODE, \textit{supra} note 4, DR 5-104(B); ABA STANDARDS FOR CRIMINAL JUSTICE: THE DEFENSE FUNCTION Standard 4-3.4 (1980). \textit{See generally Note, Conflict of Interest When Attorneys Acquire Rights to the Client’s Life Story, 6 J. LEGAL PROF. 299 (1981); Note, Conflicting Interests in Lawyer-Client Publication Rights Agreements - The Story of Bobby Joe Maxwell, 42 U. Prr. L. REV. 869, 910-12 (1981).

\textsuperscript{18}Of. MODEL RULES, \textit{supra} note 3, Rule 1.7 comment (describing “duration and intimacy of the lawyer’s relationship with the client” as a relevant factor in conflict situations other than litigation).

\textsuperscript{19}MODEL CODE, \textit{supra} note 4, DR 4-101(A).

\textsuperscript{20}MODEL RULES, \textit{supra} note 3, Rule 1.6(a); see also CENTER FOR PROFESSIONAL RESPONSIBILITY, THE LEGISLATIVE HISTORY OF THE MODEL RULES OF PROFESSIONAL CONDUCT 46 (1967) (explaining that the Rules define confidentiality more broadly than the Code).
that it could apply to any number of clients. For example, creating a generic, hypothetical fact-pattern stripped of personal detail would hardly reveal any information considered “confidential.” Thus, if the lawyer keeps the client reasonably unidentifiable, it might not be appropriate to call the information confidential in the first place.”  

The over inclusiveness of both the Rules and Code suggests that a more flexible inquiry into the lawyer’s reasonableness may better define the duty of confidentiality. The first step in this inquiry would ask whether the lawyer took reasonable steps to keep the client unidentifiable. In cases of ongoing litigation, however, the lawyer’s reasonable efforts may still not prevent a use of personal experience from prejudicing the client in a present or future proceeding. For example, the lawyer may wish to tell an explosive story about an “anonymous” client for a strategy workshop in toxic torts litigation. Even if the lawyer tried to generalize the case to make the client unidentifiable, the possibility remains that another lawyer in the same legal community will piece together the clues to the detriment of the client. In accord with the duty of zealous advocacy, the lawyer should also limit the personal experience to minimize prejudice to the client even if identified. The overlap between the duties of confidentiality and zeal is reflected in the Model Rules and Model Code as well, both of which prohibit the use of confidential information to the disadvantage of a client.”

Reasonableness in using personal experience therefore involves preventing identifiability as well as prejudice. Focusing on one without the other would fail to serve the rationale underlying the duty of confidentiality -- namely, to preserve full and free communication between the lawyer and client. For example, the lawyer may wish to discuss the mundane details of a client’s family life or work habits as background material for a case study. Even if identifying the client by name would not prejudice the client, the client might feel betrayed that the lawyer exposed these details, especially if the lawyer and client have had a long and intimate relationship.

In practice, the inquiry into reasonableness will depend most heavily on the availability of information in the public domain. According to one lawyer, the fact that “‘[s]o much of the nuts and bolts of a case may already be public’” adequately safeguards client confidences. This view makes sense when the lawyer’s use of personal experience simply repeats information already available to the public, either as a matter of public record (e.g., court transcripts or affidavits) or media attention (e.g., news stories). However, we should not assume that the availability of public information automatically excuses the lawyer from the duties of confidentiality and zealous advocacy. To the contrary, the availability of such information may sometimes cut in favor of restricting the lawyer’s use of personal experience. For example, a lawyer might discuss the publicly available nuts and bolts of a recent case that he or she has

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21 The relation between identifiability and confidentiality arises in other academic contacts as well, such as scientific research on human subjects. See, e.g., JOHN M. RICH, PROFESSIONAL ETHICS IN EDUCATION 84 (1984) (arguing that researchers violate confidentiality “when personal information is . . . made identifiable”).

22 See MODEL RULES, supra note 3, Rule 1.8(b); MODEL CODE, supra note 4, EC 4-5.

23 See, e.g., MODEL RULES, supra note 3, Rule 1.6 Comment (explaining that the duty of confidentiality encourages clients “to communicate fully and frankly with the lawyer”); MODEL CODE, supra note 4, BC 4-1 (explaining that the duty of confidentiality “facilitates the full development of facts essential to proper representation”).

24 Silas, supra note 1, at 25 (quoting Andrew Berger of Breed, Stairs & Berger of New York).
worked on as a springboard into a discussion of legal strategy. Even if the lawyer did not mention any names, it would be easier to find out the client’s identity with the information available in the public domain. If, on the other hand, the lawyer had told the story hypothetically without indicating that the case derived from the lawyer’s own experience, it would be less likely that the client could actually be identified. In this way, the lawyer would reasonably prevent the availability of information in the public domain from prejudicing the client.

The inquiry into reasonableness will also depend on the audience and method of instruction involved. For example, we would need to distinguish between in-house CLE programs and CLE programs provided by independent organizations. When teaching an in-house CLE program a lawyer may not have to take as many precautions to protect the identity of the client, since only fellow members of the firm would share in the information. Even in very large firms, a simple reminder to the audience of their duty of confidentiality within the firm should satisfy a standard of reasonableness.

In contrast, when teaching an independent CLE program, a lawyer would need to take many more precautions against identification and prejudice, given the lack of any common firm bond. For example, in reproducing sample documents for illustrative purposes, a lawyer should protect the client’s identity by changing or deleting names as well as any other identifying characteristics, such as phone numbers or addresses. Similarly, video tapes may require electronic editing of facial features to preserve the client’s anonymity. In giving an oral presentation, a lawyer has perhaps the easiest editorial control - a lecture, discussion, or question-and-answer session may include as much or as little detail as the speaker chooses. In addition, the lawyer may present a hypothetical by rearranging details and constructing factual situations drawn from a number of previous cases. Thus, a lawyer may use techniques of both generality and selective detail to satisfy the duty of confidentiality.

The distinction between in-house and independent CLE programs becomes especially important within a tightly knit legal community that practices a specialized area of law, such as in the toxic torts example above. In these situations, the exchange of information takes place more frequently and a greater probability of representing adverse parties exists. Lawyers who teach independent CLE programs must accordingly take even greater precautions against identifying or prejudicing clients. For example, in running strategy workshops and seminars, a lawyer could meet this heightened standard by informally screening the audience beforehand for possible conflicts of interest.

III. CONCLUSION

25 Independent CLE providers include local, state, and national bar associations, law schools, as well as an increasing number of profit-making organizations. See CLE STANDARDS, supra note 2, at 15-16

26 Of course, if the client objects to the sharing of information within the firm, those wishes should prevail. See MODEL CODE, supra note 4, EC 4-2 (“Unless the client otherwise directs, a lawyer may disclose the affairs of his client to partners or associates of his firm.”); MODEL RULES, supra note 3, Rule 1.6 comment 8 (allowing lawyers within a firm to exchange information relating to a client “unless the client has instructed that particular information be confined to specified lawyers.”).
CLE programs aspire to teach lawyers not only to maintain their professional skills but also to reflect about issues of ethics and professional responsibility. It would be ironic if lawyers who teach such programs failed their own ethical obligations in the process of teaching. The approach taken in this essay should help lawyers evaluate their own methods of instruction in light of the duties of loyalty, confidentiality, zealous advocacy, and public confidence.

The safest way to satisfy these duties would be to obtain the client’s informed consent beforehand. Ideally, a teaching lawyer would advise the client at the conclusion of representation about the possibility of using that experience for educational purposes. By having this established procedure, the lawyer would resist the temptation of exerting undue pressure on the client to consent at a later time.

In the absence of informed consent, a lawyer must take reasonable steps to protect the client’s identity and prevent prejudice to the client in case of possible identification. For most anecdotes and discussions, the lawyer satisfies this standard of reasonableness by keeping the facts sufficiently general or presenting the story as a hypothetical that could apply to any number of clients. The more troublesome cases arise when the lawyer maintains a high profile or presents a specific case study or strategy session in which facts and strategies intermingle. In such cases, the lawyer should eliminate possible prejudice to the client by waiting until after all the matters relating to the representation have concluded.

We cannot forget that the inquiry into reasonableness demands close attention to the ways in which CLE programs have changed in recent years. With the emergence of new formats and methods of instruction arise ethical obligations that require us, for example, to distinguish in-house CLE programs from programs provided independently. CLE programs will continue to evolve, of course. By imposing a standard of reasonableness that adapts to the ever more complex sharing of information, we take a needed step toward recognizing the dynamics of the education process.

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27 See, e.g., CLE STANDARDS, supra note 2, Standard 3.5, at 52; ABA, MODEL RULE FOR MINIMUM CONTINUING LEGAL EDUCATION § 7(a) (1988).
APPENDIX C: STANDARD OF CONDUCT FOR ADJUNCT INSTRUCTORS

The following conduct is prohibited:

1. Willful violation of a rule of the School requiring him/her to do or refrain from doing an act connected with or in the course of his/her conduct as a professor at the School.

2. Willful interference with the orderly conduct of the educational or administrative functions of the School.

3. Willful physical abuse or threat of such abuse to: a faculty member, administrator, official or employee of the School; a student of the School; another person on the School premises; or at a School approved, sponsored or supervised function.

4. Theft or willful abuse of School property or property of another on the School premises.

5. The distribution or possession for purposes of distribution of any controlled substance or illegal drug on School premises or at School sponsored activities. In addition, the use of possession of any controlled substance or illegal drug on School premises or at School sponsored activities.

6. Willful and material misrepresentation or nondisclosure concerning qualifications for admission to the School.

7. Commission of any criminal act, including computer crime, which reflects adversely on the instructor’s honesty, trustworthiness, or fitness. This provision shall not be construed to apply to any conduct that is protected by the Constitution of the United States or the State of California. If there has been a conviction in a criminal proceeding, the record of conviction shall be conclusive evidence of guilt of the crime of which the professor has been convicted. A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

8. Engaging in any Law School related conduct, whether or not criminal, which reflects negatively upon the professor’s moral character and fitness as a professor in a law school. This includes, but is not limited to, acts of harassment, disorderly conduct, dishonesty, fraud, deceit or intentional misrepresentation.
APPENDIX D – VITAL EXAM MEMO

MEMORANDUM

DATE: April 8, 2013

TO: Full Time Faculty, Adjunct Faculty, Information Center, Office of the Registrar, Faculty Support Services, Office of Student Affairs

FROM: Sean Scott, Associate Dean for Faculty

SUBJECT: Vital Examination Matters

We expect students to be ready for exams. In turn, our students depend on us to make the exam process fair and efficient. Careless errors in the planning or administration of an exam create huge headaches for you and the Law School, not to mention our students. But procedural mishaps can be avoided with planning and thought. Please read this memo carefully as changes have been made to our exam procedures and suggestions.

Even if you’re an experienced teacher, reading this memo is recommended; everyone forgets things, and everyone can benefit from getting reacquainted with our procedures. Please take a few minutes to read this memo now.

5.5.1.1. COMMON PROBLEMS AND QUESTIONS

- **Timeliness** - Turn in your exams on time. Your Faculty Support Services (FSS) assistant will notify you of the date your exam is due. Errors are common when you rush to finish an exam before it is due.

- **Ambiguities or errors in exam** – We will assume that you do not wish to answer questions about alleged ambiguities or errors during the exam unless you give the Office of the Registrar (OTR) specific instructions to the contrary. Please tell OTR if you wish to respond to questions during the exam.

- **Anonymity** – We have a strict policy of anonymous grading. We make exceptions only for situations where there is no practical way to grade anonymously, as in the case where the professor observes the performance of a student in a skills course or must meet with a student to discuss drafts of a paper. Anonymity, or the perception thereof, can be breached in seemingly innocuous ways, so please be cautious.

If a student contacts you before, during or after an exam (before your grades are posted) to raise an issue regarding the exam or his/her performance on it, please forward that communication immediately to OTR who will contact the student. Do not reply to the student.

- **Availability During Exams** – Even if you do not want to answer student questions during your exam, be sure you are available to us by phone or on campus at the time of your exam. Each Monday during the exam period,
you will receive a schedule of pending administrations of your exam with the contact telephone number OTR has for you. If your contact number needs to be updated, please contact OTR before the administration of your exam.

- **Papers and Take Homes** – If you tell students to submit their work directly to you, you must use a method of submission consistent with our policy of anonymous grading. Student term papers and take home exams can be administered with the examination software, SofTest, which allows for electronic submission of such documents. Please refer to the section on Papers and Take Homes on Pages 4 and 5.

- **Accommodations, Conflicts, Delays** – Please refer to OTR all student questions regarding disability accommodations, exam conflicts, illness, or any other reason to reschedule an exam or alter the manner of an exam’s administration. Professors should not attempt to resolve these issues but should permit them to be addressed by the administration.

