

## **Engaging and Assessing Our Students: Student Grading of In-Class Quizzes**

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I have developed an evaluation tool that I would like to share with you. The examples I will use are drawn from my Trusts & Estates course, but could be adapted to any doctrinal course, particularly one that is bar examined in essay format. This technique is especially valuable if the final exam in the course includes time-limited “issue-spotting” essay exams. I’ll lay out how it works, and then talk about the pedagogical goals I think it accomplishes. I’m not going to talk about the general advantages of giving graded work during the term (rather than having grades be based entirely on final exams); I think that is well established. Instead, I’ll focus on this particular approach, in which students grade one another’s work, using a rubric I have prepared. I’ll also share some student evaluations of this technique, collected this past semester (Spring 2011) at Stetson.

### How It Works

#### Overview

My short essay quizzes are generally based on a fact pattern about half a single-spaced page long, answered by students in 20-30 minutes. These give students practice and feedback to help prepare them for the exam; they are graded and are therefore also a form of assessment. In a guided, in-class exercise in which students grade one another’s work, I am able to engage students in the assessment process, and help them to see how exam grading works “from the other side.” I distribute a one-page point-allocating scoresheet to each student to use in scoring the quiz, and we work through all of the issues as a group, with students encouraged to ask questions about the sufficiency of the answer they are grading on any particular issue. The quizzes are taken

anonymously (using prior exam numbers), so anonymity is preserved, and I review all quizzes after scoring (to insure consistency in grading).

### In Detail

1. First, I write a short essay exam question, which can be answered in 20-30 minutes. The fact pattern and question (sometimes one question, sometimes two), should fit on one page, double-spaced, in 13 point type for easy readability. I generally confine the questions to material covered in approximately the last 4-6 hours of class (1-2 weeks), for example, fiduciary duties of trustees, or powers of appointment. The quiz is usually one of 5 given in the semester which aggregate to 10% of student grades – they are thus not especially mathematically significant.
2. Then I prepare a detailed grading rubric, which identifies how every point will be allocated. The rubric also has a space for the exam number of the student who wrote the answer, and for the student who will be grading it. Quizzes like this are generally worth about 10 points. The grading rubric breaks down a complete narrative answer to the question into individual sentences that combine law and fact, and each of which is generally worth 1 point.
3. The quiz is then copied and distributed, and students take the quiz during the first 20 minutes of class. The Bluebooks are collected.
4. The first time I do this, I then announce to the class that we will be grading them in class. Before that point, they have generally assumed that I would be grading the quizzes myself. I explain that we will be grading the quizzes first as a group, and then that I will review each graded quiz myself. I redistribute the Bluebooks, and also distribute copies of the grading scoresheet. I remind students to make sure they are not grading their own! One variant: I have done this and had students grade their own quiz; it is quicker, but not as effective. I also warn students that excessively inaccurate scores will result in a deduction from the scorer's score. (This is simply to insure careful, attentive, and good-faith grading; I have never had to do it.)
5. The class then works through the answer together. This generally takes about 20-30 minutes, depending on the size of the class and the number of questions. I explain what answer is

sought, and why, for each point. Half-points can be awarded. Students have the opportunity to ask questions about the sufficiency of the answer in front of them, and I decide whether a particular statement should receive full, partial, or no credit. This is not as effective when students grade their own quiz, because they then have to disclose the content of their own answers in order to ascertain whether something is “good enough.” (Students also tend to give themselves the benefit of the doubt excessively!) Then students total up the score, and I collect the Bluebooks again.

6. Then I re-read and re-grade each answer. This usually requires adjusting almost every scoresheet, though rarely by more than a point or two at the most.

### Pedagogical Goals

This technique can be somewhat time-consuming, and if class time is short (or one is falling behind on the Syllabus), it may seem to use up an inordinate amount of time. However, I think it’s worth it. Here are some of the reasons why.

#### 1. A Preview of Exam Grading

I prepare a similar point-allocating rubric for final exam grading. These quizzes give students a preview of that exam grading method. It makes it much clearer to them how their final exam will be graded, what I am looking for – and what will not receive any credit, and so is not worth including. For many students, exam grading is a “black box,” and I believe a more transparent process enables students to study, prepare, and answer exam questions more effectively.

