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Testing the Grades: Evaluating Grading Models in Clinical Legal Education

Stacy Brustin

The Catholic University of America, Columbus School of Law

David Chavkin

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TESTING THE GRADES:
EVALUATING GRADING MODELS IN
CLINICAL LEGAL EDUCATION*

STACY L. BRUSTIN** & DAVID F. CHAVKIN***

INTRODUCTION

In 1994, the JOURNAL OF LEGAL EDUCATION published a survey of grading practices at law schools across the United States.\(^1\) That survey revealed a mix of grading approaches for clinical programs.\(^2\) 31 percent of all clinical courses used a fully-graded model; 33 percent graded students on a pass/fail basis; and 16 percent utilized both graded and pass/fail models.\(^3\) The article did not attempt to evaluate

\* The authors acknowledge the support of and commitment to this project by their clinical colleagues - Ellen Scully, Catherine Klein, Margaret Martin Barry, and Michael McGonigal. The experiment would also not have been possible without the thoughtful consideration and encouragement provided by Sandy Ogilvy; the members of the Curriculum Committee, especially Kathy Kelly; and George Garvey, the Associate Dean for Academic Affairs. Research assistant Kristin Knuutila made valuable contributions throughout the preparation of this article.

** Visiting Assistant Professor of Law, Columbus School of Law, The Catholic University of America.

*** Associate Professor of Law, Columbus School of Law, The Catholic University of America; Adjunct Professor of Law, Washington College of Law, The American University.

1 Nancy H. Kaufman, A Survey of Law School Grading Practices, 44 J. LEGAL EDUC. 415 (1994). In 1993 the author conducted a survey of grading practices at 175 accredited law schools in the United States. Completed surveys were received from 120 responding law schools. \(\text{Id.}\) Since the survey was conducted in the Summer of 1993, many law schools have moved even further along in achieving parity of clinical with non-clinical faculty and in expanding the use of permanent faculty in clinical courses. It is therefore likely that the current percentages are tipped more heavily toward grading in clinics and away from pass/fail.

2 In the survey, internships and externships were separated from in-house clinical courses. \(\text{Id.}\) at 417. In in-house clinical courses, students represent clients under the supervision of faculty supervisors. See, David F. Chavkin, Training the Ed Sparers of Tomorrow, 60 BROOKLYN L. REV. 303, 316-18 (1994). In internship and externship courses, students are placed in legal settings outside the law school. \(\text{Id.}\) at 318.

3 Kaufman, supra note 1, at 417. The complete breakdown of grading models was as follows:

<table>
<thead>
<tr>
<th>Grading in Clinical Courses</th>
<th>Number = 119</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graded</td>
<td>37</td>
<td>31%</td>
</tr>
<tr>
<td>Pass/fail</td>
<td>39</td>
<td>33%</td>
</tr>
<tr>
<td>Graded and pass/fail</td>
<td>19</td>
<td>16%</td>
</tr>
<tr>
<td>No credit</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Not applicable/no answer</td>
<td>3</td>
<td>3%</td>
</tr>
</tbody>
</table>
qualitatively the effectiveness of the various grading models.\textsuperscript{4}

At about the same time that this article was published, clinicians teaching in Columbus Community Legal Services (CCLS) of The Catholic University of America were reconsidering the grading model then in use.\textsuperscript{5} Historically, all clinical courses at Catholic University\textsuperscript{6} had been graded on a pass/fail basis even though students are evaluated on the basis of number grades in nearly all other courses in the law school.

Satisfaction with the pass/fail system varied from clinician to clini-

\textsuperscript{4} Although grades are employed in universities and colleges throughout the United States, empirical evidence on the effects of the use of grades in higher education is sparse. See Francis T. Cullen Jr., John B. Cullen, Van L. Hayhow & John T. Plouffe, \textit{The Effects of the Use of Grades as an Incentive}, 68 \textit{Journal of Educational Research} 277 (1975) ("Previous research has only tangentially explored the effects of an incentive frequently employed by teachers - grades."); Lewis R. Goldberg, \textit{Grades as Motivants}, \textit{Psychology in the Schools} 2, 17-23 (1965) ("There is probably no aspect of higher education so important to students and so exasperating to educators as grading, yet it is easily one of the least-studied phenomena of the college scene."). See also, Patricia J. Thompson, Janet E. Lord, Jayne Powell, Mary Devine, & Elizabeth A. Coleman, \textit{Graded versus Pass/Fail Evaluation for Clinical Courses}, 12 \textit{Nursing & Health Care} 480 (1991) ("Most of the beliefs about use of grades are based on opinions, and some experience, rather than systematic study."). Very few studies have been conducted to determine the impact of different grading models on student motivation in higher education and on professional success. One of the few exceptions is a study finding that academic achievement declines under pass-fail grading systems. Richard M. Gold; Anne Reilly; Robert Silberman; Robert Lehr, \textit{Academic Achievement Declines Under Pass-Fail Grading}, 39 \textit{J. Experimental Education} 17 (1971). The researchers note, however, that pass/fail grading helps alleviate grade pressure and may aid students in developing an intrinsic motivation to learn. \textit{Id.} at 20-21.

\textsuperscript{5} As part of this consideration, clinical faculty surveyed the practices at neighboring law schools in the Washington D.C./Baltimore area. At the local law schools, the following approaches are used in grading in-house clinical courses:

<table>
<thead>
<tr>
<th>University</th>
<th>Grading Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>American University</td>
<td>Fully-graded</td>
</tr>
<tr>
<td>District of Columbia School of Law</td>
<td>Fully-graded</td>
</tr>
<tr>
<td>Georgetown University</td>
<td>Fully-graded</td>
</tr>
<tr>
<td>George Washington University</td>
<td>Fully-graded (Domestic Violence, Civil, Appellate); Low pass, pass, high pass, honors (others)</td>
</tr>
<tr>
<td>Howard University</td>
<td>Fully-graded</td>
</tr>
<tr>
<td>University of Baltimore</td>
<td>Fully-graded (changed from pass/fail in 1988)</td>
</tr>
<tr>
<td>University of Maryland</td>
<td>Fully-graded with pass/fail at instructor option</td>
</tr>
</tbody>
</table>

These policies were obtained through an electronic survey of clinicians at the various area schools. Hard copies of their communications are on file with the authors.

\textsuperscript{6} Catholic University's Columbus School of Law offers a range of in-house, externship, and simulation clinical law programs. Most of the in-house, live-client clinic courses are offered under the auspices of Columbus Community Legal Services (CCLS). CCLS is comprised of three distinct clinics - the General Practice Clinic, the Families and the Law Clinic, and Advocacy for the Elderly. Although some clinic courses are offered outside CCLS, the references to in-house clinical courses at Catholic University should be understood to refer to Columbus Community Legal Services.
cian. Some members of the clinical faculty reasoned that a switch to number grades would place clinical courses on par with all other law school courses and would send the message to students that the skills and values developed in clinic are as valuable as those acquired in other courses. Students might be motivated to devote more time and energy to clinic knowing that they would receive academic rewards for their efforts and performance.

Other clinicians feared that the focus on grades could work to the detriment of clients. Students might be motivated to work hard in order to attain a good grade rather than to fulfill their professional obligations to their clients. The implementation of grades might lead to tensions among students and could adversely affect the student/supervisor relationship. The use of grades might also inhibit some students from taking a clinic if the safety net of pass/fail were no longer available. The clinical faculty decided to undertake a limited empirical study to test these hypotheses. This experiment took place in the spring semester of 1995.

This article describes the structure and findings of the Catholic University grading experiment. It reviews the advantages and disadvantages traditionally ascribed to graded courses and analyzes the available research on this subject. The article concludes with the recommendations proposed by the clinical faculty. These recommendations are designed to maximize the advantages and minimize the disadvantages of a graded system of evaluation.

I. SETTING THE STAGE

Before undertaking the grading experiment, CCLS faculty surveyed clinicians through the law clinic computer bulletin board regarding their experiences with and views on grading in clinical courses. Comments were seldom neutral and tended to either strongly support or strongly oppose grading in clinic.


8 In a strict sense, pass/fail courses are graded courses. However, as used in this article, the term “graded” refers to courses in which a number or letter grade is assigned.

9 The law clinic bulletin board is maintained through Washburn University. During the two years of its existence, it has become a major forum for communication by clinicians on issues affecting clinical legal education. The bulletin board can be contacted at lawclinic@wuacc.edu. The server for this bulletin board can be contacted at listser@wuacc.edu.

10 Hard copies of these electronic communications are on file with the authors.

11 These comments are set forth in detail infra at notes 13-19.
The clinicians raised a variety of issues in their comments. These issues included most of the positives and negatives associated with grading in clinical courses. Does grading adversely affect the atmosphere in clinic or encourage students to be more professional and thereby improve the atmosphere? Does grading result in students

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12 These divergent views are reflective of the different perspectives within the larger educational community. Educational theorists have long debated the utility and morality of using grades to motivate students to learn. See, e.g., Grading and Marking in American Schools: Two Centuries of Debate (John A. Laska, Tina Juarez, eds.) 77-112 (1992). As early as 1848, Horace Mann warned of the evils of attempting to motivate students through the use of awards and other means of competition. He believed that education should breed "men who feel a sentiment, a consciousness of brotherhood for the whole human race." Horace Mann, Lectures on Education in Grading and Marking in American Schools, supra, at 80. He described his educational goals in terms not dissimilar to those in most clinical programs, "We want men who will instruct the ignorant – not delude them; who will succor the weak – not prey upon them." Id. Francis W. Parker expressed similar views almost a half-century later when he stated, "Rewards, marks, prizes, percents, cultivate selfishness and destroy unity of action, making the altruistic motive well-nigh impossible." Francis W. Parker, Talks on Pedagogics: An Outline of the Theory of Concentration in Grading and Marking in American Schools, supra, at 82.

Other educational theorists, however, have extolled the virtues of using external rewards to stimulate learning. For example, in 1912, Stephen S. Colvin argued that grades engender a competitiveness which in turn leads to progress. Stephen S. Colvin, Marks and the Marking System As An Incentive to Study in Grading and Marking in American Schools, supra, at 78, 85-92. More recently, educators have fiercely debated whether failing grades destroy student motivation or whether failure or the threat of failure motivates students to study and succeed. See, e.g., id. at 79; William Glasser, Reaching the Unmotivated in Grading and Marking in American Schools, supra, at 101-04; Robert Ebel, The Failure of Schools Without Failure in Grading and Marking in American Schools, supra, at 105-12.