- **Rescheduling Exams** – Please refer to OTR all students who wish to reschedule. Do not give a student permission to reschedule an exam. Please do not tell the student it is “O.K. with me” to reschedule an exam. All communication with students about rescheduling should be through OTR: Chris Butzen (213-736-1017) or Wes Holland (213-736-1013). If you are unable to reach either Chris or Wes, please call the general number for OTR, 213-736-1130.

- **Old Exams Not on File** – Be careful about using old exam questions, copies of which may be in the possession of some students. It is a good idea to make sure that all of your old questions are on file with the Library or on your course webpage if you intend to use a similar question on a current exam. If not, some students may have access to a copy while others do not. Be sure to contemplate exams you’ve given at other institutions, summer programs, or as a visiting professor. Exams on file in the Library are available online at [http://library.lls.edu/pastexams.html](http://library.lls.edu/pastexams.html). Note that converting an old in-class question or exercise into an exam question carries the same risk as if you simply reused old exam questions.

- **Instructions Regarding Allowed Materials** – Before you decide what materials can be used during an exam, read the serious problems about “open book” exams discussed below. Remember that exams in some courses must be closed book. Refer to your faculty handbook for a listing of courses to which this rule applies.

- **Student Examination Numbers** – To preserve anonymity in grading, students use their LLS identification numbers on exams and other graded work. Do not give students another number or ask students to make-up a special code for individual assignments.

- **Posting of Grades** – Carefully review our posting policy discussed below.

- **Grade Deadlines** – Meet your deadlines for turning in final grades. Nothing generates more complaints about the level of faculty professionalism than late grades. Grading deadlines are provided below.

- **Plagiarism** – Remind your students of the Law School’s policy against plagiarism. If you need a copy of that policy, contact Faculty Support (213-736-1080). Watch for evidence of plagiarism on papers. A good way to check for plagiarism in a paper is to take an unusual phrase from the paper and do a search in the Lexis or Westlaw law journal database. Googling unusual text may also be helpful. If you suspect plagiarism, please bring the matter to my attention immediately.
• **Pick up exams** – Exams will be delivered to your office (if you are a full time member of the faculty). As soon as you receive your exams you are responsible for verifying whether you have the number of exams that OTR and Faculty Support indicate they are giving to you. Adjunct professors must pick up their exams at OTR (F 105).

**EXAMINATION INSTRUCTIONS**

It is very important to make your instructions, including those regarding what materials are allowed on exams, as simple and precise as possible. This semester will be the last semester that the Examination Checklist will be provided to you by your FSS assistant. The checklist is the first page of your exam and will include general instructions such as length and type of exam. If you include an additional instruction sheet with more specific instructions, **please do not duplicate this general information as this runs the risk of confusing students.** Take the same care in preparing exam instructions as you would in writing a legal instrument like a contract. It is also important that in advance of the exam you give these instructions to the students in writing so they have a chance to ask questions and identify ambiguities. **Even if certain instructions seem obvious – such as an instruction not to collaborate on a take home exam – err on the side of including the instruction.** If you’re concerned that the instructions will be so detailed as to distract students, consider going over the instructions on the last day of class.

**Proctors will enforce your instructions literally.** They are not lawyers and are not members of the full time staff, and cannot make nuanced judgment calls.

**Outlining Period and Printing Examination in Duplex**

You must notify your FSS assistant if your examination will include a period for outlining prior to the examination.

Your instructions should clearly state when the outlining period should begin (typically at the beginning) and its duration (in minutes). Bluebooks will no longer be available for outlining; instead your examination will include several sheets of papers specifically for this purpose. Please take care to remove any reference to the use of bluebooks for outlining purposes.

In an effort to reduce cost and be eco-friendly, the Law School will begin duplex printing of all examination materials.

**Open Book Examinations and Paste-Ins**

A particular concern that has caused problems is "paste-in" notes for open book exams. If you allow an open book exam, but limit what the students can use in the exam, there is a good chance that some students will paste notes into their permitted books or materials. It is very difficult to enforce a rule against such paste-in notes. Moreover, there is a good chance that despite a rule against them, students will use such notes if you give an open book exam. The amount of turmoil that is created when the proctors begin ripping pages out of books to enforce a no paste-in rule is unbelievable.

I strongly suggest that you allow students to bring into the exam either all materials or no materials. Consider giving a closed book exam but providing as an appendix to the exam copies of whatever statutes or cases you want students to access.
Open Note Examinations and Commercial Outlines

A related problem is caused by giving an open note exam but restricting the quantity or kind of notes that students can use. For example, proctors cannot enforce a rule limiting the number of pages of notes that a student can use -- it would take far too long to count the number of pages of notes each student brings into the exam. Another example is a rule against the use of commercial outlines. It is very difficult for our proctors to distinguish between a photocopy of a commercial outline and a student prepared outline. At any rate, students could be expected to transcribe commercial outlines into their own notes. As a result, there is a very good chance that a rule against commercial outlines will be violated, but that the violation will not be detected. As you can imagine, word of such violation spreads among the students and the result is the demoralization of those who followed the rules.

Open Book/Open Note Examinations

Increasingly faculty is using electronic materials in lieu of hard copies. Often faculty indicate to students that it is unnecessary for students to print hard copies of these materials as the faculty member will allow them to access these electronically stored materials during the exam. Allowing students access to their hard drives during exams is prohibited. This is done to prevent students from electronically consulting with one another during exams and to prevent them from accessing materials electronically which may have been prohibited by the faculty member. Please do not inform students that they may have access to their hard drives during exams. If you want students to have access to electronic material, we recommend administering a take home exam rather than an in class exam.

5.5.2. Posting of Grades after Examinations

The faculty has adopted a policy regarding the posting of grade information. OTR posts grades, faculty do not. Each instructor may post anonymous data, such as the class mean and grade distributions. This information can be handed back with the exams, for example, as a handout inserted in each bluebook, or it can be distributed in another way. The important thing to remember is that you may not post individual student grades with names or identification numbers. You may, for your own information, ask OTR to match grades in your course with student names after your grades are finalized or print a grade roster from your FWS account.

Each instructor is free to establish her/his own policy regarding the distribution of anonymous data regarding grades. You may choose to provide no data, to provide only the class mean, to provide only the distribution, or to provide other anonymous (no names or student identification numbers) information of your choosing.

OTR only distributes individual grades to individual students via the OTR Web system. OTR does not distribute any information about students’ relative performance in individual classes, other than notifying students who are eligible to receive First Honors awards in those classes for which such awards are given.

5.5.3. DEADLINES

Faculty Support Services (FSS) Deadlines

Please try to assist Faculty Support by observing established deadlines for production of final exams. When exams are finished at the last minute, it significantly increases the chance that an error will be made in duplication. We will try to assist you by providing helpful reminders for overdue exams.
Grading Deadlines

“Professors are late grading examinations,” is a common student complaint. Late grades cost our students jobs because they compete against students from other schools whose records are complete. Late grades make it impossible to award class-wide honors, even if only one relevant set of grades is missing; in the past, this uncertainty has encouraged students to consider transferring. Late grades can also prevent the Law School from certifying a graduating student from taking the bar exam. If you give an upper division essay exam, you have three weeks from the date of the exam to turn in your grades. You also have three weeks to submit grades based on papers, take home exams, directed research, externships, and courses with no final exams. If you give a Scantron (i.e., objective) exam, you have two weeks from the date of the exam. Grades for first year students are due four weeks from the date of the exam for essay exams and two weeks for Scantron exams.

5.5.3.1.1. PAPERS AND TAKE HOMES

Do not tell students to turn in papers or take home exams to Faculty Support Services (FSS), the Library, or the Information Center. We have the following policy for end-of-the-semester collection of directed research papers, seminar papers, other writing assignments, and take home exams. This policy does not apply to Legal Writing papers.

I. Scope. This policy governs the distribution and collection of directed research papers, seminar papers, other writing assignments, and take home exams. It does not apply to Legal Writing papers or other papers that are not due at the end of the semester.

II. Deadlines for Papers and Take Home Examinations. The latest date for turning in a paper or take home exam is the last day of the examination period by 12:00 P.M. For Spring 2013, Friday, May 17 is the last day of the examination period.

III. Deadline for Submission of Directed Research. The latest date for students to submit their directed research paper is Friday, May 18 the last day of examination period.

IV. Acceptable Methods for Distribution and Collection of Final Assignments. There are three methods by which end-of-term papers and take home exams may be distributed and collected.

Faculty members can arrange for end-of-the-semester distribution and collection of papers and take home exams as follows:

DISTRIBUTION - Select only one option

Option 1: Faculty themselves may distribute hard copies of final written assignments and take home exams, either at a class meeting or in their office. (Please make sure to do this in a manner that both appears to maintain student anonymity and, in fact, does so.)

Option 2: Faculty may have OTR distribute hard copies of final written assignments and take home exams. Faculty may either give hard copies directly to OTR for distribution or may have their FSS assistant arrange for copies to be delivered to OTR. Please note that OTR will distribute the materials only during regularly scheduled office hours, Monday through Friday 10:00 a.m. until 6:00 p.m. (If materials are distributed prior to the examination period, OTR closes at 4:00 p.m. on Fridays.)

Option 3: Faculty may distribute final written assignments and take home exams electronically via our current exam software, SofTest. To use this option, faculty must provide their FSS assistant with a copy of
the final assignment or take home exam, along with all exam/paper parameters. FSS will forward it to OTR. OTR will proceed to upload the materials and incorporate any limitations specified by the faculty member. Students can only use this option if they have downloaded SofTest.

Please be aware that there are certain drawbacks inherent in this process. Students will not be able to print any materials, including the exam or assignment itself, from the SofTest environment. Thus, they will not be able to obtain a hard copy of the assignment or test question(s) from their own computers. Approximately one-quarter of a single screen of information can be viewed at any given time, necessitating that students scroll through additional information/screens depending upon the volume/size of the question(s) or information included in the examination.

In all instances, faculty members should comply with the established exam submission deadlines.

ESTABLISHING EXAMINATION PARAMETERS

You may also impose a time limitation on when the exam upload needs to be completed. The deadline can be set based on a number of hours after beginning their exam or on a fixed date and time. If you do not indicate a time, OTR will assume 11:59 p.m. of the day that the paper/exam is due (except in the case of the last day of the exam period).

The following information needs to be given to your students, your Faculty Support Services assistant and OTR:

- Start date and time that students can access (download) the exam or paper.
- End date and time that students can access (download) the exam or paper. (This date and time cannot occur after the due date and time.)
- Due date and time for submission of the exam or paper that cannot be later than 12:00 p.m. on the last day of exams.
- Time limit in hours/minutes permitted to complete the exam or paper.
- Line spacing, page limitation or character count limitations you may require.
- To facilitate blind grading, your instructions must state that the student’s LLS ID Number (and NOT his/her name) must be reflected on all documents submitted for evaluation.

COLLECTION – Select only one option

There are two options for the collection of final written assignments and take home exams:

Option 1: Faculty may direct students to deliver hard copies of their final assignments or answers to take home exams to OTR. Please note that exam response collections will only occur during regularly scheduled office hours, Monday through Friday, 10:00 a.m. until 6:00 p.m. If you schedule students to return materials on the final day of the exam period, note that OTR will accept materials only until NOON of that day.

Again, DO NOT direct students to send their final assignments or take home exam answers to FSS or the Information Center. They will not accept them.

Option 2: Faculty may direct students to send their responses to OTR electronically via the exam software, SofTest. This method is preferable as it provides an encrypted back-up in case any submission issue
arises, permits secure electronic submission, and allows exam responses to be collected 24 hours a day. OTR will not accept take home exams or papers submitted via email.

All exam answer files for papers and take home exams must be typed or moved into SofTest. Only the special encrypted answer file may be uploaded into SofTest. Students may not use any computer software program other than SofTest to create answers to the exam. No other file types (e.g., .doc or .pdf) may be transferred to SofTest. Upon receiving the uploaded exam, OTR will print your exam for delivery to Faculty Support or if you prefer, e-mail the paper/exam to you as a .pdf document.

EXAMINATION ADMINISTRATION AND INSTRUCTION POLICIES

Issues arise each year in connection with the instructions that accompany exams and practices during exam administration.

1. **Announcements During Examinations.** Please notify OTR if you want an announcement made during an exam. This is very important because OTR must insure that the same announcement is made in all exam rooms, special administrations, and make-up administrations of your exam. In many cases, you will not know where and when all administrations of your exam will take place. Please do not make announcements yourself without first discussing the announcement with OTR.

2. **Faculty in the Exam Room.** Faculty members should be aware that problems are created if faculty members are present in the exam room and answer individual student questions one-on-one during exams. This frequently leads to vociferous student complaints. This practice is considered to be highly disruptive by many students.

3. **Student Questions After Examinations.** I strongly recommend that faculty members not discuss an exam with individual students who have completed the exam until after grades have been posted. In some cases, a professor discussing the answer to a question has been overheard by other students still taking the exam, but on a restroom break. In addition, students taking a make-up exam may learn of the professor’s comments.

