

A Simple Low-Cost Institutional Learning-Outcomes Assessment Process

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Introduction

The ABA mandate to engage in institutional outcome-measures assessment¹ requires schools to undertake a form of assessment unfamiliar to many. As schools grapple with how to begin this assessment process, this essay describes a relatively simple and low-cost model to measure institutional learning outcomes that does not require any initial changes or disruption to individual faculty members' pedagogical and assessment methods.

While outcomes assessment may encompass many different data sources,² this essay focuses on faculty contributions to institutional learning-outcomes

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1. Institutional outcomes assessment measures how the student body as a whole is achieving a school's identified learning outcomes. LORI E. SHAW & VICTORIA L. VANZANDT, *STUDENT LEARNING OUTCOMES AND LAW SCHOOL ASSESSMENT* 5 (2015). The accreditation standards require that all schools identify their learning outcomes. AM. BAR ASS'N, *Standard 302: Learning Outcomes*, in *STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017* 15 (2016) [hereinafter *ABA STANDARDS*], https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2016_2017_aba_standards_and_rules_of_procedure.authcheckdam.pdf. The standards also mandate that faculties "conduct [an] ongoing evaluation of the law school's program of legal education, learning outcomes and assessment methods" and "use the results of this evaluation to determine the degree of student attainment of competency in the learning outcomes and to make appropriate changes to improve the curriculum." AM. BAR ASS'N, *Standard 315: Evaluation of Program of Legal Education, Learning Outcomes, and Assessment Methods*, in *ABA STANDARDS*, *supra*, at 23.
2. Outcome-measures assessment data may come from many different sources, including direct assessment tools that look at actual student work in courses, clinics and externships, and indirect assessment tools such as surveys or focus groups or other instruments designed to capture students', alumni's, and employers' perceptions about what students have learned. SHAW & VANZANDT, *supra* note 1, at 105-09.

assessment. In Part I, it briefly sets the stage for changing how law faculties conceptualize law student assessment. Part II describes the rubric outcome-measures assessment model employed by the Association of American Colleges and Universities [AAC&U] and a similar model used by medical educators to assess a wide range of skills such as critical thinking and analysis, written and oral communication, problem-solving, intercultural competence, teamwork, and self-reflection. It then uses work currently undertaken at Georgia State University College of Law [GSU COL] to illustrate and explicate how a law school may adapt the AAC&U and medical education model to the law school outcome-measures assessment process. It also briefly reviews how data gathered from the rubric assessment method may be used both for institutional outcome assessment and as formative assessment,³ satisfying two accreditation mandates with one data set.⁴ Part III discusses potential concerns, such as reliability and validity, that this model raises and suggests ways to address those concerns. Part IV briefly discusses the institutional outcomes-assessment cycle, noting that schools should not assess all outcomes each year, and it discusses what constitutes “success” when it comes to student achievement of a particular learning outcome. The essay concludes by noting that although outcome-measures assessment requires faculty work and input, the process does not have to be overly burdensome or costly. Finally, the appendix provides sample rubrics that can be adapted by law schools that decide to use this method to assess institutional learning outcomes.

I. Reframing How We Conceptualize Assessment

Every December and May law faculty grade exams and papers and we give our students a final grade. The student gets a course grade and moves on. Faculty might bemoan another set of bad exams, but we too move on. Rarely do most of us look at what our students mastered, where they are struggling and what we might do differently next time. Nor do students have that information, except for the very few who come in to review an exam. In fact, in classes graded on a curve, grades may leave students with a misimpression about their overall level of mastery. For example, in my large-section curved courses, B students often have less than seventy percent of the total possible raw score points, because that is how the curve works out.

Outcome-measures assessment shifts the legal education lens from whether students have achieved a passing grade in a series of classes to whether students

3. Formative assessment methods are “measurements at different points during a particular course or at different points over the span of a student’s education that provide meaningful feedback to improve student learning.” AM. BAR ASS’N, *Interpretation 314-1*, in ABA STANDARDS, *supra* note 1, at 23. While formative assessments most often occur in individual courses, the ABA recognizes the value of assessments that provide feedback at various points in a student’s legal education, such as at the end of his or her first year.
4. See AM. BAR ASS’N, *Standard 302: Learning Outcomes and Standard 314: Assessment of Student Learning*, in ABA STANDARDS, *supra* note 1, at 15 and 23 (requiring, respectively, schools to engage in identifying and measuring learning outcomes and schools to use both summative and formative assessments).

have acquired core competencies—i.e., the core knowledge, skills, behaviors, and attributes of successful new lawyers. Rather than look at achievement just in our own courses, institutional outcome-measures assessment requires collective faculty engagement and critical thinking about our students' overall acquisition of the skills, knowledge, and qualities that ensure they graduate with the competencies necessary to begin life as professionals.

Outcome-measures assessment may occur at a course, programmatic, or institutional level.⁵ While this essay focuses on institutional outcomes assessment, the model works for all types of outcome-measures assessment, and the data gathered via this assessment method may also be used as a formative assessment.⁶ However, for the model to work, faculty must begin to re-conceptualize how and why we assess our students.

Assessment in context of learning outcomes and formative assessments shifts the focus from assessment as a one-time course measurement⁷ to an ongoing process in which faculty pay attention to what our students are learning, gather information about where they may be struggling, and experiment with ways to help them overcome learning hurdles.⁸ As Professor Andrea Susnir Funk notes, at its core, assessment is about “(1) good teaching—which all educators strive to do, and (2) information—which all institutions need to make decisions.”⁹

Assessment, and particularly outcomes assessment, challenges us to bring the same intellectual curiosity, creativity, and deep thoughtfulness to our teaching that we bring to our scholarship. In fact, one significant concern about satisfying the outcome-measures accreditation standard is that an outcomes-measurement approach may result in a facile understanding of student learning because critical thinking, legal analysis, and other key aspects of legal education are hard to quantify.¹⁰ The model described in this essay

5. Course-level assessments refer to individual classes. Programmatic assessments refer to programs such as a legal writing program, or a certificate program. Institutional assessments refer to achievement in context of the program of legal education as a whole. ANDREA SUSNIR FUNK, *THE ART OF ASSESSMENT: MAKING OUTCOMES ASSESSMENT ACCESSIBLE, SUSTAINABLE, AND MEANINGFUL* 28-29 (2017).
6. Formative assessments are important both in courses and during the program of legal education so that students understand what skills they need to develop while there is still sufficient time to do so. AM. BAR ASS'N, *Interpretation 314-1*, in *ABA STANDARDS*, *supra* note 1, at 23. For example, if a student has weak critical analysis skills at the end of his or her first year, specific feedback about that weakness allows the student to work on improving that skill in his or her remaining two years of law school.
7. Law school assessment traditionally involves norm-referenced grading, comparatively measuring students against their peers, to assign students a final course grade. Assessments are used to sort students for employers, scholarships, law review, and other rewards. For an excellent discussion of the sorting function of law school grades, see Barbara Glesner Fines, *Competition and the Curve*, 65 *UMKC L. REV.* 879, 886-88 (1997).
8. FUNK, *supra* note 5, at 16-17.
9. *Id.* at 14.
10. Mary A. Lynch, *An Evaluation of Ten Concerns About Using Outcomes in Legal Education*, 38 *WM.*

addresses that concern by asking faculty to use their own course assessments as the basis for evaluating student achievement of the institution's learning outcomes and by using rubrics that measure learning via a developmental continuum.¹¹

II. Assessing Institutional Learning Outcomes—A Five-Step Process

Before assessing outcomes, one must identify them. The ABA identified some core competencies—e.g., knowledge of the law, legal analysis, legal research, problem-solving, effective communication, and the exercise of proper professional and ethical responsibilities—that all new lawyers should possess.¹² To allow schools flexibility to experiment and explore this new process, the ABA also encouraged schools to identify additional competencies based upon a school's mission and culture,¹³ and it gave schools the freedom to develop their own measurement methodologies.¹⁴

Many articles and books discuss how to draft law school learning outcomes.¹⁵ This essay looks at the next step—how to assess, on an institutional level, students' acquisition of those outcomes in a simple, low-cost, efficient manner. Using the outcomes identified at GSU COL [see appendix], the essay describes a five-step process: 1. develop a rubric for the applicable learning

MITCHELL L. REV. 976, 997-98 (2012) (discussing concerns that outcome measures will result in a “teach to the test” mentality and focus only on objective measures of student performance).

11. Because of variability in course assessments and in how professors apply a rubric to student work, the data gathered via the rubric method described in this essay will not be the same kind of data one would use for a scientific paper. However, this assessment method is not designed to produce a publishable study. Rather, the method is simply one way to gather information needed to assess institutional learning outcomes. See Neil Hamilton, *Formation-of-an-Ethical-Professional-Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 858 (2017) (noting that reliability and validity concerns are a highly significant issue when engaging in high-stakes testing and, while still important when engaging in outcome measures assessment, these issues present a much less significant concern when measuring learning outcomes such as interpersonal and communication skills). For a discussion of reliability issues that this outcomes assessment method raises, and responses to those concerns, see *infra* Part III.B.
12. AM. BAR ASS'N, *Standard 302: Learning Outcomes*, in ABA STANDARDS, *supra* note 1, at 15.
13. *Id.* Professor Hamilton cataloged law schools' published learning outcomes, finding that while many articulated the minimum required by the ABA, many more identified outcomes that incorporated competencies such as self-awareness, cross-cultural competency, teamwork, developing the value of providing pro bono legal service to disadvantaged groups, and other lawyering skills needed to serve clients. Hamilton, *supra* note 11, at 850-51.
14. AM. BAR ASS'N, *Standard 315: Evaluation of Program of Legal Education, Learning Outcomes, and Assessment Methods*, in ABA STANDARDS, *supra* note 1, at 23.
15. See, e.g., SHAW & VANZANDT, *supra* note 1, at 54-82; FUNK, *supra* note 5, at 41-46; Anthony Niedwiecki, *Law Schools and Learning Outcomes: Developing a Coherent, Cohesive, and Comprehensive Law School Curriculum*, 64 CLEV. ST. L. REV. 661, 678-91 (2016); Susan Hanley Duncan, *They're Back! The New Accreditation Standards Coming to a Law School Near You—A 2018 Update, Guide to Compliance, and Dean's Role in Implementing*, 67 J. LEGAL EDUC. 462.

outcome; 2. decide which courses will employ the rubric; 3. grade as usual and then complete the rubric; 4. enter the data; 5. evaluate the data and use the information gathered to inform discussions about areas of student learning that should be improved upon and ideas about how to make that happen. This five-step process may be used for faculty assessment of the ABA-mandated learning outcomes as well as assessment of a wide range of optional outcomes such as client interaction skills, self-reflection, teamwork, and intercultural competence.¹⁶

A. Step One: Develop a Rubric

1. Examples from undergraduate and medical education

A rubric is a “set[] of detailed written criteria used to assess student performance.”¹⁷ Rubrics for outcome-measures assessment not only identify a competency, they also describe what competent performance looks like, along a continuum of development and in a way that fosters reliability among raters.¹⁸ For institutional learning outcomes, the goal is to develop rubrics that capture the skill and ideally work in conjunction with course-embedded assessments, i.e., assessments the professor already uses in his or her course.¹⁹

Using rubrics on course-embedded assessments is an accepted method of outcome-measures assessment in undergraduate education. The AAC&U developed rubrics for sixteen learning outcomes, including critical analysis, teamwork, problem-solving, intercultural competence, and many others that are as relevant to law students as to undergraduates.²⁰ For each learning