13 One clinician expressed his concern as follows:

The clinic I run . . ., a real-client in-house clinic, is offered on a pass/fail basis only, as are the other real-client clinics . . . Originally, I thought about grading the clinic, on the theory that I wanted to send the message that the clinic was just as important as other courses, but I am now convinced that grading the clinic would be inappropriate.

In order to grade students fairly, it would be necessary to isolate each student's work, so that I could tell what was the student's own work. This seems to me to be inconsistent with a key goal of a real-client clinic – providing representation to clients. I tell my students that this goal is necessarily a cooperative one, and that if there is anyone who can assist them with it, they should not hesitate to seek such assistance. I want my students to be able to ask other students, other professors, other lawyers they know, to use every resource available to them – just as they would if they were real lawyers in practice. If getting someone else's help will make a better deposition, a better brief, etc., then that is what I want my students to do. I also want the students to view me as part of the cooperative team, and not be hesitant to confess what they don't know or who helped them think of their ideas. I don't think I can do this and also give them grades – at least not grades that will mean anything. (I could grade them on the result alone, but I'm never going to allow a student to actually try a case with a C- performance – I don't think I could appropriately represent the client that way.)

In clinics that combine real cases with simulations (as mine does to some extent), I could imagine grading the seminar/simulation portion, with the real-client
being more grade conscious and is that necessarily a bad thing? Does grading motivate students to perform and, if so, is this a desirable way to engender motivation? How do you grade a student who

work pass/fail. In the absence of an easy mechanism to do that, I believe that the pass/fail approach is preferable.

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works hard but whose performance is not brilliant? Should grading reward those students who perform best, those students who perform to their potential, or those students who improve the most? Is grading that the grades will take care of themselves. We rarely get any students who are motivated in any significant way by grades in the clinic.

* * * * *

Grades also serve as a leverage for students. I run an appellate clinic and need to know that I have some leverage when things get intense. For example, when someone says I have senioritis and the brief is due in two weeks, I want more than a fail in my corner because the student will most probably get something out in time but grades allow me to factor in a lot of variables. Now this has seldom happened and on the whole the students are great but for the exceptions, I am glad we went back to grades.

* * * * *

At [this law school] we have resisted grading the students in the clinic (other than pass-fail) until the present year when we have been forced to go to a graded system. We did try it twice before, on student request, and it was a disaster. It is my belief that grades are a terrible way to motivate students in a clinical program. If there is a need to use grades for motivation, it demonstrates something wrong with the clinic not the student.

As one clinician noted:

I've worked in both pass/fail clinics and one where part of the class was graded and part pass/fail. [Here], it's pass/fail. I prefer grading. There are always some students who take clinic because they believe it is an easy pass.

I would like to be able to give them a grade. I have in the past also seen a problem with the student who works very hard but is not competent. That student should get credit for working so hard, yet should not be certified as a good student which is what a pass does. When I was faced with that situation, I wished that I had "D" as an option. I didn't. I had to choose between pass and fail. Neither fit.

Most students will not be motivated by grades more than by the work but some will. As long as there is no mandatory curve so that all of the students who do excellent work can get A's or B's, I prefer grading.

Clinicians addressed this issue in the following ways:

With respect to [the] question about the progress a student makes, that is a factor in our grading. If a student is not learning, growing, and improving, that student (or lawyer) is not working up to his or her potential. Since we function more like coaches and mentors, part of our job is to motivate students and to help them to learn how to improve. Effort, commitment to clients, and commitment to improving one's performance as a lawyer, are important factors in considering the student's overall performance. Everyone can improve. We continue to work to improve the classes we teach, the supervision we provide, and the lawyering we do. All of us continue to learn from our students, our clients, and opposing counsel, and we continue to become better lawyers and teachers. The students that are already good provide us with a challenge to show them ways to become better. If we challenge them and they do not work up to their potentials, then I believe that their lack of improvement is a legitimate item to factor into their final grade.

* * * * *

Obviously, grading students in a class like clinic is extremely difficult. Since I began teaching, I have agonized over the issue of whether a student who worked really hard, but wasn't brilliant, deserves an "A". Because students of differing abilities handle different clients with different problems, the grading issue is a real problem. I would prefer that the course was graded on a pass/fail basis so that we could
ing in clinic necessarily subjective or at least as objective as grading in other courses and based on a more extensive information base? Does grading send the wrong message to students about professional responsibility to clients or do appropriate evaluation criteria help reinforce professional responsibilities? Is grading necessary to elevate the status of clinical faculty and programs within law schools?

all focus on the business of learning and representing clients without underlying motives interfering with the process.

I would ask the following question. Suppose you have a student who starts the semester with little understanding of process, etc., but improves substantially. How do you grade that person against the experienced paralegal who “does everything right” but makes little improvement, arguably because there is little need for it during the semester.

Comments by clinicians noted that:

[This law school's] clinical law program has graded the interns since its inception in 1975. Since the interns have contact with all the faculty supervising attorneys we have the opportunity at the end of the semester to grade by consensus. Without going into excruciating detail, we grade based on the various skills we expect the interns to learn while in the clinical law program. We also utilize notes written during the monthly formal case reviews we have with each student. Students are also required to submit a self evaluation based on the various skills.

The point I would like to make is that I feel that our grading, based on a systemic review of our contact with the interns over one or two semesters provides a more valid grade that any one shot end of the semester test which is based on the performance of a limited number of skills.

I don't see grades in clinic as motivators so much as I see them as status-creators for clinical programs. I don't think that it's any more subjective or difficult to grade clinic students than it is to grade exams — and I've done both. Indeed, I think that clinic grades are “fairer” and more reflective of students' work and ability than exams. To me, saying that one course in a law school is pass-fail when all others are graded is dangerous.

Clinicians commented that:

I once had a student come to me, shortly before grading time, and tell me that he had had a dream about his grade — I had given him a B. In his dream, when he came to talk to me about why he deserved an A, I asked him whether he thought he had performed well in the clinic and whether he had learned a lot during his time in his clinic. When he said that he had, I told him that he shouldn't worry or care about his grade then. And in his dream, he was satisfied with that response.

That's what I call internalization.

And, by the way, he got an A for the course.

I agree ... that grades ... are generally a bad idea in clinical legal education. From my perspective, grades emphasize the “student” role. I see my job as trying to help clinic students make the transition from thinking and working like a student to thinking and working like a lawyer ...

Clinicians observed that:

I certainly would like to forego grading, but since the rest of the school grades, we should do the same. But let's not grade with a chip on our shoulders! I believe we can grade and make the grading experience meaningful and certainly more legiti-
As is evident from the excerpted comments, clinicians are positioned on both sides of nearly all these issues. Moreover, these issues engender strong feelings in both camps. Unfortunately, there was little empirical research to buttress either side.

II. THE PURPOSE OF GRADING

From the beginning of the grading experiment, CCLS faculty debated the general role of grading within an educational institution and the specific purpose of grading within a clinical program. In an ideal world, the clinical faculty agreed, the sole valid purpose of any grading system should be to encourage maximum educational achievement and learning on the part of students. In the real world, however, grading is also used to recognize exceptional performance, to penalize unacceptable performance, and to provide employers with a way of distinguishing among students.21

In a system that heavily emphasizes the importance of grades, which dispenses the "goodies" (law review, moot court, job interviews, jobs) based on grades, to give grades to certain kinds of courses (substantive) and not certain others (clinical) is to award the "goodies" to certain kinds of students. No matter how difficult, or arbitrary . . . if we grade some courses, we should grade them all!

I think all law school grading is counterproductive, but if all of the rest of the courses are graded, we should grade in clinic. It has its difficulties, but it is doable. It is not a substitute for regular detailed performance feedback, which we should give whether or not we grade. I think it is essential that the grading be done on some identified topics, which may include effort as well as achievement-based criteria, and not left to a general impressionistic decision about the final grade. The students should know what the criteria are before beginning the experience.

We have tried both pass/fail and grades. Pass/fail seems to us to result in some laziness in some students . . . . But grades seem to result in controversy among non-clinic students and faculty about whether we give A's for "real" academic achievement. (I would like to see a study of grading patterns - I suspect clinic grades are higher than other grades.)

At [this law school], students receive a letter grade. We conducted a one year experiment using the pass/fail system and I hated it. Here are my concerns:

Since most "traditional" courses are graded, students sometimes received messages from non-clinical faculty that their course was more important because it was graded . . . . Our students have to put a lot of time into clinic and deserve some reward/recognition for their work.

21 This multiplicity of purposes is discussed in the educational literature. For example, Ohmer Milton, Howard Pollio, and James Eison conducted a national grade survey designed to assess attitudes toward grading. OHMER MILTON, HOWARD R. POLLIO & JAMES A. EISON, MAKING SENSE OF COLLEGE GRADES: WHY THE GRADING SYSTEM DOES NOT WORK AND WHAT CAN BE DONE ABOUT IT (1986). College students, faculty,
In addition, grading can serve political purposes within an academic institution. Clinical faculty continue to have second-class status at many law schools. The institutional decision to grade clinical courses on a pass/fail basis reflects the view of some non-clinical faculty that clinical courses are less intellectually demanding. It was clear that grading changes needed to be considered in light of these political realities. The grading system used in clinical courses affects the way that clinical legal education and clinicians are perceived in the larger law school environment.

Parents of college students, and business recruiters were chosen to complete the questionnaire. Id. at 78. 6,165 individuals associated with 23 colleges and universities participated in the survey. Id.

Respondents were given a list of current purposes of grades and were told to rank each purpose in degree of importance. Categories included: communicates to the student how much learning was achieved, provides reward (or warning) for outstanding (or unsatisfactory) performance, provides the student with information for making educational or vocational decisions, provides other educational institutions (such as graduate or professional schools) with information for making decisions about the student, provides potential employers with information for making decisions about the student, provides the instructor with information about teaching effectiveness, reflects academic standards of a department or college, helps maintain academic standards, provides a historical record of the student's educational experiences and achievement, helps prepare the student for the competitive nature of adult life, helps the students learn discipline for later work or job requirements, helps remind the student that school is really work (not fun), provides a way of pleasing parents and meeting their demands, affords an accounting to society of how well the university or college is educating its students.