#### 2. Insight Into The Grader’s Perspective In General

Many students have never seen another student’s Bluebook, ever. Concerns about anonymity, privacy, embarrassment, and competitiveness, conspire to prevent it. At most, students might see one very strong or “model” answer posted to some prior exam. Whatever they imagine about the superiority or inferiority of other students’ answers, the reality is always a surprise. Many students are reassured when they see other students’ answers; others may be

encouraged. Either way, it gives students a much more realistic basis for comparing themselves to others. More importantly, students for the first time see a quiz or exam answer as the grader does. To many, it apparently occurs for the very first time that perhaps their own poor penmanship might be a problem for a grade!. Perhaps they imagine teachers have a magic method for deciphering illegible handwriting – or more likely, they’ve never thought about it at all, the fact that someone must read their answer

More substantively, they see, often for the first time, how much subjectivity and judgment is unavoidably called for in grading; that no matter how “objective” a rubric is used, the grader will have to decide when an answer comes “close enough” and when it does not; when an answer makes clear that a student understands, albeit imperfectly, and when it betrays a significant misunderstanding. They see, concretely, for example, how much of an otherwise-strong answer may be devoted to irrelevant material, and how frustrating it is to have to search all over a poorly-organized answer to find a particular point. Although many find this frustrating (as we do!), the more sophisticated are able to translate this experience into an effort to write clearer, more succinct answers themselves.

### 3. Insight Into My Grading Idiosyncrasies

Whether students are new to law school, for example in the first semester of Property, or about to graduate, like many who take Wills & Trusts in their final semester, typically my students have never been graded by me before. Even if they have taken many law school exams, and done well, they often don’t know *why* they did. Most students don’t review exams, and so don’t learn whether they got a good grade *because of*, or *in spite of*, some of their treasured exam-writing habits.

I have certain idiosyncrasies in grading, as we probably all do, and I am not reluctant to share that information with students. The in-class grading exercise helps me do that. For example, I generally prefer students to “cut to the chase” – to discuss the issues colorably raised by the facts, not the legal area in general. For example, if the question is about one of several

elements of trust creation, all the irrelevant elements can be mentioned and discussed in one sentence (for 1 point), while several points will be allocated to a detailed analysis of whether the element is satisfied. I give no points for law without facts, or facts without law, so students don't get credit for rewriting the facts without assessing their legal significance, or for setting out the law of an area without applying it to facts (for example, long lists of elements of valid trust creation, or will execution requirements). As I put it, "Don't start with, 'In the beginning, God created the heavens and earth.'" I also prefer that yes or no questions (for example, Is the trust valid? Can the will be probated?), be answered "yes" or "no," and in the first line of the answer. I usually say about this, "An essay exam answer is not a murder mystery – don't make me wait until the end to find out what the answer is." Equivocation ("probably yes," "might not be probated") does not strengthen answers, and "multiple choice for the grader" – "if X is the case, then yes; but if Y is the case, then no" – is also a bad strategy. Talking through the quizzes, which will often include examples of all of these things, rather than making these points in the abstract, makes them hit home much more effectively.

#### 4. Quicker, Prompter Grading and Review While Material Is "Fresh"

This method of student grading allows me to return such quizzes much more quickly than would otherwise be possible (even in a class of 100, I can review the quizzes in just a few hours), and because students see the scoresheet immediately after completing their own quiz, they leave the class with a roughly accurate sense of their own performance while the subject is still fresh in their minds.

## Student Comments

Student reaction to this evaluation tool has been mixed, but mostly positive. I had students complete an optional Evaluation Form at the end of class after we did this exercise for the second time in the semester. In a class of 36 students (with a few absences that day), 25 completed the form. I asked a deliberately open-ended series of questions. I have also included some responsive or explanatory footnotes to some students' responses.

The question(s) asked:

Please comment on our in-class essay-style quizzes, graded in class. Did you like them? Hate them? Find them useful? Or a waste of time? How could they have been improved, in your opinion? I am interested in comments especially about both the scoresheets, and the use of in-class grading by students (and not so much about specific subject matter of the quizzes).

Here are the responses (with the gender and graduation year of the student included, if the student provided it).