4. **Questions During Examinations.** Please be absolutely clear in your communications with OTR regarding your availability to answer student questions forwarded by the proctors during an exam. We will assume you do not wish to answer student questions during the exam unless you give OTR specific instructions to the contrary. I believe that it is unwise for faculty to answer student questions during an exam. Unless you tell Faculty Support Services otherwise, the following will be included in the written instructions for your exam: “If an ambiguity arises during an essay examination, describe it in your answer. If an ambiguity arises during a multiple choice exam, address it on the sheet marked “Ambiguities/Outlining”, not on the Examination Checklist, and submit it directly to the proctor at the end of the exam.”

However, please be available during your exam so that OTR can get its questions answered, if it has any. Please make sure that OTR knows how to contact you during your exam.

5 **Collecting Materials After Examinations.** OTR collects all materials (e.g., examinations, scratch paper, ambiguities/outlining sheets) after each exam.

6. **Food and Drink During Examinations.** Please do not tell students that they may bring food and drink to exams. The proctors will be instructed not to allow them to do this, and if you give contrary instructions, it may cause a disruption during the exam.
7. **Other Possessions/Electronic Devices During Examinations.** Only examination and writing materials will be allowed at student desks for closed book exams. Students must place all other personal items at the front of the room or as directed by the proctor. No electronic devices are allowed during an exam except a laptop used in connection with SoTest (the exam software used by LLS) or other device provided by OTR (such as a calculator). This includes cell phones, PDAs, pagers, and watches with data storage capability. There are official examination clocks in all exam rooms. These restrictions on what students can have at their desks are in line with current bar exam procedures.

**LIMITS ON ANSWER LENGTH AND SEPARATELY TIMED EXAMINATION COMPONENTS**

1. **Limits on Answer Length**

If you choose to place limits on the length of answers to essay questions, because some students handwrite their answers in bluebooks and others type on a computer, it is necessary to state any limit in two ways: permitted length of answer in bluebooks (or bluebook pages) and permitted length of answer on pages printed from computer exams.

The Law School has adopted a standard for equating the length of student answers using character counts with spaces (not word counts) in these different formats. Students will be instructed to use the on-screen character count tool to track the length of an answer. While the standard cannot be precise (handwriting varies from one student to the next), the following charts are based on a survey of practices at other schools and data collected by OTR. If you limit the length of student answers, you should refer to the charts or ask your Faculty Support Services assistant to refer to them in preparing the instructions for your exam.

**Bluebooks vs. Computer Exams – Character Count**

<table>
<thead>
<tr>
<th>Computer Exams</th>
<th>Characters Per Page (With Spaces)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 page double spaced with 1” margins, Times New Roman 12 pt font</td>
<td>1,980</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bluebooks</th>
<th>Characters Per Page (With Spaces)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 bluebook - writing on every line, front and back of each page</td>
<td>19,800</td>
</tr>
<tr>
<td>1 bluebook - writing on every other line, front and back of each page</td>
<td>9,900</td>
</tr>
<tr>
<td>1 bluebook - writing on every other line, front of each page</td>
<td>4,950</td>
</tr>
</tbody>
</table>

Slight variations in character count per page may occur based on user formatting (outlining, hard returns, etc.)

**Important Note:** SoTest will not prevent a student from exceeding the number of characters permitted. Professors may review the examination answer coversheet to determine whether a student has in fact exceeded the character limit established.
If your exam has multiple questions, and you wish to set separate character limits for each question, please clearly indicate the character limit for each separate response.

SofTest does not display page breaks. While SofTest has a feature (from the Tools menu bar) that can provide more detailed information (e.g., word count), students will be instructed to use only the on-screen character count tool which permits students to track the length of an answer as they type.

2. Separately Timed Examination Components and Questions

If you wish to give separately timed examination components and/or questions, you must notify your FSS Assistant and OTR 1 week before the examination period begins (April 25) and indicate this on the examination instructions that will be handed out to the students. For examinations timed separately, 2 exam files will be created; one for essay responses and one for multiple choice responses. Contact your FSS Assistant and OTR if you intend to have more than 2 separately timed examination components or if a component of your examination has more than 10 essay/short answer questions or 100 multiple choice questions.

Students will receive the following instructions regarding the examination answer file:

SofTest automatically creates all headers, page numbers, and margins and double spaces essay responses when printed by the school. SofTest automatically backs-up and saves to your hard drive every minute. By default, your Softest answer file has 100 Multiple Choice (1 – 100) and 10 Essay (101 -110) questions.

a. For multiple choice answers, use only the corresponding question screens numbered 1 to 100. To proceed to the next answer screen click the blue forward arrow at the top of the screen. To review previous answers click the blue back arrow.

b. For essay responses, answer each question in the corresponding question screens numbered 101 to 110. For example, to type your answer to essay question 1, use Question screen number 101 (on navigation bar on right) or click on the button marked ‘Last’ and navigate back to question number 101. For essay question 2, use question screen 102 and so on and so forth.

To proceed to the next answer screen click the blue forward arrow at the top of the screen. To review previous answers click the blue back arrow.

For combined that are not timed separately, 1 examination answer file is created that can accommodate 100 multiple choice questions and 10 essay questions. The multiple choice answer sheet appears first, followed by the answer sheet for essays.
APPENDIX E: LOYOLA LAW SCHOOL PLAGIARISM POLICY
(EXCERPT FROM STUDENT HANDBOOK)

10.0. PLAGIARISM POLICY

10.1. General Policy

Loyola Law School is dedicated to upholding the highest standards of professionalism in legal education and practice. For this reason the school considers acts of plagiarism a serious breach of its academic code. Plagiarism in student work for class, journals, moot court or externships will be subject to severe disciplinary action.

10.2. Plagiarism Defined

10.2.1. For purposes of this policy, plagiarism is defined as: taking the intellectual work of another and representing it as that of the author. There are three major forms of plagiarism.

10.2.1.1. Use of the Published Work of Another Without Attribution

This is perhaps the most common form of plagiarism, where the author takes the language, the research or the ideas of another without giving credit to the original author. In law the most commonly plagiarized publications are law review articles and books, but almost any form of formal expression can be the basis for plagiarism. Such sources include, but are not limited to: cases, commercial outlines, magazines, newspapers and other periodicals, on-line sources, commercial law outlines, lectures and speeches, movies, videos, radio and television programs. Plagiarism may involve direct quotation without attribution, paraphrasing without attribution, or use of the ideas of an author without attribution.

A related form of plagiarism involves sources. Footnotes and endnotes may be plagiarized in the same way as any source. It is also unethical practice for an author to take citations from other works without consulting the cited works directly. This represents to the appropriation of the research work of another, without attribution. A student may use the same citations that appear in another work, without attribution to that work, as long as the author has directly consulted the source and determined that the source stands for the proposition for which the student uses it. When the author has personally done the research, the research
becomes his/her own. If the cited work is unavailable, but the student still wants to make use of it, he/she may do so as long as he/she indicates that the citation is indirect, *i.e.*, “as cited in” or “as quoted in” the work the student consulted.

10.2.1.2. Using the Unpublished Work of Another Student, Lawyer or Other Person, Without Authorization and Without Attribution

This form of plagiarism involves an author's use of another person's work on a student paper or other law school work beyond what is authorized by the assignment and without fully acknowledging the other person's contribution.

Many law school assignments permit some degree of collective interchange. Students may be encouraged to discuss the assignment with each other or with instructors. Students may be encouraged to have others read over drafts and give comments. As long as authorized by the instructor, these practices are permissible and need not be specially noted in the student work. If the student has any doubt about what is authorized, he/she should consult the instructor.

10.2.1.3. Inventing or Misrepresenting Sources

This form of plagiarism involves giving a citation to a publication that does not exist, or misrepresenting the content of a publication. In law, the source of an idea or a rule often plays an important role in evaluating that idea or rule. Authors who invent sources that do not exist commit a serious act of deception on the reader. Authors who misrepresent what the sources say not only may deceive the reader but may do professional damage to the original author.

10.3. Responsibility for Plagiarism

All authors are responsible for ensuring that their work contains no plagiarism. *Plagiarism, especially in the age of on-line research, may be inadvertent, but it is still plagiarism.* Students need to be scrupulous in note-taking and in citation to avoid the possibility of plagiarism.

Penalties for plagiarism include the most serious that the School may apply for any disciplinary infraction. Although lack of intent will not be a defense to plagiarism, it may be considered in the imposition of a penalty.
10.4. Plagiarism: Why It Matters and How to Avoid It

No one wants to be accused of plagiarism. In the academic world, plagiarism is a fancy word for cheating - and no one likes cheaters. But in law school, plagiarism is more than just stealing another student's paper and putting one’s name on it. Plagiarism implicates the special rules and considerations of citation in legal writing. For that reason, it requires some special attention for the beginning legal writer.

10.4.1. Plagiarism, Quotes and Citations

There is a simple way to avoid plagiarism. Attribute one’s sources. Quotations should be indicated by quotation marks and their source cited. Citations should be given to language that is paraphrased or information or ideas taken from another source. In general, legal discourse is highly derivative - lawyers and courts draw on prior sources a great deal in order to bolster their own persuasiveness. Thus there is nothing wrong with using other people’s words or ideas in one’s legal writing; indeed an individual must. However, the source must be acknowledged.

10.4.2. It's Not Like that in Practice

Those students who have had contact with the practice of law will notice that citation concerns in law offices are somewhat different from those in law school.

In the practice of law, accurate citation of authority is critical, but the rules about overall authorship of work are much looser. It is, for example, accepted practice for a partner to submit papers drafted by an associate who may or may not be formally credited for his/her work. The motion paper may contain writing taken directly from another motion written by another attorney some time ago, again without any attribution. In law practice the identity of the person who drafts the words or comes up with the ideas is not of paramount importance. What counts is that the person signing the document is held accountable for its legal accuracy.

Legal accuracy is also important in law school writing, but in addition, students must pay close attention to who should be credited with language and ideas. In academics, arguments do not win or lose cases so much as they establish the abilities of their authors. Who comes up with a turn of phrase or a concept in academics can have material consequences - it can affect grades and professional
reputation. Thus what in the practice of law might be considered a permissible borrowing of ideas or material, in the academic world may be considered stealing.

10.4.3. Special Considerations with On-Line Research

The advent of on-line computer data services such as Lexis-Nexis, Westlaw and the daunting resources of the Internet have been a boon to legal researchers, bringing to one location, quickly and cheaply, a variety of legal sources. Never has it been as easy for students to do legal research. But there are downsides to the information revolution. Among them - never has it been as easy to plagiarize. Before on-line services, the copying of text and its use without attribution took deliberate effort. Now copying large amounts of text from other sources into a student's files can be done with the twitch of a wrist and thumb. Inadvertent, but nevertheless quite serious acts of plagiarism can result. How to avoid this dire possibility? The author must take some special precautions with on-line research.

One rule of thumb is never to download text directly from an on-line service to the file containing the author’s draft paper. Instead, a student should create a separate file for downloaded text which is then integrated as needed and with proper attribution - to the text of the paper. Another precaution is for the student to make sure that all work obtained off-line contains information about its source.

10.4.4. Illustrative Examples

The following examples illustrate some basic forms of plagiarism, how to avoid them and provide suggestions on developing careful citation habits. (The law review excerpt and examples that follow are used by permission of the Wake Forest University School of Law. Part of the discussion of the examples comes from a pamphlet produced by the Legal Writing Institute in Tacoma, Washington.)

Assume a student is writing a paper about the law of disabilities and comes across the following law review excerpt which provides information he/she wishes to use in the paper.
Original Source

“A ‘handicap’ could be defined by listing certain traditionally-recognized handicapping conditions, or a legislature may choose to provide a more comprehensive list of the types of disabilities that will be considered 'handicapping conditions' in that state. These approaches are problematic, however, because they can lead to legislation that does not include certain groups of handicapped people simply because the legislature was not aware of a particular handicap.”


10.4.4.1. Direct Use of Another’s Language

To avoid plagiarism, any direct use of another author's language must be indicated by quotation marks and citation.

Student Text

The term “handicap” may be defined in general terms, or a legislature may choose to provide a more comprehensive list of the types of disabilities that will be considered “handicapping conditions” in that state.

Here the student must place quotation marks around the words printed in bold, and a citation at the end of the sentence. Otherwise the passage will be considered plagiarized from the O'Connor law review article.

10.4.4.2. Paraphrasing

Any paraphrasing of another's language must acknowledge the contribution of the original source.

Student Text

It is problematic to define a handicap by providing a list of the types of disabilities that will be covered because certain groups of handicapped people might be excluded. The legislature might simply be unaware of certain handicaps.

Here the student needs only a citation to avoid plagiarism. The paraphrasing of the O'Connor excerpt is unobjectionable as long as the source of the underlying idea is acknowledged.