Between 78% and 85% of all respondents believed the most important purpose of grades is to provide other educational institutions with information for making decisions about a student. Id. at 61. Seventy-six to eighty percent of all faculty, parents, and business recruiters thought the second most important purpose of grades is to provide students with rewards or warnings for performance. Id. Sixty-seven percent of students ranked this purpose third. Id. It is important to note that all groups ranked the purpose, "providing the instructor with information about teaching effectiveness," as one of the least important purposes of grades. Id. at 62.

The researchers also asked respondents to rank each of the same purposes in order of the importance they would like each purpose to have. Id. The largest percentage of respondents (76-82%) indicated that grades should communicate to students about learning. Id. The purposes, "helps the students learn discipline" and "provides reward (or warning)" for performance, also ranked high on the list. Id. Accounting to society and reminding students that school is work ranked lowest. Id.

In light of the significant disparities between the current and ideal purposes of grades, the authors concluded that educational reform was necessary. Id. at 63; see also 201-26. The researchers highlighted their observation that the clear majority of participants in the survey believe that "grades ought to refer more to the educational process and less to their evaluative use by society." Id. This conclusion was consistent with the conclusion reached by clinical faculty in undertaking the grading experiment.

It is no coincidence that clinics are often located in the least desirable space in law schools if they are co-located at all. Commentators have frequently highlighted this point in somewhat ironic terms. See, e.g., Marjorie Anne McDiarmid, What's Going on Down There in the Basement: In-House Clinics Expand Their Beachhead, 35 N.Y.U. L. Rev. 239 (1990); Michael Meltsner and Philip G. Schrag, Report From a CLEPR Colony, 76 COLUM. L. REV. 581 (1976). Comparability of status for clinical faculty is required by ABA Ac-
While the CCLS faculty were skeptical about the extent to which the current grading system employed in law schools encourages maximum learning and achievement, they recognized that reform (or at least reconsideration) of the entire law school grading system presented an overwhelming challenge. Therefore, the clinical faculty undertook the experiment to identify the grading model that would best achieve clinic educational and political goals.

III. THE GRADING EXPERIMENT PROPOSAL

During the Spring Semester 1995, the CCLS faculty applied to the Curriculum Committee for permission to implement a one-semester grading experiment. Under this experiment, students would be given the option to take the General Practice Clinic, the Families and the Law Clinic, or Advocacy for the Elderly on either a pass/fail or fully-graded basis.

The CCLS faculty proposed a single blind experimental model to gather empirical evidence on the impact of grading in clinics. Prior creditation Standard 405(c). This standard provides as follows:

A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.

AMERICAN BAR ASSOCIATION, STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS, Standard 405(c) (August 1996). Standard 302(a)(4) also now requires law schools to offer to all students “adequate opportunities for instruction in professional skills.” Id.

23 This skepticism is partly grounded in the absence of empirical research. See MILTON ET AL., supra note 21 at 124 (“There is a peculiar omission in the educational research literature on grades: Little is said about how they can motivate students to learn. This oversight creates the impression that grades are of equal importance to all students.”)

24 Under the rules of governance for the Columbus School of Law at The Catholic University of America, the Associate Dean for Academic Affairs and the Chair of the Curriculum Committee have the authority to grant permission for an experimental course for one semester. It was under this authority that the Grading Experiment was to be conducted. Despite this delegation of authority, the proposal was reviewed by the full Curriculum Committee and was presented on an informational basis to the entire law school faculty.

25 The experiment was a “single blind” instead of a “double blind” experiment because students knew the option they had chosen. The option selection was kept a secret from faculty. In a true double blind experiment, neither researchers nor subjects know whether they are receiving a placebo or the drug being tested. In a single blind medical experiment, the patients would know but the researchers would not. The double blind model is used to identify and adjust for any placebo effect. In this experiment, one of the goals was to determine the impact of the grading option on students. A double-blind model was therefore neither possible nor appropriate. While students discussed with each other the op-
to the end of the add/drop period for classes, approximately the end of
the second week of the semester, students would be required to file an
irrevocable grading election with the Assistant Dean for Academic
Services. The grading option selected by the students would then be
maintained confidentially by the Assistant Dean. Since the grading
options selected by students would not be disclosed to the clinical
faculty, all students would be evaluated as if they had taken Clinic on
a fully-graded basis. At the end of the semester, the Assistant Dean
for Academic Services would then translate the assigned number
grade into the appropriate format depending on the option selected
by the student.

Prior to any decoding of grading options, clinical faculty would
attempt to predict the grading option chosen by each student based on
such factors as performance. Once grading option information was
released to clinical faculty, this information would be used to evaluate
the accuracy of predictions to determine the validity of the various
hypotheses.

Clinical faculty also committed to conduct a survey of students to
determine their views regarding the impact of grades on the clinical
experience. These surveys would be distributed after grades had been
submitted and students could respond in either a confidential or iden-
tifiable manner. Interviews would also be conducted with students
willing to discuss their experiences and insights.

IV. THE GRADING EXPERIMENT - IMPLEMENTATION
AND RESULTS

A. Evaluation Criteria

Prior to the beginning of the experimental semester, CCLS
faculty met to refine evaluation methods and criteria. This step re-
quired the clinical faculty to identify the educational outcomes that
the clinical courses were intended to develop in students. Faculty also
discussed the procedures that would be used for the evaluation pro-
cess and the extent to which numerical grades required the use of
more detailed procedures and standards. Although educational goals
had long been a part of the clinical program, the grading experiment

26 Development of meaningful evaluation methods and criteria is obviously not unique
to Catholic University. See, Amy L. Ziegler, Developing a System of Evaluation in Clinical
Legal Teaching, 42 J. LEGAL EDUC. 575 (1992). It has recently received increasing atten-
tion within meetings of the Section on Clinical Legal Education of the Association of
American Law Schools. See, e.g., Margaret Martin Barry, Clinical Supervision: Walking
encouraged clinical faculty to approach this task in a more defined
and deliberate way.27 The evaluation criteria used by the General
Practice Clinic and the Families and the Law Clinic are contained at
Appendices A and B, respectively. The Advocacy for the Elderly
Clinic utilized the same criteria as the General Practice Clinic.

B. Grading Option Choices

The terms of the experimental grading options were explained to
students in the first week of classes. Students then filed grading elec-
tions with the Assistant Dean. When ultimately decoded, 84 percent
of the students had elected the fully-graded option while 16 percent
had elected to be graded on a pass/fail basis.28

C. Evaluation and Grading Process

The same basic procedure was used to evaluate and assign grades
to students. A self-evaluation instrument embodying the applicable
clinic evaluation criteria was distributed to all students for

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27 In terms articulated by Professor Tom Morgan of George Washington University,
when we watched our students walk across the stage at graduation, what skills and values
did we want them to possess? Although the MacCrate Report (AMERICAN BAR ASSOCIA-
TION, SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION
AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM, REPORT OF THE
TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992)) pro-
vided the starting point for this effort, the decisions reflected in the clinic evaluation crite-
ria offer a somewhat different formulation of these skills and values.

28 For the students enrolled in CCLS during the Spring Semester 1995, the grading
options selected by students for each clinic were as follows:

<table>
<thead>
<tr>
<th>General Practice Clinic</th>
<th>Fully-graded option</th>
<th>Pass/fail option</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 credits</td>
<td>14 students</td>
<td>4 students</td>
</tr>
<tr>
<td>3 credits</td>
<td>7 students</td>
<td>2 students</td>
</tr>
<tr>
<td>7 credits</td>
<td>1 student</td>
<td>0 students</td>
</tr>
<tr>
<td>Total - 28 students</td>
<td>22 students</td>
<td>6 students</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Families and the Law Clinic</th>
<th>Fully-graded option</th>
<th>Pass/fail option</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 credit students</td>
<td>15 students</td>
<td>0 students</td>
</tr>
<tr>
<td>3 credit students</td>
<td>9 students</td>
<td>2 students</td>
</tr>
<tr>
<td>Total - 26 students</td>
<td>24 students</td>
<td>2 students</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Advocacy for the Elderly</th>
<th>Fully-graded option</th>
<th>Pass/fail option</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 credits</td>
<td>2 students</td>
<td>0 students</td>
</tr>
<tr>
<td>6 credits</td>
<td>0 students</td>
<td>1 student</td>
</tr>
<tr>
<td>Total - 3 students</td>
<td>2 students</td>
<td>1 student</td>
</tr>
</tbody>
</table>
Faculty in each clinic met initially to discuss perceptions about each student's performance and achievement. Faculty then reviewed the completed self-evaluations and met individually with students. The goal here was to provide meaningful feedback to students regarding their performance in clinic and to assist them in identifying their strengths and weaknesses.

The evaluation conferences each lasted approximately one hour and some significantly exceeded that time period. The extensive commitment of time associated with this process was designed to overcome some of the shortcomings inherent in using grades as the sole indicator of performance. Each conference tended to have a different texture depending on the issues raised by the student in his/her self-evaluation, the experiences of the student, and the student's strengths and weaknesses.

In the General Practice Clinic, the two supervisors met together with each student. The supervisors then jointly assigned a grade to each student. In the Families and the Law Clinic, the primary supervisor met individually with the students under her supervision after

29 See Sally Brown & Peter Knight, Assessing Learners in Higher Education 51-57 (1994) (discussing the virtues of self-assessment). The authors point out that students will be required to evaluate themselves throughout their professional lives and self-assessment helps them develop this skill. Id. at 51. Through self-assessment, students become more actively involved in the learning process. Id. at 52.

30 At CCLS, faculty in each clinic tend to have contact with all students in that clinic. Although one faculty member has primary responsibility for each student, all faculty interact with all students in seminar, in simulations, and frequently in case supervision. In fact, faculty in other CCLS clinics frequently have contact with students outside their specific clinics.

