What would you like to get out of today's training?

"Different uses in classroom"
9 days ago

"How to use polling software the easy way!"
9 days ago

"Guidance on an easy system that I won't have to relearn every time I use it."
9 days ago

"How to use polling in a smaller class or use as an out of classroom tool to assess existing knowledge of a specific topic or use as a homework assignment."
9 days ago

"An idea of how to use polling effectively in the classroom (not just as a show of hands)"
9 days ago

"Specific examples of how to use polling software in class to enhance student learning"
9 days ago

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Using Polling Software To Engage and Support Students

Mai Linh Spencer

UC Hastings College of the Law

A poll is open right now, for you!

Go to pollev.com/mlspencer [better interface, even if you are on your cell]

or text MLSPENCER to 37607

My Goals for this Training:

- You will have enough info (tech and pedagogical) to decide whether and how you want to use polling
- At some point, you will say to yourself, “if she can use polling, so can I” and feel inspired to experiment
- I will learn of new polling uses/other ideas

Agenda

- Benefits of polling (for you and students)
- Possible goals/purposes for individual polls with examples – always have one!
- How to maximize effectiveness of polls (highlights from Tips sheet)
- Other features beyond my skill level
- Your turn! Create a poll (laptop needed)

Classes I've used polls in

- Evidence (100+ students)
- Externship seminars (15-35)
- Clinic workshop/class (6-12)

Polling/Audience Response Systems I've tried

- iClicker
- Turning Point
- Poll Everywhere

Why are you contemplating using polls? What do you hope to accomplish?

Top

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Student Feedback on Polling

Summary: overwhelmingly positive

Polling:

1. engages them
2. gives them instant feedback
3. forces them to think about and apply the law
   wakes them up
4. allows them to see others struggling (or not)

They use it for

1. practice (applying law)
2. Assessment
3. review

My set-up for large doctrinal class

- Partial laptop ban
- PPT with embedded polls so I don’t have to toggle (vs run from website)
- All polls anonymous
- Post slides w/o polls after class
- Post video of every class

Possible Goals/Uses of a Given Poll—Have (at least) one!

- Formative assessment/Comprehension Check
  - Basic doctrine
  - Deep-dive/Nuance of Rule
  - Overall topic (students self-report)
- Prepare for MBE
  - Become familiar with MBE-type Evid question
  - manage panic; practice guessing/reasoning
- Apply Rule, including ID'g . . .
  - Which part of the Rule is implicated
  - Which facts are how important
  - Which way a fact cuts
- Practice rest of IRAC, e.g., precise articulation of rule, issue-spotting
- Refreshers to replace lecture (e.g., list of factors judge will consider)

Goals/Uses, cont'd

- Lead-in to
  - policy discussion
  - experiential exercise
- Check class temp/get explicit feedback on your teaching
  - (comprehension)
  - pace/approach
  - student overwhelm
- Community-/Connection-building
  - Share personal/indiv info w/ rest of class
  - Allow students to vent; give them a break
  - Induce behavior outside classroom, e.g. OH, review session
- Summative assessment via graded, non-anon polls
- Others?

Goal 1: Formative assessment/Comprehension check

- Basic doctrine
- Deep-dive/Nuance of Rule
- Overall topic (students self-report)

When is nonverbal conduct a statement under FRE 801(a)?

When it replaces an utterance

When it amounts to an utterance

When it is intended by the actor as an assertion

When it is understood by the observer as an assertion.

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Total Results

Type any question you have about FRE 608 here

"Can you describe entrinsic evid. again, esp in relationship to cross-examination?"
18 days ago

"If a prior conviction is offered to prove contradiction? It is admissible under 404b or 608"
18 days ago

"lol"
18 days ago

"Wishing you a lovely day!"
18 days ago

"Jk"
18 days ago

"None"
18 days ago

"None"
18 days ago

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Comprehension check: If you have any questions about today's topics, please type them here. If you don't, type "none."

"In the problem we just did, if the letter had convos between declarant and witness re: how they got into drug dealing together quoted, how would that be ananlyzed under 801(d)(2) and 807?"
8 months ago

"807"
8 months ago

"I would like to see a few cases with examples for the types of circumstances where other evidence has been admitted under 807, and what kinds of things have been excluded and under what circumstances"
8 months ago

"More examples of when Rule 807 would be helpful."
8 months ago

"none"
8 months ago

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results:

Goal 2: Prepare for MBE

- Become familiar with MBE-type Evid question
- Manage panic; practice guessing/reasoning

P fell on a sidewalk that was covered with ice and snow outside her apt complex. Her neighbor, W, saw P fall and land violently on her neck. W immediately said loudly and agitatedly, "I told them an hour ago to clean this spot up but they did nothing." At trial, P's boyfriend offered testimony that he saw and heard W make the statement, thus proving notice and knowledge by defendants of the condition. The apt complex objected that it was hearsay. Which HS exception applies?

A. Present sense impression
B. Excited utterance
C. Prior statement by witness.
D. Statement of present state of mind or emotion.

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Present sense impression

Excited utterance

Declarant-witness's prior inconsistent statement

State of mind

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Post same slide but with answer so students can test themselves after class

P fell on a sidewalk that was covered with ice and snow outside her apt complex. Her neighbor, W, saw P fall and land violently on her neck. W immediately said loudly and agitatedly, "I told them an hour ago to clean this spot up but they did nothing." At trial, P's boyfriend offered testimony that he saw and heard W make the statement, thus proving notice and knowledge by defendants of the condition. The apt complex objected that it was hearsay. Which HS exception applies?

A. Present sense impression
B. Excited utterance
C. Prior statement by witness.
D. Statement of present state of mind or emotion.