10.4.4.3. Use of Another's Ideas
Any use of another's ideas, even if in different language and phrasing, must be acknowledged by citation.

Student Text

The term “handicap” is difficult to define in a statute. Any attempt to provide a complete list of covered disabilities, however, will be inadequate; some conditions will inevitably be omitted.

This passage requires a citation because it expresses the same idea as the O'Connor article. Unlike the first two examples, comparing the two statements side by side might not yield conclusive proof of plagiarism, but if the student took this idea from O'Connor, intellectual honesty requires giving credit where credit is due. If in doubt, the author should cite; in legal writing, citations generally increase persuasiveness.

10.4.4.4. Tips for Good Scholarship

Going beyond concerns with plagiarism, students should learn to be careful scholars and give credit for the more subtle, though still important influences of other authors on their work.

Student Text

When defining statutory terms, legislators should not attempt to draft a complete list specifying everything the statute is intended to cover. Such lists will inevitably be incomplete; someone will later make a claim that the legislators did not anticipate. Further, the statutory list may quickly become outdated.

This text should be followed by a “See” citation to the O'Connor law review article. Legal writers often build on other sources to arrive at their own analysis or conclusion. Sometimes a source may trigger a related idea. In these instances, even when there is no inference of plagiarism, citation to the original source, with an appropriate signal should be included.
**Student Text**

*Arline* illustrates that it is possible for the statutory definition included in section 504 of the Rehabilitation Act to be construed in such a way as to bring many handicapped individuals within its reach. *School Board v. Arline*, 480 U.S. 273 (1987).

Here the student should cite not only to the case but also to O'Connor's law review article and page number where she discusses the case. When citing to a case mentioned in a law review article or referenced within another case (even if the writer goes on to read the case as he/she should), the compilation of the case and the idea should be attributed to the author of the article.
APPENDIX F: LINKS TO RECORDED SESSIONS ON DRAFTING AND GRADING EXAMS

1. Bar Examiner Presentation on drafting multiple choice exams – 3/24/09

2. Essay and multiple choice exam writing workshop – 11/104/08

3. “One-Page Guide to Writing Multiple-Choice Questions” by Susan M. Case, Ph.D., and Beth Donahue. (Hard copy on next page.)

To have the links emailed to you, please contact:
Stuart Miller (stuart.miller@lls.edu) or
Arnold Diaz (Arnold.diaz@lls.edu) at 213.736.1111
The One-Page Guide to Writing Multiple-Choice Questions
Susan M. Case, Ph.D., Beth Donahue

In writing questions to evaluate students in law school, keep in mind that you are preparing students for the practice of law. Avoid testing recall of isolated facts and less important concepts. Focus on assessing the ability to apply fundamental legal principles to realistic fact patterns. Every question should pass the “who cares” test.

The Stem
The “stem” is the fact pattern that provides the actual task being demanded of the examinee. The stem should contain all of the facts needed for a knowledgeable examinee to answer that question. Make sure your stem:

- is concisely written in standard English (avoid legalese)
- contains all of the facts necessary to answer the question correctly
- contains the minimum number of facts needed to test the legal concept you are addressing
- minimizes the amount of quoted material used to test the legal concept you are addressing
- uses common names to describe actors (“the client” rather than “Clien” or “Joe”)
- avoids sensationalism, extraneous novel-like material, and humor
- avoids gender, ideological, racial/ethnic, or rural/urban biases
- avoids inclusion of facts intended to trick examinees

The Lead-in
The “lead-in” is a short, focused question that asks the examinee to perform a particular analysis. The lead-in must be answerable without reference to the options (avoid “Which of the following is correct?”)

The Options
The “options” are the lettered choices given to the examinee as potential answers to the lead-in. One of the options, the key, must be clearly better than the other options (called distractors). Make sure your options:

- are parallel in language and structure
- are as concise as possible (one-word or short-phrase options are great)
- DO NOT contain new facts (all facts must be introduced in the stem)
- DO NOT contain conditions (“Yes, but only if . . .”, “No, unless . . .” options should not be used)
- DO NOT involve extra layers of analysis (each option should stand alone; avoid “A and B are correct, but C is incorrect”)
- DO NOT employ any variation of “All of the above” or “None of the above”

For questions or comments, please contact Susan Case (Director of Testing) at scase@ncbar.org.

11/08
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Contracts
Fall 2007

Outline of today's class:

1. Introduction
2. housekeeping
3. the law school experience on board
4. outline of course - on board
5. review of introductory material

I. Introduction of self
   - I love teaching

II. Introduction of students / cards
   - undergrad
   - major
   - hometown

III. Housekeeping:

Office: Burns 335

Hours: M, W 2:45-4  M, W 9:30-10:30
By appt x1054

Participation points: None

Email: No substantive questions via email

Syllabus: periodic; **online**

Pacing: initially our pace and coverage will be slow but we will gradually pick up speed as you become more comfortable with the language of the law and the process of learning how to be a lawyer

I generally lean towards comprehension rather than coverage so I will do my best to stick to the syllabus but will deviate if necessary to ensure that you are grasping the concepts I am trying to teach

Attendance: mandatory; 3 unexcused absences per semester; after that and you will have to petition me to sit for my exam; I will distribute a seating chart each class for you to initial

Please call or send me an email before class if you are unprepared for class
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Seating chart: Wednesday – Distribute

Recording: As needed; see me to discuss

Exam:
mid year and end of year
Mid year - semi closed; 2 hours; essay only
End of year - closed book; 4 hours essay and multiple choice

Text: Knapp, Crystal and Prince, 6th ed
Paperback supplement

My expectations:

-timeliness: I expect you to be in your seat, computers booted up,
ready to begin class at 8:15

-preparation

-I expect that you will have done all of the assigned reading,
including footnotes and the questions following each case
-sometimes the cases will refer to statutory sections or
sections of the restatement. You should locate those sections
referred in the course supplement

General recommendations:
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

- secondary sources
- outlining - Start
- what not to do - get rid of undergrad habits

IV. What is law school about and how do you become lawyers?

Our collective goal as an institution is to train and educate you so that you will be competent, ethical, responsible lawyers. We want you to lawyers who are accountable to yourselves, your clients and your coworkers. To achieve this goal requires that you develop, with our assistance, 5 distinct capacities:

1. **Doctrine**: the first thing that you must learn is legal doctrine, sometimes called Black Letter Law or Rules - these are the specific legal rules that most people identify as "the law."

2. **Learning to locate these rules**: the next thing that you must learn and that I will try to teach you, is how to figure out what the law is.

In this country we have a tradition of common law; that is, traditionally the law is what the courts say the law is. This requires us to read the cases written by judges to figure out what the law is.

We now also have civil law, which is law made by legislatures, both state and Congress.
3. Legal analysis and problem solving: You will need to develop the capacity to figure out legally significant facts of your client’s case and then use the law implicated by these facts to resolve your client’s problems. You then must learn to tell your client’s story using the traditional format of legal analysis.

4. Legal theory: theories or policies underlie the law. They motivate the law and explain why the law is the way it is. But policies do more than that; they often tell us what the law should be under certain circumstances, particularly when we are faced with a problem for which the law does not provide a clear answer. I must tell you that most of the problems that your client’s will bring to you fall into this gray area.

5. Professionalism: the final component is that we are charged with teaching you professionalism. When you graduate in 3 years and obtain your diploma, you will not be given a handbook on legal professionalism. Instead you will spend these three years learning the habits good habits:

- timeliness
- preparation
- accountability
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

- respect for yourself and for the ideas of others
- honesty
- moral integrity: behaviour, even in the face of monetary loss

-I want you constantly to be asking yourself: Would you hire you based on your performance today?

V. Brief Overview of Course

Contracts is largely about which promises we make should be legally enforced. It explores the relationship created by persons, be they individuals or business associations. As with all relationships, contractual relationships follow a general narrative: they are formed,
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

they have a certain life, the end. Sometimes the ending is happy, and sometimes it is not.

Our course is structured to follow this narrative:

1. Formation - the start of the relationship

2. Terms

   Expectations: what are the mutual expectations of the contracting parties? Does the contract accurately reflect these expectations? Are there unspoken expectations that should become part of the contract?

3. Performance/Breach

   Here we get to the death of the relationship. Has each party lived up to the expectations reflected in their agreement?

4. Defenses

   If one party has failed to live up the expectations are her actions somehow justified or defensible and thus, excused?

5. Remedies

   What happens to compensate the party whose expectations have been unjustifiably disappointed
Burch v. Second Judicial District p. 15

Plaintiffs purchased a new home in defendant's Diamond Country development in March 1997. Several months later, in October, at Defendants request, plaintiff Linda Burch signed a one-page "Application for Home Insurance Enrollment," which contained, among other things, a provision in which the signing homebuyer consents to a term providing for binding arbitration of all disputes arising out of its warranty plan.

The warranty purported to be an "express limited warranty, giving the homebuyer coverage of varying duration for various defects in workmanship or materials in the home purchased from defendants. It apparently was described to the plaintiffs as giving them greater rights than they would otherwise have under their purchase contract. The plaintiffs were given a booklet setting for the HBW, and also a video describing it, but they did not read or view that material before signing the application form.

Over a year later, the Burches home had developed severe drainage problems, with wet and moldy floors and foundation. The defendants made an offer to do certain repairs, but the plaintiffs rejected that offer as inadequate, and brought suit in the district court alleging breach of express and implied warranties, negligence, and fraud and misrepresentation. The district court granted the defendant's request for an order compelling arbitration, and the Burches filed this request for a writ of mandamus to vacate that order.
Issue: Whether the HBW signed by plaintiffs is binding, thus requiring the plaintiffs to arbitrate their dispute with defendants?

Held: K is not enforceable due to unconscionability.

Questions:

Q: What promise is the source of the topic of the court opinion?

Q: Should the Burches be forced to keep the promise to arbitrate?

Q: Why were the Burches here so unhappy?

A: Defects in house.

Q: When the Burches file their complaint, what defense does Diamond raise?

A: That dispute must be resolved through arbitration.

Q: Does the Supreme Court of Nevada ultimately decide in this case whether the defendants did build the house improperly? Does it resolve the underlying dispute between the parties?

A: No.

Q: Then what question is before the court?

A: Whether the k containing the arbitration clause is enforceable and binding.

Q: How does the court resolve this issue?

A: It holds that the contract is unenforceable because it is unconscionable.

This is the holding.

Q: In reaching this holding, the court made some findings along the way to support its holding. Let's go back and see how the court ultimately reaches its decision. Where does it start its analysis of this agreement?
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

A: It begins first by finding that the contract is a k of adhesion.

Q: What is a contract of adhesion?

A: It is:

- a standardized contract form
- drafted by one, not both parties
- offered on a take it or leave it basis, meaning there is little or no bargaining over the terms of the agreement

Q: Why does this k qualify as a k of adhesion?

A: Was a preprinted, standardized form, prepared by Diamond. Burches, the weaker party, could not negotiate the terms; required to accept on take it or leave it basis.

Q: Are contracts of adhesion always unenforceable?

A: No. In fact they are often enforceable.

Q: What are other types of typical contracts of adhesion?

A: Parking tickets, insurance contracts, residential leases;

Q: Here is the court's first finding: that the k is a k of adhesion.

Q: We have said that not all contracts of adhesion. What makes this contract of adhesion unenforceable?

A: The court finds that it is unconscionable. This is its second important finding.

Q: Based on the court's discussion when is a contract unconscionable?

A: Must be both procedurally and substantive unconscionability.
Q: Can you tell the difference between procedural and substantive unconscionability based on the court's opinion?

A: Procedural has to do with the manner in which the k was entered. The circumstances surround the creation of the k. Substantive has to do with the fairness of the terms themselves.

Procedural:
- no chance to read the form, booklet or to view the video before being asked to sign the application
- the labeling of the document as an application which is misleading
- the location of the arbitration clause buried in the text of the booklet
- the misleading statements made about the nature of the warranty itself; they were told that the warranty would expand their rights when in fact it limited those rights.
- did not receive a copy of the warranty terms until after the enrollment fee had been paid and almost 4 months after the close of escrow

Substantive:
- unconscionable because it gives the insurer the unilateral right to decide the rules that will govern the arbitration and to select the arbitrators.
- [others from note 6: economic hardship stemming from the costs of arbitration
- prohibition of class actions
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

- undue limitation of the proceedings: time limitations, limitations on discovery

Q: We will see that the plaintiffs were not in favor of arbitration. Why not?
A: Can be more expensive to arbitrate because must pay the arbitrators fees, the absence of a jury can be a disadvantage, the absence of judicial review of the arbitrators decision, here the fact that they would not be able to choose the arbitrators and had no control over the rules governing arbitration.

Q: How would you change this so that arbitral will be enforceable?
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Chapter 2 – 4th edition p. 41

This chapter introduces the subject of contract formation.