16. The rubrics in the appendix address the ABA-required skills and additional skills such as self-reflection and teamwork. For those who wish to use this model to assess intercultural competence, the AAC&U has developed a rubric that could be adapted by legal educators. That rubric is available at *Intercultural Knowledge and Competence VALUE Rubric*, ASSOC. OF AM. C. & U., <https://www.aacu.org/value/rubrics/intercultural-knowledge> (follow “Intercultural Knowledge and Competence VALUE Rubric (pdf)” hyperlink; then follow download instructions) (last visited Nov. 3, 2017).
17. Sophie M. Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics—Explicit Grading Criteria*, 2004 MICH. ST. L REV. 1, 7 (2004).
18. Neil Hamilton & Sarah Schaefer, *What Legal Education Can Learn from Medical Education About Competency-Based Learning Outcomes Including Those Related to Professional Formation and Professionalism*, 29 GEO. J. LEGAL ETHICS 399, 426-27 (2016) (discussing key factors faculties should consider as they develop competency rubrics).
19. “Embedded assessment” entails using course assessments when measuring institutional outcomes. FUNK, *supra* note 5, at 35.
20. Those outcomes are: inquiry and analysis, critical thinking, creative thinking, written communication, oral communication, quantitative literacy, information literacy, reading, teamwork, problem-solving, civil knowledge and engagement, intercultural knowledge and competence, ethical reasoning and action, global learning, foundations and skills for lifelong learning, and integrative learning. ASSOCIATION OF AMERICAN COLLEGES AND UNIVERSITIES, ON SOLID GROUND: VALUE REPORT 2017 (2017), <https://www.aacu.org/sites/default/files/files/finalforpublicationreleaseconsolidground.pdf> [hereinafter VALUE REPORT]. For a copy of the rubrics for each of these outcomes, see generally ASSOCIATION OF AMERICAN COLLEGES

outcome, the AAC&U rubric defines the outcome and provides evaluators guidance via framing language and a glossary of terms used in the rubric. It then identifies five or six key criteria or dimensions of the outcome and sets out performance descriptors that identify the level of proficiency the student's work demonstrates.²¹

The AAC&U designed the rubrics for use in courses throughout the curriculum, and across higher education institutions.²² Instructors grade course papers, exams, and assignments to determine the student's course grade. Evaluators then use the rubric to assess achievement of learning outcomes, using those same papers, exams, and assignments.²³ When a student's work fails to meet even the initial benchmark, evaluators are encouraged to assign that work a zero.²⁴

For example, the AAC&U rubric that measures "critical thinking" defines critical thinking as "a habit of mind characterized by the comprehensive exploration of issues, ideas, artifacts, and events before accepting or formulating an opinion or conclusions." It then identifies five dimensions of critical thinking: 1. explanation of issues; 2. evidence; 3. influence of context and assumptions; 4. student's position (perspective, thesis/hypothesis); and 5. conclusions and related outcomes (implications and consequences).²⁵ For each dimension, performance descriptors set forth a continuum of achievement [see Table 1]. The critical thinking rubric can be used to evaluate students' acquisition of critical thinking in a wide range of courses, using the papers, exams, or other projects assigned and graded in that course.²⁶

AND UNIVERSITIES, *VALUE Rubrics*, <https://www.aacu.org/value-rubrics> (last visited Oct. 26, 2017).

21. VALUE REPORT, *supra* note 20, at 9.

22. *Id.* at 3.

23. *Id.* at 8-9. The AAC&U evaluation system is more complex than what this essay proposes for legal education in that a team of trained faculty evaluators, rather than the faculty member him or herself, applies the rubric to student work. *Id.* at 8. As discussed *infra* in Part IIIB, law faculties could choose an "evaluation team" approach or could simply have a professor assess his or her own students.

24. *Id.* at 9.

25. *Id.* at 11.

26. *Id.* at 14.

Table 1: Excerpt of AAC&U Critical Thinking VALUE Outcome Rubric²⁷

	Capstone 4	Milestones 3	Milestones 2	Benchmark 1
Explanation of issues	Issue/problem to be considered critically is stated clearly and described comprehensively, delivering all relevant information necessary for full understanding	Issue/problem to be considered critically is stated, described, and clarified so that understanding is not seriously impeded by omissions	Issue/problem to be considered critically is stated but description leaves some terms undefined, ambiguities unexplored, boundaries undetermined, and/or backgrounds unknown	Issue/problem to be considered critically is stated without clarification or description

Medical educators also have developed rubrics that delineate and assess acquisition of core physician competencies for use in residency training programs.²⁸ These rubrics identify various “milestones”²⁹ used to evaluate a resident’s performance in a wide range of competencies, such as information gathering, medical knowledge, diagnostic ability, teamwork, communication, learning from feedback, and many other skills critical to a physician’s performance.³⁰ For example, the American Board of Internal Medicine, along with the Accreditation Council for Graduate Medical Education, developed a rubric for each of the twenty-two competencies³¹ internal medicine residents

27. *Id.* at 11, <https://www.aacu.org/sites/default/files/files/VALUE/CriticalThinking.pdf> (last visited Oct. 30, 2017).
28. For an excellent description of how medical educators developed the “milestones” rubrics used to assess the development of medical residents, see Hamilton and Schaefer, *supra* note 18 at 406-20; for a discussion about how the medical rubric assessment model can be used to assess law students’ professional identity formation, see Hamilton, *supra* note 11.
29. A “milestone” is defined as: “a significant point in development. For accreditation purposes, the Milestones are competency-based developmental outcomes (e.g., knowledge, skills, attitudes, and performance) that can be demonstrated progressively by residents and fellows from the beginning of their education through graduation to the unsupervised practice of their specialties.” NEJM Knowledge+ Team, *Exploring the ACGME Core Competencies, Part 1 of 7*, NEJM Knowledge+ (June 2, 2016), <https://knowledgeplus.nejm.org/blog/exploring-acgme-core-competencies>.
30. Most medical specialties develop milestone rubrics based upon the competencies deemed critical for that specialty. *Id.*
31. The twenty-two competencies are: “Gathers and synthesizes essential and accurate information to define each patient’s clinical problem(s); [d]evelops and achieves comprehensive management plan for each patient; [m]anages patients with progressive responsibility and independence; [s]kill in performing procedures; [r]equests and provides consultative care; [c]linical knowledge; [k]nowledge of diagnostic testing and procedures; [w]orks effectively within an interprofessional team (e.g., peers, consultants, nursing, ancillary professionals and other support personnel); [r]ecognizes system error and advocates for system improvement; [i]dentifies forces that impact the cost of health care, and advocates for, and practices cost-effective care; [t]ransitions patients effectively within and across health delivery systems; [m]onitors practice with a goal for improvement; [l]

should develop. The rubrics set forth criteria for each competency along a continuum.³² As illustrated in Table 2, below,³³ each rubric has five columns. Evaluators are instructed to interpret the columns as follows:

“Critical Deficiencies: These learner behaviors are not within the spectrum of developing competence. Instead they indicate significant deficiencies in a resident’s performance;

Column 2: Describes behaviors of an early learner;

Column 3: Describes behaviors of a resident who is advancing and demonstrating improvement in performance related to milestones;

Ready for Unsupervised Practice: Describes behaviors of a resident who substantially demonstrates the milestones identified for a physician who is ready for unsupervised practice. This column is designed as the graduation target, but the resident may display these milestones at any point during residency;

Aspirational: Describes behaviors of a resident who has advanced beyond those milestones that describe unsupervised practice. These milestones reflect the competence of an expert or role model and can be used by programs to facilitate further professional growth. It is expected that only a few exceptional residents will demonstrate these milestones behaviors.”³⁴

As Table 2 indicates, there are boxes below each column. Evaluators check the boxes, using the following guidelines: “selecting a response box in the middle of a column implies milestones in that column as well as those in

earns and improves via performance audit; [] earns and improves via feedback; [] earns and improves at the point of care; [h]as professional and respectful interactions with patients, caregivers and members of the interprofessional team (e.g., peers, consultants, nursing, ancillary professionals and support personnel); [a]ccepts responsibility and follows through on tasks; [r]esponds to each patient’s unique characteristics and needs; [e]xhibits integrity and ethical behavior in professional conduct; [c]ommunicates effectively with patients and caregivers; [c]ommunicates effectively in interprofessional teams (e.g., peers, consultants, nursing, ancillary professionals and other support personnel); and [a]ppropriate utilization and completion of health records.” *Id.*

32. ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION & THE AMERICAN BOARD OF INTERNAL MEDICINE, *THE INTERNAL MEDICINE MILESTONE PROJECT*, iii (2015), <https://www.acgme.org/Portals/o/PDFs/Milestones/InternalMedicineMilestones.pdf> [hereinafter *MILESTONE PROJECT*]. The reprinted material from the Milestones project has been done with copyright permission granted by ACGME Senior Attorney, Teri Robins via a July 12, 2017 email sent to the author. Email granting reprint permission on file with the author.

33. *Id.* at 7.

34. *Id.* at iii.

previous columns have been substantially demonstrated.”³⁵ A response in the box in between the columns “indicates that milestones in lower levels have been substantially demonstrated as well as **some** milestones in the higher column[s].”³⁶

Table 2: Rubric for Knowledge of Diagnostic Testing Procedures for Internal Medicine Residents³⁷

7. Knowledge of diagnostic testing and procedures. (MK ₂)				
Critical Deficiencies	Column One	Column Two	Ready for unsupervised practice	Aspirational
Lacks foundational knowledge to apply diagnostic testing and procedures to patient care	Inconsistently interprets basic diagnostic tests accurately Does not understand the concepts of pre-test probability and test performance characteristics Minimally understands the rationale and risks associated with common procedures	Consistently interprets basic diagnostic tests accurately Needs assistance to understand the concepts of pre-test probability and test performance characteristics Fully understands the rationale and risks associated with common procedures	Interprets complex diagnostic tests accurately Understands the concepts of pre-test probability and test performance characteristics Teaches the rationale and risks associated with common procedures and anticipates potential complications when performing procedures	Anticipates and accounts for pitfalls and biases when interpreting diagnostic tests and procedures Pursues knowledge of new and emerging diagnostic tests and procedures
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

As the rubrics from the AAC&U and medical educators demonstrate, rubrics allow assessment via descriptors of higher-order thinking rather than via correct versus incorrect answers. Applying rubrics to student work, be it exams or live-client interactions, to measure learning outcomes “is not about reductionism, compliance or quick fixes.”³⁸ Instead, rubrics acknowledge that learning develops across multiple courses, over time, and the learning process

35. *Id.* at v.

36. *Id.*

37. *Id.* at 7.

38. VALUE REPORT, *supra* note 20, at 14.

varies from student to student. They allow for nuanced assessment of skills acquisition over a wide range of courses as well as a wide range of outcomes.

Both the AAC&U and medical educators have been working on outcome-measures assessment for many years.³⁹ In contrast, outcome-measures assessment within law schools is in its infancy. Thus, while the other models provide a good starting point as legal educators develop our own rubrics, we should not expect our rubrics to be at the same initial level as processes that have been years in the making.