EU: **(1) startling event; (2) stmt relates to event; (3) decl under stress (4) caused by startling event**

Company P sues Company D in contract. P calls its custodian of records, C, to qualify a doc as business record. C did not personally keep the records at time of disputed events bec he was only recently hired. He had no knowledge of their contents but could only testify that they were apparently kept in the normal course of business. D objected on the basis of HS and argued custodian was not qualified to authenticate the records. Will trial court likely sustain objn?

No, the records will be admitted on the basis of past recollection recorded, which is an exception to the hearsay rule.

Yes, the records will be excluded because the custodian is not familiar with the actual procedures that were used at the time of the events.

No, the records will be admitted on the business records exception to the hearsay rule because the custodian is knowledgeable enough about the procedures to verify that they are business records.

Yes, the records will be excluded because the custodian had no way of saying that the records were recorded at or near the time of the recorded event.

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Goal 3: Apply Rule, including identifying

- Which part of the Rule is implicated
- Which facts are how important
- Which way a fact cuts

Which of the following facts is most important in determining whether the time sheet is a business record if offered to prove that EE worked 10 hours on Sunday?

The HR manager is trustworthy

The time sheet is recent

The time sheet is used to determine pay and shift needs

The time sheet is an original, not a duplicate

Something else

I don't know

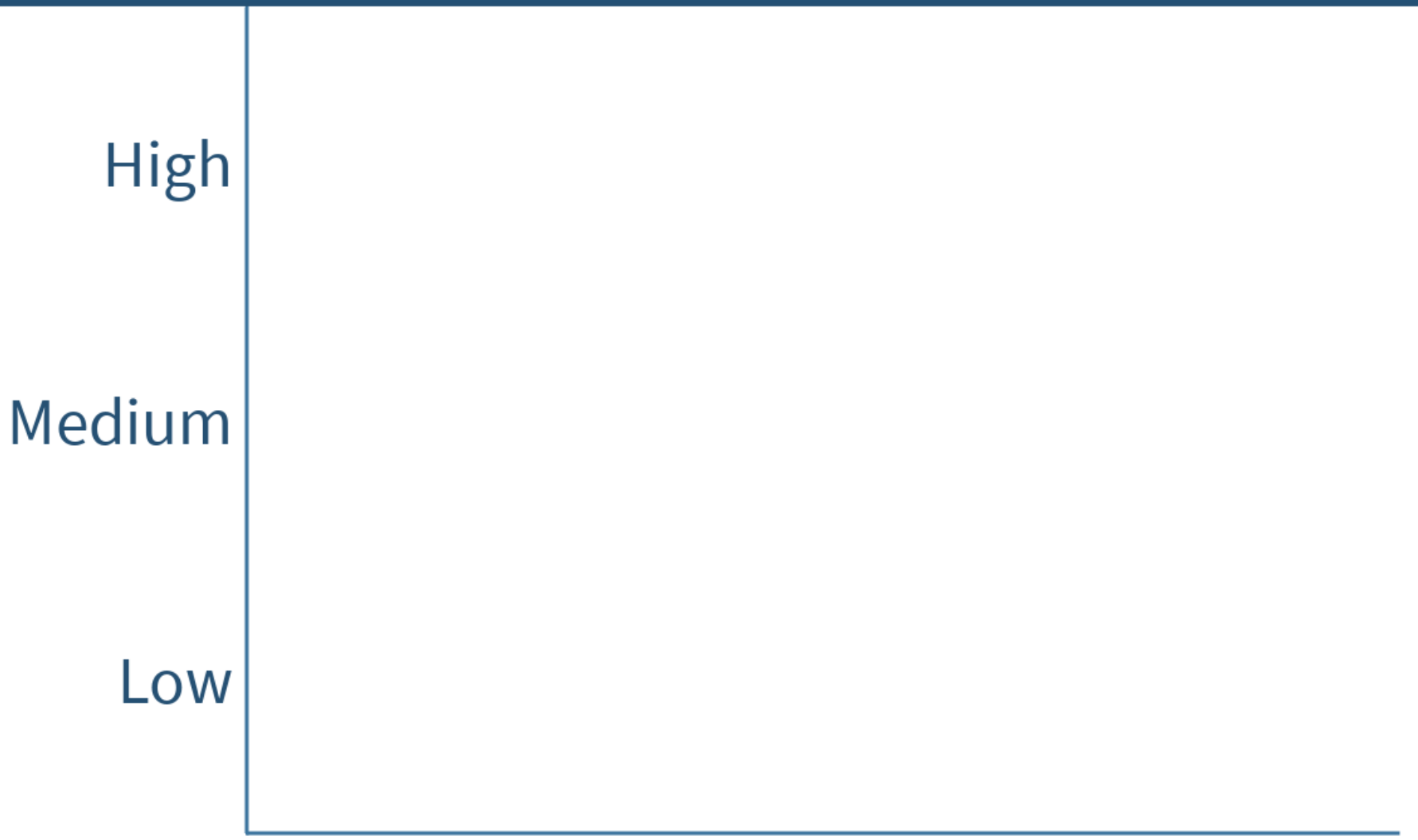
Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Probative? Hypo, Part 1 (don't consider dangers)

Vernon was robbed at gun point late one night by a woman he had never seen before. The robbery lasted 20 seconds and there were no other witnesses. A month later, V picked Dahlia out of a lineup. There is no physical evidence (fingerprints, DNA, proceeds of robbery, etc.). At trial, V testifies that D robbed him; a police officer testifies about the lineup.

D's defense is mistaken ID. Defense counsel wants to call Ellen, an "eyewitness ID expert." Counsel makes an offer of proof that E would testify that based on decades of her own and other expert research, in her opinion, eyewitness ID's under these circumstances are unreliable. DA objects based on FRE 403. **Is PV high, med, or low?**

The probative value of E's testimony is . . .



Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results

Follow-up "answer" slide for later review/laptop-ban mitigator

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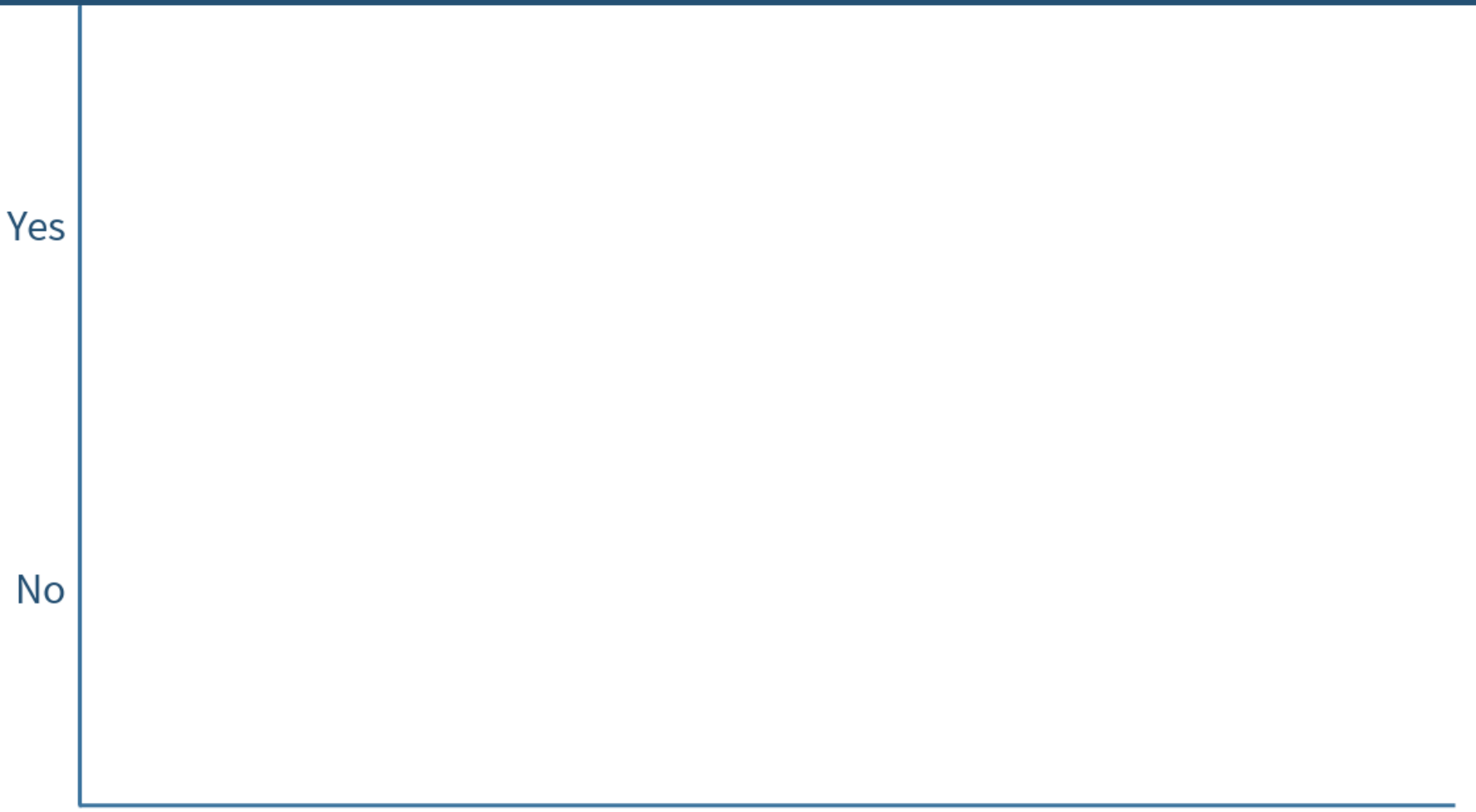
PV is high

- Inferences are strong (if jury believes E, then DA has not proven ID BRD)
- E is certain (regardless of E's credibility)
- Great need: central; disputed; no/little other evid.

  Defense CT = mistaken ID. Only evid that D was robber = V's ID.

Same facts. But this time, V has admitted ton cross-examination that he did not get a good look at the robber and he is not sure it was D. Does this change your assessment of how probative Ellen's testimony is?



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Total Results

Goal 4: Precise articulation of Rule; memorization

Beyonce's testimony is admitted over Daisy Driver's objection. Pedrosos win. On appeal, D argues that it was error to admit Beyonce's testimony. The appellate court will find error if it finds that:

A reasonable trial judge could have excluded the testimony.

A majority of trial judges would have excluded the testimony.

A reasonable trial judge would have excluded the testimony.

No reasonable trial judge would have admitted the testimony.

The appellate court would not have admitted the testimony.

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results

Goal 5: Refreshers to replace lectures

- Factors judge will consider in deciding X
- Policies behind Rule Y
- Etc.

Which of the following is NOT a justification for the party admission exemption?

The statement has been given under circumstances which suggest reliability

The declarant can explain, retract, or modify the statement because s/he is in court

