# Formative Assessment in Doctrinal Classes: Rethinking Grade Appeals

Roberto L. Corrada

> Students cannot learn unless the results of their summative assessments are explained to them. Assigning a student a grade or even describing the level of professional development does not help the student learn how to improve. . . . Students learn with feedback.[1]

## I. Introduction

When I was a first-year law school student in the 1980s, I sought out some of my professors to review my completed exams. I wanted insight into how I could improve my performance. Though my recollections about these meetings are no longer sharp, I remember reviewing most of my exams and seeing cryptic marks that had meaning only to the professor. In brief meetings, I remember smiling professors telling me I had done well and maybe offering general remarks about strengths and weaknesses. I was struck by the uniformity of the process. The law school seemed to have no policy on exam review but virtually every professor handled my requests in the same way, especially with respect

**Roberto L. Corrada** is Professor of Law and Mulligan Burleson Chair in Modern Learning, University of Denver Sturm College of Law. First and foremost, the author thanks his students, from whom he learns so much every day. The author also thanks Gerry Hess, Michael Schwartz, Steve Friedland, Sophie Sparrow, David Thomson and David Schwartz for their inspiring passion about improving law teaching as well as their insights into student learning. Thanks to Dean Marty Katz at the University of Denver Sturm College of Law for his support of teaching, writing about teaching and his leadership in the law school's Modern Learning Initiative, an attempt to bring the vision of the Carnegie Report to fruition at Denver. The author thanks his colleagues who commented on this article, including Alan Chen, Patience Crowder, Eric Franklin, Beto Juarez, Justin Pidot, Tom Romero, Catherine Smith, David Thomson and Robin Walker Sterling. Finally, thanks to all of the participants at the Elon Law School Conference on Teaching Law for Engaged Learning in April 2010. Participant comments and questions proved especially helpful in development of this article. Any errors are the author's alone.

1. William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond & Lee S. Shulman, Educating Lawyers: Preparation for the Profession of Law 206 (Jossey-Bass 2007) [hereinfafter Educating Lawyers].

to feedback.[2] On the whole, the process seemed to be aimed at discouraging student interactions with professors over exams. Consequently, I never met with professors about exams after my first year of law school. As a result, I am quite certain that my last law school exam answer looked a lot like my first law school exam answer in substance, style and structure. There really was no process then in law school for learning how to improve performance on an exam. There has been some improvement, but on the whole, testing feedback is the same today.[3]

Law school exam performance obfuscation is not, I believe, the result of an intention to hide the keys to success from students. Certainly, a careful exam review with every student is inefficient and unwieldy, particularly for large classes. The main reason for this, however, may be a belief among professors that it is not important to teach the mechanics of a law exam and that exam performance is a direct result of raw intelligence and hard work. When I was in law school, a professor might have explained: "Look, the exam is of no moment to me. The institution asks me to give an exam and grade it. The purposes serve our alums. For me, the benefit is that students will pay attention in class and to the material. But, really, the only thing I care about is the law, the learning of it, and its implications—these are the things that occupy our time in the classroom." Most professors, especially back then, simply focused on the law and legal analytical thinking, cases and statutes. Exams were never mentioned. Exams, themselves, however, are extremely important to students, both as a source of formative feedback on analytical skills and as templates for basic legal writing. Of course, to students, test performance is even more important for its end result: their scores, possibly even more than learning in class, is their key to future success.[4]

When I started teaching at the University of Denver law school in 1990, students seemed to be having similar experiences to mine as a law student. I discovered from them that many doctrinal professors followed practices that actively discouraged exam review. A few professors had threatening policies, for example, suggesting that a review could as easily yield a lower grade as a higher one. Some of my past colleagues had even bragged about such exam review policies. Such practices stifle student initiative early on with respect to exam reviews. Many professors, I believe, seem to think that students

2. These meetings were not very useful for gleaning information that could be applied to future exams with one exception. My constitutional law professor had drawn up a grade matrix that he shared with me. The matrix showed I had performed poorly on one question, but had done well on the remainder. The feedback was more helpful than most, but still left me with only a general impression of my shortcomings on that particular problem.

3. *Id.*; Roy Stuckey and Others, Best Practices for Legal Education: A Vision and a Roadmap 236-39 (CLEA 2007) (describing shortcomings in law school assessment practices today); Sophie M. Sparrow, Describing the Ball: Improve Teaching By Using Rubrics—Explicit Grading Criteria, 2004 Mich. St. L. Rev. 1, 2.