31 Detailed feedback is possible in the clinical context because of the extensive personal contact between student and clinician. This feedback is not limited to the end-of-semester evaluation but is communicated throughout the course in case supervision meetings and other student-faculty exchanges.

Educational theorists have discussed the shortcomings of grading as an indicator of academic achievement. See, for example, Milton et al., supra note 21, at 70. As Dr. Eison points out, a course grade "is a single dimensional symbol into which multi-dimensional judgments are being forced. Telephone Conversation between Dr. James A. Eison and Kristin Knuutilla, September 14, 1995 (notes of conversation on file with authors). Dr. Eison also stated that while students may know the meaning of a grade (i.e., the instructor provided feedback/comments), an employer, parent, or admissions committee member sees only the single dimensional symbol. Id.

32 The evaluative model therefore produced a quantitative letter grade within a qualitative framework. To that extent, the CCLS evaluative model runs counter to some of the findings reported by Milton et al., supra note 21. Less than 10% of respondents in all four categories (students, faculty, parents, and recruiters) of their survey chose written narratives as their preferred grading system. Id. at 59. Seventy-five percent of all respondents preferred either a letter grading system, with or without pluses and minuses, or a percentile system. Id. All respondents preferred a quantitative, rather than qualitative, grading system. Id.
extended meetings with the other two supervisors to discuss their insights into the performance of the student. After the evaluation conference, the primary supervisor then established preliminary grades for the students under her primary supervision. The three supervisors then met again for another lengthy review to finalize grades for all students throughout the Clinic. Students in the Advocacy for the Elderly Clinic received written feedback on their self-evaluations from their supervising attorney. Each student then met separately with his or her supervisor and with the director of CCLS.

The grade distribution for the three clinics was as follows:

<table>
<thead>
<tr>
<th>Clinic</th>
<th>High</th>
<th>Low</th>
<th>Mean</th>
<th>Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Practice Clinic</td>
<td>92</td>
<td>79</td>
<td>88</td>
<td>89</td>
</tr>
<tr>
<td>Families and the Law Clinic</td>
<td>93</td>
<td>84</td>
<td>89</td>
<td>90</td>
</tr>
<tr>
<td>Advocacy for the Elderly</td>
<td>88</td>
<td>86</td>
<td>87</td>
<td>87</td>
</tr>
</tbody>
</table>

D. Student Observations and Comments

After the conclusion of the course and after grades had been submitted, a survey was distributed to the 57 students. Completed surveys were received from 33 of the students, a 58 percent return rate. Of those students returning the survey, 85 percent had elected the fully-graded option, a sample consistent with the overall population electing this option.

The surveys sought quantitative and qualitative information from students about the impact of grading on a number of the educational concerns for which empirical proof was limited. The surveys yielded the following quantitative results:

**Impact of Grading on Decision to Register for Clinic**

<table>
<thead>
<tr>
<th>Impact of Grading</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No impact on decision to register</td>
<td>61 %</td>
</tr>
<tr>
<td>Some impact on decision to register</td>
<td>33 %</td>
</tr>
<tr>
<td>Would not have registered without grades</td>
<td>6 %</td>
</tr>
</tbody>
</table>

Student comments recognized the problems that arise when students must choose between a graded course and a pass/fail course. Comments in the survey and interviews suggest that some students could not see putting in the effort required for six pass/fail credits knowing that a passing grade would have no impact on their grade point average. Other students worried that the effort required in a
graded clinic would negatively affect their performance in other classes or activities. Some students expressed hesitation about how a pass/fail class would look on their resume while others worried about the impact on their GPA of six graded clinic credits. Overall, the availability of a fully-graded option had a positive impact on the ability of some students to register for clinic. Nevertheless, the majority of students would have registered for clinic regardless of whether performance was graded on a pass/fail basis.

**IMPACT ON ATMOSPHERE WITHIN CLINIC**

<table>
<thead>
<tr>
<th>Impact on Atmosphere</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No impact on atmosphere</td>
<td>43 %</td>
</tr>
<tr>
<td>Negative impact on atmosphere</td>
<td>11 %</td>
</tr>
<tr>
<td>Positive impact on atmosphere</td>
<td>46%</td>
</tr>
</tbody>
</table>

A large number of students indicated that grading had a positive impact on clinic atmosphere. This was attributed, at least in part, to the increased professional atmosphere in the clinic arising from the use of grades. A small number of students noted a negative impact on atmosphere resulting from the introduction of grades. However,
when the results are viewed as a whole, the overwhelming majority of students reported that grading had either a positive or no impact on clinic atmosphere.

**IMPACT ON PREPARATION/PARTICIPATION IN CLINIC**

<table>
<thead>
<tr>
<th>Impact on Preparation/Participation</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No impact on preparation/participation</td>
<td>36 %</td>
</tr>
<tr>
<td>Increased preparation/participation</td>
<td>61 %</td>
</tr>
<tr>
<td>Reduced preparation/participation</td>
<td>3 %</td>
</tr>
</tbody>
</table>

The majority of students indicated that a numerical grading system had a significant positive impact on their motivation in their clinical courses. However, surveys and interviews confirmed that CCLS students were motivated by a variety of factors. These in-

who are taking it just for a chance at a 6 credit A anyway. Other students were concerned that preoccupation with grades by other students was deflecting time and energy needed to address client concerns.

42 This was especially significant since approximately 30 percent of all Spring Semester 1995 students had taken clinic during the Fall semester. It is also interesting to note that the survey question relating to preparation/participation probably had a bias towards underreporting (i.e., students would be more likely to deny that grades spurred their performance). Nevertheless, a significant majority of students acknowledged a positive impact on performance. As one student explained,

I worked much harder than I would have if the clinic was only pass/fail. I think the option of taking the clinic for a grade provides a positive stimulus for many students who are considering participating in the Clinic.

43 Another study conducted by Milton, Pollio and Eison provides a vivid reminder that students are by no means a homogeneous group and are motivated by different forces. MILTON ET AL.; supra note 21 at 126. In this study (LOGO I), students were divided into two distinct categories - grade oriented (GO) or learning oriented (LO). Id. GO students “view the college experience as a crucible in which they are tested and graded and which is endured as a necessary evil on the way to getting a degree or becoming certified in a profession.” Id. LO students “view the college classroom as a context in which they expect to encounter new information and ideas that will be both personally and professionally significant.” Id.

The results of this survey revealed that LO students were more emotionally stable than GO students. Id. at 127. LO students were also more trusting, imaginative, forthright, placid, self-sufficient, and relaxed. Id. LO students had better study methods, gained educational acceptance, and experienced teacher approval. Id.

Dr. Eison completed a second study using the LO/GO method. Id. at 128. The results of his survey of 272 community college students indicated that GO students were plagued with debilitating test anxiety. Id. LO students were much more proficient at coping with test anxiety. Id. GO students were competitive and avoidant, while LO students participated and collaborated more. Id.

LO/GO II was developed to correct procedural and conceptual problems with the original LO/GO study. Id. at 129. Two hundred fourteen students from freshman and sophomore psychology classes at a state community college participated in the study. Id. at 134. LO/GO II categorized students in four groups: High Learning-Orientation/High Grade-Orientation (High LO/High GO); High Learning-Orientation/Low Grade-Orientation (High LO/Low GO); Low Learning-Orientation/High Grade Orientation (Low LO/High GO); and Low Learning-Orientation/Low Grade Orientation (Low LO/Low GO). Id. at 130-31.
clude such factors as concern for clients, professional responsibility obligations, and political beliefs.\textsuperscript{44} In fact, some students voiced their strong belief that grades should not be the motivating force behind performance.\textsuperscript{45} However, students also admitted that if faced with the choice of preparing for a number-graded course or a pass/fail course, they would focus their efforts on the number-graded course.

**IMPACT ON INTERACTION WITH SUPERVISOR(S)**

<table>
<thead>
<tr>
<th>Impact on Interactions</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No impact</td>
<td>56%</td>
</tr>
<tr>
<td>Negative impact</td>
<td>12%</td>
</tr>
<tr>
<td>Positive impact</td>
<td>32%</td>
</tr>
</tbody>
</table>

High LO/High GO students “are motivated both to learn and achieve high grades.”\textit{Id.} at 131. High LO/Low GO students believe grades are merely incidental; they are in the classroom for personal growth and to learn.\textit{Id.} Low LO/High GO students are the opposite. They “view all aspects of the classroom in terms of their effects on a course grade;” they are disinterested in anything done in the classroom that is not graded.\textit{Id.} Low LO/Low GO students go to college to have fun or to avoid the working world.\textit{Id.}

High LO/Low GO students were found to have “greater abstract reasoning ability; higher levels of sensitivity; self-motivation, and inner-directedness; and a greater interest in new ideas and intellectual matters.”\textit{Id.} at 134. These students also experienced less tension and frustration regarding college.\textit{Id.} They used the most effective study methods and had the most positive attitudes regarding education.\textit{Id.} at 135. These students cited the lowest levels of test anxiety.\textit{Id.}

Low LO/High GO students took a tough-minded, realistic approach in the classroom.\textit{Id.} They respected established ideas.\textit{Id.} Unlike High LO/Low GO students, Low LO/High GO students experienced the highest levels of tension, anxiety, and debilitating test anxiety.\textit{Id.} They did not have effective study habits and skills.\textit{Id.} Of those surveyed, 69% reported that they cheated.\textit{Id.} at 139. Of this figure, 22% cheated eleven or more times.\textit{Id.} Low LO/High GO students were also more likely to drop a course in which they expected to do poorly.\textit{Id.}

Other researchers agree with the findings of LO/GO I and II. For example, Henry C. Morrison argues that “mark-getters” and “rank-chasers” (GO students) do not learn in the way that intellectually interested students learn. Henry C. Morrison, The Practice of Teaching in the Secondary School, in GRADING AND MARKING IN AMERICAN SCHOOLS, supra note 12, at 49. These “mark-getters” view students with genuine intellectual interests (LO students) quizzically, asking such questions as “Why do you do it?” and “Don’t you understand that you will get no credit for it, it will get you nowhere?”\textit{Id.} Morrison asserts that those who possess intellectual interests have acquired the educational product.\textit{Id.}

The grading options incorporated in the recommendations of The Catholic University grading experiment reflect, at least in part, these differences in student motivations.\textsuperscript{44}

