



Reflections on Grading and Student Learning: The Search for Efficiency, Fairness, and the Ideal Exam

The benevolent corporate overlords at IELT Industries® have urged thoughtful teachers to reflect on their grading practices. Beyond the default panic of “oh no, I really do have a huge amount of grading to do,” what can this possibly mean?

Though there is a large body of literature devoted to law school assessment methodologies and grading schemes, there is comparatively little attention given to the actual process of marking papers and assigning scores. Perhaps that’s because grading is an intensely personal enterprise – we usually do it alone, and over time most of us develop our own unique ways of meeting two simultaneous goals: efficiency and fairness.

As part of IELT’s ongoing quest to make explicit the underlying goals and techniques that are implicit in law teaching, we think it worthwhile to spell out and consider some common grading practices.

Exam Design and Student Learning

Final exams are what students prepare for all semester. As a result, they effectively signal to students what they were expected to *learn* from the course. Consider the List of NLYS Student Competencies that the faculty adopted last spring (attached) and ask how many of these skills are important to your particular class. For most exams, “acquired foundational knowledge” and the ability to “identify specific legal issues presented by factual scenarios” will be paramount. But, for example, if writing “with clarity, precision and effectiveness” or exhibiting “professionalism” are also important parts of the course, how can you build a grading scheme that rewards them? Scoring schemes incentivize students, so devise one which promotes the skills you want to encourage.

And even better, try to be **transparent** with students about the skills you’re measuring on the exam – the more you tell them about your expectations and the difference between good and bad exams before they walk into the exam room, the better able they are to meet those expectations.

Rubrics: Balancing Efficiency and Fairness

Most of us use some form of standardized written (or at least internal) guide to assess exam responses. TEACHING LAW BY DESIGN offers some helpful tips for designing grading rubrics:

- Treat any initial rubric or checklist as a provisional draft. Use it to quickly measure about 8-10 exams, testing whether the instrument accurately weights what students are seeing in the questions, whether it produces scores that seem to align with your more overarching “gut” reaction to each of the tests, and whether it provides flexibility to reward exceptionally well-crafted or unusually thoughtful analysis.
- Revise the rubric as necessary, and begin the actual process of grading (after mixing those first sample papers back into the stack). Remain open to further tinkering with the rubric if needed.
- If the exam is subdivided into parts, grade one section for all of the papers at one time. Rearrange the order of the papers in your pile before moving on to grading the next section.
- When you are done with each section (or with the whole set of test papers) revisit the first 5-10 papers marked to see whether they would now earn the same score. If not, you have drifted as you moved through the work, which requires going back through the papers until your scoring of each question is reasonably replicable.
- Make notes about your grading of the test so that you will remember what you were thinking. It may be weeks or even months before you speak with students about their exams, and these notes will be invaluable at that point.

The “Beginner’s Mind”

Ruthann Robson, a Distinguished Professor featured in *WHAT THE BEST LAW PROFESSORS DO*, writes in *The Zen of Grading* (36 AKRON L. REV. 303 (2002-03)) about the importance of approaching each exam she grades with what Zen practitioners call a “beginner’s mind.” Referencing the Shunryu Suzuki’s classic *ZEN MIND, BEGINNER’S MIND* (which many readers suggest is actually richly complex), Robson invokes an image of idealized grading in an egoless state. That is, grading which is always about the paper only, leaving aside what the teacher *wanted* the student to write to examine only what the student actually *did* write. Robson strives to read each test without reference to any others, and to read each section of a test for its own merits – not assuming, for example, that an essay with a weak opening will be poor throughout.

Paradoxically, Robson describes a well-crafted grading grid as critical to achieving her “beginner’s” mindset. Using a rubric means thoroughly thinking through considering the exam before attempting to grade student responses to it. This then frees up mental energy which would otherwise be sidetracked by considering the problem itself or other side issues, and allows more complete focus on the paper at hand. Robson suggests that a rubric therefore allows her to move quickly (efficiently!) yet remain confident that the students’ knowledge and reasoning skills will be rewarded (fairly!), with flexibility to reward demonstrations both of substantive knowledge and argumentation.

Robson’s comparison of law school grading and Zen practice also raises the specter of “Desire” and “Suffering.” She invokes the law teacher’s usually unfulfilled longing to spot a unicorn: the one, beautiful, perfect exam. Robson reminds us to keep those lofty goals and expectations, while remembering that our students are novices writing under pressure. This suggests that while the ideal student work product may be rare, our understandable frustration with that fact shouldn’t prevent us from helping our students make the gradual transition from novice to expert learners.

As always, IELT is available to discuss your rubrics, exam design, or anything else that might help our students' learning.

Best wishes for a happy (or at least Zen) grading season!

Kris Franklin and Doni Gewirtzman
Co-Directors, NYLS Initiative for Excellence in Law Teaching (IELT)