2. Examples from a law school

At GSU COL, we developed draft rubrics for each of our eight institutional outcomes. Those rubrics, set out in the appendix, cover a wide array of learning outcomes, including: legal knowledge and analysis; legal research; effective oral and written communication; self-reflection and professional development; effective and professional engagement with clients, courts, and colleagues; overall professionalism; and awareness of responsibility to promote access to justice.⁴⁰

To develop the rubrics, our curriculum committee divided into teams of two or three faculty members. Each team drafted a rubric for one or two outcomes, based upon the team members' expertise and experience. Each rubric drafting team also consulted with faculty who taught the applicable skills. The entire committee vetted the rubrics, and some were redrafted. Our guiding drafting principle was backward design⁴¹—i.e., we thought about what it looks like when a new attorney has fully grasped a particular skill so that he or she could perform with minimal supervising attorney input. Then we developed the continuum that leads to that level of expertise.⁴² Finally, as with the AAC&U and medical education models, we recognized that only a few students may achieve the highest rubric level.⁴³

39. The AAC&U began the rubric development process in 2008. VALUE REPORT, *supra* note 20 at 10; medical educators began identifying milestones and working on ways to measure progress toward those milestones over ten years ago. Hamilton & Schaefer, *supra* note 18, at 409-10.
40. The rubric drafting process itself was instructive and illustrated the iterative nature of outcomes measurement. For example, in drafting the rubrics, we discovered that some of our outcomes, such as the ability to engage in risk assessment, were not ripe for institutional outcomes assessment and that some outcomes needed to be redrafted.
41. The seminal book on backward design is GRANT WIGGINS & JAY MCTIGHE, UNDERSTANDING BY DESIGN (2nd ed. 2005); *see also* MICHAEL HUNTER SCHWARTZ, SOPHIE SPARROW & GERALD HESS, TEACHING LAW BY DESIGN: ENGAGING STUDENTS FROM THE SYLLABUS TO THE FINAL EXAM 37-64 (2009) (discussing backward design in context of legal education).
42. VALUE REPORT, *supra* note 20 at 27 (discussing why backward design is the methodology that should be used when drafting outcome-measures assessment performance criterion).
43. *Id.* at 35; MILESTONE PROJECT, *supra* note 32 at iii.

In our initial assessment cycles⁴⁴ we will measure two outcomes a year and run a small pilot test of two rubrics each academic year. Pilot testing allows us to revise a rubric if necessary and involves faculty outside of the curriculum committee in the rubric design process. This helps ensure the validity of the rubric’s content⁴⁵ and hopefully creates some level of faculty buy-in.⁴⁶

To illustrate various types of rubrics, Table 3 sets forth an excerpt from the GSU COL legal knowledge and analysis rubric and Table 4 excerpts the rubric measuring effective and professional engagement with clients, colleagues, judges, and others. Complete rubrics for these, and other GSU COL outcomes, are contained in the appendix.

**Table 3: Excerpt from GSU COL Rubric for Outcomes 1 & 2
[legal knowledge and analysis]**

Guidance for Evaluators: Evaluate all students, including 1Ls, based upon the skill level GSU COL new graduates should possess. The following descriptors may help you think about the assessment in that context.

Aspirational: Could be used in practice as written [only minor edits/changes needed]

Competent: Could be used in practice with some editing by a supervising attorney

Developing: Could be used in practice with substantial editing/rewriting

Critical Deficiencies: Could not be used in practice

	Aspirational	Competent	Developing	Critical Deficiencies
Legal Analysis: Use of Facts	Uses ALL or MOST applicable facts & DOES NOT use inapplicable facts	Uses MANY applicable facts & RARELY uses inapplicable facts	SOMETIMES uses applicable facts & SOMETIMES uses inapplicable facts	Uses facts SPARINGLY &/or OFTEN uses inapplicable facts

44. For a discussion of our assessment cycle, see *infra* Part IV.A.
 45. See *infra* Part III.A (discussing the validity of the rubrics).
 46. Faculty buy-in is a critical component of the success of any learning-outcome measurement process. See GEORGE D. KUH ET AL., KNOWING WHAT STUDENTS KNOW AND CAN DO: THE CURRENT STATE OF STUDENT LEARNING OUTCOMES ASSESSMENT IN U.S. COLLEGES AND UNIVERSITIES 33 (JAN. 2014), <http://www.learningoutcomesassessment.org/documents/2013%20Survey%20Report%20Final.pdf>.

Legal Analysis: Critical Reasoning	Arguments ALWAYS relate to question asked ALWAYS accounts for all sides & perspectives Engages in STRONG critical analysis of most/all sides of each issue	Arguments USUALLY relate to question asked OFTEN accounts for all sides & perspectives Engages in STRONG critical analysis of SOME issues	Arguments SOMETIMES relate to question asked SOMETIMES accounts for all sides & perspectives Engages in STRONG critical analysis of A FEW issues	Arguments OFTEN UNRELATED to question asked RARELY accounts for all sides & perspectives Largely DEVOID of critical analysis of applicable issues
Legal Analysis: Policy	CONSISTENTLY uses policy arguments where applicable	SOMETIMES uses policy arguments when applicable	RARELY uses applicable policy arguments	DOES NOT MAKE policy arguments

*Table 4: Excerpt from Rubric for Outcome 6
[effective and professional engagement with clients, colleagues, and judges]*

	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Demonstrates respect for clients	Keeps client informed, understands and inquires about client objectives, utilizes appropriate tone, and deals with difficult circumstances in ALL or MOST circumstances on own initiative	Keeps client informed, understands and inquires about client objectives, utilizes appropriate tone, and deals with difficult circumstances in MOST new circumstances with appropriate coaching	Keeps client informed, understands and inquires about client objectives, utilizes appropriate tone, and deals with difficult circumstances in SOME new circumstances with appropriate coaching	DOES NOT keep client informed, understand or inquire about client objectives, utilize appropriate tone, or deal with difficult circumstances in MOST circumstances with coaching	N/A
Demonstrates respect for colleagues	Is prepared, contributes to final work product, communicates in a timely and respectful manner in ALL or MOST circumstances on own initiative	Is prepared, contributes to final work product, communicates in a timely and respectful manner in MOST new circumstances with appropriate coaching	Is prepared, contributes to final work product, communicates in a timely and respectful manner in SOME new circumstances with appropriate coaching	IS NOT prepared, contributing to final work product, or communicating in a timely and respectful manner in MOST circumstances with coaching	N/A

As our faculty develops more familiarity with the rubric drafting process, and gathers additional information as we apply the rubrics, we may further define and expand the guidelines and explanations. For example, we may want to add more criteria or a definition that explores more fully what constitutes “critical analyses” for Outcomes 1 and 2 [Table 3], further define other terms we use within the rubric dimensions, and perhaps divide the dimensions into additional subparts. Rather than spend countless meetings trying to achieve perfect wording, our faculty has agreed to engage in the process and adjust the rubrics as we learn by doing.

The rubrics provided in the appendix are simply one set of samples that faculty can use to assess various learning outcomes. Many other rubrics exist. For example, as noted earlier, the AAC&U and medical education rubrics cover many of the same learning outcome competencies law schools seek to measure.⁴⁷ Many other sources of rubrics are available that assess various aspects of law student learning.⁴⁸ In fact, at some schools, some faculty members may already have developed rubrics they use in their courses that could be adapted and used to measure some institutional learning outcomes.⁴⁹

B. Step Two: Decide Which Courses Will Employ the Rubric

After developing rubrics, the next question is who uses them. The most obvious answer: faculty members who already teach and assess the outcome.⁵⁰ At GSU COL, because the competencies identified in our learning outcomes

47. For the AAC&U list of learning outcomes assessed via rubrics, see *infra* note 20. Those rubrics are available at *VALUE Rubrics*, ASSOC. OF AM. C. & U., <https://www.aacu.org/value-rubrics> (last visited Nov. 3, 2017). For a list of learning outcomes and rubrics developed to assess those outcomes for internal medicine residents, see MILESTONE PROJECT, *supra* note 32, at 1-22.
48. See, e.g., *Resources*, INSTITUTE FOR LAW TEACHING AND LEARNING, <http://lawteaching.org/resources> (last visited Oct. 30, 2017) (linking to a wide range of rubrics); Hamilton, *supra* note 11, at 865-67 (proposing a legal writing rubric); Elizabeth Anderson-Fletcher, *Going from Zero to Sixty in Twelve Months: Implementing Assessment at the Bauer College of Business*, in *ASSESSMENT OF STUDENT LEARNING IN BUSINESS SCHOOLS: BEST PRACTICES EACH STEP OF THE WAY*, VOL. 1, NO. 2, at 80-81 (Kathryn Martell & Thomas Calderon eds., 2005) (detailing legal and ethical analysis rubrics); FUNK *supra* note 5, at 36 (legal research rubric).
49. For faculties that want to design their own rubrics, a good starting place is to review the literature on backward design, in particular, WIGGINS & MCTIGHE, *supra* note 41 and SCHWARTZ, SPARROW & HESS, *supra* note 41.
50. Schools can identify faculty members teaching and assessing specific competencies via a curriculum map. For an excellent discussion on how to develop a curriculum map, see FUNK, *supra* note 5, at 46-52. Alternatively, if the curriculum committee is large enough and comprises faculty who teach in a wide range of areas, the committee may simply know where the competencies are assessed and may not need a curriculum map. Of course, not all portions of a given rubric will be applicable in all courses, and the rubric accounts for this by having a “not applicable” box for each dimension. Additionally, the rubrics may not capture all skills each professor assesses. The rubrics are not meant to be all-inclusive or mirror what any one professor assesses. Rather, they are an overview of students’ collective performance on dimensions of identified learning outcomes.

are those we expect all our students to develop, not surprisingly, numerous courses assess each outcome. We had to decide, for each outcome, the courses we would use to assess that outcome. In doing so, we considered several questions. For example, if first-year courses introduce a competency, did we want to assess student learning at the end of those courses as well as via the upper-level curriculum to see whether students as a whole progressed over the course of law school?⁵¹ Did we want to assess certain outcomes in all required courses?⁵² Which elective courses are best-suited to measuring particular skills, either because a large number of students take that course, or because the course has a significant number of 3Ls so we could track students as they neared graduation, or because professors who teach the course already measure many of the rubric dimensions? Did we want to assess all students in given courses, or just a sample of students in a given course? If just sampling students, what sample size would we want, and how would we ensure a random sampling?⁵³ Other considerations address faculty workload. Did we want to use a wide range of courses or focus on just a few? What impact would a narrow focus have on individual faculty members' workload and creating faculty buy-in? These questions illustrate the decisions that each faculty will make depending upon its culture and other factors unique to the school. For an example of how one can use a variety of courses to assess various outcomes, see the appendix—Learning Outcome Plan.

51. GSU COL decided that we would assess both 1L and upper level students. We grappled with whether to assess 1Ls in context of where they should be at the end of the first year, or where we expect all students to be at the end of law school. Because we ultimately are looking at learning outcomes in context of the skills, knowledge, values we expect of our new graduates, we chose to assess all students, even our 1Ls, in light of expectations for new graduates.
52. GSU COL decided to assess Outcomes 1 and 2, legal knowledge and analysis, in three first-year courses [Contracts II, Civil Procedure II and Torts] and three upper-level courses [Administrative Law; Wills, Trusts and Estates; and Criminal Procedure Investigations]. We based that decision upon the content of our outcome: "Graduates will demonstrate knowledge and comprehension of substantive and procedural laws generally, including rules of procedure, common law, statutory law, administrative law, and constitutional law" and our other goals. For example, Torts is a four-hour first-semester class. Civ Pro II and Contracts II are first-year second-semester classes. We believed that assessment in those first-year classes would indicate both potential progress from the first to second semester, would capture all our students, would allow for meaningful formative assessment using the rubric, and would allow us to track students' progress from the first year through upper-level courses. The upper level courses are taken by a mix of second and third year students, allowing for tracking of students in all three years of our program of legal education.
53. For institutional outcome-measures assessment, schools may use a representative student sample rather than assess each student. Sampling involves applying the rubric to the work product of some percentage of students in a given course. See SHAW & VANZANDT, *supra* note 1, at 114-15 (noting that the minimum sample size needs to be "the greater of 10 students or 10 percent of the student population being measured"); see also FUNK, *supra* note 5, at 37 (discussing various options for developing sample size for law school outcomes assessment).