As one student explained, 
Regardless of the grade, I was going to represent my client as best I could. I think students should have the option to choose though because grading may encourage some students to work harder knowing it will affect their grades. Personally, it had no effect on me.\textsuperscript{45}

As one student stated, 
It is difficult to generalize how the grading option impacted student work in the clinic. If the motivating force behind a student working hard is to get an A, is that really what a clinical program is about? Is the focus the grade or the client? If both benefit (client and GPA) that's fine, but the focus should not be the grade.
The majority of students found that grading had no impact on the quality of their interactions with supervisors. However, some students believed that the use of grades might distort the information they would share with their supervisors.\textsuperscript{46}

**IMPACT ON COLLABORATION WITH OTHER STUDENTS**

<table>
<thead>
<tr>
<th>Impact on Collaboration</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No impact on collaboration</td>
<td>70 %</td>
</tr>
<tr>
<td>Negative impact on collaboration</td>
<td>3 %</td>
</tr>
<tr>
<td>Positive impact on collaboration</td>
<td>27 %</td>
</tr>
</tbody>
</table>

The vast majority of students reported either no impact or a positive impact of grading on their collaboration with other students. This may have resulted in part from the inclusion of collaboration as one of the explicit evaluation criteria. However, some students who chose the graded option reported difficulty in working with students who were taking the class on a pass/fail basis.\textsuperscript{47}

Students were also asked, based on their experience during the semester, what grading option they would propose. The results were as follows:

**GRADING RECOMMENDATION**

<table>
<thead>
<tr>
<th>Grading Option</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pass/fail only</td>
<td>15 %</td>
</tr>
<tr>
<td>Fully-graded only</td>
<td>21 %</td>
</tr>
<tr>
<td>Grading option</td>
<td>65 %</td>
</tr>
</tbody>
</table>

An overwhelming majority of the students believed that clinical courses should be available on a graded basis.\textsuperscript{48} However, even within a graded clinic, a sizable majority recommended that a pass/fail option be available.\textsuperscript{49}

\textsuperscript{46} As one student commented, If I had chosen to be graded, I would have felt that I needed to let [my supervisors] know every time I did something good, and may have covered up my mistakes.

\textsuperscript{47} For example, one student commented, Those students who were taking the clinic pass/fail were hard to work with and tended to strive less than fully-graded students.

\textsuperscript{48} Student comments were typified by the student who stated: No matter how you slice it clinic can be time consuming (though often irregularly); grading permits rewarding those who make greater effort and excel and should be continued.

\textsuperscript{49} In support of this option, one student noted: The grading option pushed me to do more and better work and I chose that option because I knew I would find it difficult to put six credits of work into something and only get a pass. Yet I feel that almost all of the students in the clinic took their clinic responsibilities seriously even if they were taking it for pass/fail. I recommend [the grading option] because students should have the choice of working at the clinic without worrying that their performance could jeopardize their GPA.
E. Faculty Observations

During the course of the semester, the CCLS faculty predicted the grading options selected by students. When the Assistant Dean disclosed actual selections, there were some differences between predictions and actual options selected. Faculty were surprised when it was disclosed that several of the most motivated, dedicated students chose to take the course pass/fail. This finding reinforced the belief held by clinical faculty that many factors besides grades motivate students.

In evaluating the success of the grading experiment, CCLS faculty considered the impact of grading on several aspects of the clinical program. First, and of paramount importance, was the issue of student performance in seminar, simulations and case work. To what extent did the presence of grades spur student performance beyond that anticipated? The majority of the Clinic faculty felt that grades...
had a positive impact on preparation for and participation in seminar, simulations, and case work. The difference was particularly notable in seminar and simulations. Compared to prior semesters, students more consistently prepared for class and participated in class discussions and simulations. However, with regard to case work and community projects, the impact was less evident. Faculty observed that students were motivated by the real-life stakes at issue, their ethical obligations to their clients, and their fear of being embarrassed before a judicial or community audience. While faculty expressed misgivings about the increased willingness of students to perform in class and simulation under a graded regime, the reality of increased performance was evident. To the extent that this increased performance resulted in increased learning and ultimately in enhanced service to clients, such an outcome was positive.

The second major area of concern was the potential negative impact of grades on student interaction with their colleagues and with their supervisors. At the beginning of the experiment, CCLS faculty were concerned that students might want to gain an advantage over their colleagues in ways that would inhibit interaction. Students also might be less willing to disclose aspects of their performance that could be viewed as negative. Most faculty observed that any such im-

\[\text{ten motivators with 23\% of respondents indicating that grades motivated them most. 15\% of respondents stated that grades were the thing which they disliked most intensely. } \text{Id.}\]

Reactions to grades as a motivating force varied among students of different grades and differing rankings in the class. The author of the study concluded that students are motivated by many factors and that no one action or factor will motivate all students. Id. at 452. He encouraged teachers to therefore adopt as many positive factors as possible in order to motivate the greatest number of students. Id.

Several of the studies discuss whether grades motivate students, but they do not squarely address the issue of what types of behavior grades engender. Do grades motivate students simply to perform better or motivate them to learn? Educators differ greatly on this issue. Some suggest that grades are necessary to motivate students to learn while others argue that grades merely motivate students to focus on grades. See, e.g., Milton et al., supra note 21, at 124-49; see also, Grading and Marking in American Schools, supra note 12, at 77-112.

52 Even here, however, grades were not the only motivating factor for students.

53 For example, students might be reluctant to collaborate and share credit for joint work. Students might also artificially inflate hours worked or produce memoranda or other written work simply to impress the supervisor. The research literature suggests that there was good reason to be concerned about negative behaviors associated with grading.

The survey findings of Milton et al. supra note 21, found strong evidence of negative aspects in traditional courses. One-third of all participants stated they had cheated because they wanted a better grade. Id. at 66. The majority of those who answered “yes” indicated that they had cheated somewhere between two and five times. Id. Three to eleven percent stated that they had cheated eleven or more times. Id. Additionally, 90% of respondents stated that they had dropped or audited a course one to five times because they were afraid of receiving a poor grade. Id. at 66-7. Of this number, 47% were current college students. Id. at 67.
pact was negligible. Any negative impact might have been largely avoided because of the emphasis within CCLS evaluation criteria on collaboration and on the ability of students to be self-critical.

The third major question was the extent to which grading might have a negative impact on the atmosphere within the clinic. Some faculty observed that certain students seemed somewhat preoccupied with the amount of work they were doing compared to other students. Faculty also observed an increased level of stress associated with grade consciousness by some. In two of the three clinical programs, these negative observations were balanced by an increased sense of professionalism among some students and an increased willingness by many students to extend themselves in their dealings with clients and colleagues.

The fourth major question was the extent to which grading might divert faculty energy and attention from traditional supervision and other responsibilities that are at the heart of clinical teaching. Although grading did divert some energy and resources, the majority of the clinical faculty felt that grading had a positive effect. The use of grades sharpened faculty consideration of goals and performance criteria and led faculty to spend even more time providing detailed feedback to students consistent with the evaluation criteria. These positive reactions should not obscure the significant challenge presented by evaluating students who enter the clinic with different levels of experience and sophistication and who represent clients whose varied problems give students differing opportunities to distinguish themselves.

VI. RECOMMENDATIONS FOR CHANGE

A. The CCLS Proposal

After the conclusion of the grading experiment, CCLS faculty had to decide how to translate the experimental findings into institut-

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54 This preoccupation was especially manifested after the end of the semester. Some students expressed dissatisfaction with their grades and complained that they deserved a higher grade because they had worked harder than did other students.

55 An evaluation system that did not rely so heavily on grades might lessen the debilitating level of stress experienced by many law students. This connection has been noted in other professional disciplines. See, e.g., Thomas G. Grandy, Gary H. Westerman, Charlene Erskine Combs & Charles H. Turner, Perceptions of Stress among Third-year Dental Students, 53 J. OF DENTAL EDUCATION 718 (1989).

56 These observations were not shared by faculty members in the third of the three clinical programs. Faculty in this program felt that standards of professionalism exhibited by students were equally high in pass/fail and number-graded regimes. This difference reinforces the conclusion that student performance in clinic is motivated by a variety of factors.
tional policy. Three possible grading models were identified: 1) Continuation of grading on a pass/fail only basis; 2) Implementation of grading on a number-graded basis only; or, 3) Implementation of grading on a number-graded basis with a pass/fail option. The CCLS faculty grappled with the issue of which model would maximize the advantages of grading identified in the experiment while minimizing the disadvantages voiced by students and observed by faculty. After considering the various models, the CCLS faculty unanimously agreed to propose the third option.

1. Permit the awarding of number grades

In recommending that the faculty permit CCLS faculty to award number grades, clinical faculty focused on four factors. First, number grades provide an opportunity to stimulate and recognize high quality work. For some students, grades provide a motivating force for enhanced performance. In addition, academic honors and other grade-based recognitions would now begin to reflect excellence in clinical work as well as achievement in traditional classes.

Second, number grades made it easier for some students to register for Clinic. These students are unwilling to commit the time and energy required for a six-credit clinic only to receive a “pass” which will have no effect on their grade point average. In addition, because the emotional and intellectual demands of Clinic are so great and the time commitments so significant, grades in other courses may suffer. So it is even more imperative to these students that they have the opportunity to have their grade point average reflect their clinical work.

Third, number grades provided CCLS faculty with the opportunity to commit even greater time and attention to the development and modification of evaluation criteria and to the implementation of these criteria. Students received extensive feedback and this evaluation process seemed to have dividends for many students.

Fourth, number grades placed in-house clinical courses on par with other classes taught by law school faculty members. Number grades sent a message to students and faculty that clinical courses demand the same intellectual rigor as other law courses and that student performance will be subjected to the same exacting standards in clinical and non-clinical settings.

57 There was no history of clinic grades for students to consider when registering for the experimental semester. It appeared that the mere availability of number grades as opposed to pass/fail was a factor that facilitated registration in Clinic for some.
2. Permit a Pass/Fail Option

At the same time, the clinical faculty strongly supported providing students with the option to take Clinic on a pass/fail basis in an otherwise fully-graded clinical curriculum. A pass/fail option would

While letter or numerical grading is the predominant method of evaluation, many universities and graduate schools allow students to take a certain number of courses on a pass/fail basis. One of the rationales behind the limited use of pass/fail is to encourage students to explore new and challenging fields of study without worrying about receiving a low grade. Researchers have conducted even fewer studies on the effects of pass/fail evaluation systems than on graded systems.