4. Law school practice of single, high-stakes examinations has been roundly criticized, but nonetheless continues to exist. *See* Educating Lawyers, *supra* note 1, at 162-67; Stuckey, *supra* note 3, at 236-39.

requesting exam reviews are somehow challenging their authority or, perhaps, seeking a grade change. Few seem to appreciate the opportunity to fortify learning that an exam review represents—even if the professor would rather not discuss the mechanics of exam taking and performance.

To encourage student learning, I have tried to make grading more transparent and accessible to students since the beginning of my career. Initially, though, I found all of my efforts misplaced. I was an analytical grader, pouring time and effort into detailed rubrics for my final exams so that students could see exactly where they were right and wrong. Yet, few ever came to me to talk about their exams, even with my explicit encouragement. And, those who did were often the students who least needed to improve. Over time, I began to question whether it made sense for me to continue to put together these final exam rubrics—rubrics that seldom saw the light of day, would sit in a file drawer for a year and then be discarded. In fact, law school final exams are mostly summative and students know it. Few want to dwell on past efforts with no immediate reward and would prefer to move on. The midterm exam, properly approached, however, presents an opportunity for formative learning.[5]

This article describes a practice I began several years ago to encourage students to review their midterm exams and to learn formatively from their exam and their review of it. The practice involves encouraging midterm grade appeals coupled with a high success rate (what I term, "robust" grade appeals). The practice has a number of ancillary benefits, I believe, in addition to the central benefits—getting students to learn more about law, learn from their mistakes and write better exams by meaningfully engaging and critiquing their own work on exams. This article describes and discusses the advantages and disadvantages of such a process.

## II. Why Grade Appeals? Necessity is the Mother of Invention

### *A. Switching from Final Exam to Midterm Exam Review*

After creating long and detailed grading rubrics for final examinations that few students ever reviewed, I thought I might generate more student interest by adding a midterm exam. I reasoned that students would have an incentive to review their midterm exam since they would be taking another exam—the final—from me for a larger percentage of the course grade. The midterm has several benefits over a final exam for student assessment and learning. First, a

5. Generally, formative assessment is typically not graded and is entirely geared at development/improvement. Summative assessment, on the other hand, generally is graded and intended only to determine what someone has learned up to that point—a snapshot if you will. Midterms can be summative if they only yield a grade but, if, as I describe, the primary purpose of the exam is to give feedback and create an incentive for improvement, the exam must be characterized as formative as well. For more on the definitions of formative and summative assessment, see Carol Springer Sargent & Andrea A. Curcio, Empirical Evidence that Formative Assessments Improve Final Exams, 61 J. Legal Educ. 379, 381-85 (2012); Sparrow, *supra* note 3, at 4-5; Stuckey, *supra* note 3, at 255-56; Educating Lawyers, *supra* note 1, at 84-86, 171, 177-78.

midterm score, even if weighted low (10 to 30 percent) ensures that the grade for a class will not depend on a single measurement—the final exam.[6] Second, so long as the midterm is not weighted too low (below 15 percent), students have an incentive to pull together a synthesis or outline of the class at the midpoint, yielding better learning during the second half of the class. Although based on purely anecdotal observations in my classes, final exams in a class with a midterm are better than final exams in classes without midterms.[7] I found, though, that despite this excellent learning opportunity for my students—review of the midterm exam—students still merely trickled in (though I did see more students for midterm review than I ever saw for final exam review).

### *B. Students Have Good Arguments That Should Be Encouraged*

When I started giving regular midterms and allowed exam reviews, over a decade ago, I noticed that some of the students who visited me to review their exams had good arguments for credit and in some cases probably deserved a better grade. Despite this, I, of course, told them that the midterm grade could not be changed. I added, however, that all was not lost, that they still could improve their grades on the final exam. I felt badly, though. I demand excellence, even perfection, from my students. After all, they will be professionals in a business that does not look favorably on mistakes. Even relatively minor mistakes can lead to disbarment proceedings and malpractice suits. Why shouldn't I hold myself to the same standard of excellence? If I cannot fully explain my rubric or fully and carefully explain why a student did not get credit for an appropriate response, shouldn't I—not the student—bear the brunt of the mistake or the burden of the lack of articulation? I eventually introduced a grade appeals policy for midterm exams. Ultimately, if my midterms were to encourage formative development, there should be a dialogue about the exam. Also, if students had a chance to appeal, maybe they would glean more from review of their midterm. I expected more exam reviews and more appeals since grades are a substantial motivator for law students.