C. Step Three: Grade as Usual and then Complete the Rubric

To help create faculty buy-in, or at least minimize resistance, we wanted to cause as little initial disruption of faculty pedagogy and assessment processes as possible and minimize the amount of additional faculty work.⁵⁴ We also wanted to measure students' actual performance in their courses rather than performance on a test unconnected to a particular course. Measuring work that students are already doing for a grade ensures students are motivated to produce their best work;⁵⁵ it does not burden students, and, as explained below, this method adds only a minimal additional amount of work to the faculty assessment process.

Using the rubric outcome-assessment model, a faculty member continues to give his or her students the assessments he or she usually gives—exams, papers, performance assessments, etc. The faculty member grades each student using whatever grade-scoring method he or she normally employs. The professor does not need to change what is tested or how students are graded. What does change? In courses designated for outcomes measurement, professors add one more step to their grading process. After grading, faculty in designated courses complete an institutional faculty-designed rubric that delineates, along a continuum, students' development of core competencies encompassed by a given learning outcome. The rubric may be applied to every student's work or to that of a random student sample.⁵⁶ For example, if my civil procedure class were used to measure legal knowledge and analysis outcomes, I would give the same type of exam I always give and grade it as usual.⁵⁷ My students would get the same raw score points and curved grade that they normally get when I grade. However, in addition to my usual grading process, for each student, or a random sample of students,⁵⁸ I would also complete a rubric such as the one in the appendix for Outcomes 1 and 2 [legal knowledge and legal analysis]. I would indicate where, on a continuum, a student falls on knowledge of the

54. See FUNK, *supra* note 5, at 63-64 (explaining part of faculty resistance to assessment is faculty fear that the process will create additional work).
55. VALUE REPORT, *supra* note 20, at 9 (noting that rather than create special tests for outcome-measures assessment, it is better to use course-embedded assessments in which students are working for a grade because students are motivated to do their best work, which yields better data about students' abilities).
56. See *supra* note 53 (discussing sampling).
57. I normally give a graded midterm and a final exam. Both are about one-third multiple choice, one-third essay, and one-third short answer. Because the final exam assesses students' skill development at the end of the semester, I would use the information from that exam to complete the rubric. In other courses, faculty may complete the rubric using information from an assessment or two that the faculty member believes best represents students' ultimate grasp of the skills being taught and measured in that course.
58. As *supra* note 53 discusses, schools may choose to gather data from all students enrolled in a particular course, or a random sample of students. If schools wish to use the data as formative assessments, see *infra* Part II.D.1 (noting a rubric should be completed for each student in a designated course).

law, issue-spotting, factual application, critical reasoning, and articulating policy arguments.⁵⁹

Because the rubric identifies knowledge and skills already assessed, applying the rubric takes very little time. For example, my civil procedure and evidence exams are one-third multiple choice, one-third short answer, and one-third essay questions.⁶⁰ When a student misses a significant number of multiple-choice questions and short-answer questions, I know that he or she is struggling with both knowledge of the law and issue-spotting. For essay questions, I can tell, by looking at my grade-scoring sheet, whether a student engages in a full factual critical analysis of both sides of the issues. Glancing at my margin notations helps me identify whether a student is spending significant time discussing irrelevant information. Thus, by looking at my grade-scoring sheet and flipping through an exam answer I can identify where a student falls on the continuum for the five skills the legal knowledge and analysis rubric measures and quickly complete a rubric for each student.

Although faculty members' assessments and grading processes differ, when we pilot-tested the rubric for Outcomes 1 and 2 [legal knowledge and legal analysis] with civil procedure, contracts, evidence and employment discrimination courses, all professors reported that the rubric completion took very little time. If a school decides to randomly sample student work rather than assess all students in a course,⁶¹ or to use the assessments in small-section courses, the process will take even less time because the rubrics will be used for only fifteen to twenty students. Finally, because of the cyclical nature of outcome assessment, any given professor may be doing this additional assessment only once every three or four years.⁶² Thus, while the process does add some extra work, the overall burden on any particular faculty member should be minimal.

*D. Step Four: Decide Whether to Use the Rubrics for Formative Assessment
and How To Do Data Entry*

1. Formative assessment

An additional benefit of the process described above is that schools could choose to use the rubrics to satisfy both the ABA outcome-measures standard and the formative-assessment standard.⁶³ Formative assessments provide both

59. See *infra* Appendix, Outcomes 1 and 2.

60. Not all aspects of every rubric will be applicable in all courses. For example, a doctrinal professor who gives an exam that is a hundred percent multiple-choice questions could conceivably complete some portions of a legal knowledge and analysis rubric while being unable to address others.

61. See *supra* note 53 (discussing sampling).

62. See *infra* Part IV.A (discussing how often to assess institutional outcomes).

63. AM. BAR ASS'N, *Standard 314: Assessment of Student Learning*, in ABA STANDARDS, *supra* note 1, at 23.

student and teacher with information about individual and collective student achievement while teaching is ongoing and both student and teacher have an opportunity to adjust what they are doing to produce stronger learning.⁶⁴ Formative assessments are useful not only in a given course, but also at different points over the span of a student’s education, as the ABA standard notes.⁶⁵ The standard recognizes that while students benefit from information about their grasp of knowledge and skills within a given course, they also benefit from feedback about their overall progress toward core competencies they should acquire in law school. The method described above can help provide that information.

For example, if a school wanted to use the rubric assessment method to both measure institutional learning outcomes and as a formative assessment, the faculty might decide that professors in all or most first year courses would regularly complete a legal knowledge and legal analysis rubric for each student. The data from all student rubrics would provide an overview of collective student learning at the end of the first year. This information serves as formative assessment feedback to faculty. For example, if a faculty discovered that 35% of its 1L class had critical deficiencies in issue spotting and factual analysis at the end of the first year, that information might prompt faculty to discuss whether, and how, to address those deficiencies in upper level courses.

A student’s individual rubric, if shared with the student, could provide him or her with formative feedback about his or her level of development of legal knowledge and analytical skills at the end of the first year. For example, in addition to a course grade, at the end of his or her first year, a student might get an individual spreadsheet that looks like the following:

Class	Legal Knowledge	Issue-Spotting	Factual Analysis	Critical Reasoning	Policy Analysis
Torts	Developing	Developing	Critical Deficiencies	Critical Deficiencies	Critical Deficiencies
Contracts	Competent	Developing	Developing	Developing	N/A
Civ Pro	Developing	Developing	Critical Deficiencies	Critical Deficiencies	N/A

64. Anthony Niedwiecki, *Prepared for Practice? Developing a Comprehensive Assessment Plan for a Law School’s Professional Skills Program*, 50 U.S.F.L. REV. 245, 251, 268 (2016).

65. AM. BAR ASS’N, *Standard 314: Assessment of Student Learning*, in ABA STANDARDS, *supra* note 1, at 23. Standard 314 states: “A law school shall utilize both formative and summative assessment methods in its curriculum to measure and improve student learning and provide meaningful feedback to students.” Interpretation 314-1 states: “Formative assessment methods are measurements at different points during a particular course or at different points over the span of a student’s education that provide meaningful feedback to improve student learning. Summative assessment methods are measurements at the culmination of a particular course or at the culmination of any part of a student’s legal education that measure the degree of student learning”.

The student could use that information to target areas for improvement. Using the above example, a student could see that he or she is on the right track on legal knowledge and issue-spotting, but really needs to work on factual, critical, and policy analyses. This information could then help the student, perhaps in conjunction with academic support professionals, to develop specific study strategies targeted to his or her weaknesses.

Of course, students would need to be educated about how this type of formative assessment differs from the course grade. While grades often measure a student's mastery in comparison with that of his or her colleagues, the rubric assessment provides an overview of the student's skill mastery based upon specific criteria along a continuum of learning. Thus, a first-year student could get an A in a course and still be in the "developing" category for all or most criteria. Alternatively, one student who received an A and another who received an A- or B+ might have the same outcome rubric profile for that course. Because the rubrics measure overall skill mastery via criteria, rather than in a norm-referenced way, the rubrics may confuse students unless they receive a full explanation of the theory underlying them and coaching on how to use the feedback to improve.⁶⁶

2. Data entry

What data a school chooses to include on a rubric depends upon the information schools believe is useful. In addition to information about where, on the continuum of each skill dimension a student falls, each rubric could also contain additional information such as student year, whether the student is full or part-time, whether the skill was assessed in context of a live-client or simulation course, etc.⁶⁷ Schools could also decide to correlate LSAT scores, UGPA, LGPA, bar passage, gender, race or other factors with rubric performance. How much information to gather, and whether the rubrics contain student identifying information, depends upon what information the faculty believes may be useful as it analyzes the data and whether schools will use the rubrics as a formative assessment to provide students with individualized feedback.

Although schools may choose to use more complicated data entry programs, one simple way to compile data is via an Excel spreadsheet with a drop-down menu.⁶⁸ A basic Excel spreadsheet allows schools to see the percentage of

66. For a discussion about general principles of formative assessment and how it can be used to coach students, in context of the professional development of law students, see Hamilton, *supra* note 11 at 858-60. Professor Hamilton also discusses the use of e-portfolios in context of developing competencies along a continuum, such as those outlined via the rubrics in the appendix. *Id.* at 862-71.
67. For an example of the kind of criteria that could be used, see draft rubric for Outcome 6 in the appendix.
68. Other analytical tools, such as SPSS statistical analysis, may also be used if schools decide to engage in more sophisticated analyses. GSU COL is in the process of finalizing its data entry methodology. Those interested in learning more about the mechanics of developing a

their students that have achieved a particular developmental level on a given performance criterion. For example, if a school measures legal analysis and reasoning of its upper level students using a rubric similar to that in the appendix, Excel spreadsheet data might indicate that 5% of a school's upper level students are at the aspirational level, 55% are at the competent level, 25% are developing, and 15% have critical deficiencies in the critical analysis dimension of legal reasoning.

Whether schools ask faculty to do their own data entry or centralize data entry and have support staff do it is a function of their individual culture and resources.⁶⁹ However, if schools want to use the data for both institutional outcome measures and for individualized formative assessments or to correlate rubric performance with other predictors of student performance, student-identifying information necessarily becomes part of data entry. In that case, schools must ensure compliance with the Family Educational Rights and Privacy Act.⁷⁰ If staff, rather than faculty, does the data entry, staff should be trained to ensure compliance with FERPA protections.⁷¹

E. Step Five: Analyze and Use Data to Improve Student Learning

The rubrics faculty complete provide a solid starting point in the institutional outcome-assessment process. However, the rubrics should not be the sole basis for assessing students' acquisition of the competencies delineated in a school's learning outcomes, because virtually all measures have inherent flaws.⁷² Because findings based on multiple measures are more reliable, faculties should augment their faculty-based outcome-assessment data with additional data from other sources—a process known as triangulating an analysis.⁷³ To find other measures, again, it makes sense to look at what already exists, such as externship site supervisor evaluations,⁷⁴ employer, alumni, and student surveys

data entry system may contact the author.

