

Justin McDonald

From: Anne M. Alexander
Sent: Friday, March 27, 2020 10:13 AM
To: Tami B. Benham-Deal; James C Ahern; Kyle Moore
Cc: UWyo COVID-19 Response; Justin McDonald
Subject: RE: Request for Exception to Recognize College of Law Faculty Vote Approving Mandatory S/U (High Pass/Pass/Fail) Grading System for Law Students for Spring 2020 Semester

From: Kate Miller
Sent: Friday, March 27, 2020 9:19 AM
To: Klinton W. Alexander <Klint.Alexander@uwyo.edu>
Cc: Tami B. Benham-Deal <Benham@uwyo.edu>; Sam Kalen <skalen@uwyo.edu>; Kenneth Dean Chestek <kchestek@uwyo.edu>; Lindsay Anne Hoyt <lhoyt1@uwyo.edu>; James C Ahern <JAhern@uwyo.edu>
Subject: Re: Request for Exception to Recognize College of Law Faculty Vote Approving Mandatory S/U (High Pass/Pass/Fail) Grading System for Law Students for Spring 2020 Semester

Klint,

Please proceed with the plans for Mandatory S/U for the college of Law for spring semester as outlined below.

Kate

From: "Klinton W. Alexander" <Klint.Alexander@uwyo.edu>
Date: Thursday, March 26, 2020 at 5:00 PM
To: Kate Miller <kate.miller@uwyo.edu>
Cc: "Tami B. Benham-Deal" <Benham@uwyo.edu>, Sam Kalen <skalen@uwyo.edu>, Kenneth Dean Chestek <kchestek@uwyo.edu>, Lindsay Anne Hoyt <lhoyt1@uwyo.edu>
Subject: Request for Exception to Recognize College of Law Faculty Vote Approving Mandatory S/U (High Pass/Pass/Fail) Grading System for Law Students for Spring 2020 Semester

Dear Provost Miller,

On Tuesday, March 24, 2020, The UW College of Law Faculty during its monthly meeting voted 15-4 to convert its grading policy to a mandatory Pass/Fail system for all law students during the spring 2020 semester only. The revised policy is as follows:

- **Mandatory Pass/Fail:** In light of the extraordinary and as of yet not fully determined impact of the COVID-19 pandemic, the UWYO Law School is suspending its normal grading policy and substituting a policy requiring all students to be graded on a mandatory Pass/Fail system for the Spring 2020 semester. This means that students in all classes will receive a grade of High Pass, S, or U for all Spring 2020 coursework, whether based on an examination, a paper, or performance of skills in an experiential course.
- The designation of "High Pass" (HP) is intended to denote exceptional performance in any course subject to the Law School's mandatory curve.
- A grade of "S" denotes successful completion of the course with credit. There is no cap on the number of "S" grades that may be assigned in any course. Grades of "HP" and "S" are not factored into a student's GPA.

- A grade of “U,” as in the Law School’s regular grading policy, indicates that the student failed the course and will receive no academic credit. A grade of “U” will not be factored into a student’s cumulative GPA. However, any 1L who receives a grade of "U" must repeat the class in which they received the Fail.
 - **Determinations of Class Rank:** No class rank will be assigned to 1L students at the conclusion of this academic year. Upper-class students will be continue to be ranked, as now, on the basis of their cumulative GPA. In effect, class ranks will essentially stall for purposes of this grading system. Whatever rank a student is currently slotted, that is the rank the student will graduate with, or for 1Ls and 2Ls, the rank you will continue on with next semester.
 - **Effect on Probation or Academic Exclusions:** The spring 2020 deadline for determining academic probation or exclusion of any student will be extended to the end of the Fall 2020 semester.
 - **Effect on Scholarship Retention and Recovery:** Determinations of whether students holding merit-based scholarships have attained the cumulative GPA targets necessary to retain or recover their scholarships, ordinarily conducted in May, will be deferred until the end of the spring semester 2021. As a result, students holding such scholarships will automatically retain them, at their current amounts, through the Spring 2021 semester. Students failing to attain prescribed GPA targets upon completion of their Spring 2021 semester will have their scholarships reduced prospectively beginning with the Fall 2021 semester.
 - **Effect on Law Review & Honors:** For 1Ls, we anticipate that adjustments will be made to the usual selection mechanism for *Law Review*, the Brimmer Scholarship, and other honors and recognitions in light of this policy. For 3Ls, we will reevaluate the usual GPA cut-offs for determining honors at graduation to address any risk that the exceptional circumstances of this semester would have caused a graduate to narrowly miss the mark for these special honors or recognitions.
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This action by the Law Faculty was taken in response to the COVID-19 crisis and consistent with similar action taken by the vast majority of law schools nationwide during the past week and similar action taken by more than 125 law schools this week.