### *C. The Efficient Grade Appeal*

The touchstone for implementing formative development and assessments in my large, doctrinal law courses is efficiency. Most law schools do not reward professors who do extra work in the classroom. In fact, law schools generally discourage it. Virtually all incentives in most law schools reward scholarship, not teaching. Promotions and chaired and endowed professorships are regularly doled out on the basis of published scholarship. And, since teaching takes time away from scholarship and writing, it should not be surprising that many professors are loathe to do more than is required to be merely competent teachers. I'm not much different. I'm willing to increase time spent on teaching

6. *See* Stuckey, *supra* note 3, at 238. *See also* Talbot D'Alemberte, Talbot D'Alemberte on Legal Education, 76 A.B.A. J. 52, 52 (1990).

7. My anecdotal experience was recently confirmed by a study finding that formative assessments improve final exam performance. *See generally* Sargent & Curcio, *supra* note 5.

only if my students benefit. I want to help them as much as possible but, because of the incentive structure and the demands of scholarship, I want to approach this task in the most efficient way.

My original idea for a grade appeals policy for midterms, then, was that students could respond in a format limited to no more than a page. They would have one week from the date the exam and key were returned to them. Following the formative development path I had charted for midterms, I told them that winning appeals included, of course, showing that they were not awarded credit or only received partial credit when they had made an argument on the key. Another winning strategy was to show that their exam argument was triggered by the facts in the exam hypothetical and that we had spent time on the issue in class, even though the issue was not represented in the key. I further explained that the one thing not to do on the grade appeal was to repeat the exact point made on the exam. Under no circumstances would I give credit for no reason. Because of student interest in receiving good grades, I expected a high rate of exam appeals but was not fearful of the extra work for me because I believed the process was structured for maximum efficiency. A student would submit a one-page appeal and I would write in the margin whether I would award credit, how much credit (typically adding one or two points, consistent with the original midterm key), and my reasons. The expected onslaught of appeals, however, never came.

### *D. A High Success Rate is Critical*

Why weren't students appealing? One reason seemed to be that upper class students' early law school experience with exam appeals had generated cynicism. Most students do not think that such appeals will be taken seriously. Also, I suspect, for many first-semester, first-year students reticence may stem from fear or caution. I have also found that students most likely to appeal are those who will only gain marginally from the learning that comes with my feedback: those appealing a B+ to an A- or an A- to an A. The challenge was how the appeal process could help students discover that the feedback could be used to improve both learning and exam performance. How could I shatter their fear or cynicism about a grade appeals process?

As I faced this challenge, I discovered that the success rate for those who did appeal was quite high—upwards of one-third resulting not only in a better score on the exam, but in a grade change as well. The initial appeal rate was about 10 percent. But, when I began announcing in class that a number of appeals in past classes had been successful in achieving grade changes (on the order of 30 percent and even slightly higher), appeals started to flow. In my classes over the last two years, the appeals rate has been around 70 percent.

### *E. Concerns*

Of course, implementing an appeals policy that results in a high percentage of grade changes is both bold and controversial. When I explain the process to colleagues, I almost always meet resistance. First, it seems like a lot of work.

Second, how comfortable am I with the fluidity of grades? Literally, won't students think that your standards are too flexible? As a result, won't your authority as a teacher be challenged more? Finally, doesn't a high percentage of grade changes suggest that grades are not credible and that the assessment process is imprecise? Won't the whole exercise undermine your credibility as a professor? There is some obvious merit to these reactions and I will address them. On the whole, though, these concerns are not so severe that I would abandon the approach. The benefit has been worth the cost.

As a rule, I favor transparency with my students, and assessment processes are no exception. I should be able to explain what I do and, in the case of assessment, admit that law school grading is imprecise though fairly accurate at certain general levels. For example, I think I'm virtually always right about A, B, and C exam grades, but probably am only adequate at designating plus (+) or minus (-) from those general categories. I freely admit this to students but they surely already know it. However, even if they don't, we in the academy do students a tremendous disservice if we give them the impression that law school assessment is somehow very precise. When our students become lawyers they will learn that it will not be uncommon to correctly assess a case and still lose. The judge may not see the law the same way—possibly not even the right way—and the jury may see the facts differently. Even in non-litigation settings, coming to hard, definite conclusions may be tough to do at times because interpretation of documents and law is often more art than science.