69. Data entry itself takes little time. In the pilot project, using an Excel spreadsheet, it took less than 40 minutes to enter data for 70 students on the five dimensions of the GSU COL rubric for the legal knowledge and analysis rubric. That rubric, for GSU COL Outcomes 1 and 2, is in the appendix.
70. 20 U.S.C. § 1232g (2012); 34 C.F.R. Part 99 (2017).
71. 34 C.F.R. §§ 99.31, 99.33(a) (2017). The regulations allow “school officials” access to student identifying information but do not define exactly who constitutes a “school official.” It is likely that a designated staff person or two, whose job involves rubric data entry, would constitute a “school official” for data-entry purposes. See OONA CHEUNG, COUNCIL OF CHIEF STATE SCHOOL OFFICERS, BARBARA CLEMENTS, COUNCIL OF CHIEF STATE SCHOOL OFFICERS, ELLEN PECHMAN, POLICY STUDIES ASSOCIATES, PROTECTING THE PRIVACY OF STUDENT RECORDS 58-59 (1997), <https://nces.ed.gov/pubs97/97527.pdf>. Staff engaging in data entry should be appropriately trained in FERPA compliance issues. *Id.* at 59.
72. For a brief discussion of some issues that arise with the method described in this essay, see *infra* Part III.
73. For a discussion of triangulating data, see SHAW & VANZANDT, *supra* note 1, at 150-53.
74. At GSU COL, our externship site supervisors already assess many of our learning outcomes

such as LSSSE,⁷⁵ and perhaps even student trial, negotiation, and moot-court team competition score sheets.⁷⁶ Gathering data from these additional sources allows faculty to get a more complete picture of student learning.

Once a school has data from faculty rubrics and other sources,⁷⁷ a faculty committee has the information necessary to compile a report that outlines the findings, analyzes the data, and identifies areas of strengths and weaknesses. Multiple measures that point to similar conclusions can instill greater confidence in the findings.⁷⁸ On the other hand, at times the data will not align. In those instances, faculties must try to figure out the reason for the disconnect.

Data gathering is, in some ways, the easy part. The challenge lies in using the information gathered to improve student learning.⁷⁹ Does the data indicate a need for changes in the curriculum, changes in teaching methodology, a need to refine a learning outcome?⁸⁰ For example, if students' critical reasoning analytical skills—i.e., the ability to analyze all sides and perspectives incorporating arguments for and against particular positions—fall below what the faculty believes they should be, the faculty needs to discuss ways to improve this skill. The faculty might agree that in numerous courses, faculty will create practice problems that emphasize critical reasoning skills and provide those to students, along with grade-scoring sheets and model answers

using rubrics similar to the ones faculty will use. That evaluation form is available at Kendall L. Kerew, *Writing for Practice*, in *TEACHER'S MANUAL TO LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL EDUCATION*, 306-08 (Leah Wortham et al. eds., 3d ed. 2016).

75. The national sixty-question Law School Survey of Student Engagement [LSSSE], used by many law schools, asks students to self-assess how much their legal education has contributed to their ability to speak clearly and effectively, write clearly and effectively, think critically and analytically, develop legal research skills, and learn effectively on their own, among other similar skills. See *The LSSSE Survey Tool*, LSSSE, <http://lssse.indiana.edu/about-lssse-surveys> (last visited Oct. 29, 2017) (discussing the wide use of the LSSSE survey); see also *Law School Survey of Student Engagement*, LSSSE, <http://lssse.indiana.edu/wp-content/uploads/2016/08/LSSSE-2016-Online-Survey-FINAL.pdf> (last visited Oct. 30, 2017) (identifying the questions on the survey).
76. FUNK, *supra* note 5, at 84-87; SHAW & VANZANDT, *supra* note 1, at 106-09.
77. Data may be gathered from a wide range of sources such as alumni surveys, employer surveys, exit interviews with students, pro bono coordinators, or other student service offices. See FUNK, *supra* note 5, at 84-85. To the extent schools believe that bar examinations are a valid and reliable measure of legal knowledge and legal analysis, bar pass rate information also may be relevant to students' development of those competencies.
78. *Id.* at 83.
79. For an excellent discussion of how to use data to improve student learning, see *id.* at 87-90.
80. Shaw and VanZandt suggest faculty ask themselves questions such as: Does our curriculum provide sufficient opportunities to learn this skill?; are all students provided opportunities to learn the skill?; do we need to shift our pedagogical approach to teaching this skill?; do we emphasize the importance of the skill to students?; and are we providing struggling students enough support with regard to this skill? SHAW & VANZANDT, *supra* note 1, at 153-57.

and guided self-reflection exercises.⁸¹ If the faculty chose to experiment with this teaching methodology, it could implement the changes and, in the next measurement cycle, judge whether the changes resulted in quantifiable improvements in students' critical analytical skills. In the more immediate term, students identified as having "critical deficiencies" could be targeted for additional support and bar-pass preparation.

One caveat to this entire outcome measurement assessment process: the key to the success of the institutional outcomes measurement process is faculty engagement with the data and one another as we seek to improve our students' learning. To create this engagement, faculty must not worry that the rubrics they complete for students in their own courses will be used to judge them or their teaching. As Professor Funk notes: "For faculty to engage in assessment, they need to feel safe and supported. First, assessment data cannot be used against them for evaluation of their own performance or that of their program. Doing so only undermines the need to engage in assessment to make improvements in the first place."⁸²

III. Validity and Reliability

A. Validity

Rubric development and application for institutional outcome measures is a new process for law schools. Schools will want to ensure that the rubrics are valid—i.e., a rubric measuring students' legal analytical abilities should measure the components of legal analysis.⁸³ To ensure validity, faculty members who teach and assess the outcomes the rubric assesses should be involved in rubric design. This helps ensure the rubric's dimensions and descriptors adequately capture students' achievement of that outcome. Ideally, faculty members drafting a rubric will research the literature and review existing legal education rubrics and rubrics from other disciplines as well as rely upon their own expertise. However, the rubric development process should not become mired in a quest for the "perfect" rubric, lest faculties spend years debating rubric wording and never develop a usable rubric. Rubric development, like assessment itself, will at least initially be an iterative process in which the rubrics will likely change over time.

81. See Carol Springer Sargent & Andrea A. Curcio, *Empirical Evidence that Formative Assessments Improve Final Exams*, 61 J. LEGAL EDUC. 379 (2012) (discussing how practice assessments combined with grade scoring sheets, model answers, and self-reflection improved many law students' final exam performance on an Evidence exam by nearly the equivalent of a full letter grade).

82. FUNK, *supra* note 5, at 91.

83. The validity of an instrument hinges on whether it measures what it is supposed to measure. James M. Shumway & Ronald M. Harden, *AMEE Guide No. 25: The Assessment of Learning Outcomes for the Competent and Reflective Physician*, 25 MED. TCHR 569, 572 (2003).

B. Reliability

Reliability—i.e., consistency in rubric application within a course and across courses⁸⁴—presents challenges. The rubrics require a level of subjective judgment, just like that involved when grading an essay question or student performance. Some faculty may assess the same student work differently.⁸⁵ The variability in raters' assessments of the same student work leads to potential reliability problems with the data.⁸⁶

Faculty using the rubric outcome measures assessment method may find it helpful to develop training sessions or web-based training modules.⁸⁷ Among the usual types of training are the following: Rater-error training usually involves a lecture and brief discussion⁸⁸ about common rater errors such as leniency bias⁸⁹ and the halo effect;⁹⁰ performance-dimension training involves helping to clarify a particular dimension, competency, or skills via examples such as written vignettes, videos, or role plays;⁹¹ frame-of-reference training involves the faculty raters applying the rubric to sample student work and discussing discrepancies among raters to reach a better shared understanding

84. *Id.* at 572 (noting that reliability is the degree to which the test is consistent, generalizable, and reproducible over time).
85. See David J. Woehr & Allen I. Huffcutt, *Rater Training for Performance Appraisal: A Quantitative Review*, 67 J. OCCUPATIONAL AND ORGANIZATIONAL PSYCHOL. 189, 189 (1994) (noting that most performance measurement relies upon subjective judgments, which introduces “a great deal of distortion into the measurement process.”).
86. *Id.* at 190.
87. Training videos may available on YouTube. For example, a good training video about the various types of biases that can lead to inaccurate ratings can be found at Smart Church Management, *Rater Errors*, YOUTUBE (Feb. 16, 2016), <https://www.youtube.com/watch?v=HrjuUhcKsso>. Rater training sessions are not a panacea but do prove somewhat effective in addressing variability in raters' subjective judgments. Woehr and Huffcutt, *supra* note 85, at 198-99.
88. Moshe Feldman et al., *Rater Training to Support High-Stakes Simulation-Based Assessments*, 32 J. CONTINUING EDUC. HEALTH PROFESSIONS 279, 281 (2012).
89. Leniency bias is the “tendency to assign performance ratings that are more generous than might be justified.” Kevin H.C. Cheng et al., *Leniency Bias in Performance Ratings: The Big Five Correlates*, 8 FRONTIER PSYCHOL., art. 521, 2017, at 1, 2.
90. Halo error occurs when a rater's overall impression of a person's performance influences his or her ratings of specific attributes. Kevin R. Murphy et al., *Nature and Consequences of Halo Error: A Critical Analysis*, 78 J. OF APPLIED PSYCHOL. 218, 218 (1993).
91. Feldman et al., *supra* note 88 at 281-82, gives the following example: “An example of PDT for a simulation-based assessment of teamwork might include a short lecture describing teamwork in health care and specific behaviors that constitute teamwork (eg [sic], situation monitoring, giving information). Video examples or vignettes may be used to provide specific examples of ‘giving information’ so that raters learn to associate similar visual behavioral cues with the dimension being evaluated.” This kind of training may be particularly useful when assessing oral communication and client interaction skills.

of the rubric's application.⁹² Faculty training could consist of one or all of these training methodologies.⁹³

Ideally, the training helps faculty reach some level of consensus about rubric application. It also provides an opportunity for faculty to think deeply and discuss openly expectations about student learning. However, even with training, faculty variability in rubric application undoubtedly will exist.⁹⁴ If a faculty finds this variability troubling, it can explore ways to help ensure greater consistency in rubric application via inter-rater reliability checks.⁹⁵ For example, faculty teaching the same course could exchange papers and apply the rubric to each others' students' work to ensure some level of consistency in rubric application. Or, a dean could appoint a committee of evaluators who could apply the rubric to random samples of student work. The committee members' assessments could be compared with the faculty assessments to see if there was a statistically acceptable level of consistency—i.e., whether there was an acceptable level of interrater agreement.⁹⁶ Alternatively, rather than have faculty members apply the rubrics to their own students' work, schools could appoint a committee to evaluate students' performance across a range of classes. Trained evaluator committee members would apply rubrics to a random sample of student work from various courses and would engage in inter-rater reliability checks to ensure consistency in rubric application amongst evaluators.

92. *Id.* at 282.

93. At GSU COL, our initial training was via a brown bag lunch at the end of the semester. We invited those faculty who would be applying the rubric to finals and papers that semester. Because many GSU COL faculty members have limited familiarity with the theory underlying outcome measures assessment, the assessment committee kept the training fairly simple. We explained the purpose of the outcome measures assessment process, discussed how to apply the rubric, and talked briefly about some grading biases such as leniency bias and halo effect. As the faculty becomes more familiar with the outcome measures assessment process we may add additional training modules. However, at the outset, our goal was to keep it relatively simple and build faculty buy in. Other faculties may wish to do more extensive training at the outset, especially if a faculty has reliability concerns. The extent of training should be a function of each school's culture and concerns.

94. Rater training sessions are helpful but not a panacea when it comes to increasing reliability and validity of rater's assessments. Feldman et al., *supra* note 88, at 284.

95. One method to verify consistency is to ask different graders to assess the same piece of work and then perform statistical analyses to ensure consistency amongst the graders. See VALUE REPORT, *supra* note 20, at 30 (discussing how they found a strong to moderate interrater reliability via double scoring some student work and running statistical analyses on the raters' scores).

96. The term "interrater reliability" is used to describe consistency among graders when assessing the same piece of work. Some assessors differentiate between interrater reliability and interrater agreement. They note that interrater reliability refers to rank order or relative standing of performance evaluations without regard to the actual score, while interrater agreement refers to whether evaluators using the same rubric to assess the same work product arrive at the same absolute value score. MATTHEW GRAHAM ET AL., MEASURING AND PROMOTING INTER-RATER AGREEMENT OF TEACHER AND PRINCIPAL PERFORMANCE RATINGS (2012), <http://files.eric.ed.gov/fulltext/ED532068.pdf>.