In one study, researchers distributed questionnaires to fifty-eight colleges which were believed to be using some form of pass/fail grading as well as the fourteen four year programs of the State University of New York. Richard M. Gold, Anne Reilly, Robert Silverman, & Robert Lehr, Academic Achievement Declines Under Pass-Fail Grading, 39 THE JOURNAL OF EXPERIMENTAL EDUCATION 17 (1971). Sixty-three schools responded. Id. at 17. Thirty-seven schools indicated they had some type of pass/fail grading system (59%), twelve (19%) were considering it and fourteen (22%) had no provision for pass/fail evaluation. Id. A few schools graded exclusively on a pass/fail basis; however, the majority offered it in a limited number of courses or to a limited number of students. Id. at 18. The survey asked schools to evaluate the success of pass/fail grading. The responses were based on subjective impressions. Seventeen (49%) of the thirty-seven schools felt that pass/fail evaluation "had achieved some degree of success", seventeen (49%) believed it was too soon to evaluate the success, and one (2%) believed the system was unsatisfactory. Id.

While the survey indicated a fairly high level of satisfaction with pass/fail systems, it did not measure whether academic performance was affected by such evaluation. The researchers, therefore, undertook a follow-up controlled study of the effects of one-course and complete pass/fail grading on academic performance. Id.

When comparing a group of students for whom all courses were graded on a pass/fail basis for one or two semesters with students for whom all courses were letter-graded, pass/fail grading led to a decline in academic performance. Id. The professors assigned a letter grade to all students so as to be able to compare performance of those assigned to the letter-graded cohort with those assigned to the pass/fail cohort. Id. The mean GPA for freshmen taking all courses pass/fail was C-, whereas the mean for freshman whose courses were graded was C+. Id. The researchers also found that those who had taken all courses pass/fail for one or two semesters had a lower GPA under traditional grading in subsequent semesters than those students who were in the graded control group. Id. at 19.

When evaluating the effect of taking one course pass/fail on academic performance, the study showed that mean grades for those taking one course pass/fail were lower than the mean grades for those students in the control group. Id. The control group consisted of students who received letter grades in a course they had wanted to (but were not permitted to) take pass/fail. Id. It is interesting to note, however, that students in the control group received lower grades in the course they wanted to take pass/fail than in their other graded courses for the semester. Id.

The researchers pointed out that students elect to take those courses pass/fail in which they anticipate they will receive low grades. Id. at 20. They concluded that pass/fail grading reduces grade pressure. Id. However, the results of the study did not demonstrate that students used this reduced pressure to pursue other academic interests nor did it show that freeing students from this pressure improved grades in later semesters. Nevertheless, the authors stated that pass/fail grading may help students develop an intrinsic motivation to learn, rather than simply performing based on the extrinsic motivator of grades. Id. at 20-21. They concede that the study did not measure this potential intrinsic change because extrinsic grades were the sole evaluation criteria used in the study. Id. at 21.
recognize that some students are unsure about their aptitude for lawyering tasks. These students, perhaps most in need of clinical experiences, might be discouraged from taking Clinic due to the fear that under a number-graded system, they would do poorly compared to other students. In addition, there was strong feeling among some clinic faculty that those students with a philosophical commitment to pass/fail grading should have the opportunity to elect to be evaluated on that basis. It was also believed that a pass/fail option within a generally-graded educational program would reduce some of the disadvantages of grading, including heightened stress and grade consciousness, observed by researchers.

A more informal study of pass/fail evaluation was done at Brandeis University in 1966-67. Surveys were developed to gather the impressions of both students and faculty about a recently instituted pass/fail system. Those who responded were overwhelmingly supportive of some type of pass/fail option. Mathew R. Sgan, The First Year of Pass-Fail at Brandeis University: A Report, 40 J. HIGHER EDUC. 135-44 (1969).

In recommending a pass/fail option, CCLS faculty recognized that they were departing significantly from the general law school grading policies. Students can, but rarely do, elect to take the first year courses on a pass/fail basis. A pass/fail option at student election for a limited number of credits throughout the curriculum might permit and encourage students to register for and delve into subject areas that they might otherwise avoid. A broader change in the CUA academic policies was beyond the scope of the CCLS proposal.

The relatively few empirical studies outlined earlier focus on the traditional classroom setting rather than on courses using a clinical format. Therefore, it is questionable whether the findings are transferable to or instructive in a clinical setting. For example, many would argue that additional extrinsic motivators exist in a clinical setting, most significantly the impact of a student's actions on a "live" client or patient.

The research on grading and pass/fail evaluation in clinical settings is sparse. The research that exists is largely concentrated in the field of undergraduate nursing education. The studies and articles addressing the topic focus on two basic issues: i) whether and how grading or pass/fail systems impact on student motivation and ii) whether a system of pass/fail evaluation negatively affects a student's ability to enter into a graduate program. See, e.g., Thompson et al., supra note 4; Marilyn J. Dodd, A Longitudinal Study in the Use of Credit/No Credit for Grading of Clinical Courses, 17 JOURNAL OF NURSING EDUCATION 14 (1978).

Thompson, et al., conducted a review of the available literature on pass/fail versus traditional grading systems. Thompson, et al., supra note 4. They noted that the literature highlights advantages and disadvantages of both types of evaluation systems. Id. at 481. They concluded that "[t]here is no preponderance of evidence to clearly indicate the superiority of either system for clinical evaluation in nursing." Id.

Marilyn Dodd evaluated the use of a credit/no credit grading system in clinical nursing courses. Dodd, supra. The university she was evaluating had been using a traditional grading system. However, a strong majority of clinical faculty and students indicated a preference in a survey for a credit/no credit system. Id. at 15. As a result, the faculty decided to implement an experimental use of credit/no credit grading for four quarters. Id. All students were graded according to the credit/no credit system. Id.

At the end of two quarters, another questionnaire was distributed to faculty and students. Id. at 17. This survey requested their perceptions of the advantages and disadvantages of credit/no credit evaluation and their grading preferences for the future. Id. In listing the advantages of a credit/no credit system, the five most frequent student responses were: i) decrease in pressure, worry and stress; ii) increased freedom to risk take; iii) decrease in subjectivity of grading, increase in fairness; iv) decrease in competition and in-
B. The Law School Faculty Decision

The law school faculty overwhelmingly endorsed the CCLS proposal. The only area of controversy related to the pass/fail option. The faculty strongly endorsed the concept that grading in clinic was appropriate since clinical courses are on an intellectual par with other courses and present at least equal demands on students per credit. However, since grading was appropriate, why should a pass/fail option be offered?

The Clinic faculty explained that some students with little confidence in their lawyering skills might be deterred from taking clinic on a fully-graded basis in light of the large number of credits at stake. Although this concern is largely misplaced, since clinic courses grade in part on development of skills and not merely on the basis of absolute performance, some students might still be reluctant to register. These might be the students who would benefit most. This rationale was supported by the fact that some of the students who received the highest grades in the experimental semester were those students who elected to be graded on a pass/fail basis. Although other reasons for a pass-fail option were discussed, this justification seemed to have the increase in sharing; and v) increase in learning. Id. at 18. The top five advantages cited by faculty included: i) "decreased difficulty in differentiating between letter grades, decreased stress in documentation of a grade which tends to be subjective"; ii) decrease in competition, increase in cooperation; iii) decrease in student stress to obtain an "A" grade and decrease in student anxiety; iv) increase in freedom to learn; v) increase in creativity. Id. at 17.

The most frequently cited disadvantage in both the student and faculty questionnaires was a decrease in student motivation. Id. at 19-20. Faculty members also described additional disadvantages such as: a decrease in student G.P.A., no method of recognizing exceptional accomplishments by the student, and no differentiation between a student who just passes and another who excels. Id. Students listed additional disadvantages of credit/no credit such as: possible decrease in chance for admission to graduate school, decrease in G.P.A., possible decrease in chance for employment after graduation, and decrease in recognition for exemplary work. Id.

Over half of the faculty respondents (66.66%) and student respondents (70.55%) believed that the school should retain the credit/no credit system in the future. Id. at 19. In addition, 6.66% of the faculty and 11.65% of the students stated that the credit/no credit system should be optional. Id. It is interesting to note that prior to implementation of the experimental system, 73.52% of the faculty and 76.11% of the students favored the credit/no credit system. Id. at 15. In addition, none of the faculty or students believed there should be an option. Id. at 20. In other words, after two quarters there was a decreased preference for credit/no credit grading and an increased preference for the credit/no credit option. Id. at 19-20. According to the author of the study, the responses indicate growing support for a system in which credit/no credit is an option rather than a mandatory mode of evaluation. Id. at 18.

61 CCLS faculty had entered the general faculty deliberations without a firm consensus as to their position if the grading proposal were approved without the pass/fail option. Fortunately, that issue did not have to be addressed as the faculty deferred to the clinical faculty and approved the proposal with the pass/fail option.
most persuasive impact on the general law school faculty.62

VII. UNANSWERED QUESTIONS

There are still a number of questions yet to resolve. Credits for clinical courses tend to be significantly greater than other courses in the curriculum.63 The number of credits awarded represent the significant demands imposed by casework and other clinic demands. However, as a result of increased credits, the grades awarded in clinic usually significantly improve the grade point averages of clinic students in comparison to those students who do not take clinic.64

One response to this issue is that this is exactly as it should be. The law school curriculum tests (and rewards) over and over again the ability to analyze appellate cases and apply these case holdings to hypothetical fact patterns. The answers to examination questions can always be found in one discrete body of law rather than in an array of legal subject matters.65 Clinic credits therefore balance the traditional law school curriculum by reflecting competencies in lawyering skills and values that are not otherwise tested or reflected in academic rankings.66

62 CCLS faculty also noted that this option should be considered more broadly in the law school curriculum to encourage students to take courses that they might be reluctant to take, but from which they might otherwise benefit. In addition, a pass/fail option might encourage students to take courses that they would not otherwise take from an instructor with a reputation as a "tough" grader. The faculty has begun consideration of a broader use of a pass/fail option in the overall curriculum.

