

Dear Students,

Thanks to the many of you who reached out to share your opinions and suggestions on the question of our grading policy for Spring 2020. As I've stated previously, your comments were uniformly constructive and thoughtful, and they've been genuinely helpful to our deliberations. As your comments have made clear, there are numerous legitimate, even compelling interests at stake, implicating scholarships, employment prospects, opportunities for journal membership, and more. And the decision has been made more complex by the fact that the equities point in more than one direction.

With the benefit of your input, and after extensive consultation, I am writing to share the Law School's grading policy for Spring 2020:

- **Mandatory Pass/Fail:** In light of the extraordinary and as yet not fully determined impact of the COVID-19 pandemic, the Law School is suspending its normal grading policy and substituting a policy requiring all students to be graded on a mandatory Pass/Fail system for the Spring 2020 semester. This means that students in all classes would receive a grade of High Pass, Pass, or Fail for their Spring 2020 coursework, whether based on an examination, a paper, or performance of skills in an experiential course.

- The designation of "High Pass" (HP) is intended to denote exceptional performance and will be capped at 15% of grades in any course subject to the Law School's mandatory curve. The cap may be waived with the approval of the Vice Dean for Academic Affairs based on a written explanation by the professor of the justification. The cap does not apply to courses that are not subject to the Law School's mandatory curve.

- A grade of "Pass" denotes successful completion of the course with credit. There is no cap on the number of "Pass" grades that may be assigned in any course. Grades of "HP" and "P" are not factored into a student's GPA.

- A grade of "Fail," as in the Law School's regular grading policy, indicates that the student failed the course and will receive no academic credit. A grade of "F" will be factored into a student's cumulative GPA.

- **Grades in Year-Long Courses:** First-year students enrolled in Legal Research and Writing will receive a single grade of "HP," "P" or "F" for the academic year. Students enrolled in year-long clinics or other courses may be assigned a regular letter grade (A, B, C, D, F) for their work in the Fall 2019 semester; their work in the Spring 2020 semester will be graded under the mandatory P/F system described above.

- **Determinations of Class Rank:** No class rank will be assigned to 1L students at the conclusion of this academic year. Upper-class students will be continue to be ranked, as now, on the basis of their cumulative GPA.

- **Effect on Scholarship Retention and Recovery:** Determinations of whether students holding merit-based scholarships have attained the cumulative GPA targets necessary to retain or recover their scholarships, ordinarily conducted in May, will be deferred until January 2021, so that Fall 2020 grades may be considered in lieu of Spring 2020 grades. As a result, students holding such scholarships will

automatically retain them, at their current amounts, for the Fall 2020 semester. Students failing to attain prescribed GPA targets at that point will have their scholarships reduced prospectively beginning with the Spring 2021 semester. Rising 3L students (current 2Ls) who have previously had their scholarships reduced on the basis of 1L grades and who attain the GPA targets qualifying them to recover their original scholarships will have their original scholarships restored in January 2021 retroactively to cover the entire 2020-2021 academic year.

- Effect on Honors & Journals: For 1Ls, we anticipate that adjustments will be made to the usual selection mechanisms for participation in journals in light of this policy. For 3Ls, we will reevaluate the usual GPA cut-offs for determining Latin honors at graduation (*i.e., summa cum laude, magna cum laude, cum laude*) to address any risk that the exceptional circumstances of this semester would have caused a graduate to narrowly miss the mark for honors.

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I recognize fully that the grading policy described here will not satisfy every student; indeed, it was clear from student commentary that no grading policy could satisfy every viewpoint. The policy adopted here does, however, satisfy several of the most compelling concerns advanced by students.