Any of these methods would enhance reliability. However, given that faculty members' areas of expertise often do not overlap, faculty may be reluctant to assess students' performance in a class outside their expertise. Additionally, some faculty members may be uncomfortable with a system in which colleagues assess one another's students' performance and, at least implicitly, assess the quality of a given faculty member's exam questions. Because outcome-assessment data are not being used in a high-stakes assessment,⁹⁷ schools may decide that asking faculty to assess their own students provides data that are useful, if not statistically unassailable. Alternatively, schools could present the various options to faculty and let them choose which best suits their ethos and goals.⁹⁸

In addition to variations in how different faculty may apply the rubric, other potential reliability flaws exist. For example, in upper-level non-required courses, student self-selection in course enrollment may affect the sample and thus the data. Additionally, given the cyclical nature of outcome-measures cycles,⁹⁹ most schools are not tracking the same student cohorts from first-year to upper-level courses and thus have the confounding variable of different student samples. These, and other reliability issues, inevitably result in imperfect data. Faculties will have to balance considerations of faculty time, institutional resources, and costs against reliability concerns about student learning outcomes data. As faculties struggle with this balance, it is important remember that the goal of learning outcomes assessment is not to develop information for a publishable paper, or to rank students for employers, or to engage in other high stakes processes. Rather, the process seeks to provide an overview of student learning as it relates to a school's learning outcomes in order to facilitate conversations about how to build upon strengths and how to improve student learning in areas of significant collective weakness.

IV. Frequency and Success

A. How Often Should We Assess Each Learning Outcome?

As Professor Funk notes, “[Y]ou cannot assess every learning outcome every year. Rather, you have to set up a cycle of assessment, one that is systematic and—most important—sustainable.”¹⁰⁰ You need time to assess, take action on

97. “In general, researchers contend that the greater the consequences resulting from the evaluation, the greater the need for high rater inter-agreement.” GRAHAM ET AL., *supra* note 96, at 9. A seventy-five percent to ninety percent rater agreement is ideal in situations where the assessment is used in high-stakes situations, such as when the assessment is used to allocate raises or in high-stakes testing. *Id.*

98. Schools particularly concerned about developing a high level of agreement in rubric application can develop more extensive trainings and use various statistical analytical methodologies to ensure agreement. For an example of how to do that, see *id.* at 13-24.

99. See *infra* Part IV.A (discussing the cyclical nature of outcome measures assessment).

100. Funk, *supra* note 5, at 55.

findings, and reassess.¹⁰¹ At GSU COL, we are assessing on a four-year cycle: two outcomes a year. For each outcome, we have a data-gathering year, then a year to analyze and report on the data and decide if and how we will make changes to remedy student weaknesses. We will have two years to implement those changes, and then we will reassess to see if the changes resulted in improvements in student learning.¹⁰² As we work through this process, we may decide that some outcomes should be assessed each year as part of our formative assessment process but should be formally studied only within the four-year cycle.

B. What Constitutes Success?

One question that inevitably arises is whether, to satisfy accreditors, schools must meet some benchmark for each learning outcome. To the extent accreditation standards require a bright-line benchmark—e.g., eighty percent of a school’s students should reach the “competent” level in all outcomes—they undercut the entire assessment process. Creating a bright-line accreditation benchmark may provide an incentive to check the “competent” box rather than use the entire process as one of critical examination and analysis of areas of strength and weakness. While it is important for faculty to set a “target level” of achievement to define expectations,¹⁰³ it is equally important that initial failure to meet those target levels not be used by accreditors to evaluate law schools’ performance.

Accreditors and faculty should look at assessment as a process in which the true goal is thoughtful analysis of student learning and work to improve overall student learning. Accreditors could, and should, look skeptically at schools at which eighty percent of all students achieve all outcomes. That statistic might indicate either that schools’ outcomes are overly simplistic or that faculty may be engaging in “outcome assessment inflation.” Rather than look for a magic number, schools and accreditors should focus on the analysis of the data, the plan for improvement, and the implementation of that plan. Focusing on how faculty analyze and use the data comports with the idea that assessment is not measurement, but instead is an ongoing iterative process that seeks to improve student learning.

Conclusion

This essay lays out one method for gathering data on institutional outcome measures by using rubrics that complement existing faculty assessments. The process provides faculty with a relatively easy and low-cost method for

101. *Id.* at 55.

102. *See* appendix, Learning Outcome Plan.

103. Professor Funk suggests that educators generally should be satisfied when eighty percent of their students reach the “competent” level for a particular outcome and dissatisfied when sixty percent or less reach that level, and determine where in the “grey area” between sixty percent and eighty percent they target achievement depending upon the outcome being measured. *Id.* at 68.

beginning an institutional learning outcomes assessment process. The rubric method described herein also could be used as a formative assessment. While far from perfect, this method adapts what is being done in undergraduate and medical education arenas to the law school context and begins a process that will inform both faculty and students in ways that hopefully improve student learning.

Appendix—GSU COL Learning Outcome Plan, Draft Rubrics,¹⁰⁴ and Assessment Cycle

Outcome 1: Graduates will demonstrate knowledge and comprehension of substantive and procedural laws generally, including rules of procedure, common law, statutory law, administrative law, and constitutional law.

Criterion 1: Identify, describe, and apply sources or relevant law to solve client problems and/or address policy issues.

Criterion 2: Identify, describe, and apply appropriate procedural steps and factual development to solve client problems and/or address policy issues.

Outcome 2: Graduates will demonstrate effective legal analysis and reasoning skills to address client problems and/or policy issues and achieve client objectives.¹⁰⁵

Criterion 1: Identify legal issues when presented with client problems and/or policy questions using applicable legal theory, rules, and facts.

Criterion 2: Critically evaluate the strengths and weaknesses of arguments.

<p>Where are we Measuring These Outcomes:</p> <p>All sections of: Torts, Civ Pro II, Contracts II, Administrative Law, Crim Pro Investigations, and Wills Trusts and Estates</p>	<p>General Guidance for Evaluators:</p> <p>Evaluate all students, including 1Ls, based upon the skill level our new graduates should possess. The following descriptors may help you think about the assessment in that context.</p> <p>Aspirational: Could be used in practice as written [only minor edits/changes needed].</p> <p>Competent: Could be used in practice with some editing by a supervising attorney.</p> <p>Developing: Could be used in practice with substantial editing/rewriting.</p> <p>Critical Deficiencies: Could not be used in practice.</p>
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104. This appendix contains draft rubrics for numerous GSU COL outcomes. The drafting process remains a work in progress - e.g., as this article went to press, we changed the rubric achievement labels from Aspirational-Critical Deficiencies to Levels 1-4. Because we populated the rubrics with detailed descriptions of achievement levels for each competency we decided that further descriptors (aspirational, competent etc.) were more confusing than constructive.

105. The rubric drafting process also helps inform learning outcomes. For example, this outcome originally included having students “engage in risk assessment.” However, the committee believed that at this time not enough courses teach or assess this skill. Thus we recommended that we not include this phrase in our current learning outcomes and instead we asked the faculty to incorporate this skill into their teaching and assessment so that it later can become a learning outcome.

Rubric: Outcomes 1 and 2¹⁰⁶

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Knowledge of substantive & procedural law	Demonstrates IN-DEPTH knowledge and understanding of ALL applicable legal & procedural rules	Demonstrates SOLID knowledge & understanding of MOST applicable legal & procedural rules	Demonstrates ADEQUATE knowledge & understanding of SOME applicable legal & procedural rules	Demonstrates MINIMAL knowledge & understanding of the applicable legal & procedural rules	N/A
Legal Analysis: Issue-spotting	Spots & analyzes ALL RELEVANT legal issues & NO irrelevant issues	Spots & analyzes MOST issues; RARELY analyzes irrelevant issues	Spots & analyzes SOME issues; SOMETIMES analyzes irrelevant issues	Spots & analyzes FEW relevant &/or MANY irrelevant issues	N/A
Legal Analysis: Use of facts	Uses ALL or MOST applicable facts & DOES NOT use inapplicable facts	Uses MANY applicable facts & RARELY uses inapplicable facts	SOMETIMES uses applicable facts & SOMETIMES uses inapplicable facts	Uses facts SPARINGLY &/or OFTEN uses inapplicable facts	N/A
Legal Analysis: Critical reasoning	Arguments ALWAYS relate to question asked ALWAYS accounts for all sides & perspectives Engages in STRONG critical analysis of most/all sides of each issue	Arguments USUALLY relate to question asked OFTEN accounts for all sides & perspectives Engages in SOLID critical analysis of SOME issues	Arguments SOMETIMES relate to question asked SOMETIMES accounts for all sides & perspectives Engages in OCCASIONAL critical analysis of SOME issues	Arguments OFTEN UNRELATED to question asked RARELY accounts for all sides & perspectives Largely DEVOID of critical analysis of applicable issues	N/A
Legal Analysis: Policy	CONSISTENTLY uses policy arguments where applicable	SOMETIMES uses policy arguments when applicable	RARELY uses applicable policy arguments	DOES NOT MAKE policy arguments	N/A

106. This rubric was initially drafted by Professors Andrea A. Curcio and Deans Wendy Hensel and Jessica Gabel Cino.

Outcome 3: Graduates will conduct legal research effectively and efficiently.

Criterion 1: Find information through effective and efficient research strategies, including consideration of time and cost limitations.

Criterion 2: Critically evaluate information and sources, including hierarchy and weight of authority.

Criterion 3: Apply information effectively to a specific issue or need.

<p>Where are we Measuring These Outcomes:</p> <p>Legal Bibliography; upper-level writing requirement courses</p>	<p>General Guidance for Evaluators:</p> <p>Aspirational: Student produces superior work product demonstrating likely success in performing independently in a professional setting with minimal supervision.</p> <p>Competent: Student produces competent work product demonstrating likely success in performing independently in a professional setting with some employer supervision and some additional training.</p> <p>Developing: Student produces satisfactory work product demonstrating progress toward developing the necessary skills to perform independently in a professional setting, but also demonstrating the need for additional skills development and substantial employer supervision.</p> <p>Critical Deficiencies: Student's work product demonstrates insufficient progress toward developing the necessary skills to perform independently in a professional setting, even with employer supervision.</p>
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Rubric: Outcome 3¹⁰⁷

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to identify primary legal information sources & explain the processes by which they are disseminated	Almost always identifies & distinguishes among statutes, cases, regulations, ordinances, & other primary materials; can explain the legislative, quasi-legislative, judicial, or regulatory processes by which they are made & disseminated	Usually identifies & distinguishes among statutes, cases, regulations, ordinances, & other primary materials; recognizes other potential sources of primary authority, including local law; can explain most of the legislative, quasi-legislative, judicial, or regulatory processes by which they are made & disseminated	Sometimes identifies & distinguishes among statutes, cases, regulations, ordinances, & other primary materials; possesses some knowledge of the legislative, quasi-legislative, judicial, or regulatory processes by which they are made & disseminated	Rarely identifies & distinguishes among statutes, cases, regulations, ordinances, & other primary materials; rarely can describe the creation & publication processes of primary authority	N/A
Ability to use tools, indices, & other finding aids to efficiently find authority	Almost always uses an appropriate & efficient tool, index, or other finding aid;	Usually uses an appropriate & efficient tool, index, or other finding aid	Sometimes uses an appropriate & efficient tool, index, or other finding aid	Rarely uses an appropriate & efficient tool, index, or other finding aid	N/A
Ability to exhibit familiarity with the landscape of legal secondary sources & ability to select appropriate secondary source for particular research task or stage of research	almost always selects the appropriate secondary source publication(s) & types of secondary sources for stage & type of research task	Usually selects the appropriate secondary source publication(s) & types of secondary sources for stage & type of research task	Sometimes selects the appropriate secondary source publication(s) & types of secondary sources for stage & type of research task	Rarely selects the appropriate secondary source publication(s) & types of secondary sources for stage & type of research task	N/A
Ability to choose appropriate research strategy including considerations of system, format, source, platform, cost, time, & other externalities	Almost always chooses the most efficient & effective research strategy	Usually chooses the most efficient & effective research strategy	Occasionally selects the most efficient & effective research strategy	Rarely chooses the most efficient or most effective research strategy	N/A

107. This rubric was initially drafted by the Georgia State University College of Law librarians Kris Niedringhaus, Pam Brannon, Meg Butler, Jonathan Germann, Terrance Manion, and Patrick Parsons.