63 In the CCLS clinics, students generally register for six credits during their initial semester. These students may register for additional semesters, usually for three credits. One student recommended in her survey comments that the initial semester be number-graded while subsequent semesters be graded on a pass/fail basis.

Grading should definitely be offered the First Semester, due to the class. After that, it should be an option because of the clinic's nature.

64 Clinic grades tend to be higher due to the fact that throughout the semester students receive extensive faculty feedback and have numerous opportunities to improve their performance. In addition, the motivation to excel when representing real clients spurs student performance toward excellence. These factors are generally not present in traditional courses.

65 This is an especially significant shortcoming in the law school curriculum. Clients in real life seldom come into a lawyer's office with the words "tort" or "contract" stamped across their foreheads. Instead, lawyers must develop a client's factual story and apply law in an interdisciplinary manner to those facts. At the beginning of clinic, students consistently have a problem with this skill. By the end of clinic, most students have learned how to put their law school and real life experiences to work for their clients.

66 As justified as this treatment may seem, it can raise the hackles of those who do not or cannot enroll in clinic. For example, although students on the various law reviews are represented in clinical courses at Catholic University in roughly the same proportion as their percentage of the general population, some law review members have complained strongly about the threat to their class rank that some clinic students present.

These students often have relatively more power than do clinic students in the law school environment. Their concerns may therefore reach receptive ears throughout the
The second major question is the issue of a grading range. In those law schools in which a grading range is imposed on large classes and on seminars, should clinical courses be exempt? At present, Catholic University's grading policy provides that:

With respect to courses in which credit is based on the submission of a supervised paper or on a supervised clinical performance, the median and mean grades may fall above the ordinary suggested range, on condition, respectively, that papers are written according to standards and procedures equivalent to those governing directed research papers and that clinical performances occur under close and continuous faculty supervision.\textsuperscript{67}

Just as it is difficult to discuss the merits of grading in clinic without acknowledging the grading environment throughout law school, it is difficult to discuss the merits of a grading range in clinic without considering whether one course should be exempt from those standards. Moreover, if grades in clinical courses are subjected to a grading range, should that grading range be that applicable to upper-level courses, that applicable to seminars, or some higher range that reflects the normal level of performance in clinical courses.\textsuperscript{68}

Another question is the basis on which the evaluation criteria are to be applied. At present, the CCLS clinicians utilize a model in which performance is evaluated on three grids. First, how did the student perform on an absolute scale - compared to the way that a model student attorney would be expected to perform. Second, how did the student perform on a relative scale - compared to the way that other student attorneys in the clinic performed during that semester. Third, how did the student perform on an individual scale - compared to the way that that student attorney could have performed.

The weight within the overall grading process given to each of these scales varies somewhat from clinician to clinician. However,
each clinician gives substantial weight, and some clinicians give majority weight, to the performance of the student on an individual scale - the measure of the student's growth in the clinic during the semester. In many ways, this is the greatest departure from the traditional law school grading model. Such an individualized approach is consistent with the goal of using the grading system to encourage each student to achieve his or her maximum potential.

**Conclusion**

The grading experiment conducted at Catholic University did not answer all of the questions that might be asked about the impact of grading on law school in general or on clinical courses in particular. The sample was relatively small and the duration of the experiment was limited to one semester.

Despite these limitations, however, valuable empirical evidence was obtained for the first time about a topic that has been the object of strong and diverse emotions. This evidence indicates that there are tangible benefits to be achieved by providing students with the opportunity to be graded in clinical courses - benefits that improve the educational process and, at least indirectly, enhance the delivery of services to clients. These advantages outweigh any disadvantages attributed to grading students in clinical courses. Moreover, the disadvantages that exist are at least mitigated when a pass/fail option is offered.

Failing to grade students who excel in their clinical courses penalizes them relative to other students who excel in more traditional models. These clinical students reflect the very skills and values that we as clinicians cherish. However, these are not the skills and values that are being tested or rewarded in the traditional curriculum.

With regard to the impact of grading on motivation, in the best of all possible worlds, professional responsibility and concern for clients would be sufficient to motivate students in clinics. However, CCLS faculty recognize that the law school environment is not the best of all possible worlds. Within the law school environment as it currently exists, grading sends a message to students and non-clinical faculty about the intellectual rigor and emotional demands of clinic and motivates students utilizing the reward system that is dominant in that

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69 In blind-graded courses, there is no consideration of the effort put forth by the student or of the personal growth of the student during the course. Students who start out performing well and who might otherwise be unaffected by the educational component of a course (in fact who might not even attend classes) can still receive top grades in traditional courses. By contrast, a student who did not develop his/her skills and values in clinic would be penalized relative to other students.
environment.\textsuperscript{70}

Finally, in a law school environment in which grades are the commodity of success and in which traditional law classes are graded, there are strong political reasons why grading should also be applied in clinical courses.\textsuperscript{71} To the extent that clinicians still possess a second

\textsuperscript{70} Although grading in law schools is often accepted as a given, there is some evidence that a generalized pass/fail system can be implemented without sacrificing motivation or performance. See, Lynne S. Robins, Joseph C. Fantone, Mary S. Oh, Gwen L. Alexander, Marshal Shlafer & Wayne K. Davis, \textit{The Effect of Pass/Fail Grading and Weekly Quizzes on First-year Students' Performances and Satisfaction}, 70 \textit{ACADEMIC MEDICINE} 327 (1995). The University of Michigan Medical School had implemented a curriculum reform in 1992-93 in which its evaluation system was replaced with a system using pass/fail grading. \textit{Id.} The researchers found that a general pass/fail system had no negative impact on motivation and performance. Despite concerns that implementing pass/fail grading for all first-year courses would result in lower overall performance and decreased motivation among students, during the first year of implementation, the students' average course scores were well above the new, higher passing cutoff. In addition, those students entering final examinations with higher cumulative grades did not become lax in their efforts, but instead continued to achieve at levels well above those needed merely for passing. \textit{Id.} at 328-29. Although this evidence comes from the medical school context, there is no reason to believe that these findings would not be applicable to the equally-competitive law school setting.

\textsuperscript{71} The assignment of grades in clinical courses is consistent with the approach delineated in the ABA/AALS Guidelines for Clinical Legal Education, \textit{GUIDELINES FOR CLINICAL EDUCATION, ASSOCIATION OF AMERICAN LAW SCHOOLS - AMERICAN BAR ASSOCIATION COMMITTEE ON GUIDELINES FOR CLINICAL LEGAL EDUCATION} (1980). These Guidelines contain the following criteria with regard to grading in clinical courses:

\textit{XI. Evaluation and Grading of Student Work in the Clinical Legal Studies Curriculum}

\begin{itemize}
  \item \item \item \item \item
\end{itemize}

B. Grading

Clinical legal studies should be graded as part of the student's transcript. Law schools are encouraged to develop evaluation methods to permit comparative grading in accordance with the law school's traditional grading system. . . . The previous distinction between the fully-graded model of evaluation in traditional courses and the pass-fail model applicable to CCLS clinical courses therefore conflicted with this Standard.

The Project Director's Notes accompanying the AALS/ABA Guidelines emphasized the need for consistency in grading systems across the curriculum. These Notes contained the following additional commentary regarding the grading of clinical courses:

B. Grading

The Committee concluded that all components of clinical legal studies should be graded in accordance with the grading systems employed for traditional courses. The Committee felt that distinctions between grading systems for clinical legal studies and those for traditional courses only contributed to a second-class status for clinical legal studies. The Committee felt that where credit-fail grading is used in the traditional curriculum, it can be used in the clinical legal studies curriculum.

The question whether the traditional hierarchical grades should apply to clinical study creates considerable debate. The arguments in favor of such grading include the need to enforce high educational standards and the need to help eliminate the second-class citizenship of clinical study. The arguments against applying the tradi-
class status at many law schools, the inability to comparably grade students in clinical courses represents just one more reflection of this status.

Traditional grading system to simulation and client clinic courses include the difficulty of assuring comparable work for each student, the difficulty of establishing evaluation standards, and the difficulty of applying evaluation standards in situations where close working relationships develop between teacher and students.

According to the annual CLEPR questionnaire, fifty-nine percent of clinical courses use a credit/no credit system while forty-one percent use a letter or numerical grade. In some courses, fieldwork is limited to a grade of credit/fail, while the hierarchical grades are applied to seminar components.

Guideline XI places responsibility for determining the final grade on a faculty member, although professional staff can contribute to the faculty member’s information. Students are entitled to be graded by people whose professional career is devoted to making such judgments, and who consequently have the opportunity over a period of time to develop a frame of reference for student grading.
APPENDIX A
GENERAL PRACTICE CLINIC
CATHOLIC UNIVERSITY OF AMERICA,
COLUMBUS SCHOOL OF LAW
EVALUATION CRITERIA

All students will be evaluated using the criteria outlined in this memorandum. The substantive criteria we will use for evaluation fall into ten major categories with specific criteria we will review in each such category. Each category will be comparably weighted. However, the uncertainties of case developments may require some modifications in category weighting for specific students. In addition, an eleventh category will be available to recognize exceptional efforts and contributions not adequately recognized in the initial ten categories.

1. ATTORNEY-CLIENT INTERACTIONS
Did you foster an effective attorney-client relationship with your clients? Did you respond in an empathic manner to your clients? Did you advise your clients of significant developments in the case and of such major work products as briefs in support of motions? Did you advise your clients of significant dates, delays, and changes in schedules? Did you assist your clients in making all significant decisions in their cases by providing all needed information and by helping the clients to structure the decisionmaking process? Did you educate your clients so that they will be better able to protect their own interests in the future?