It is fair to hold people accountable for what they say

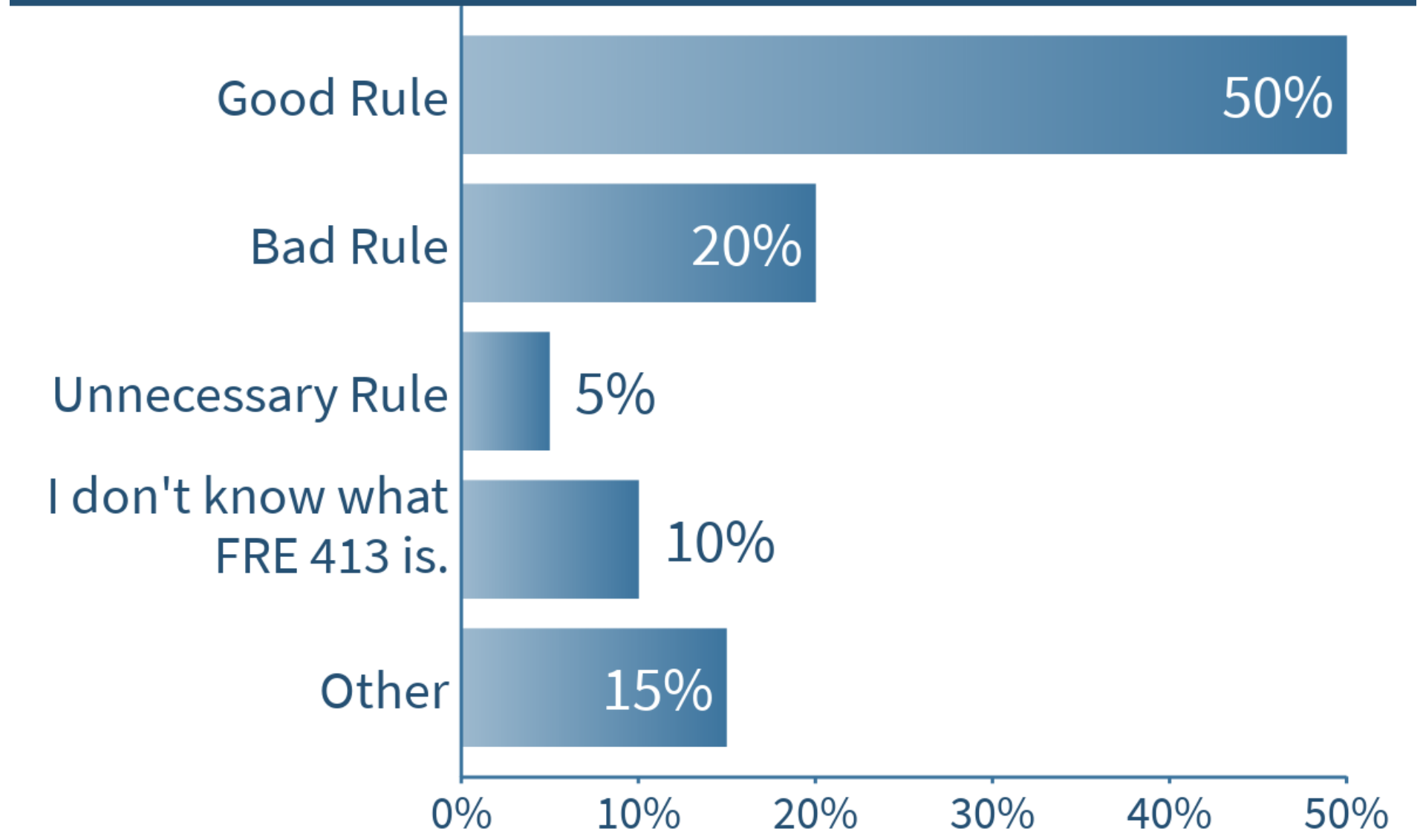
I don't know

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Goal 6: Poll with no wrong answer as lead-in in order to . . .

- Set up argument/policy discussion among students
- Set up experiential exercise

What do you think of FRE 413?



Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results:

No wrong answer/Opinion/Set up experiential

Problem 7.24 When is a statement "inconsistent"?

Red-headed D's burglary trial. Jones = D's witness who testified that he saw a black-haired man run from scene.

Officer will testify that Jones told her on night of burglary, "I saw someone running from the scene, but it was dark and I could not see who it was."

Should the court consider this a PIS?

A. Yes

B. No

Test knowledge of Rule + set up experiential exercise

Putting it all together . . .

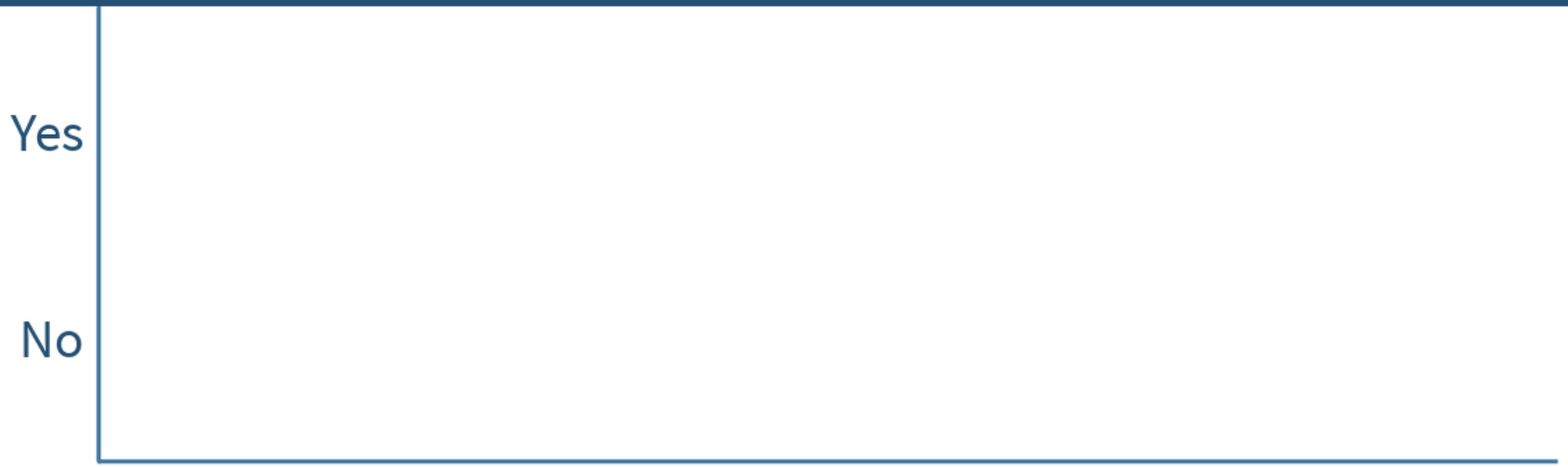
Denise Driver/Pedroso school bus case. Plaintiffs want to call Beyonce to testify that at the time of the incident she was inside the Pedroso house, performing solo for Paul's little sister, who has leukemia, as part of the Make a Wish Foundation. While getting ready to sing, Beyonce heard a thud and looked out the window to see Paul's body fly several feet through the air and land on a neighbor's lawn.