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to evaluate the appropriate resource(s), including weight of authority, hierarchy, validity, & relationships among different sources	Selects & leverages all available essential authority	Selects & uses essential persuasive authority	Selects & uses some persuasive authority but misses important resources	Fails to select & use essential persuasive authority	N/A
Ability to produce a complete research project, including a research plan, secondary authority, primary authority, updating, & knowing when to stop researching	Student work product demonstrates use of a comprehensive research strategy addressing needs for primary & secondary authority & updating sources consulted for continued validity	Can perform all essential tasks, but lacks completeness— i.e., misses secondary sources, does not check pending legislation, does not know when to stop researching	Can produce a research project with adequate performance in finding primary authority, but lacking in tertiary tasks	Cannot complete a reliable research project; lacks adequate location of primary law or significant number of tertiary tasks	N/A
Ability to distinguish between a legal issue & a factual issue	Almost always differentiates correctly between legal analysis & related facts	Usually differentiates correctly between legal analysis & related facts	Sometimes differentiates correctly between legal analysis & related facts	Rarely differentiates correctly between legal analysis & related facts	N/A

Outcome 4: Graduates will communicate effectively and professionally in a variety of settings.

Criterion 1: Compose well-written documents and memoranda.

Criterion 2: Adapt speaking and writing to audience and circumstance.

<p><i>Where are we Measuring These Outcomes:</i></p> <p>Lawyering Foundations; Lawyering Advocacy</p>	<p><i>General Guidance for Evaluators:</i></p> <p>Aspirational: Student produces superior work product demonstrating likely success in performing independently in a professional setting with minimal supervision.</p> <p>Competent: Student produces competent work product demonstrating likely success in performing independently in a professional setting with some employer supervision and some additional training.</p> <p>Developing: Student produces satisfactory work product demonstrating progress toward developing the necessary skills to perform independently in a professional setting, but also demonstrating the need for additional skills development and substantial employer supervision.</p> <p>Critical Deficiencies: Student’s work product demonstrates insufficient progress toward developing the necessary skills to perform independently in a professional setting even with employer supervision.</p> <p>N/A: Not a significant component of the experiences</p>
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Rubric: Outcome 4¹⁰⁸

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to demonstrate appropriate style	CONSISTENTLY employs clear & precise communication tools, demonstrating attention to detail & utilizing proper language, grammar, punctuation, &/or style conventions	OFTEN employs clear & precise communication tools, demonstrating attention to detail & utilizing proper language, grammar, punctuation, &/or style conventions	SOMETIMES employs clear & precise communication tools, demonstrating attention to detail & utilizing proper language, grammar, punctuation, &/or style conventions	RARELY employs clear & precise communication tools, demonstrating attention to detail & utilizing proper language, grammar, punctuation, &/or style conventions	N/A

108. This rubric was initially developed by Professor Heather Slovesky and Dean Roy Sobelson.

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to demonstrate rules compliance	CONSISTENTLY meets deadlines, follows provided directions, observes applicable rules, includes all required components, & employs professional appearance	OFTEN meets deadlines, follows provided directions, observes applicable rules, includes all required components, & employs professional appearance	SOMETIMES meets deadlines, follows provided directions, observes applicable rules, includes all required components, & employs professional appearance	RARELY meets deadlines, follows provided directions, observes applicable rules, includes all required components, & employs professional appearance	N/A
Ability to demonstrate effective organization	CONSISTENTLY presents ideas & supporting information in logical order, utilizing an appropriate paradigm & without unnecessary repetition	OFTEN presents ideas & supporting information in logical order, utilizing an appropriate paradigm & without unnecessary repetition	SOMETIMES presents ideas & supporting information in logical order, utilizing an appropriate paradigm & without unnecessary repetition	RARELY presents ideas & supporting information in logical order, utilizing an appropriate paradigm & without unnecessary repetition	N/A
Ability to demonstrate appropriate tone	CONSISTENTLY adapts tone & detail to audience, purpose, & context	OFTEN adapts tone & detail to audience, purpose, & context	SOMETIMES adapts tone & detail to audience, purpose, & context	RARELY adapts tone & detail to audience, purpose, & context	N/A
Ability to demonstrate proper use of authority	CONSISTENTLY selects & utilizes sources wisely & appropriately; properly attributes ALL ideas to relevant sources	OFTEN selects & utilizes sources wisely & appropriately; properly attributes MOST ideas to relevant sources	SOMETIMES selects & utilizes sources wisely & appropriately; properly attributes SOME ideas to relevant sources	RARELY selects & utilizes sources wisely & appropriately; properly attributes FEW ideas to relevant sources	N/A
Ability to recognize & include necessary content	CONSISTENTLY demonstrates an understanding of proper scope of issue(s) or topic(s) addressed; articulates relevant concepts accurately & comprehensively; supports observations, conclusions, &/or arguments with a meaningful, thorough, & focused discussion or analysis	OFTEN demonstrates an understanding of proper scope of issue(s) or topic(s) addressed; articulates relevant concepts accurately & comprehensively; supports observations, conclusions, &/or arguments with a meaningful, thorough, & focused discussion or analysis	SOMETIMES demonstrates an understanding of proper scope of issue(s) or topic(s) addressed; articulates relevant concepts accurately & comprehensively; supports observations, conclusions, &/or arguments with a meaningful, thorough, & focused discussion or analysis	RARELY demonstrates an understanding of proper scope of issue(s) or topic(s) addressed; articulates relevant concepts accurately & comprehensively; supports observations, conclusions, &/or arguments with a meaningful, thorough, & focused discussion or analysis	N/A

Outcome 5: Graduates will engage in active self-reflection and take ownership of their professional development.

Criterion 1: Listen actively and respond appropriately during group and one-on-one exchanges.

Criterion 2: Critically assess one's own contributions and take responsibility for individual work product and group outcomes.

Criterion 3: Manage projects by developing and implementing clear plans and efficient timelines.

<p><i>Where are we Measuring These Outcomes:</i> Lawyering Advocacy, Clinics and Simulation Courses</p>	<p><i>General Guidance for Evaluators:</i></p> <p>Aspirational: Student produces superior work product demonstrating likely success in performing independently in a professional setting with minimal supervision.</p> <p>Competent: Student produces competent work product demonstrating likely success in performing independently in a professional setting with some employer supervision and some additional training.</p> <p>Developing: Student produces satisfactory work product demonstrating progress toward developing the necessary skills to perform independently in a professional setting, but also demonstrating the need for additional skills development and substantial employer supervision.</p> <p>Critical Deficiencies: Student's work product demonstrates insufficient progress toward developing the necessary skills to perform independently in a professional setting even with employer supervision.</p> <p>N/A: Not a significant component of the experiences</p>
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Rubric: Outcome 5¹⁰⁹

Outcome 5: Graduates will engage in active self-reflection and take ownership of their professional development					
Criterion Competence	Proficiency Level				
	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Criterion 1: Listen actively and respond appropriately during group and one-on-one exchanges					
Ability to listen actively & respond appropriately during group exchanges	ALWAYS articulates thoughtful responses to questions/discussion	USUALLY articulates thoughtful responses to questions/discussion	SOMETIMES articulates thoughtful responses to questions/discussion	RARELY articulates thoughtful responses to questions/discussion	N/A
Ability to listen actively & respond appropriately during one-on-one exchanges	ALWAYS articulates thoughtful responses to questions/discussion	USUALLY articulates thoughtful responses to questions/discussion	SOMETIMES articulates thoughtful responses to questions/discussion	RARELY articulates thoughtful responses to questions/discussion	N/A
Criterion 2: Critically assess one's own contributions and take responsibility for individual work product and group outcomes					
Ability to critically assess one's own contributions to individual work product & group outcomes (Part 1)	ALWAYS acknowledges & identifies shortcomings, strengths, & challenges	USUALLY acknowledges & identifies shortcomings, strengths, & challenges	SOMETIMES acknowledges & identifies shortcomings, strengths, & challenges	RARELY acknowledges & identifies shortcomings, strengths, & challenges	N/A
Ability to critically assess one's own contributions to individual work product & group outcomes (Part 2)	ALWAYS shows insight about personal areas of strength & weakness, & expresses how learning may be applied in future situations to build on strengths & address weaknesses	USUALLY shows insight about personal areas of strength & weakness, & expresses how learning may be applied in future situations to build on strengths & address weaknesses	SOMETIMES shows insight about personal areas of strength & weakness, & expresses how learning may be applied in future situations to build on strengths & address weaknesses	RARELY shows insight about personal areas of strength & weakness, & expresses how learning may be applied in future situations to build on strengths & address weaknesses	N/A
Ability to critically assess one's own contributions to individual work product & group outcomes (Part 3)	ALWAYS compares assignment expectations to assignment outcomes & critically assesses any differences	USUALLY compares assignment expectations to assignment outcomes & critically assesses any differences	SOMETIMES compares assignment expectations to assignment outcomes & critically assesses any differences	RARELY compares assignment expectations to assignment outcomes & critically assesses any differences	N/A

109. This outcome was initially drafted by Professors Lisa Bliss and Robert Weber.

Criterion 3: Manage projects by developing and implementing clear plans and efficient timelines					
Ability to manage projects by developing & implementing clear plans	ALWAYS identifies tasks appropriate to scope & demands of project, formulates & tracks progress with respect to plans for executing assignments	USUALLY identifies tasks appropriate to scope & demands of project, formulates & tracks progress with respect to plans for executing assignments	SOMETIMES identifies tasks appropriate to scope & demands of project, formulates & tracks progress with respect to plans for executing assignments	RARELY identifies tasks appropriate to scope & demands of project, formulates & tracks progress with respect to plans for executing assignments	N/A
Ability to manage projects by developing & implementing efficient timelines	ALWAYS develops realistic assignment deadlines & meets them	USUALLY develops realistic assignment deadlines & meets them	SOMETIMES develops realistic assignment deadlines & meets them	RARELY develops realistic assignment deadlines & meets them	N/A

Outcome 6: Graduates will demonstrate effective and professional engagement with clients, colleagues, opposing counsel, judges, and others.

Criterion 1: Demonstrate respect for clients, colleagues, opposing counsel, judges and others.

Criterion 2: Demonstrate the ability to work effectively as a member of a team.