1. I like the essay style quizzes because they offer insight into how the rubric will be applied on the final. Though I thought the rubric was a bit tight in some situations, it does reward quality rather than quantity. That approach is reassuring b/c I do not type particularly fast. (M/2L)
2. I did not like them, but looking back I realize they were extremely useful & beneficial [sic]. They forced us to learn as the semester progressed & prevented procrastination.
3. I dislike in class grading. Having other students grade does not give me a great deal of confidence. I doubt that I'd get the credit I deserved.<sup>1</sup>
4. Helpful to see what your [professor's] expectations are before going into the final. I liked going over the quizzes right after taking the quiz while material was still fresh. Liked hearing your explanation of why points given according to rubric. (F/2L)
5. I thought they were overall a useful exercise [sic]. It was good to see how points were assigned and gave us the opportunity to ask questions on the spot about it. Also, it gave us a window into the professor's grading thought process, what she found to be the most important issues and allowed for discussion. (F/2L)
6. I found the grading of other students in class quizzes helpful, because I was able to recognize things that I had missed in my own essay. I also noticed when something I'd spent time on was irrelevant to the scoring. I think these exercises are very beneficial to my approach in answering final examination essay questions. (M/2L)
7. I found them useful, but I hated them. They stressed me out & I didn't study for class on those days. I think ungraded quizzes would be most effective.
8. Talking about the answers right after taking the quiz was useful. Actually grading was less valuable to me, but reading another answer gave me some additional perspective.
9. Good idea. Quizzes are good because they forced me to keep current w/my outline – important in a class w/ so much material. In class grading allowed discussion right after taking and thinking about the problems. (M/2L)
10. Part of me wanted to dislike the in-class grading since we were so crunched for time, but I actually learned a ton by going through the answers as a class. (F/2L)
11. Hate & a waste of time.

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<sup>1</sup> In fact, all student answers are re-read by me. Also, interesting, students in general are much MORE generous in awarding points than I tend to be.

12. I hate them, but they are helpful to me. Not necessarily in understanding the subject matter, but in understanding the best way to present my response and what answer the teacher is looking for.
13. Indifferent.
14. It was helpful to see what specific points she was looking for in the essays.
15. While it was useful from a learning perspective, I was always afraid that I would make a mistake on another student's paper. Students don't always put information where you would expect to find it.
16. I think the quizzes were useful. Providing a scoring sheet made them useful. If no scoring sheet was provided I think the quizzes would be far less useful.
17. Like them. Useful. Improvements = more flexibility w/acceptable answers, it seemed like if you didn't put word for word what the teacher wrote you got little to no pts.<sup>2</sup> (F/2L)
18. A single test at the end of the semester is not nearly adequate to provide feedback. Quizzes, when given the proper weight, allow students to make mistakes and learn from those mistakes. Learn from mistakes, so as not to repeat them in the future. (M/2L)
19. Grading another student's essay gave me the opportunity to benefit from their insights into the course material, and even more importantly students were able to better craft their answers in response to the rubric. (M/2L)
20. I appreciated the opportunity to participate in in-class grading; it gave me a better idea of what the professor was looking for in the answer and how I should organize my answer to make it easier to grade...and hopefully to get more points." (F/3L)
21. Good – able to see another student's perspective & other ideas on subject  
 - anonymous grading so no risk of embarrassment  
 - allows students to see how teacher grades & analyzes question by seeing desired answers
- Bad (?) – students can be subjective graders  
 - students' grades don't match teachers ultimate grade (F/2L)
22. I was not a big fan of the in-class grading. I thought that the quiz being pre-graded by a student had an influence on the ultimate grade, which I do not think is entirely objective. Also, there were so many nuances to the answers that it took up a lot of time asking questions about grading.<sup>3</sup> (F/2L)
23. I didn't think the questions were too difficult, but I thought the grading sheet didn't line-up with what was necessarily asked in the question. I honestly felt I knew the material, but after the essay quiz I felt demoralized and confused.<sup>4</sup> (F/2L)
24. I did not like the in-class essay style quizzes themselves but liked the process of grading them in class. I felt the grading rubric was too particular and points were awarded unless they were on the rubric.<sup>5</sup>
25. I thought they were generally helpful for understanding how you [professor] were planning on grading and what language you needed to see from us. The only thing was that it was tough to grade other people's answers. I had a hard time deciding if their answer met the standards on the grade sheet. (F/3L)

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<sup>2</sup> One issue we all encounter is how strict to be about the use of technical terminology. The wills and trusts area includes a great deal of specialized vocabulary, but it is expected on the bar exam and in practice, and so I tend to be quite strict about it.

<sup>3</sup> I thought it was interesting that this student somehow seems to think that the professor's grading is more "objective." I also thought it notable that the student did not seem to draw the full lesson from all the "nuances" – and their effect on grading of exams.