The decision taken by the College of Law Faculty to go to a “mandatory S/U (High Pass/Pass/Fail) grading system” is based, in part, on the following:

- To remain consistent with the vast majority of law schools who have adopted this “mandatory” Pass/Fail approach via faculty decision during the past week. Law schools are working with the American Bar Association (ABA), the American Association of Law Schools (AALS), and the 50 State Bar Associations around the country to ensure that law schools take a consistent approach to the COVID-19 crisis and not seek to gain an unfair advantage for its students in terms of employment opportunities and other advantages.
- Allowing some students to go S/U while others stay graded could lead to more competitive students trying to game the choice to gain advantage over less competitive students.
- Class rank and honors (Order of the Coif and Law Review) determinations will be impacted by the COVID-19 situation and the University’s move to online education for law students, who come from different circumstances, and therefore the temporary move to Pass/Fail grading levels the playing field.
- Scholarship and academic probation/exclusion GPA threshold policies will be impacted by the COVID-19 classroom changes and maintaining a letter grade system will put some of these students at a disadvantage;
- Some students will be at a disadvantage during hiring processes with judges and law firms who conduct fall 2020 interviews based upon class rank and GPAs of students.

Unlike on the main campus, almost all law schools rank each individual student, from the number one student in the class to the lowest ranked student in the class. This, in part, is why most law schools have decided that they must go to a pass/fail or S/U system.

In making this request, it is important to point out that the College of Law’s authority in the area of grading and evaluation is governed by ABA Standard 201, UW Regulation 2-106, and the College of Law’s own policies enshrined in the Student handbook. Regarding the ABA Rules, Standard 201 governs this issue:

ABA Standard 201. LAW SCHOOL GOVERNANCE

- a) The dean and the faculty ***shall have the primary responsibility and authority*** for planning, implementing, and administering the program of legal education of the law school, including curriculum, methods of instruction and evaluation, admissions policies and procedures, and academic standards.
- (b) The dean and the faculty shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of members of the faculty.
- (c) The dean and the faculty shall each have a significant role in determining educational policy.
- (d) The policies of a university that are applicable to a law school shall be consistent with the Standards. The law school shall have separate policies where necessary to ensure compliance with the Standards.***

Accordingly, the decision of the College of Law faculty under ABA Standard 201 should be recognized and supported by Academic Affairs.

Regarding UW Regulation 2-106, which governs grading and evaluation, there is a carve-out for the College of Law regarding the grading policy of the University and ample precedent for this type of request pertaining to 6000 level law courses. According to the regulation on page 4, “*Applicability to 6000 level law courses Section III of this Regulation does not apply to the grading system used for the 6000 level courses taught in the College of Law.*” Moreover, Section V of 2-1-106 describes how letter grades are converted to S or U in lower-level courses, leaving 6000-level courses unspecified. Thus, UW Reg. 2-106 treats 6000-level courses differently than lower-level courses, in large measure to remain consistent with ABA Standard 201(d) above.

Finally, the College of Law’s Student Handbook states the College of Law’s policy on grading:

Grading

Grades are assigned on a plus/minus system. Grades of incomplete (I), and withdrawal (W), are disregarded. A required course in which a grade of F or W or U is received must be repeated. A course cannot otherwise be repeated without the consent of the faculty. If a course is repeated, both grades are included in computing the student’s grade point average.

A.....	4.000	A-.....	3.667
B+	.....3.333	B	.....3.000
B-	.....2.667	C+	.....2.333
C	.....2.000	C-	.....1.667
D+	.....1.333	D	.....1.000
D-	.....0.667	F	.....0.000
WF	.....0.000		

Satisfactory (S) or unsatisfactory (U) grading only applies only if the course is offered on an S/U basis or a student takes a non-law graduate-level course as explained above. Students from other colleges who are permitted to take professional courses in the College of Law must take them for S/U credit. The grading scale is at discretion of instructor for each course. Historical grading data is available.

It is important to note that the College of Law currently does not offer any law courses on an S/U basis, and therefore the decision this week to extend the deadline for undergraduate and graduate students to choose the S/U option has no bearing on College of Law.

Based on the foregoing reasons, the College of Law respectfully requests support from Academic Affairs in the form of an exception (or carve-out) to recognize the Law Faculty’s decision of March 24, 2020 to modify its grading system for law students in favor of a mandatory S/U (High Pass/Pass/Fail) grading system for the spring 2020 semester as set forth above.

On behalf of the faculty and students of the College of Law, thank you for your consideration of this important issue.

Klint W. Alexander, Dean