<p><i>Where are we Measuring These Outcomes:</i></p> <p>In-house Clinics, Experiential Courses; Externships</p>	<p><i>General Guidance for Evaluators:</i></p> <p>Aspirational: Student successfully employs strategies and practices, on own initiative, in most new circumstances.</p> <p>Competent: Student successfully employs strategies and practices, as coached by supervising attorney or faculty member, in most new circumstances.</p> <p>Developing: Student successfully employs strategies and practices, as coached by supervising attorney or faculty member, in some new circumstances.</p> <p>Critical Deficiencies: Student does not successfully employ strategies and practices in new circumstances even with guidance and coaching.</p> <p>N/A: Not a significant component of the experience.</p>
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Rubric: Outcome 6¹¹⁰

Please identify which of the following criteria apply to your course
(check all that apply)

<input type="checkbox"/> Experiential [includes externships and experiential learning not covered in categories 2-4]	<input type="checkbox"/> Students work with live clients	<input type="checkbox"/> Course involves simulations of live-client representations	<input type="checkbox"/> Students gain experience in a pro bono setting
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	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to demonstrate respect for clients	Keeps client informed, understands & inquires about client objectives, utilizes appropriate tone & deals with difficult circumstances in ALL or MOST circumstances on own initiative	Keeps client informed, understands & inquires about client objectives, utilizes appropriate tone & deals with difficult circumstances in MOST new circumstances with appropriate coaching	Keeps client informed, understands & inquires about client objectives, utilizes appropriate tone & deals with difficult circumstances in SOME new circumstances with appropriate coaching	DOES NOT keep client informed, understand or inquire about client objectives, utilize appropriate tone or deal with difficult circumstances in MOST circumstances with coaching	N/A

110. Originally drafted by Professors Anne Tucker, and William [Ted] Afield.

	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Ability to demonstrate respect for colleagues	Is prepared, contributes to final work product, communicates in a timely & respectful manner in ALL or MOST circumstances on own initiative	Is prepared, contributes to final work product, communicates in a timely & respectful manner in MOST new circumstances with appropriate coaching	Is prepared, contributes to final work product, communicates in a timely & respectful manner in SOME new circumstances with appropriate coaching	IS NOT prepared, contributing to final work product, or communicating in a timely & respectful manner in MOST circumstances with coaching	N/A
Ability to demonstrate respect for opposing counsel	Is prepared, communicates in a timely manner, & uses appropriate professional tone & respectful manner in ALL or MOST circumstances on own initiative	Is prepared, communicates in a timely manner, & uses appropriate professional tone & respectful manner in MOST new circumstances with appropriate coaching	Is prepared, communicates in a timely manner, & uses appropriate professional tone & respectful manner in SOME new circumstances with appropriate coaching	IS NOT prepared, communicating in a timely manner, or using an appropriate, professional tone & respectful manner in MOST circumstances with coaching	N/A
Ability to demonstrate respect for adjudicative tribunals/ judges	Is prepared, meets deadlines, observes appropriate procedures & uses a professional & deferential tone in ALL or MOST circumstances on own initiative	Is prepared, meets deadlines, observes appropriate procedures & uses a professional & deferential tone in MOST new circumstances with appropriate coaching	Is prepared, meets deadlines, observes appropriate procedures & uses a professional & deferential tone in SOME new circumstances with appropriate coaching	IS NOT prepared, does not meet deadlines, does not observe appropriate procedures & does not use a professional & deferential tone in MOST circumstances with coaching	N/A
Ability to work effectively as a team member	Keeps team members informed, follows office/course procedures, accepts feedback well & listens thoughtfully, is responsive to requests & team needs, & substantively contributes to final work product in ALL or MOST circumstances on own initiative	Keeps team members informed, follows office/course procedures, accepts feedback well & listens thoughtfully, is responsive to requests & team needs, & substantively contributes to final work product in MOST new circumstances with appropriate coaching	Keeps team members informed, follows office/course procedures, accepts feedback well & listens thoughtfully, is responsive to requests & team needs, & substantively contributes to final work product in SOME new circumstances with appropriate coaching	DOES NOT keep team members informed, follow office/course procedures, accept feedback well or listen thoughtfully, respond to requests & team needs, or substantively contribute to final work product MOST circumstances with coaching	N/A

Outcome 7: Graduates will demonstrate professionalism through conduct consistent with their ethical obligations and professional responsibilities.

Criterion 1: Explain and apply the rules and standards of professional conduct.

Criterion 2: Recognize the leadership role and responsibility that attorneys play in maintaining the rule of law and upholding justice.

<p>Where are we Measuring These Outcomes:</p> <p>All courses that satisfy the Professional Responsibility requirement</p> <p>All Clinics</p> <p>Experiential courses TBD</p> <p>Fundamentals of Law Practice</p>	<p>General Guidance for Evaluators:</p> <p>Evaluate all students based upon the skill level our new graduates should possess</p>
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Rubric: Outcome 7^{III}

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Recognizes and understands the fundamental precepts of a successful lawyer-client relationship	Always/ almost always recognizes and fully articulates the elements of the formation and continuation of a successful attorney client relationship	Often recognizes and adequately articulates the elements of the formation and continuation of a successful attorney client relationship	Sometimes recognizes and articulates the basic elements of the formation and continuation of a successful attorney client relationship	Seldom or never recognizes or understands the basic elements of the formation and continuation of a successful attorney client relationship	N/A
Demonstrates ability to employ fundamental precepts of a successful lawyer client relationship	Always/ almost always demonstrates a commitment to conforming to high standards of lawyer competence	Usually demonstrates a commitment to conforming to high standards of lawyer competence	Sometimes demonstrates a commitment to conforming to high standards of lawyer competence	Seldom demonstrates a commitment to conforming to high standards of lawyer competence	N/A
Demonstrates knowledge of the duty of confidentiality and attorney client privilege	Always/almost always recognizes confidentiality issues of all types	Usually recognizes confidentiality issues of all types	Sometimes recognizes confidentiality issues of all types	Rarely or never recognizes confidentiality issues of all types	N/A

III. This rubric was initially drafted by Professors William [Ted] Afield, Kris Niedringhaus, Caren Morrison, and Dean Roy Sobelson.

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Demonstrates ability to act in accordance with duty of confidentiality and attorney client privilege	Always/ almost always fully explains implications of the duty and privilege and takes or articulates appropriate action under the circumstance	Usually fully explains implications of the duty and privilege and takes or articulates appropriate action under the circumstance	Sometimes adequately explains implications of the duty and privilege and takes or articulates appropriate action under the circumstance	Seldom adequately explains implications of the duty and privilege and takes or articulates appropriate action under the circumstance	N/A
Demonstrates knowledge of conflicts of interest	Always/almost always recognizes conflicts of interest	Usually recognizes conflicts of interest	Sometimes recognizes conflicts of interest	Seldom recognizes conflicts of interest	N/A
Demonstrates ability to explain and take appropriate action if conflict of interest exists	Always/ almost always demonstrates ability to fully explain consequences of conflicts of interest and take or articulate appropriate actions under the circumstances	Usually demonstrates ability to adequately explain consequences of conflicts of interest and take or articulate appropriate actions under the circumstances	Sometimes demonstrates ability to adequately explain consequences of conflicts of interest and take or articulate appropriate actions under the circumstances	Rarely demonstrates ability to explain consequences of conflicts of interest and take or articulate appropriate actions under the circumstances	N/A
Demonstrates knowledge of lawyer's responsibilities in handling client funds and other property	Demonstrates full and nuanced understanding of how to properly handle client funds and other property	Demonstrates adequate understanding of how to properly handle client funds and other property	Demonstrates basic understanding of how to properly handle client funds and other property	Demonstrates little or no understanding of how to properly handle client funds and other property	N/A
Demonstrates knowledge and understanding of the need to balance duties to clients, tribunals and third parties	Demonstrates full and nuanced ability to recognize and conform one's behaviors to the requirements of diligent representation in litigation and/ or transactional settings	Demonstrates adequate ability to recognize and conform one's behaviors to the requirements of diligent representation in both litigation and/ or transactional settings	Demonstrates basic ability to recognize and conform one's behaviors to the requirements of diligent representation in both litigation and/ or transactional settings	Demonstrates little if any ability to recognize and conform one's behaviors to the requirements of diligent representation in both litigation and/ or transactional settings	N/A
Demonstrates knowledge and understanding of the leadership role and responsibilities attorneys have in maintaining the rule of law and upholding justice	Demonstrates full and nuanced understanding of lawyers' leadership roles and their role in maintaining the rule of law and upholding justice	Demonstrates adequate understanding of lawyers' leadership roles and their role in maintaining the rule of law and upholding justice	Demonstrates basic understanding of lawyers' leadership roles and their role in maintaining the rule of law and upholding justice	Demonstrates little, if any, understanding of lawyers' leadership roles and their role in maintaining the rule of law and upholding justice	N/A

Outcome 8: Graduates will demonstrate awareness of their responsibility to promote access to justice and to provide pro-bono services.

Criterion: Articulate the challenges inherent in securing affordable, quality legal representation in the United States.

<p><i>Where are we Measuring These Outcomes:</i></p> <p>All courses that satisfy the Professional Responsibility requirement</p> <p><i>These outcomes may also be measured by tracking student self-reported pro bono hours and potentially tracking attendance at law school events that focus on pro bono or access to justice issues</i></p>	<p><i>General Guidance for Evaluators:</i></p> <p>Evaluate all students based upon the skill level our new graduates should possess.</p>
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Rubric: Outcome 8

Competency	Aspirational	Competent	Developing	Critical Deficiencies	N/A
Demonstrates knowledge of structural barriers to quality legal representation	Demonstrates in-depth familiarity with many challenges that limit access to competent, affordable representation such as: resource constraints, lack of Legal Aid offices or public defenders; fee caps; lack of right to counsel in civil cases; politically unpopular clients or cases; etc.	Demonstrates adequate familiarity with the many challenges that limit access to competent, affordable representation such as: resource constraints, lack of Legal Aid offices or public defenders; fee caps; lack of right to counsel in civil cases; politically unpopular clients or cases; etc.	Demonstrates basic familiarity with the many challenges that limit access to competent, affordable representation such as: resource constraints, lack of Legal Aid offices or public defenders; fee caps; lack of right to counsel in civil cases; politically unpopular clients or cases; etc.	Demonstrates little, if any, familiarity with the many challenges that limit access to competent, affordable representation such as: resource constraints, lack of Legal Aid offices or public defenders; fee caps; lack of right to counsel in civil cases; politically unpopular clients or cases; etc.	N/A
Demonstrates awareness of a lawyer’s duty to engage in pro bono work; the societal value of pro bono work and what pro bono work encompasses	Demonstrates in-depth understanding of what constitutes pro bono; its societal value; lawyer’s pro bono duties; and how pro bono work can be incorporated into one’s professional life	Demonstrates adequate understanding of what constitutes pro bono; its societal value; lawyer’s pro bono duties; and how pro bono work can be incorporated into one’s professional life	Demonstrates some understanding of what constitutes pro bono; its societal value; lawyer’s pro bono duties; and how pro bono work can be incorporated into one’s professional life	Demonstrates little, if any, understanding of what constitutes pro bono; its societal value; lawyer’s pro bono duties; and how pro bono work can be incorporated into one’s professional life	N/A
Identifies concrete steps to enhance access to justice and legal representation	Demonstrates complex and nuanced awareness of specific steps that could be taken to enhance access to justice	Demonstrates adequate awareness of specific steps that could be taken to enhance access to justice	Demonstrates some awareness of specific steps that could be taken to enhance access to justice	Demonstrates little or no awareness of specific steps that could be taken to enhance access to justice	N/A

TIMETABLE FOR ASSESSMENT

2017	Outcomes 1, 2 data collected
2018	Outcomes 1, 2 data reviewed; Outcomes 3, 4 data collected
2019	Outcomes 3, 4 data reviewed; Outcomes 5, 6 data collected
2020	Outcomes 5, 6 data reviewed; Outcomes 7, 8 data collected
2021	Outcomes 7, 8 data reviewed; Outcomes 1, 2 data collected