Mutual Assent: As introductory materials indicate, classical contract principles are premised on the fundamental notion that one must assent to a contract in order to be bound by its terms.

In the classical model of contract formation, both parties must agree, each with the other, that certain performances should be exchanged.

There is a threshold question, however, that must be asked prior to deciding whether an enforceable agreement has been made. That threshold question is the one raised in the Ray v. Eunice case: What evidence can the court properly consider in deciding whether an enforceable agreement has been made?

Ray v. William G. Eunice p. 43

Facts: Ray’s contract with Eunice general contractors to build a house. Ray’s specifications are attached to contract. Eunice argue that thought their specifications governed the k. After k is signed, Eunice refuses to perform, arguing that cannot build according to the specifications for price quoted. Eunice claim confusion as to specifications; bid based on one set, contract includes a different set. P sues for breach of k.
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Issue: Whether a contract was formed despite defendant's mistaken belief and thus breached by the defendants by failure to perform?

Held: Yes, under objective theory of k, k was formed despite defendant’s mistake. Trial court holding for defendant reversed.

Discussion:

Q: What was p’s claim?

Breach of k to build house.

Q: Defendants’ response?

That no k because mistakenly thought that k contained defendant's specifications. In reality, contained those drafted by plaintiffs though apparently discussed with defendants.

Q: Did the defendants intend the specifications drafted by the ps to become part of the k?

No. Was not their intention. Were mistaken.

Q: How does the trial court respond to this argument about mistake?

Trial court holds that mistake bars formation of k. Defendants not liable for breach of k.

Q: What is the appellate court's response to the defendant’s argument?

That if there was a mistake, it was based on the defendant's own failure to read the document. Such mistake does not prevent formation of k. Under the
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

objective theory of k, so long as the action connoting assent was intentional. See p. 50: "The defendant's intent is immaterial."

Q: What test does the court articulate to determine whether there is an intention to be bound to the terms of the written k?
   The test is an objective one; would a reasonable person in the position of the parties consider the actions to manifest an intention to be bound? P. 50-51.

Q: Do you think that the court believed the defendants?
   No. See p. 49.

Q: Does it matter to the outcome of the case whether the defendants were lying?
   No; Under the objective theory, it does not matter whether they were lying or telling the truth. The question is whether a reasonable person reviewing the transaction would consider a contract to have been formed. Was there mutual assent.

Q: Could the confusion on the part of the contractors actually be genuine? What could have happened to create these puzzling facts?
   Possible that one brother was responsible for tending to business matters, such as negotiating contracts and the other brother was primarily responsible for the on site construction matters. Could have been a lack of communication between the brothers.
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Q: Assuming such failure of communication, should this allow them to avoid the contract?

No. To the extent that the defendants have failed to communicate with one another, that is their problem, not plaintiffs. Ps should not have to pay for the brothers' failure to coordinate/communicate internally.

Q: The corollary to the objective theory of contract is the so-called duty to read: if you signed a document, and you knew it was intended to have a legal effect, then you are bound by it; if you failed to read and understand, then you suffer the consequences. What social policies are served by the objective theory of contract and its corollary the duty to read?

The primary advantage is that it encourages people to make contracts because they know that their expectation of performance by the other party will be enforced even if the other party should later claim to have misunderstood or failed to understand the agreement he was making.

Thus, it promotes commerce; holds parties to their contracts and does not allow them to wiggle out of their obligations.

Q: Is this policy reflected in the Ray decision?

Clearly yes. Wanted to hold defendants to k despite what could have been a genuine mistake.

Q: What are the disadvantages of using the objective approach?

It ignores the context within which the agreement was signed. Thus, it ignores the reality that the party claiming to be surprised by a term in the k was...
## APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

<table>
<thead>
<tr>
<th>Property Final Exam</th>
<th>Student ID#</th>
<th>Raw Score:</th>
</tr>
</thead>
</table>

### Spot Zoning of Chicken Ranch
- Spot zoning is presumptively invalid
  - single parcel/inconsistent w/ plan although here law is generally cast
  - zoned for more intensive use but existing use preserved here
  - benefit to private owner but here a public purpose
- Conclusion as to whether criteria met here

### Regulation Requiring Compensation of Chicken Ranch Owners
- Falls in middle ground between Lucas/Loretto and Euclid/Hadacheck
- Governed by Penn Central standards
  - Character of regulation: environmental protection laws generally upheld
  - Econ impact on whole property, here costs only in proposed v. current use
  - Investment backed expectations to operate chicken ranch not impacted
- Conclusion as to whether compensation required

### Exaction Requiring Contribution to SDC
- Nolan requires "nexus" between impact and exaction
  - development responds to demand for housing from new jobs
  - exaction illogically calls for facilitation of new job creation
  - Dollar requires "rough proportionality" between impact and exaction
- Overall conclusion on exaction validity

### Jolly Rancher’s claim against Chicken Ranch
- Jolly has valid ½ interest as of time of deed from Ronnie
- Corporation had no knowledge of Jolly at time of purchase
- Bonafide purchasers for value protected by notice recording statute
- Owner’s prevail over Jolly’s unrecorded interest under recording statute

### Jolly Rancher’s claim against Oscar’s Ranch
- Oscar inherited property and is not BPV protected by recording statute
- Dispute between Jolly and Oscar not resolved by recording statute
- Common law “first in time prevails”
- Jolly entitled to ½ interest in Oscar’s ranch

### Organization and Clarity
- Logical structure to answer
- Clear/coherent writing without excessive misspellings/poor grammar
- Original ideas

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APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

Contracts
Mid-year exam
Fall 2007

Answer Outline

Summary of facts

UCC v CL
2-102 sale of goods
Sale: 2-106 transfer of title to suitcase from Sami to Betty for the price of $250
Good: movable? Yes, suitcase is movable
Conclusion: UCC governs

K?

Did S offer to sell through website?

Offer: 1-103 to R2d 24/26
GR: Ads/catalogues not offers bcz no specific offeree
-Here, website is similar to ad or catalogue because unlimited # of people, specifics provided by buyer not seller. Is solicitation of offers
-also, need for further assent on part of s; subject to availability
Conclusion: website not offer

Did B offer to buy suitcase?

Offer?
1-103 to R2d 24/26
When she clicked on "add to shopping cart" is this an offer?
-writing?
  1-102 "record"
  -here, is a record-electronic documentation of offer
-terms
  -when she adds to cart, she has indicated
  -color: red
  -size specifications
  -delivery date? Not yet
  -price
  -"stuff lawyers" may be like a price quote with seller's terms
- specific offeree
  Yes, directed at Sami as on its website
-languag of offer
  -"add to shopping cart" is not language of offer
-need for further assent on part of offeror
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

-yes; by putting something in cart is not clear indication of intention to buy; can still be removed. Not yet a commitment

-context
-accessing website of seller analogous to visiting store; pretty clear that purpose is to shop,
-counter: although not necessarily to buy. Cld just be browsing

Conclusion: not an offer; need further assent by Betty

When she clicked on “submit order”:

-here in addition to above she has added the specific terms of payment and billing and shipping address
-no need for further assent
- providing payment information is evidence of intention to purchase; no need for further assent. She does not remove from shopping basket, even though she had the opportunity to do so.

Conclusion: offer made to buy when she “submits order”

Acceptance:

2-206: promise to ship or prompt shipment of goods
-here, confirmation states that order will be shipped in 2 days. Is promise to ship and thus acceptance.
-here, shipment can also constitute acceptance. Sami actually shipped 2 days after order submitted

Conclusion: acceptance has occurred

Consideration

1-103 to R2d 71 promise for promise
-here B promises to buy, Sami promises to sell

Conclusion: k formed

Alternative Formations Analysis

-all of online communication is preliminary negotiations

Offer?

-Sami makes offer to sell when ships goods
- specific offeree=betty
- terms=those in box
-no need for further assent as has shipped

Acceptance?

-2-206 general rule
- here in any reasonable way either by words or conduct
- words? No B didn say anything to equal acceptance
- conduct? No, indeed have opposite as has expressly stated that she does not want the suitcase.

Conclusion: no acceptance

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APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

- exception: offeror can dictate the manner of acceptance
  - here in "Terms and Conditions" Sami has dictated the manner of acceptance: retention of goods after 10 days
  - counter: as a general rule “silence” does not equal acceptance

  Conclusion: based on new case law, have acceptance and thus contract

Question 2: Is limit on cd part of k?

Formation alternative based on writings:

  Writings formed k through promise to ship:
  - b’s purchase order was when she clicked on ‘submit order’ and
  - s’s return writing was the “confirmation” and the email sent shortly after the conclusion of the transaction:
  - then these terms are sent after, then these terms do not become part of the contract; they come too late
  - they are proposals to modify the contract which must be assented to by both parties
  - 2-207 is not triggered because offer and acceptance match

  Conclusion: terms in “Terms and Conditions” are not part of contract because k already formed by the time these are sent

Acceptance through prompt shipment:

  Terms included in shipment become additional terms for consideration under 2-207
  GR: 2-207 triggered because acceptance contains terms that vary from offer

  Valid acceptance?
  GR: must be definite and seasonable
  - here:
    - definite because consistent re subject matter, price, delivery date, quantity
    - seasonable bcz sent w/in 2 days of offer
  Conclusion: acceptance through shipment is effective

Terms: is limit on cd part of k?
GR: additional terms analyzed under 2-207(2); btw merchants terms presumptively in. Not btw merchants, offeror must expressly agree to terms.
- between merchants?
- 2-104 definition
- here, is B a merchant?
APPENDIX G: SAMPLE CLASS NOTES AND GRADING SHEET – LECTURE NOTES

- regularly buy and sell?
  - yes, travels for a living
  - no, does not sell luggage and probably does not buy that often
- holds self out as expert?
  - yes, given amount of travel probably is an expert about luggage
  - No, is travel expert, not expert on luggage and d/n hold self out as expert on luggage

- here, is S a merchant
  - buy/sell
    - Yes, clearly in business of selling luggage
  - expertise
    - Yes, holds itself out as such

Conclusion:
If both merchants terms presumptively in; thus limit on cd presumptively in and S not liable for lost camera

- exceptions to inclusion
  If B is a merchant, term may still be out under 2-207(2)
  (a) offer expressly limits itself to terms of offer? No
  (b) material alteration
    a. comment 4 silent
    b. comment 5 silent
    c. surprise or hardship?
      - GR= generally, where there term involves shifting of risk from party where it would ordinarily rest, this is considered undue economic hardship.
      - here, seller would ordinarily be liable for consequential damages if is undue economic hardship to shift loss to buyer

  Conclusion= would be material alteration and thus not included as term of k
  
  (c) objection to terms - maybe when she called to return this is notice of objection to all terms
    - counter: she is returning bcz dissatisfied w/product, not bcz of terms

- If B not a merchant, then limit on cd not in unless B expressly asserts to its inclusion
  - here, no evidence that B expressly agrees
Formation alternative two:

Oral k followed by written confirmation: if treat online transaction as oral k followed by written confirmation then have different analysis -2-207 applies when have oral k followed by written confirmation and confirmation has additional terms.

- Here the limit on consequential damages is additional because the oral k is silent as to consequential damages, assuming that the “Legal Stuff” on the website was silent as to cd

- GR and analysis for additional terms is same as stated

Formation Alternative 3

If formation occurs upon delivery and retention then the offer included the “Terms and Conditions.” Thus, the limit on consequential would be part of the contract.
APPENDIX H: SAMPLE CLASS NOTES AND GRADING SHEET - SEMINAR

Race, Gender
Fall 2005-2006

First Class

Housekeeping:
Office: Burns 3357
Tuesdays
Wednesdays
12-1
Mom, 11-12

Hours: T, W, F 10:30-1:30
Mondays

Attendance: mandatory

Class roster: send around to sign in

COURSE OVERVIEW:

1. Review approach [refer to the opening paragraph of introductory materials]
2. Syllabus [review topics and general approach]
3. Course requirements
   a. Research paper, see 3 choices on syllabus [refer to Equal Dreams handout]
   b. Bibliographic essay, refer to syllabus
   c. Good draft

Your good draft is not your first draft.