2. THEORY OF THE CASE DEVELOPMENT AND IMPLEMENTATION
How creative were you in developing theories of the case to accomplish your clients' goals? Did you conduct sufficient legal research to identify all possible theories? Did you develop sufficient facts to identify all appropriate theories? Did you identify factual inconsistencies in order to discard inappropriate theories? Did you utilize the full range of legal authorities available? Did you acquire sufficient substantive knowledge to develop all appropriate legal theories? How effectively did you implement the theories of the case? Did you develop sufficient facts to establish emotionally sensitive theories? Did you develop sufficient legal precedents to establish legally persuasive theories? Did you anticipate legal and factual arguments from adversaries and others? Was your legal research comprehensive and reliable? Did you utilize the range of legal authorities available? Did you identify all applicable rules of procedure? Did you develop sufficient substantive knowledge to implement all appropriate legal theories? Were you able to use procedural and evidentiary rules to your clients'
advantage?

3. **Oral and Written Advocacy**

Did you express your thoughts with precision, clarity, and economy? Did you express your thoughts in an organized manner? Did you express your thoughts in a format targeted to your intended audience (whether clients, adversaries or others)? Did you identify and use appropriate non-verbal aspects of oral communication? Did you identify and respond to verbal and non-verbal clues from others? Did your oral advocacy advance immediate and long-term objectives? Did you use proper grammar, vocabulary, and pronunciations? Did you articulate and enunciate clearly? Did you identify and use appropriate non-verbal aspects of written communication? Did you respond effectively to the positions expressed by others? Did your written advocacy advance immediate and long-term objectives? Did you use proper grammar, vocabulary, and sentence structure?

4. **Practice Management**

Did you coordinate your efforts with others? Did you consistently follow office procedures or have a reasoned and approved departure from those procedures? Did you meticulously maintain case files and document case activities? Did you commit the time required for course credits? Did you maintain a level of productivity that conformed to applicable standards? Did you meet all deadlines? Did you leave casework until the last minute? Did you allocate all of the time, effort, and other resources necessary to meet obligations to clients?

5. **Professional Relationships**

Did you interact effectively with adversaries? Did you interact effectively with court personnel? Did you interact effectively with witnesses? Did you respond courteously and with due consideration? Did you respond from positions of strength rather than from positions of weakness? Did you interact in a considerate and respectful manner with office staff? Did you interact effectively with your partner (if any)? Did you simply divide all tasks or did real collaboration take place in your work?

6. **Professional Responsibility**

Did you identify and address all possible conflicts with the Code of Professional Responsibility? Did you identify and address possible conflicts with other ethical, ideological, or personal considerations bearing on a case or the attorney-client relationship? Did you consult with the clinical supervisor appropriately? Did you advise the clinical
supervisor of sensitive and significant matters? Did you advise the clinical supervisor of delays and changes in dates and schedules?

7. **Reflective skills development**

Can you effectively criticize your own performance? Are you able to identify your strengths and weaknesses in the various areas of legal work? Did you gain insights about your future role as an attorney? Did you identify the aspects of lawyering that are important to you and the parts that are distasteful to you? Did you learn about the kinds of legal work that you want to do? Did you learn about the way that the legal system enforces norms? Did you learn about the value and limitations of lawyers in our legal system? Did you learn about the political and social contexts in which effective individual case analysis must take place? Did you gain insights about your future identity as an attorney?

8. **Class participation**

Did you regularly attend class? Did you regularly read the assignments for class? Did you analyze the issues raised in the readings prior to class? Did you participate regularly in class discussions? Were you prepared to discuss developments in your cases in an effective manner with other students during grand rounds?

9. **Simulation participation**

Did you participate effectively in simulations? Did you prepare in advance of the simulations? Did you effectively assume the role assigned? Were you prepared to address unexpected developments? Did you relate effectively to your “client” in the interviewing and counseling simulations? Did you relate effectively to opposing counsel in the negotiation simulation? Did you conduct a meaningful analysis of your performance and of your strengths and weaknesses in each self-evaluation? Did you participate in the videotaped critiques in an open and non-defensive manner? Did your performance as an attorney improve from your participation in the simulations?

10. **Personal development**

Did you grow as an advocate during the course of the clinic? Compared to your performance in the various aspects of lawyering at the beginning of the year, did you grow as an advocate during this year? Did you learn as much as you could have about yourself as an attorney? Did you do all you could have done to maximize the benefits you obtained from the clinical experience?
11. **Special recognition**

Are there any aspects of your work in clinic that are not otherwise described in the preceding criteria which deserve special recognition?
APPENDIX B
FAMILIES AND THE LAW CLINIC
CATHOLIC UNIVERSITY OF AMERICA,
COLUMBUS SCHOOL OF LAW
GRADING CRITERIA

Below we have outlined the criteria upon which you will be graded for the semester. At the end of the semester we will ask you to evaluate your performance in relation to each category. Each student will be graded on a 100 point scale.

I. ATTORNEY-CLIENT RELATIONSHIP (15 POINTS)
   - builds rapport with client
   - ability to interview and gather relevant information from client
   - advises client of developments in case
   - develops priorities with clients, identifies and explains alternative courses of action
   - counsels clients, assists them in making decisions
   - listening skills (including empathy, reflective listening)

II. CASE ADVOCACY: DEVELOPMENT OF THEORY OF CASE, CASE INVESTIGATION & PLANNING, ORAL & WRITTEN PRESENTATION (20 POINTS)
   - identifies and develops factual issues of case including comprehensive investigation and fact gathering
   - identifies and develops legal issues in case including interpreting and applying statutes, regulations, caselaw
   - demonstrates creativity, flexibility, innovation in developing case strategy
   - recognizes weaknesses in case theory and anticipates adversary's position
   - expresses ideas in clear, persuasive fashion
   - organization of and thoroughness of written pleadings, memos
   - quality of written presentation of facts and legal arguments
   - understands and applies rules of procedure and evidence
   - preparation of negotiation strategy; anticipates opposing party's position and formulates responses and positions
   - preparation for motions hearings, evidentiary hearings
   - oral presentation of motions arguments and evidentiary hearings; including style, understanding of substantive issues, incorporation of theory of case

III. ORAL & WRITTEN PROJECT ADVOCACY (15 POINTS)
   - planning and preparation for presentations, meetings
   - thoroughness, clarity, persuasiveness of written product
   - skills development (including legislative advocacy, facilitating, community organizing, educating on law and legal rights)
communication and interaction with individuals outside of FALC
- creativity, resourcefulness
- initiative taken in furthering goals of project

IV. Professional Responsibility/Ethical Conduct (15 points)
- zealously represents client
- identifies potential ethical issues in cases & projects
- understanding of and familiarity with Rules of Professional Conduct
- develops strategies for addressing ethical issues
- adequate consultation with supervisor (including reviewing written drafts, discussing case strategy and counseling issues, advising supervisor of delays or potential problems)
- ability to critique self, accept constructive suggestions, feedback, reflect on own strengths and weaknesses, take responsibility for own learning

V. Case Management/Professional Relationships (15 points)
- ability to manage time, meets requirements regarding time to be spent on FALC work
- chronology entries thorough, completed on a timely basis
- develops positive working relationships with support staff and colleagues
- notifies support staff of whereabouts during assigned hours
- ability to work in a team on cases and projects
- ability to work with opposing counsel, court and agency personnel
- prepares for supervision meetings, takes initiative in supervision meetings
- thorough, clear midterm memos and transfer memos
- case file organized

VI. Class/Rounds Preparation & Participation (20 points)
- familiar with assigned materials
- participates in class discussion and rounds discussion
- prepares for in-class simulations and exercises
- performance during in-class simulations and exercises, including style and substantive knowledge, presentation of case theory
- analyzes the role of lawyer and justice system in society
- completes all class assignments; thoroughness and analysis demonstrated in class assignments
APPENDIX C
COLUMBUS COMMUNITY LEGAL SERVICES
CATHOLIC UNIVERSITY OF AMERICA,
COLUMBUS SCHOOL OF LAW
GRADING OPTION SURVEY

As you know, the three clinics that make up Columbus Community Legal Services have traditionally been graded on a pass/fail basis. During the Spring Semester 1995, a one-semester experimental grading option was approved to evaluate the impact of grading on the clinical experience for faculty and students. In order to evaluate that impact, the actual options chosen by students were concealed from the clinical faculty.

After grades have been submitted, clinical faculty will be conducting a formal analysis of the benefits and disadvantages of the grading option. As part of that process, it is essential that we obtain insights from the students affected by the grading option. This survey and the accompanying request for more formal interviews is a part of that process. In multiple choice questions, please select the answer that comes closest to your views.

1. **Selection of Grading Option:**
   a. I chose the pass/fail grading option
   b. I chose the fully graded option

2. **Impact of Grading Option on Registration for Clinics:**
   a. Availability of the grading option had no impact on my decision to register for clinic
   b. The grading option had some impact on my decision to register for clinic
   c. Without the grading option I would not have registered for clinic

3. **Impact of Grading Option on Clinic Atmosphere:**
   a. The grading option had no observable impact on the clinic atmosphere
   b. The grading option seemed to have a negative effect on the clinic atmosphere
   c. The grading option seemed to have a positive effect on the clinic atmosphere

4. **Impact of Grading Option on Clinic Preparation and Participation:**
   _______
a. The grading option had no impact on my preparation for and/or participation in clinic
b. The grading option encouraged me to increase my preparation for and/or participation in clinic
c. The grading option encouraged me to reduce my preparation for and/or participation in clinic.

5. Impact of Grading Option on Interaction with Supervisors: _______
   a. The grading option I chose had no impact on my interaction with supervisors
   b. The grading option I chose had a negative impact on my interaction with supervisors
   c. The grading option I chose had a positive impact on my interaction with supervisors

6. Impact of Grading Option on Clinic Collaboration: _______
   a. The grading option I chose had no impact on how willing I was to collaborate in clinic
   b. The grading option I chose discouraged me from collaborating in clinic
   c. The grading option I chose encouraged me to collaborate in clinic

7. Grading Option Recommendation: _______
   a. I recommend that the Clinic be graded on a pass/fail basis
   b. I recommend that the Clinic be graded on a fully-graded basis
   c. I recommend that the Clinic offer students an option of being graded either on a pass/fail or fully-graded basis

Comments: __________________________________________________________
________________________________________________________
________________________________________________________

Optional: If you are willing to be interviewed at greater length about your views regarding grading in clinic, please provide the following information:
Name: __________________________________________________________
Address (during Summer 1995): ______________________________________
Telephone Number (during Summer 1995): ____________________________