Fortunately, transparency in law school exams has begun to take hold in law schools; much of it spurred by new ways of thinking in education theory. The recent Carnegie Report on legal education emphasizes the need for more transparency and feedback.[8] Likewise, the recent CLEA report, *Best Practices for Legal Education*, concludes that law school assessment should, among other things, "[p]rovide incentives that lead students to take more active responsibility for their own learning. . . ."[9] In a 2012 article, Professors Andrea Curcio and Carol Springer Sargent conducted an empirical analysis of Curcio's Evidence classes during two successive spring semesters, in 2008 and 2009. Using a regression analysis, the study confirmed both of its hypotheses: that students receiving formative assessments and feedback will have higher final exam scores and that students with above-median LSAT scores and UGPA will have a greater advantage from formative feedback.[10] These recommendations were preceded by critical work in the field of education.[11]

8. *See generally* Educating Lawyers, *supra* note 1.

9. Stuckey, *supra* note 3, at 239 (citing Judith Wegner, Thinking Like A Lawyer About Law School Assessment 2003).

10. Sargent & Curcio, *supra* note 5, at 385, 400-01.

11. *See generally, e.g.*, Committee on Developments in the Science of Learning & National Research Council, How People Learn: Brain, Mind, Experience and School 233-47 (John D. Bransford et. al., eds., National Academy Press, 2000) (feedback and self-regulatory processes for learning are among those things that help students proceed from novices to experts in a particular field); Sparrow, *supra* note 3, at 5-7, 16-27; Grant Wiggins & Jay

The first concern about grade appeals is the issue of extra work. Certainly, there's less work without the appeals process. The extra work objection is fair but overblown. I already am giving a midterm. The extra effort required for an efficient (one page, one week) appeals process is relatively marginal, especially in light of the benefit to students. In a class of 45 students, I now expect about 32 appeals.[12] Since I have recently created the key for, and graded, the midterm exam, the arguments and answers are fresh in my mind. Consequently, I can get through these appeals in a morning or an afternoon. If I am particularly pressed in a given semester (with extra committee work, for example), I can have the students work in teams of two or three on the midterm, cutting the number of appeals in half (to 17) or down to one-third (10). The students still benefit, since all members of a team remain keenly interested in the grade.

As a result of midterm grade appeals with a substantial success rate, virtually every student in my classes meaningfully reviews his or her midterm exam, a necessary precursor to any serious appeal. While the appeal rate is around 70 percent, I believe that to achieve that rate almost every student in my class must review the exam. I have substantial anecdotal evidence in the form of casual conversations and in-office reviews by non-appealing students that this is the case.

The second concern raised by my colleagues, about professorial authority or unseemly exam grade flexibility, while perhaps logical in theory, has not been significant in practice, even though there is some evidence of it. And even if this complaint were more prevalent, these concerns do not bother me much, since they are raised by those who teach in a traditional, more conservative, hierarchy-based model.[13] I have not seen much evidence either in class or on evaluations suggesting that credibility as a professor is undermined by this process. On the contrary, most students seem happy to get the extra feedback. I think students also understand at some level the inherent subjectivity of

McTighe, Understanding By Design (Assn. for Supervision & Curriculum Dev. 1998) (explaining how to design classes by starting from the end of the process); Sargent & Curcio, *supra* note 5, at 380-84 (citing various studies from education journals).

12. It will never be 100 percent because some students see that their raw score is toward the bottom of the scale for the grade they received (these students, I've found, often consider themselves lucky to have gotten the grade they received). Other students don't appeal because the grading and key both seem reasonable and they cannot come up with the necessary arguments. Some students at the very bottom do not appeal even though they would arguably be the biggest beneficiaries. I have not surveyed these students, but from my brief stint as associate dean, my best guess is that these students are in a type of denial. They believe that for a variety of reasons they did not give their best effort. They either did not study hard enough (and knew that going in) or something nonacademic happened during the exam or on the exam that affected their success. To these students, the answer is clear—it's not about the exam: they must study harder or avoid the same distraction next time. It takes courage to embrace an exam, and therefore an appeals process, that you may feel embarrassed about.