First, and most importantly, the use of Pass/Fail grades, enabling students to complete the semester successfully without undue risk to their GPAs and the pressure of the grading curve, recognizes the unfortunate reality that COVID-19 has upended the circumstances of every student. Many students are now forced to juggle the usual pressures of being a law student with a range of new and unexpected challenges: caring for young children at home without access to school or daycare, job loss and other economic or food insecurity, caring for vulnerable or ill family members, quarantine, or threats to their physical or mental health. We recognize that these circumstances will prevent many students from doing their best work for the remainder of the semester and that an insistence on grading all students on our normal curve is likely to reflect this random or unequal distribution of hardships as much as it would students' hard work and academic merit.

Second, the inclusion of a "High Pass" grade provides external recognition of exceptional performance in a course. We heard from a number of students who have invested heavily in their academic work this semester and who understandably want an opportunity to be recognized for their achievement for purposes of seeking employment or applying to graduate programs. The "High Pass" designation likewise provides an incentive for continued contributions and investment for the remaining four weeks of the semester. In this way, it seeks to provide a reward for academic excellence, without risking injury to the GPAs or relative standing of other students who, through no fault of their own, may not be in a position to make a similar investment.

Third, we considered seriously the arguments in favor of making Pass/Fail elective rather than mandatory, but ultimately adopted in favor of a mandatory policy, chiefly for reasons of equity and administration. There are many students facing significant and sudden hardships, not of their making, whose life circumstances will effectively prevent them from doing their best academic work. To permit other students who are relatively unimpeded to use this semester to advance their own academic standing relative to peers who have been effectively sidelined by a pandemic raises serious equity concerns. These concerns are compounded by realization that some of the resulting obstacles to academic performance (such as spotty technology or internet access, disruptive caregiving responsibilities, and the lack of a home environment conducive to uninterrupted study) may be

correlated to socioeconomic status or even gender. In addition, there are significant challenges of fair administration to a system that would allow some students to earn grades for a semester in which others, for all practical purposes, could not. This uneven development of student transcripts would complicate matters ranging from journal selection to honors designations. These considerations ultimately led us to favor an approach that would provide greater uniformity across student transcripts, while allowing the “High Pass” designation as a means to credit exemplary performance.

*Fourth*, and finally, we considered the concerns of students who worried that Tulane students might be disadvantaged on the job market if a Pass/Fail system were adopted. We concluded that there is no real risk of any penalty to our students from a mandatory Pass/Fail system. For one thing, it appears that almost all law schools in the country are now moving to adopt a mandatory or elective Pass/Fail system, so “Ps” will be the norm for this semester nationally. Beyond this, I reached out to well more than a dozen hiring partners, federal judges, and other employers with experience hiring Tulane students – representing a range of competitive employment options, including elite Big Law firms to small boutiques to public interest entities and federal judicial clerkships, in New Orleans, New York City, Philadelphia, Houston, Los Angeles, and San Francisco – and asked them directly whether they or other similarly situated employers would be likely to devalue a candidate with “P” grades this semester over one with traditional letter grades. They unanimously and emphatically said it would have no bearing. As one hiring partner for one of the nation’s largest law firms put it, “As far as hiring is concerned, I don’t think there is a single employer that will look askance at P/F in these circumstances. We have all suspended our offices and are working remotely; no one in ‘Big Law’ or otherwise will forget this semester and its hardships.” Another, at one of California’s largest firms, echoed the same view: “I don’t think employers will look askance at anyone who chose P/F for this semester, even where normal grades were available. We all are in turmoil, and I believe everyone will be understanding.” This universal sentiment undercuts the assumption that students with P/F grades in this extraordinary semester will be disadvantaged on the job market, even for the most competitive positions.

In closing, let me thank you again for your constructive input and your patience while we have worked our way carefully through the many equitable considerations and practical implications of this policy. Whether or not this policy accords with your own preferences, we hope you will recognize that it represents our earnest effort to maximize the interests of all students, however situated. We also hope that the announcement of a clear policy will permit students to turn their focus back to their studies and to reconnecting with faculty and with each other, while removing an additional source of anxiety at a time of far too much uncertainty.