D objects under FRE 403. Admit?

A. Yes B. No

Using the language of 403, argue why/why not. I.e., "The evidence should be admitted/excluded under FRE 403, because …"

Denise Driver/Pedroso school bus case. Plaintiffs want to call Beyonce to testify that at the time of the incident she was inside the Pedroso house, performing solo for Paul's little sister, who has leukemia, as part of the Make a Wish Foundation. While getting ready to sing, Beyonce heard a thud and looked out the window to see Paul's body fly several feet through the air and land on a neighbor's lawn. D objects under FRE 403. Admit? (Use language of Rule + facts to argue why/not.)



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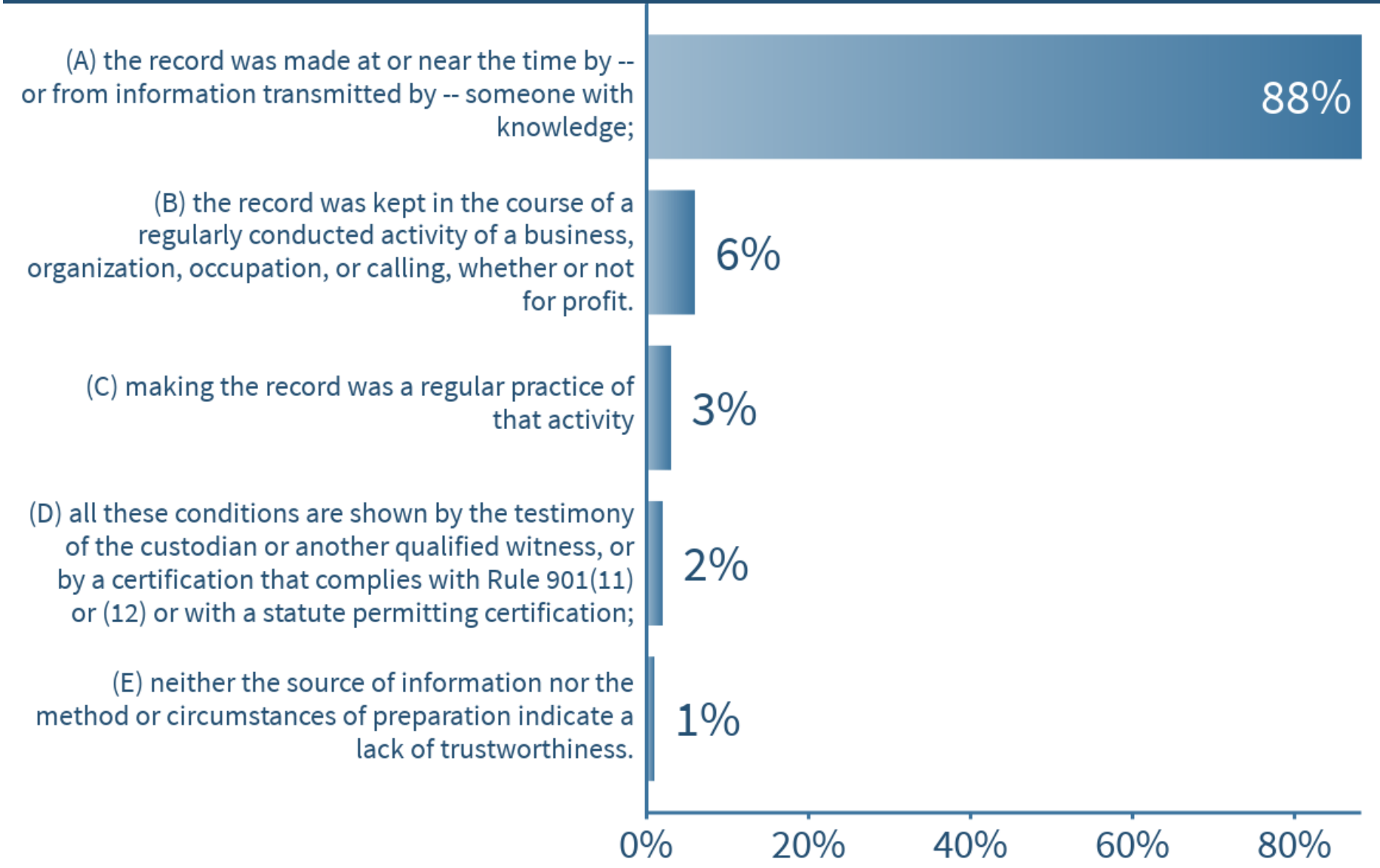
Total Results

Vote for the letter as the foundational requirement is met



Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results: 1

Goal 7: Transition/Respite/Wake-up Poll

Which of these is the most accurate depiction of FRE 403?