13. *See infra* note 14. My classes explicitly strive to de-center the professor and put students as much as possible into the role of attorney or co-explorer with me about the subject matter of the course.

grading. In fact, most of them probably think that at some point in law school they might have received better grades if the professor had only understood their arguments. There are stories around every law school about how the quality of the professor's coffee or the time of day he or she grades exams can affect scores. In other words, students do not, by any stretch, already think that perfect grading exists. Some may believe that I grade hard initially to allow a high success rate on appeals. That is fine with me if it results in students taking the appeals process more seriously, even possibly thinking that an appeal is virtually required to keep up with the class mass as it floats upward after the appeals process. The other element that may squelch concern is that the midterm represents a relatively low percentage of the class grade (usually between 20 and 30 percent). The stakes are relatively low, and the exam to be truly concerned about is the final. The greater formative development occurring in the midterm process should pay dividends on the final, which is summative. My goals for the midterm are formative. There is a lot to be learned from the exam itself. Indeed, it counts as a percentage of the grade only so students will take it seriously and study hard, making it a legitimate exercise in measuring their capability.

Even if the appeals process caused students to question my authority and undermine some sense of grading perfection, it would serve my purposes. I want my students to question authority. It is an explicit goal in my teaching that they learn to question hierarchy and, as a result, to take on the mantel of self-learning and assessment before they become practicing attorneys.[14] They will be better professionals as a result and more client-ready. I want them to level their best arguments at me and understand that sometimes they get the better of the argument. How else to ensure my students are critical thinkers and question all assumptions? A grade appeals process with a high success rate, though counterintuitive in law school teaching culture, hopefully serves to emphasize the inherent subjectivity of grading and to de-center the professor in the sense that the practice encourages students to see themselves as an important part of their own critique. The practice also uncovers the

14. Requiring the students to take responsibility for the class and their own learning is an explicit goal of my classes. This philosophy is founded on principles gained primarily from Paulo Freire, Parker J. Palmer and Donald L. Finkel. *See* Paulo Freire, Pedagogy of the Oppressed 71-86 (Myra Bergman Ramos trans., Herder and Herder 1970) (describing traditional teaching emphasizing lecture as a form of trying to place knowledge in the heads of passive students and emphasizing the need to put students in the position to critically engage reality and real world problems); Parker J. Palmer, The Courage to Teach: Exploring the Inner Landscape of a Teacher's Life 99-102 (Jossey-Bass 2007) (explaining the "objectivist myth of learning" as knowledge received from or through a hierarchical figure versus the "community of truth," teacher and students seeking together to discover the truth related to the subject of the course); Donald L. Finkel, Teaching with Your Mouth Shut 51-69 (Heinemann 2000) (explaining inquiry-based teaching in which the students move the discussion and dialogue with involvement of the teacher, but not controlled by the teacher). *See also* Michael Hunter Schwartz, Sophie Sparrow & Gerald F. Hess, Teaching Law By Design: Engaging Students from the Syllabus to the Final Exam 98-105 (Carolina Acad. Press 2009) (describing the goal of making students into expert learners by giving them more responsibility over their learning through metacognitive approaches).

inherent subjectivity of words and meaning. Through explanation, students realize a common mistake—that sometimes what they write is not what they mean. Seeing this and learning to fix it is, in my view, key to successful law practice. If these concerns about the subjectivity of grading have not appeared, it only underscores how much the professor is imbued with authority in the institutional culture of our educational system, and particularly in law schools. I prefer to have no credence as a result of those props or artifices. I would much rather my humanity, logic and persuasiveness be the sources of my credibility, though I do indeed fear I may live to regret this desire.

## III. Implementing an Effective Midterm Grade Appeals Process

### *A. The Policy*

Putting a grade appeals process into effect starts with announcement of the policy. I originally did this at the beginning of the course. Indeed, the policy can be posted on the class website or announced in class. But I find it better to post and hand out a copy of the policy when I return the midterms to the students. My policy:

**MIDTERM APPEALS PROCESS**

1. I invite and encourage appeals. As far as I'm concerned, they are the best way for students to learn from their examination. Appeals create an incentive for close review and critical analysis.
2. Every student may file an appeal to their midterm grade by submitting it to my administrative assistant by hand or by email by [date; one week after return of exam].
3. Appeals must be anonymous. Do not identify yourself except by exam number in the top right corner of the appeal.
4. Appeals can be no longer than one (1) 8 x 10 sheet of paper, single-spaced.
5. Appeals must be typewritten using Times New Roman 12 point (or larger) font/typescript.
6. Appeals must be completely worked on and written by the student appealing, with no aid or instruction from anyone else. [If students worked as a team, they may appeal as a team and work together.] The Honor Code applies to appeals and the appeals process.
7. If you are appealing your grade, you must not seek to discuss any part of your exam with me . . . until the end of the appeals process.
8. Multiple Choice questions are not appealable. The appeals process is only for challenge to the essay portion of the midterm.
9. The most successful appeals, (1) point out incorrect point totals based on an analysis of the key, (2) point out issues or rules that were studied in class but were not on the key, (3) clarify points using the actual language

from the student's exam response (as opposed to what the student was thinking when writing, what the student meant, or a mere restatement of the point).

### *B. The Rubric*

There are two types of approaches to exam grading: analytical and holistic.[15] To grade a midterm exam that allows for meaningful student review, I follow the analytical approach. To make the review meaningful for the student and to facilitate self-learning, I create a detailed rubric for each midterm exam question. I then make copies of the rubric for each examination.[16] The rubric contains two features to maximize student learning. First, each rubric has spaces for me to check the points made by my students, allowing them to see both where they received points and what they missed. Second, the rubric is indented in columns—issue spotting, rules, analysis, conclusion—to allow students at a glance to see whether they had tendencies in one direction or another.[17] Here's an example from a midterm in administrative law:

RULEMAKING: RULE VALIDITY (35 percent)

___Issue: Is it a rule? (1)

___APA definition: general or particular applicability & future effect (1)

___Here, general (applies to many) & future (applies going forward) (1)

___Conclude: Yes, rule here (1)

___Issue: Is the rule enforceable? (2)

___Agencies are limited to boundaries defined by the legislature; cannot act in *ultra vires* manner (1)

___Here, statute says "safety" only, but clothing rule relates to business not safety (2)

___However, agency may argue "reasonable interpretation" = power to regulate business (1)

15. *See* Julia C. Lenel, The Essay Examination Part III: Grading the Essay Examination, 59 The Bar Examiner 16-24 (1990).

16. In cases of team exams, one rubric is completed per exam and then that rubric is copied for each student on the team.

17. I fully realize that a concrete, specific, detailed rubric tends to reify the concreteness and even objectivity of exam grading and that these rubrics may tend to suggest that thinking about law problems is somehow properly siloed or categorized into nice neat boxes that are hermetically sealed and self contained. Without the appeals process, this might indeed be the case. However, the appeals process exposes the dynamism and even subjectivity of the categories. The process allows deconstruction of this type of channeled thinking and may even serve more than anything in law school to free students of the rigidities of certain formulaic constructs, like the basic IRAC formulation used so ubiquitously in law school for teaching purposes. But it is generally not that helpful in the more robust and nuanced world of the modern lawyer attacking sophisticated client or social problems.

___Conclude: *ultra vires*—rule is invalid, clearly not safety (2)

___Issue: Is rule really interpretive? (2)

___If it is interpretive, no rulemaking requirements under 553 necessary (2)

___If rule is meant to be binding & creates rights, duties, or obligations then intent is legislative (2)

___Here, rule is meant to bind, new obligations created (2)

___Agency only argument = fair interp of statute (1)

___Conclude rule is legislative (1)

___APA requires 30 days before final rule is effective (1)

___APA requires comment period, must be reasonable (1)

___APA 553 requires statement of authority, rule, and timing/nature of comment (1)

___Here, comment period of 3 days is unreasonable (1-3)

___Here, final rule published Dec 15 so not effective until about Jan 15 (1)

___Surprise inspection around Jan 10, before effective date (2)

___Conclude: Citation around Jan 10 is void (1)

___Conclude rule may be void for not following 553 requirements (2)

___Conclude unclear whether rule has met requirements (1)

___Consider but reject Due Process arg (small #, heavily affected VY), but rule applies nationally(1)

___Discretionary Points (up to 5)

For midterms, students receive a packet with a copy of the midterm and a personal copy of the key, independently graded, with checks next to the points they earned, making it easy to see how they performed and easy to fashion an appeal.