It should be as complete as you can get it
**Race, Gender and the Law**  
*Professor S. Scott*  
*Spring 2006*

### Syllabus

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
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<tbody>
<tr>
<td>January 11</td>
<td>Introduction</td>
</tr>
<tr>
<td>January 18</td>
<td>Privilege and Oppression</td>
</tr>
<tr>
<td></td>
<td>Handout #1</td>
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<td>January 25</td>
<td>Identity and Social Locations</td>
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<td></td>
<td>Handout #2</td>
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<tr>
<td></td>
<td>PAPER TOPICS DUE</td>
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<tr>
<td>February 1</td>
<td>Writing; Social Construction of Race</td>
</tr>
<tr>
<td></td>
<td>Handouts #3 and 4</td>
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<td>February 8</td>
<td>Legal Construction of Race</td>
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<td>Handout #5; Race Videos</td>
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<td>February 15</td>
<td>Social and Legal Construction of Gender</td>
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<td></td>
<td>Handout #6</td>
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<td>February 22</td>
<td>The Color of Violence</td>
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<td></td>
<td>Handout #7</td>
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<tr>
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<td>BIBLIOGRAPHIC ESSAYS DUE</td>
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<td>March 1</td>
<td>No class – Individual Conferences</td>
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<td>March 8</td>
<td>Topic Workshop / Presentations</td>
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<td>March 15</td>
<td>Control Over Our Bodies</td>
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<td></td>
<td>Handout #8</td>
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<td>March 22</td>
<td>SPRING BREAK</td>
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<td>March 29</td>
<td>Working</td>
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<td>Handout #9</td>
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<tr>
<td>April 5</td>
<td>Working</td>
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<td>Handout #10</td>
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</table>
APPENDIX H: SAMPLE CLASS NOTES AND GRADING SHEET - SEMINAR

SCHEDULE AND ASSIGNMENTS

August 24

*Privilege and Power: On a Personal Level*
Bender and Braveman pp. 21-35; 565-581
Handout #1 (available on the 3rd floor of Burns, near faculty support)

August 31

*Privilege and Power: On a Structural Level*
Bender and Braveman pp. 59-80
Course Reader pgs. 2-15

Cheryl L. Harris, "Whiteness as Property" (106 HARV. L. REV. 1709)

September 7

*Identity and Social Locations*
Bender and Braveman pp. 475-483; 504-511

Course Reader pgs 17-69

Deborah K. King, "Multiple Jeopardy, Multiple Consciousness" (*Signs*)
Ana Castillo, "A Countryless Woman: The Early Feminista" (*Massacre of the Dreamers*)
Mari Matsuda, "Planet Asian America" (8 ASIAN L.J. 169)
Paula Gunn Allen, "Where I Come From Is Like This" (*The Sacred Hoop*)
Gloria Anzaldúa, "La Conspiración de la Mariposa" (*Making Faces, Making Soul*)

PAPER TOPICS DUE

September 14

*Social Construction of Race*
Bender and Braveman pp. 82-90; 159-165; 196-203
Course Reader pgs. 71-111

Declarative of Independence
Thomas Jefferson, "Notes on the State of Virginia"
Valerie Babb, "Toward a Philosophy of Whiteness"
Scott Shane, "Genetic research increasingly finds 'race' a null concept" (Baltimore Sun)
Sharon Begley, "Three Is Not Enough" (Newsweek)
Robert Hayman & Nancy Levitt, "The Constitutional Ghetto" 199 WIS. L. REV. 627
Olivia Winslow, "Does it All Add Up?" (Newsday)
Naomi Macey, "Imagery and Recognition: The Census, Race and the National Imagination" 97
NWUJ.L.REV 1701

September 21

*Legal Construction of Race*
Bender and Braveman pp. 141-158
Race, gender and the law
Spring 2006

Reading: identity and social locations
Kirk and Okazawa-Ray

Q: Thesis?
That identity is fluid, not fixed, and it the result of a complex interplay among individual decisions and choices, particular life events, community recognition and societal categorization, classification, and socialization. It is an ongoing process, not fixed. P. 51

Q: What do the authors mean when they argue that identity formation is a lifelong endeavor?
That identity is about more than individual choices or decisions. That other social factors, those that you control and those that you do not, have a role in your identify formation.

Q: Do you agree with the contention that the question “Who are you” or “Where are you from” are questions that attempt to categorize and determine their relationship to us? It is to figure out the social landscape: are you one of us or not? P. 52
Do you find yourself doing this?
Do you think you ask these questions for the reasons suggested by the authors?

Q: What are the most common ways in which we classify people?
Race
Gender
Nationality
Homosexual/heterosexual
Smart
Economic class: Middleclass/poor/wealthy

Q: Why do we classify and label human beings generally according to the authors?
Because it is on this basis that we, as a society on a macro level, decide who is going included and who is going to be excluded from social benefits. We use these markers to assign social roles and status, power and privilege. P. 54
We use them to create a certain kind of social order.
APPENDIX H: SAMPLE CLASS NOTES AND GRADING SHEET - SEMINAR

Q: Relational nature of identity: that social categories only have meaning in relation to other categories. P. 54. Thus, to say someone is wealthy without a context within which to measure this is meaningless. Wealth has no abstract meaning; it only makes sense in relation to others. To be wealthy means to have more than someone else. The categories are often oppositional as well.

Review list on p. 55

Q: What are the ways in which structural inequality (what Young would call oppression) is maintained:

1. using the values characteristics, features of the dominant group as the supposedly neutral standard against which all others should be evaluated.

2. using terms that distinguish the subordinate from the dominant group:
   white and non-white
   2. stereotyping
   3. exoticizing and romanticizing

Q: Does Lily’s identity shift over the course of the book? What about any of the other characters?

Q: What is the social order that they are operating in?

Q: How is social order maintained?

Certainly through violence and the threat of violence, experienced by Rosaleen (attempting to vote), violence against her mother, violence against Lily

Q: Identity is not just a matter of personal choice. Identity, membership in a certain group can literally and metaphorically be a matter of life and death for members of subordinated groups. Read quote on bottom of page 55.

In Bees? The beating that Rosaleen received was due to her identity, her membership in a subordinated group.

This remains true. See it in connection with American Indians

Q: She also makes an important point about how tenacious we can be about the identity of others. For instance, once we have created a category, we are reluctant to change the characteristics that we associate with a particular group,
even when we encounter someone who does not “fit.” Hence, we create “exceptions.” “You are not like other Latinos, blacks, gays; you’re different.”

Q: These categories are used to decide who will become part of the American family and who will not. We traditionally think of racial lines being drawn between blacks and whites. But as much case law involves others as it does blacks. Immigration cases raised the issue of who was going to be an honorary white and who was going to be considered black.

What gave rise to the myth of the model minority? P. 10

Mazumdar: Asian American Women’s History

Q: I include this piece largely to bolster our knowledge of history. Our society is so ahistorical that I find that we operate in an historical vacuum. I want to make these women and their experiences visible.

Q: How did categorization and identity shape the lives of these women?

Categorization of Chinese women and characterization of them as immoral created a basis for excluding them. Caste as prostitutes and heathens. Justified their exclusion. Led to the Chinese Exclusion Act of 1882. This was just the beginning of a series of federal statutes designed to limit the immigration of Asians, the last of which was not lifted until 1965.

Q: How many of you were aware of the extensive anti-Asian legislation that existed?

Q: Why isn’t it widely known?

Q: Do you see how the so-called model minority myth came to be?

50% quota reserved for professionals. 13

Q: She describes the conflict that can arise for Asian American women; torn between traditional Asian familial values and mainstream values. ON the one hand the preservation of ethnic identity ...p. 16 Does this reflect any of your own experiences?

Q: Final note about this piece; I think it is important that it ends by calling attention to the many ways in which Asian American women have resisted their condition. Struggle, resistance against oppression are as present as the oppression itself.
APPENDIX H: SAMPLE CLASS NOTES AND GRADING SHEET - SEMINAR

Q: Which of these stories spoke to you and why?

Pieces I like:

Nellie Wong - *When I was Growing Up*

*Paula Allen - Angry Women are Building*

Q: Here is the point made in the first piece by Kirk: that identity can lead to questions of survival, literal survival for certain folks.

The conditions she describes are overwhelming.

Q: She also discusses what is lost when a people loses its personal identity. It is this loss of personal identity that was one of the most harmful things to happen to Africans brought here by the slave trade. This loss of personal identity. It has been difficult to reconstruct an identity, other than an identity based on resistance.

Q: also raises the issue of internalization of oppression; what happens when we believe the myths about ourselves. P. 31 of handout.

*Cameron*-

Q: I love the story about her first pow-wow and waiting for the Indians to show up. This dissonance that we live with: who we are and who others say we are; how we are portrayed by others. Causes this great disconnect.

*Anzaldua*

Q: here we see how culture shapes identity and how it tells us who we should be as women.

It creates the cage in which women must operate; ties into Frye and oppression.

Q: How does Anzaldua’s piece illustrate the double bind that Frye describes?

She describes being caught between being herself, a chicana lesbian and the fear that she will be rejected by her community for being herself. So, she must give up part of herself no matter what.
APPENDIX H: SAMPLE CLASS NOTES AND GRADING SHEET - SEMINAR

Tarlen - White Trash

Q: This piece introduces class a major identity category. Illustrates the commonality between poor people regardless of race.

Q: Why do you think her life ended so differently from that of Diane, her friend?

Who we are has so much to do with others expectations of who we are and who we will be. She got placed in college prep classes. People had different expectations of her. She met them

Bees-

Reminds me of the part in bees where Lily’s teacher tells her that she can be something other than a shampoo girl. P? 15

Majaj - Boundaries

Martinez v. Santa Clara Pueblo
Q: Why do you think I included this case?

How identities collide in the legal arena; identity is not just an individual cultural concept. It has clear legal overtones as well. The law shapes identity.

Q: What’s at issue in the case?

Whether an ordinance of the Santa Clara Pueblo violates the equal protection clause of the Indian Civil Rights Act. The ordinance provided that children of male members shall be members of the tribe regardless of the mother’s membership but that children of women members and nonmembers would not be members of the tribe.

Q: At its core it is a case about identity: who can be a member and claim the benefits of tribal membership and who may not.

Q: Lower court upholds the ordinance. Why?

1. Because the tribe as an autonomous entity should be allowed to determine who shall be a member.
2. Because the ordinance was consistent with patrilineal tribal traditions.
Q: Court of appeals overturns and invalidates ordinance. Why?

1. Because the tribe’s interest being protected here is not a compelling interest. Ordinance is one grounded in economic necessity, not necessarily tradition. Could be drafted in a way to avoid discrimination.

2. Not clear that there was a patrilineal tradition being honored at all. History d/n support contention that land was “always” allocated this way; indeed there is evidence to the contrary.

Q: Should it matter whether there was in fact a tradition of excluding the children of women with outsiders, but not the children of men? That it is traditional d/n make it right or not oppressive.

Q: What risk did Martinez take in bringing this suit? What identity conflicts arise here? Conflicts between gender and “race.”

Q: The Supreme Court reverses the Ct of Appeals on a procedural basis. How should the merits be decided?
APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

Race, Gender and the Law
Spring 2006
Professor S. Scott

Seminar Paper Grading Sheet

1. Large Scale Organization
   - introduction
     - states thesis
     - identifies major arguments to be made in paper
     - indicates organization of paper
   - sections
     - sections begin with argument/mini-thesis
     - sections clearly relates to main thesis
     - information in each section relates to subject identified in section heading
     - recommendations relate to thesis
   - conclusion
     - general considerations
     - paper is generally a cohesive, coherent whole

   points_____

2. Substantive concerns
   - paper presents and argues an original thesis
   - identifies the strengths and weaknesses of thesis
   - paper excludes irrelevant information
   - paper d/n include excessive amount of descriptive information/background
   - paper incorporates themes/materials/subjects discussed in class
   - depth of research as reflected in footnotes and in text

   points_____

3. Small scale organization and form
   - paragraphs have topic sentences
   - punctuation used properly
   - sections have transitions from one to the next
   - proper paragraphing generally (neither too long or too short)
   - no unnecessary repetition
   - use of clichés
   - good grammar
   - no typos

   points_____

Total Raw Score______
APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

Parma is an experienced animal trainer who owns Hollywood Hounds, a training school for animals that work in television shows and commercials. With the recent recession, Parma has seen decreasing profits and a decrease in animal acting jobs. Parma wants to expand her business to include placing her trained animals in feature films.

To help expand her business into films, Parma decided to host a competition at Hollywood Hounds. The event is scheduled for July 1st. Dog competitions are popular and if she can attract a large crowd, the event will be excellent publicity for the film industry executives she is inviting to attend.

Parma’s most successful dog died a few months ago. Parma decided to buy a new dog to replace it and so that she can showcase the new dog in the upcoming Hollywood Hounds Competition. Parma found Newt, who was already well-trained and has an impressive acting resume earning at least $30,000 per year for the last five years in feature films.

Parma purchased Newt from Dustin on January 1st under a valid written contract. Parma agreed to pay $125,000 for Newt, with delivery and payment to be made on February 1st.

During January, to prepare for the Hollywood Hounds Competition, Parma purchased $3,000 of obstacle course equipment to show-off Newt’s abilities, and she spent $5,000 in advertising that Newt would be participating in the competition.

On February 1st, Dustin told Parma that he had accepted $150,000 for Newt, from Arnold, a very successful actor who had worked with Newt in the past. Dustin told Parma, “Sorry but that’s Newt’s true value.” Dustin also told Parma, “I know we had a valid contract, but I like Arnold, and I would rather sell Newt to him.”