100%

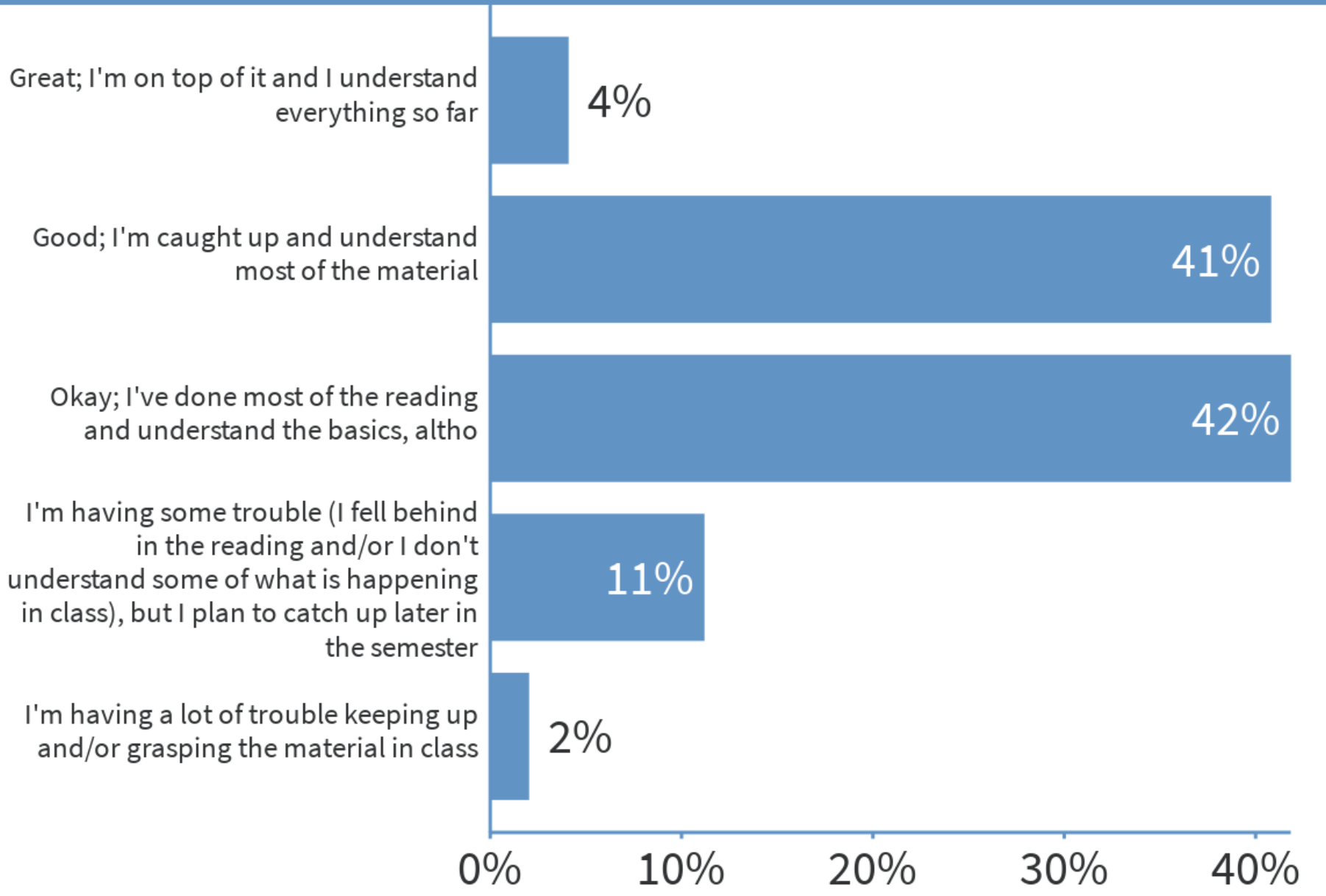
0% 20% 40% 60% 80% 100%

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Goal 8: Check class temp/get explicit feedback on your teaching

- (comprehension)
- pace/approach
- student overwhelm

How is your study of Evidence going?



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Type your name if you will attend a review session on Friday, June 23, starting at 5:30 (or earlier if it works for everyone).