### *C. Symbiotic Feedback and Other Benefits*

The completed rubric gives the student sufficient feedback for self-critique. In fact, I've noticed fewer students ask me about exams during office hours. A casual poll of students revealed that the primary reason they do not need to meet with me is that the rubric is sufficiently detailed to indicate to them where they've gone wrong and where they might improve. This means that the amount of time I take to write a detailed rubric and grade appeals results in tangibly less—virtually nonexistent—student traffic to my office because of questions about the exam or the way it was graded. Granted, it is not the enormous benefit it might otherwise be if more students had come by my office before I instituted the appeals process, but a work offset nonetheless. The rubric also gives students sufficient information to mount a credible appeal.

In addition to the added feedback for students, the appeals process provides an added class assignment in advocacy. These students will be lawyers.

What better way to enhance lawyering skills than to give students a chance to plan and advocate on their own behalf? A great appeal may cause me to legitimately question a poor or mediocre grade. If the student can advocate persuasively, perhaps he or she knew the material better than was apparent or, perhaps, learned enough from the rubric to demonstrate higher knowledge. The advocacy also may allow me to sleep better at night, knowing that the grade was about right (within the inherently subjective framework, of course). In addition, I get feedback about my exam. How good was it? I can tell by the appeals. I have learned how to write better exams and now I have an incentive. The better the exam, the easier it is for me to determine appeals and answer legitimate student questions after the fact. I get feedback on my grading. How well did I grade the exams? If I have to award substantial points on appeal, then maybe I wasn't paying careful attention when I graded the exam the first time. This has happened, though seldom. I can recall two or three times when the student appeal convinced me to advance the exam two, not just one, grade step (i.e., from a C+ to a B, or from a B to an A-). Most likely, these are attributable only in part to student advocacy, with my occasional mistakes in correctly assessing the student exam response also a factor.

### *D. Modeling*

I always ask the students who turned in the top exams if I can post their exam responses with my completed rubric. Students learn much from models and why should law school exams be different? This posting allows students to see that the exam was doable. That somebody was able to score well. The posting with the rubric allows the students to see that the rubric and key are fair, that the categories for which there were points ascribed in the key were fair and achievable within the time and space constraints of the exam. In addition, students can learn from the model. Fundamentally, if we want our students to write better exams, we should show them what better exams look like.

### *E. The Student Perspective: Evaluation Comments*

Students do not often comment on midterm exams in evaluations. The following comments, culled from evaluations in courses I have taught over the last three years, are the ones specifically directed at the midterms and their appellate challenge processes:

1. Administrative Law: Spring 2011

- Also I liked the appeals process for the midterm. We looked over our midterm and had to advocate for ourselves. These new techniques made admin a little more memorable.
- With regard to the midterm, a huge part of the midterm itself was the review process. It seemed as though Professor Corrada rushed through grading the midterms and cared more about students contesting their grades then actually doing well the first time around.

2. Administrative Law: Fall 2010
   - Although he sometimes goes on about it, I did appreciate his transparency about his teaching style, grading, etc.
   - I really enjoyed the midterm, when it was held, the partner scheme, and the timely return of the comments regarding results. I have begun to really appreciate midterms as my academic career in law school progresses.
   - Midterm was good to gauge understanding, seemed fair.
   - I always found law school grades to be pretty arbitrary, but I've found that Corrada's grading, more than any other professor, reflected the work I put into the class. . . . For students considering this course, Corrada does have a midterm, but it was structured in a way that made it pretty painless and actually very helpful for remembering the material.
   - He really tries to be fair and is genuinely concerned about his students and allows input on grade allocation.
   - He provides us with the skills we need not only to take his exam, but to analyze admin law questions that we will come across in our practice.
3. Administrative Law: Spring 2010
   - We had a midterm toward the end of the semester which was a good way to get an outline done early and make sure you understood the course material as well as prepared for the structure of the final exam.
   - The midterm was a good mechanism to start studying earlier and give you an idea of where you stand in the class.
   - The clarity and thoroughness of the midterm feedback was appreciated and impressive.
   - The tips he gives for his exams are particularly helpful (I think), and he is very forthcoming about what he is looking for and where students should focus their brainpower. The grading system seems very fair.
   - To add to all of that, Prof. Corrada, throughout the semester, basically taught the class how to do well on his exam. There is absolutely no hiding of the ball as to the course material or to the test. He really, truly cares about his students.
4. Contracts: Fall 2009
   - I really appreciate the midterm and the appeals process. This is very fair and all professors should at least be required to defend their own grading.