Parma had never done this before, but she arranged for fans to take pictures with Newt at the Hollywood Hounds Competition. Parma has lost over $1,500 in profits from these photos. Parma refunded the money to fans because Newt will not be at the competition.

Parma also has a very successful trained cat, Cootie. Cootie has been in many television shows and commercials, earning $500 an hour. Cootie is also Parma’s personal pet and favorite animal. Yesterday, Cootie was stolen by Davis. Parma spent $1,000 hiring an investigator to search for Cootie but without success. Parma is also so distraught over the loss of Cootie that she was forced to seek medical attention.

Assume liability is not an issue. Assume the UCC does not apply.

1. Discuss the damages Parma might seek against Dustin for breach of contract?
2. Discuss the damages Parma might seek against Davis for the loss of Cootie?
### APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

**Question 1: Breach of K Damages (70 points)**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Rule</th>
<th>Application</th>
<th>Conclusion</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>What general (direct) damages can P get?</td>
<td>Breach of K Damages include Benefit of the Bargain, Incidentals (aka Reliance(^{28}), and Consequential Damages</td>
<td>P agreed to pay 125K, FMV is unknown, but D says true value is 150K and A is willing to pay 150K vs. Arnold may have sentimental value (worked with the dog)</td>
<td>P likely get $25K benefit of bargain damages</td>
<td>15</td>
</tr>
<tr>
<td>What special (ensuing) damages can P get?</td>
<td>Incidentals and Consequential Damages are available for breach of K</td>
<td>1. $3K in obstacle course equip to “show-off Newt” and $5K in advertising is in preparation for the contract (getting Newt) vs. maybe would have bought equipment and advertised for competition even without Newt; wants to showcase him vs. really P is replacing dog died; but is recession and might buy new equip and advert regardless, timing of purchase &amp; advertising both after K entered into not before</td>
<td>Likely recoverable, at least in part</td>
<td>20</td>
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<tr>
<td></td>
<td></td>
<td>2. $1,500 in lost fan photos might be not foreseeable to Dustin, Competition was advertised vs. Dustin not told of fan photos; Parma had not tried it before, so probably not standard for industry?</td>
<td>Depends on what Dustin knew, could</td>
<td></td>
</tr>
</tbody>
</table>

\(^{28}\) You may use either label – reliance or incidental damages, special or ensuing damages, general or direct damages. The courts and commentators use a variety of language to describe the damages that result from the breach. The label isn’t important, but covering all the available damage theories and limits is important.
### APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

| Limit on Lost Profits: Certainty | 3. Lost profits would have made if owned Newt – historically Newt very successful (consistent 30K per year) and Parma is experienced trainer vs. Newt is “new business” for Parma and film work is new for her, and recession could be cause of lost profits not breach | foresee | Unpredictable if recoverable, (either conclusion is fine) but if uncertain, not recoverable | 15 |

**Question 2: Conversion Damages (30 points)**

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<tr>
<th>Issue</th>
<th>Rule</th>
<th>Application</th>
<th>Conclusion</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Conversion Damages -- General</td>
<td>Damages are FMV at Date of Conversion Conversion acts like a “forced sale” When Primary Value is Not Sentimental it is Not Recoverable</td>
<td>Cootie is a working animal, $500 an hour may be able use past earnings to show FMV vs. sentimental loss b/c also pet is not part of FMV; Cootie FMV is as successful actor econ value far outweighs sentimental</td>
<td>Parma will get the FMV of Cootie, but not sentimental loss</td>
<td>15</td>
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## Appendix I: Additional Sample Grading Sheets

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
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<tbody>
<tr>
<td>Conversion Damages -- Special/Ensuing</td>
<td>Costs searching for good are recoverable</td>
</tr>
<tr>
<td></td>
<td>Emotional distress is generally not recoverable</td>
</tr>
<tr>
<td>1K investigator costs to recover the chattel (Cootie) are recoverable, ok they were not successful</td>
<td></td>
</tr>
<tr>
<td>P is distraught and medicals related to loss but usually not recoverable damage for conversion, maybe if sued for NIED or other theories</td>
<td></td>
</tr>
<tr>
<td>Search costs likely recoverable</td>
<td>Medical bills likely not recoverable</td>
</tr>
<tr>
<td>15</td>
<td></td>
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</tbody>
</table>
ESSAY QUESTION GRADING CRITERIA

CONFLICTS OF INTEREST

- Concurrent Representation (16)
  - Concurrent Representation
    - MR 1.7a: Classic coi
      - Can’t defend and sue Corporation at same time
      - Directly adverse representations prohibited MR 1.7a
      - Even if wholly unrelated matters MR 1.7 c. 6
    - MR 1. 7b: Exception is N/A here
      - Need all 4: Reasonable belief, not prohibited by law, not involve a claim of one client against another AND each client gives informed written consent
        - Didn’t tell Corporation – no consent sought
        - Managers consent to delay isn’t informed or written
        - Confidences – lacks reasonable belief, can’t get informed consent?
      - California same result – CR 3-310 – informed written consent not obtained
    - Delay No Solution: Former Client Rules Prohibit Class Action Representation
      - MR 1.9 Materially Adverse and Actual Confidences
        - Directly Adverse – switching sides
        - Confidences: both matters are employment related – overtime hours and lunch/break violations similar
  - HOT POTATO/Improper Withdrawal
    - Can’t drop one client to take another client

FEES

- Oral Agreement Prohibited (2)
  - Oral Agreement Prohibited
    - MR 1.5 – coning fee requires writing
    - Calif B&P 6147, 6148 – coning fee or over $1,000 requires writing

COMPETENCY

- MR 1.1, CR 3-110 No Prior Experience -- Not automatically incompetent (5)
  - Civil litig experience, not employment (get competent, associate atty, etc.)
- Incompetent Advice (5)
  - Reasonable atty would have advised re possible defenses to claims

CONFIDENTIALITY and DISHONESTY/MORAL TURPITUDE

- B&P 6106, MR 8.4 -- Deceit
  - Hurt client to help another by telling Corporation to settle wage & hour claims
  - Put own interests (fees) and managers’ interests ahead of Corporation’s interests
    (also potential personal coi)
- MR 1.6, B&P 6068e, CR 3-100 -- Confidentiality
  - Disclosure about setting wage & hour suit soon – breached by telling managers
- Extra Credit: Duty of Disclosure/Who is Client MR 1.13
  - Client is Corporation -- should tell managers that rep only the entity
- Extra Credit: Breach of Fiduciary Duty for selling out Corporation

TOTAL: (28)
Jane is a Los Angeles resident. Jane was injured while riding a Metrolink train in Los Angeles. The County of Los Angeles owns and operates the Metrolink train. While Jane was on the train, she was attacked by another rider on the train. The County knew Jane’s attacker frequently rode the trains for long periods of time because he is homeless. The County also knew that other train riders had complained about him and thought he was mentally ill, but he had never attacked any passengers on the train.

Jane’s injuries included a dislocated shoulder, a broken nose, and other serious injuries. She needed extensive medical treatment for her injuries. Jane contacted the media to generate publicity about the dangers of riding the Metrolink trains in Los Angeles, but she did not contact the County directly. The County knew the media was covering the story of Jane’s attack on the train and the County saw various blogs and newspaper articles covering Jane’s injuries.

The day before her statute of limitations ran, Jane filed a complaint against the County of Los Angeles seeking damages due to the County’s negligence in failing to prevent the attack based on what the County knew about her attacker. Jane’s complaint has no other theories against the County. Jane’s complaint demands $53,000 in medical expenses, $300,000 in pain and suffering damages, and $1,000,000 in punitive damages. Jane filed her complaint as an unlimited civil action in San Diego County.

Jane also owns a small jewelry making business in Los Angeles County. Jane makes jewelry she sells to local stores and she failed to pay County taxes on her profits. She has an outstanding tax liability to the County in the amount of $50,000. The County has sent Jane letters demanding payment of the outstanding taxes but Jane has not paid her obligations.

Answer using California Civil Procedure law.

1. Discuss whether Jane’s complaint is properly plead and filed.

2. Discuss how Los Angeles County may respond to Jane’s complaint.
APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

GRADING CHECKLIST

**Plaintiff’s Complaint**
- Code v. Notice Pleading – facts enough give County notice – knew Attacker was on train a lot and mentally ill
- Missed pre-req to suing govt b/c no direct contact, filed one day b/f SOL, press coverage is not formal notice (cross reference to motion to strike)
- Statement of Damages is proper place for pi damages and puni damages – not in the Complaint, even if serious injuries to support claims – not to use numbers
- Improper venue – PI is place of accident or D residence – both LA not San Diego (cross reference if mentioned motion to transfer venue)
- Unlimited is proper – serious injuries, $53K in meds well over jdx limit (cross refer if mentioned no motion to reclassify)

**Defendant’s Responses:**
- Demurrer
  - facts stated taken as true state a claim against County – knew Attacker was on train a lot and mentally ill
    - vs. no notice he was dangerous or likely to hurt anyone (not all mentally ill are dangerous) – causation missing? (like Cal Trans case?)
- Motion to Strike
  - Either the entire complaint
    - Missed pre-requisite – no notice to the County, filed one day b/4 SOL
    - Gov’t entities require formal notice, media exposure insuffic
  - Or parts of the complaint
    - Not to state amount of punitives or personal injury damages (p&s, medicals)
    - Also move to strike punitive damages b/c not available in neglig c/a
  - No Anti-Slapp
    - Media stmts (speech) are by P not D
- Answer
  - General denial allowed and need to raise affm defenses or waived
- Cross Complaint
  - Not related – tax obligations/jewelry company v. stranger attack
  - No similar facts or law, not same event
  - But is against P by D – so court will allow it even if unrelated
  - Not mandatory – can also proceed in separate, later suit if SOL not run
- Motion To Transfer
  - Venue is in LA – not San Diego – PI is place of accident/inj, or D resid
  - No Motion to Reclassify (Unlimited is proper classification)
# APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

<table>
<thead>
<tr>
<th>Excellent</th>
<th>Good</th>
<th>On the Right Track</th>
<th>Weak</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FORMAT &amp; ORGANIZATION</strong>&lt;br&gt;Score: _____ /27 points</td>
<td></td>
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</tr>
</tbody>
</table>

Comply with the word count, include affidavit<br>Use student id number (not name) on one copy<br>Use name on two copies with properly completed cover sheets

### P&A Format
- Main Headings (Intro., SOF, Conclusion) in proper format
- Appearance,Spacing, Neatness<br>  - don’t end a page with a heading<br>  - no right margin justification<br>  - indent paragraphs
- Page Numbers<br>- Double Space<br>- Proper Font (13 pt. Times New Roman)<br>- Table of Contents (neat, lined up, page number i or none)

### Point Headings
- Point Heading Format (indented, bold, underlined, and capitalized properly)<br>- Point Headings Identical in Argument Section and TOC<br>- Content Complete (facts + law + result or reasoning) and sufficiently specific<br>- Effective Tone, Persuasive Style

### Organization of Arguments
- Logical Order, Placement of Arguments, Overall Cohesion<br>- Division of Argument with Minor and/or Sub-Point Headings<br>- Use of CRAC to Organize Within Arguments<br>  - Use of Sufficient Number of CRACs<br>  - Avoid Overuse of Case by Case Organization<br>- Effective Use of Paragraphs<br>  - Limited to one topic or subject<br>- Use of Topic Sentences<br>- Use of Transition Sentences and Conclusion Sentences<br>- Appropriate Use of Word Transitions

### Citations
- citing often enough, using consistent citation form<br>- uses proper full cites, including pinpoint cites<br>- includes proper court and year information in full cites<br>- uses proper short form cites
## APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

<table>
<thead>
<tr>
<th>Excellent</th>
<th>Good</th>
<th>On the Right Track</th>
<th>Weak</th>
</tr>
</thead>
</table>

### WRITING STYLE  
Score: _______/ 50 Points

#### Clarity & Concision
- Direct Sentence Structure
- Lack of Vagueness and Ambiguity
- Lack of Awkward Sentence Structure or Word Choice
- Avoiding Passive Voice and Nominalization
- Avoiding Unnecessary Wordiness, Narration, Duplication

#### Tone
- Persuasive Tone and Word Choice
- Artfulness, Flow
- Avoiding Legalese, Using Terms of Art Appropriately
- Reasonable, Not Overwritten (“Overkill”)
- Avoiding Objective Style
- Not Defensive

#### Writing Mechanics
- Proper Grammar, Punctuation
- No Spelling, Typographical Errors
- No Abbreviations, Contractions, Casual Language
- Avoiding First, Second, or Third Person
- Proper Verb Tense (past in FHR & Client Facts)