"Cheryl Anne Carolino"
about 1 year ago

"Tyler Summers"
about 1 year ago

"John"
about 1 year ago

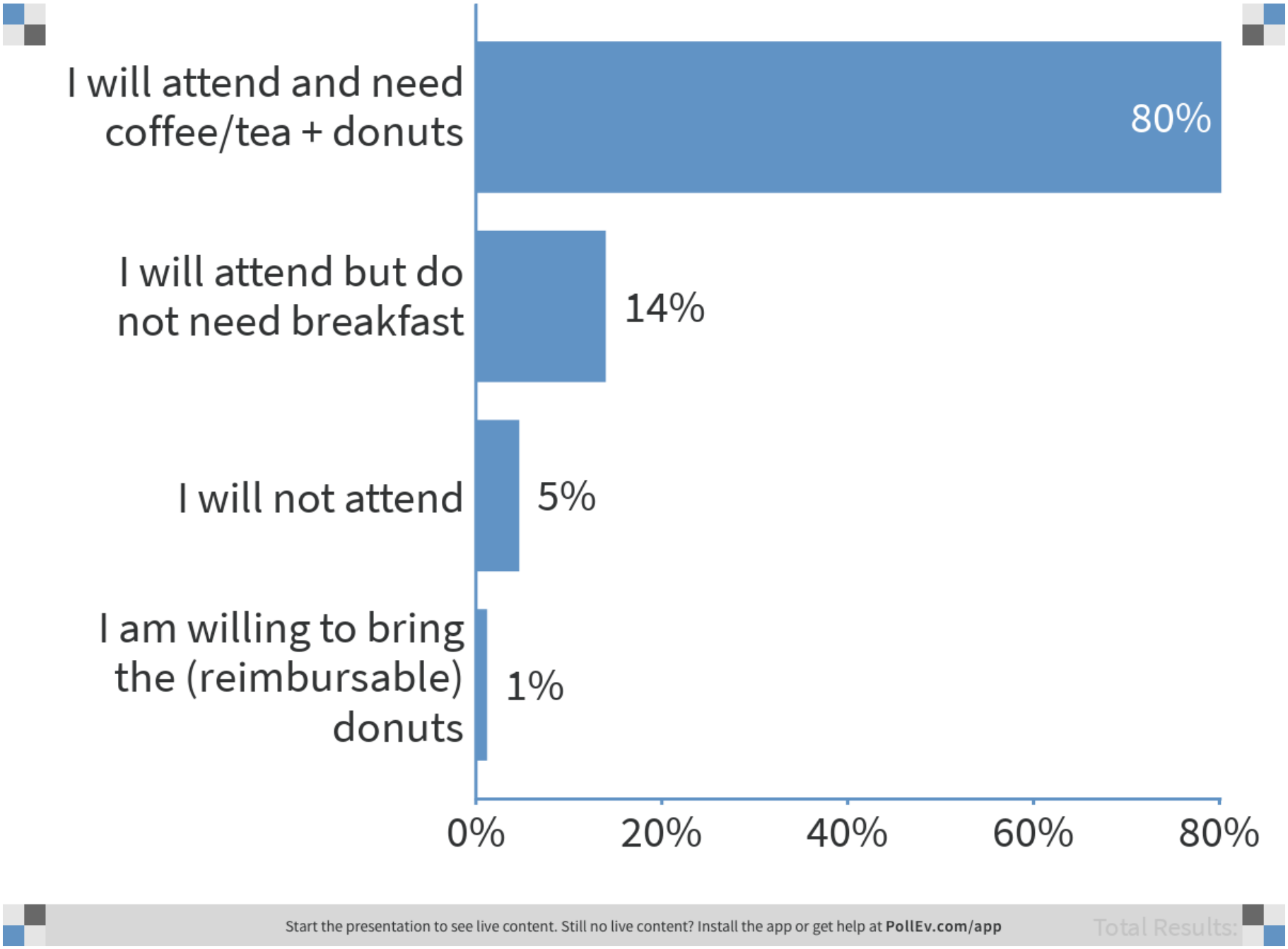
"Bruno Kurt Schatz"
about 1 year ago

"No I will not be attending!"
about 1 year ago

"Eli Cole"
about 1 year ago

"Jessica"
about 1 year ago

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**



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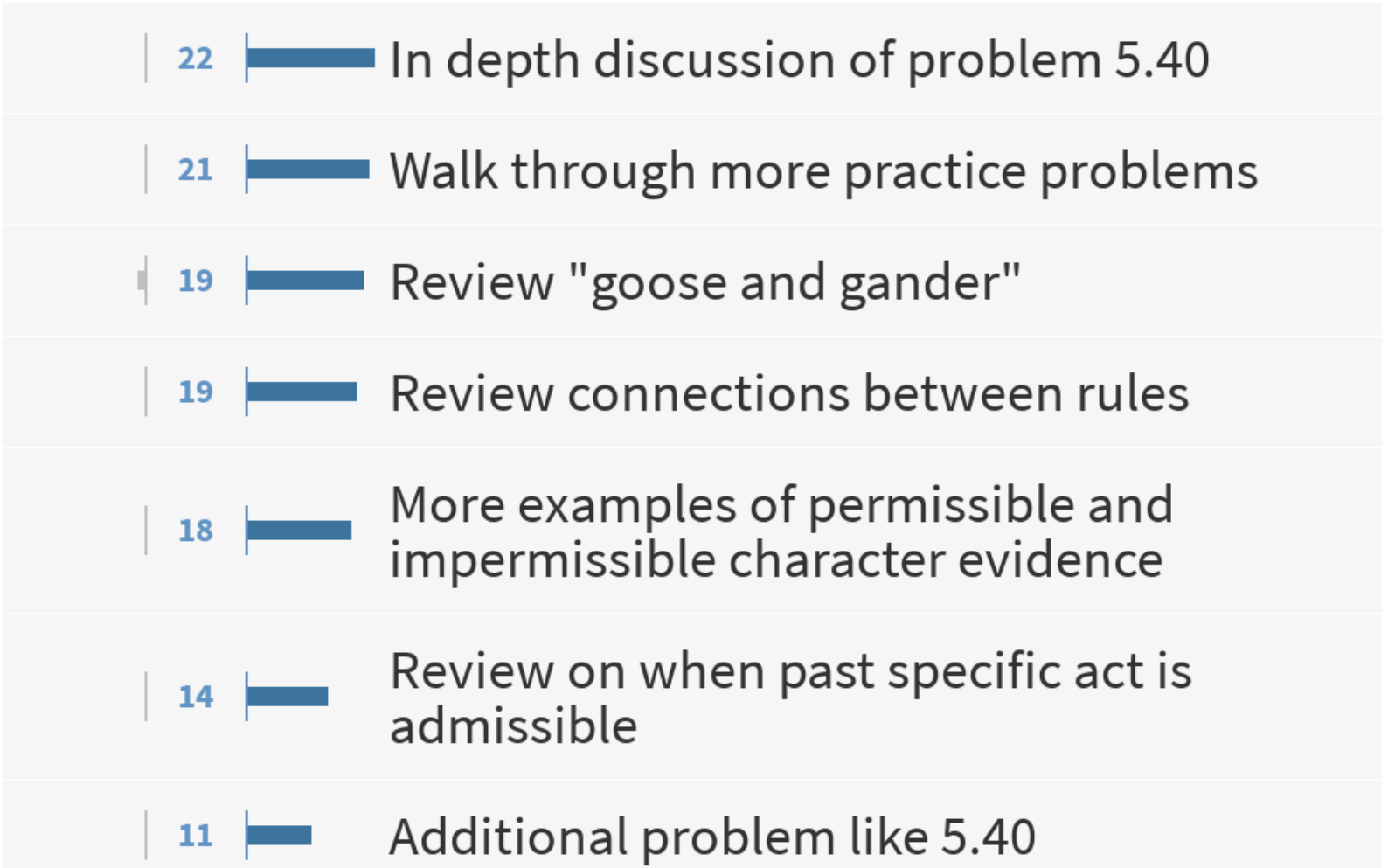
Total Results:

We will focus on 404/405 in our mini-review. Please write down any specific question you have or CB problem you want to review or any other suggestion re coverage. You can respond more than once and you can vote for another response (I think).