<sup>4</sup> As is often the case, it does not seem to have occurred to the student that perhaps she did not understand the material as well as she thought, if she was not able to answer the not "difficult" question effectively.

<sup>5</sup> That is in fact the way I grade exams – with a rubric prepared in advance – though every once in a while I of course actually miss something, and I give points for anything correct and relevant, even if it's not on the rubric. How it is that the student feels he or she is in a position to assess whether the grading is too "particular," however....

**Klein's Trusts & Estates**  
**Fiduciary Duties Quiz (12 points) (20 minutes)**  
**April 12, 2011**

By her valid will, Testator's residuary estate poured over into a trust she had created during life, which became irrevocable at her death. The terms of the trust provided, in pertinent part, as follows:

"My daughter Tessa is to serve as trustee. The primary purpose of the trust is to preserve the art collection for long-term increase in value, and also to provide supplemental income to my children. During the term of the trust, my art collection is to be retained and not sold, except to the extent necessary to ensure that the art is properly cared for. Other trust assets are to be retained or sold as the trustee in her discretion shall determine. Income is to be used to maintain the art collection, and any excess is to be paid to my children at least annually, in such amounts and shares as the trustee in her discretion shall determine. Twenty years after my death, the trust will terminate, and all assets are to be sold and the proceeds divided among my then-living heirs."

Testator has 3 children, including Tessa, all of whom are employed and financially self-reliant. The art collection consists of ten paintings, ranging in value (at Testator's death) from \$10,000 to \$100,000, with a total value of \$500,000. The other residuary assets include unproductive real estate (the family home) valued at \$500,000, and a stock portfolio also valued at \$500,000.

In the first year after the trust was created, the stock portfolio generated \$50,000. The cost of maintaining the art collection, \$5,000, was paid, and the remaining \$45,000 was distributed equally between the three children. Tessa herself moved into the family home and paid no rent, although the fmv value of rent was \$3000 per month.

In the second year after the trust was created, the stock portfolio steadily declined to \$200,000 and generated just \$20,000 in income. In order to keep her siblings from asking too many questions, Tessa sold a painting at its fmv of \$30,000 to a BFP. A year later, the painting has risen in value to \$50,000.

What fiduciary duties has the trustee violated? What should be the remedy for any breaches committed? It is recommended that you organize your answer by each relevant act the trustee performed (or failed to perform). (In calculating damages, you may disregard interest.)

**Klein's Trusts & Estates**  
**Fiduciary Duties Quiz SCORESHEET**

\_\_\_/12 QUIZ EXAM NO. \_\_\_\_\_ GRADER'S EXAM NO. \_\_\_\_\_

Failure to provide info/accounting

\_\_\_ (1 pt) Duty to inform and account: doesn't appear Tessa has done either of these, ever  
\_\_\_ (1 pt) Remedy: the siblings are entitled to all the relevant information; having not received it, they have not ratified any t/a and no SOL has begun to run

Sale of \$30K painting to BFP

\_\_\_ (1 pt) Duty to administer in accord with trust terms and purposes: art was sold although not necessary to maintain the trust;  
\_\_\_ (1 pt) Duty of impartiality: sale of art reduced value of trust for remainder-heirs, discrimination in favor of income beneficiaries  
\_\_\_ (1 pt) Remedy: sale made in breach of duty to retain (because condition on sale not met); Tessa liable for \$20,000 growth in value, which would have happened inside the trust had she properly administered the trust and not sold it

Living in the house rent-free

\_\_\_ (1 pt) Duty not to self-deal: by living in the house rent-free, Tessa was self-dealing  
\_\_\_ (1 pt) Duty to make trust property productive: retaining the house and living in it rent-free reduced income  
\_\_\_ (1 pt) Remedy: fmv value rent for 3 years, \$108K

Decline in stock value

\_\_\_ (1 pt) Duty of care: breached by letting stock portfolio decline in value and not doing anything  
\_\_\_ (1 pt) Duty to diversify: the trust has art, real estate, stock, so probably is diverse  
\_\_\_ (1 pt) Remedy: might be negligent retention; if sale, diversification would have reduced losses, may be liable for preventable losses  
  
\_\_\_ (1 pt) Trustee removal is unlikely; she was chosen by the settlor, so if she can make the trust whole and follow instructions, she'll probably get another chance