### CONTENT & LEGAL ANALYSIS  
Score: _______/15 points (Intro, SOF, Thesis, Concl.)

#### Introduction:
- Catchy start, persuasive tone
- Identifies the parties
- Includes the major arguments
- Introduces some of legally significant facts
- Clear organization and presentation
- Includes the result you want

#### Statement of Facts:
- Focus on client’s point of view, not objective
- Easy to follow, interesting to read
- Includes legally significant facts
- Includes facts used in the arguments
- Omitting unnecessary details
- Reasonable length, only key background facts
- No arguments or legal conclusions
- Downplaying key negative facts (not omitting them)

#### Thesis Paragraph:
- Introduces the minute order issue, previews args, builds cohesion. Not objective statement of the law

#### Overall Conclusion & Signature Block:
- Include result you want, proper signature block & date
### APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

<table>
<thead>
<tr>
<th></th>
<th>Excellent</th>
<th>Good</th>
<th>On the Right Track</th>
<th>Weak</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONTENT &amp; LEGAL ANALYSIS</strong></td>
<td></td>
<td></td>
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<tr>
<td>(50 points Argument Section)</td>
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<tr>
<td>Procedural &amp; Substantive Unconscionability</td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### In General
- Arguments are complete, address all factors
- Appropriate emphasis/space allocated by import of args
- Presentation is compelling and clear
- Legal arguments are supported with policy arguments

#### Rule
- Clearly explaining the rules for each factor
- Leading with favorable authority
- Use of best authority available
- Full development of the rules, using FHR, don’t assume your reader knows the cases, but avoid extraneous details, don’t brief the cases
- Accurately describing the cases
- Using appropriate and sufficient cases to prove the rule, including unfavorable cases

#### Application
- Discuss the facts in sufficient detail
- Explain the significance of facts (don’t simply repeat the SOF)
- Well-reasoned and easy to follow
- Specifically compare/contrast the client situation and the cases
- Explain the impact of similarities/differences between client situation and the cases
- Minimize adverse facts, do not use only favorable facts

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APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS

P&A Score: ___________ (142)
Research List Score: ___________ (18)

Penalties:
  Late or Over Word Count < _____________>

TOTAL RAW SCORE: _________________(160)

APPROXIMATE NORMALIZED SCORE: ________________

  You are on track with:

  The main areas to work on are:
APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS
Con Law I Final Exam
Spring 2011

Student ID# ________________ Raw Score: __________
Question 1 ______ Question 2 ______

Constitutional & Prudential Standing Requirements 15 ______
- Injury in fact ______
  -- Concrete and particularized/actual or imminent ______
- Caused by defendant ______
- Redressable by court decision ______
- Party may generally only assert own rights ______
  -- Exception for third party unlikely to be able to sue/close relationship ______
- No general taxpayer standing ______
  -- Narrow establishment clause exception if funds appropriated in violation ______

Ripeness/Mootness 10 ______
- Fitness of issue for review ______
  -- closer to being purely legal analysis more likely to be ripe ______
- Hardship caused by not reviewing ______
  -- Choice between unnecessary compliance and prosecution ______
  -- Certainty of enforcement ______
  -- Collateral injuries even if primary injury does not occur ______
- Court will not hear “moot” case where no viable issue remains ______
  -- Exceptions collateral injury/capable of repetition/voluntary cessation ______

Political Question 10 ______
- Constitutional text commits to a political branch ______
- Lack of judicially discoverable/manageable standards for resolution ______
- Requires an initial non-judicial policy determination ______
- Would express lack of respect for other branches ______
- Unusual need for adherence to a prior political decision ______
- Potential embarrassment from “multifarious pronouncements” ______

Senator Sarah Smith 10 ______
- What injury? Congress has never voted to oppose ______
- Political question? ______

Minister Mark Martin 5 ______
- Standing depends on establishment clause, but no appropriation ______

Army Sgt. Alvin Adams 10 ______
- Imminence of injury adequate to justify review? (standing) ______
- Ripeness criteria satisfied? ______

Paramilitary Peter Parent 15 ______
- Third party standing of parent ______
- Issue ripe for adjudication ______
- Actual injury ______

Organization and Clarity 25 ______
- Logical structure to answer ______
- Clear/coherent writing without excessive misspellings/poor grammar ______
- Original ideas ______

______________________________________________________________
______________________________________________________________
**APPENDIX I: ADDITIONAL SAMPLE GRADING SHEETS**

**Con Law I Final Exam**  
**Spring 2010**

<table>
<thead>
<tr>
<th>Question 2</th>
<th>Ungraded</th>
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<tbody>
<tr>
<td><strong>Regular Landing slots issue</strong></td>
<td>10</td>
</tr>
<tr>
<td>- Allocation of fixed slots has significant impact on interstate and foreign commerce</td>
<td></td>
</tr>
<tr>
<td>- Argue that it violates DCC limits on state activity</td>
<td></td>
</tr>
<tr>
<td>- San Francisco preference could be P&amp;I violation vs. out of state airlines</td>
<td></td>
</tr>
<tr>
<td>-- Impacts fundamental right to interstate travel</td>
<td></td>
</tr>
<tr>
<td>-- Impacts fundamental right to own property (if landing slot property right)</td>
<td></td>
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<tr>
<td><strong>One Time slots issue</strong></td>
<td>10</td>
</tr>
<tr>
<td>- Access to LA by business/charter aircraft can impact interstate/foreign commerce</td>
<td></td>
</tr>
<tr>
<td>- Argue that it violates DCC limits on state activity</td>
<td></td>
</tr>
<tr>
<td>- Preference to LA residents/businesses is economic protectionism</td>
<td></td>
</tr>
<tr>
<td>- Lesser access to out of state persons is P&amp;I violation</td>
<td></td>
</tr>
<tr>
<td>-- Impacts fundamental right to travel</td>
<td></td>
</tr>
<tr>
<td><strong>Dormant Commerce Clause Rules/Analysis</strong></td>
<td>20</td>
</tr>
<tr>
<td>- States cannot directly regulate interstate commerce</td>
<td></td>
</tr>
<tr>
<td>-- do landing slots constitute “direct regulation?”</td>
<td></td>
</tr>
<tr>
<td>- States cannot effectively regulate out-of-state transactions</td>
<td></td>
</tr>
<tr>
<td>-- does control of landing slots regulate out-of-state transactions?</td>
<td></td>
</tr>
<tr>
<td>- States cannot engage in economic protectionism</td>
<td></td>
</tr>
<tr>
<td>-- does preference for LA residents/businesses count as protectionism?</td>
<td></td>
</tr>
<tr>
<td>- States regulation can impact commerce if rational tie to legitimate state purpose</td>
<td></td>
</tr>
<tr>
<td>-- must be “least burdensome” means to achieve goal</td>
<td></td>
</tr>
<tr>
<td>-- must not “unduly burden” interstate commerce</td>
<td></td>
</tr>
<tr>
<td>- Market participant exception to DCC</td>
<td></td>
</tr>
<tr>
<td>-- is airport operation market participation or governmental function?</td>
<td></td>
</tr>
<tr>
<td><strong>P &amp; I Clause Analysis</strong></td>
<td>15</td>
</tr>
<tr>
<td>- Violation of fundamental right of citizens of other states?</td>
<td></td>
</tr>
<tr>
<td>-- right to travel, own property, employment, access courts, equal taxation</td>
<td></td>
</tr>
<tr>
<td>- Compelling state interest?</td>
<td></td>
</tr>
<tr>
<td>-- Does economic harm count?</td>
<td></td>
</tr>
<tr>
<td>- Non-citizens must be actual source of harm addressed by law?</td>
<td></td>
</tr>
<tr>
<td>-- Are out of state residents source of harm?</td>
<td></td>
</tr>
<tr>
<td>- No market participant exception</td>
<td></td>
</tr>
<tr>
<td><strong>Conclusions</strong></td>
<td>10</td>
</tr>
<tr>
<td>- Assessment of challenges by those seeking permanent landing slots</td>
<td></td>
</tr>
<tr>
<td>- Assessment of challenges by those seeking one-landing slots</td>
<td></td>
</tr>
<tr>
<td><strong>11th Amendment as a bar to suit?</strong></td>
<td>10</td>
</tr>
<tr>
<td>- 11th amendment poses bar to direct suits against states</td>
<td></td>
</tr>
<tr>
<td>- Extends to offices/depts./bureaus/entities funded from state treasury</td>
<td></td>
</tr>
<tr>
<td>- Political subdivisions (e.g. cities/counties) not immune unless funded by state</td>
<td></td>
</tr>
<tr>
<td>- Would not protect City of Los Angeles/LAWA from suit</td>
<td></td>
</tr>
<tr>
<td><strong>Organization and Clarity</strong></td>
<td>25</td>
</tr>
<tr>
<td>- Logical structure to answer</td>
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<td>- Clear/coherent writing without excessive misspellings/poor grammar</td>
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</table>
APPENDIX J

CAMPUS BOOKSTORE

Our official, on campus bookstore is run by Barnes & Noble College Booksellers and is located in the basement of the Casassa Building (until mid-September. Then we will move to our new home on the main floor of the Burns Building). Information about the Bookstore can be found online at http://lls.bncollege.com.

Contact Information

Cristina Champion, Store Manager, cristina.champion@lls.edu

Store Phone Number: 213-736-1032
Store Fax Number: 213-487-0235

Book Adoptions

The Law School is contractually obligated to provide Barnes & Noble College Booksellers with the necessary course and book information on a timely basis each semester. This has also recently been addressed legally by Higher Education and Organizational Change (HEOC). There are several ways of adopting books:

1. – Books can be adopted and tracked online through the Bookstore’s website. http://lls.bncollege.com. Faculty members are encouraged to create an account, as this is an easy and reliable method for book adoptions.

2. – Adoptions can be given via e-mail and sent to cristina.champion@lls.edu.

3. – Adoptions can be taken over the phone, please call the Bookstore at 213-736-1032.

Supplement and Supplies

The Bookstore is eager to offer any supplements, study guides or other supplies you feel are helpful to our students. Please contact the Bookstore directly with any requests you may have. The Bookstore tries to provide the most up to date offerings, but your help would be greatly appreciated.

Faculty Publications

Have you published something you would like to see in the store? Please contact the Bookstore and let us know; they’ll gladly order copies to include with other faculty offerings.

Faculty Discount

All faculty members receive a 10% discount on items (excluding textbooks & convenience items) purchased in the Bookstore. Please be prepared to show your Law School ID to receive the discount.
How to access:

**Email**

Used to access your LLS email messages

1) Go to [http://email.lls.edu](http://email.lls.edu)
2) Enter username and password

**Set up email forwarding**

1) Click on the Gear icon in top right corner
2) Click Mail Settings
3) Click on the Forwarding and POP/IMAP tab
4) Click Add a Forwarding Address
5) Enter the address you want your mail forwarded to
6) Click Next
7) A verification code will be sent to the forwarded account
8) You must retrieve that verification code and enter it into Google. Once the code is successfully entered you will begin to receive emails to that forwarded account.

**Change password**

1) Go to [https://idm.lls.edu/idm/user/login.jsp](https://idm.lls.edu/idm/user/login.jsp)
2) Log in
3) Click on Change Password
4) Enter New password (twice)
5) Click Save

**Lost password**

1) Go to [https://idm.lls.edu/idm/user/login.jsp](https://idm.lls.edu/idm/user/login.jsp)
2) Click on Forgot Password
3) Answer your secret questions
4) Use New Temporary Password provided

**CCA (Cisco Clean Access)**

Used to access the LLS wireless network

1) You will need to download CCA on to your laptop
2) Your username and password for CCA will always match (or sync with) your LLS email username and password
3) Enter your username and password, once you receive the “Successfully logged in” message you are now logged in to the internet wirelessly.
4) You do not have access to your network drives when logged in wirelessly

**Novell**

Used to access your Classroom Computer and Network Drives while on Campus

1) When you turn on your computer (not through wireless) a small Novell box will appear and you will input your username and password (if not already there)

**FWS (Faculty Web Services)**

Allows you access to view the roster of your students and view the student photo books. There is a separate link to access FWS, navigate to the LLS home page at [http://www.lls.edu](http://www.lls.edu) and click Faculty/Staff

1) Click on the FWS link (from LLS Faculty/Staff page)
2) Enter your username and password
INSTRUCTIONS FOR THE SUBMISSION OF YOUR PHOTO FOR YOUR ID CARD:

- Please use at least 3 megapixels.

- You MUST use a white or grey solid background. You MUST take a photo of your face, please refer to the following diagram to help you frame the photograph.

- Please use discretion when submitting your photo. There should not be anything in the background.

- Once you have downloaded the picture to your computer, use your photo editor software provided with your camera (or a software program you prefer) to adjust the dimensions of the photograph. Please ensure that it is saved as a .jpeg file (NOT .gif or .bmp)

- Please resize the width and height of the photograph to:

  W = 2.65 inches (254 pixels)   H = 3.5 inches (336 pixels)   dpi= 96dpi