Top



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Goal 9: Psychological/Emotional check-in/Community- & Connection-building

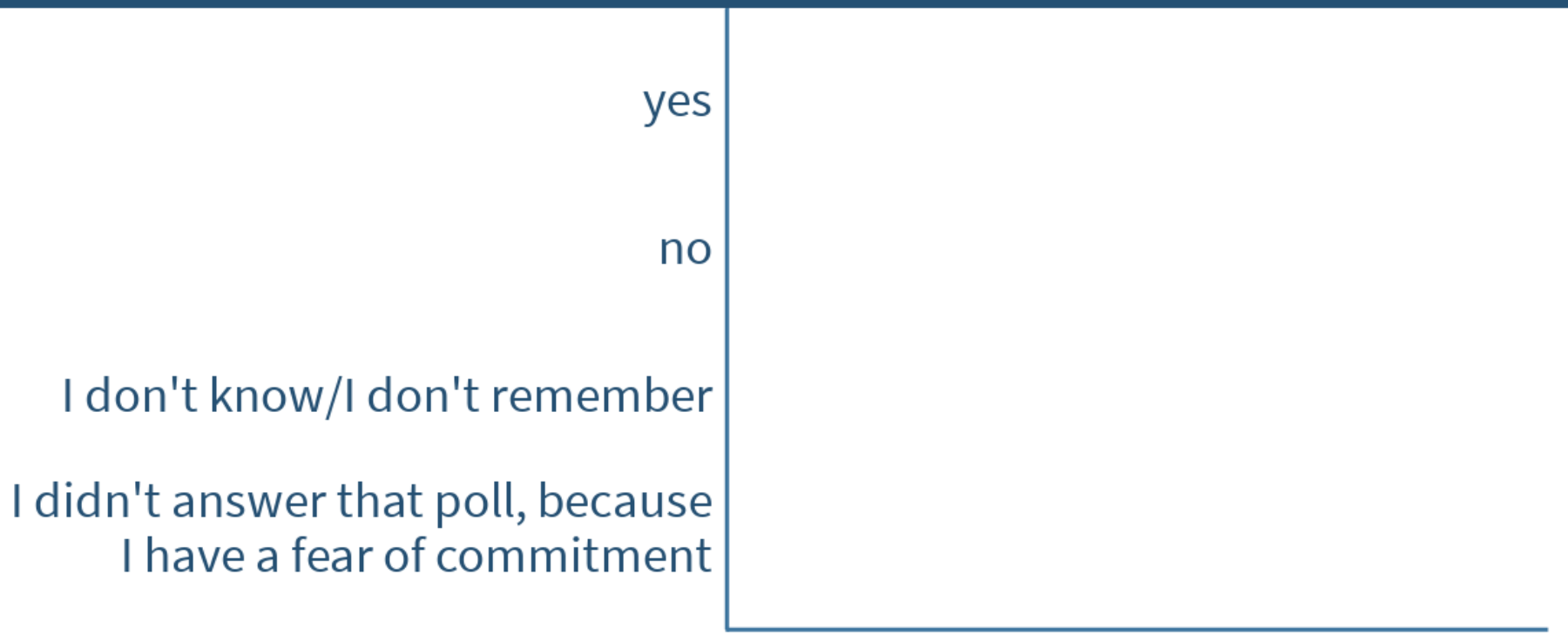
- Give students oppty to share personal/indiv info w/ rest of class
- Allow students to vent; give them a break
- Induce behavior outside classroom, e.g. OH, review session

What is one thing you can commit to doing to feel better (more confident, more relaxed, more in control) about your knowledge of the FRE?

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results

Did you do the thing you committed to doing in order to feel better about Evidence?



Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Total Results

Other goals

- Issue-spotting
- Summative assessment via graded, non-anonymous polls
- Attendance
- Others?

Maximize a poll's effectiveness (prep/format + in-class use)

See Spencer Tip Sheet for more

- Put enough facts in poll so they do not have to read anything else (except maybe the Rule).
- Have student explain why chose right answer
- You or student explain why wrong answers are wrong
- If lots of wrong answers, clear results, pair-and-share, then rerun poll
- Post ppt with polls after class. Include slide w/o answer followed by answer, so students can test themselves.
- ? Include "I don't know" as an answer every time. (Keeps momentum of answering, but may be easy cop-out.)

Some polling features I am less comfortable with, but like . . .

Quiz (“survey”)

[Note: default setting is for poll to stay active for 24 hours after it is activated, so you should be able to run a survey—e.g. evaluation—even after class has ended. I only just learned this, so haven’t tried it yet.]

Hearsay Through 801(d)(1)

Start the presentation to see live content. Still no live content? Install the app or get help at **PollEv.com/app**

Reports

MLS Polling Disasters

- Polls don't show/other tech snafus (run from website)
- Poll is on wrong setting, bec I didn't clear results
- Wrong facts, not enough facts, contradictory facts in hypo
- No right answer/more than one right answer
- Student(s) disagree with answer and have popular support
- Discuss-and-repoll results in more incorrect answers
- Few students vote
- Trolling

Suggested solutions: transparency and/or humility

UPSIDES

- Student engagement
- Student/fac see where students are
- Study aid
- Student feels and is less isolated (esp when wrong)
- Micro/macro feedback on teaching

DOWNSIDES

- Cell phones are out
- Balancing with laptop ban
- Increased chance of in-class teaching disasters (see *infra*)
- Not the world's most intuitive software for the middle-aged

Questions on uses?

Next: your turn to create a poll

Go to polleverywhere.com

Log in (upper right corner)

Username: gonzagaSOL@gmail.com

Password: Password1

Click CREATE in upper left corner

Experiment!

Thank you!

Mai Linh Spencer
UC Hastings College of the Law
spencerm@uchastings.edu