

Memorandum

To: CLS Faculty
From: APPC
Date: March 16, 2020
Re: Changes to Grading Policies for Spring 2020 Semester Courses

In light of the shift to remote instruction for the balance of the spring 2020 semester and the associated and varied burdens on students, the APPC proposes the following resolution:

All JD and LLM grades for courses based on the Ithaca campus will be on an S/U (technically SX/UX) basis for the spring 2020 semester, regardless of how they were originally designated. All final examinations (in courses using examinations) will be administered remotely. In light of the extraordinary circumstances, descriptions of exam format provided in syllabi are not binding. Individual faculty may choose an exam format they deem most appropriate, but any restrictions on materials that may be used will be subject only to student obligations under the honor code.

All letter-grade requirements—such as but not limited to receiving a letter grade to satisfy the writing requirement—are waived and thus deemed satisfied by the receipt of a grade of S in a spring 2020 course. Whether or not a student had been enrolled in any course on an S/U basis, the S/U grading in spring 2020 shall not count against any student’s maximum number of permissible S/U graded courses. All transcripts will be annotated to indicate that spring 2020 grades reflect the law school policy in response to the current public health emergency rather than student choice. Grades for spring 2020 will not figure in any student’s cumulative merit point ratio, nor will the law school calculate or distribute end-of-academic-year rankings this academic year for first-year students. Spring 2020 grades shall also not be counted for calculation of graduation honors or Dean’s List. The Cornell chapter of the Order of the Coif will endeavor to secure a one-time exception from the national organization’s limits on S/U courses.

Pursuant to the announced university policy, undergraduates enrolled in law school courses will be graded on a letter-grade basis unless they elect to receive an S/U grade by April 21. Law students enrolled in courses within other units of the university should consult the policies of those units for information about timing, delivery, and grading of those courses.

I. Reasons

The APPC consulted multiple sources, including colleagues, peer schools, other units in Cornell, the registrar, and of course students, both individually and through their official representative on the APPC and a 1L representative who was elected to participate in our deliberations on this one matter. The student representatives solicited, received, and carefully considered numerous written comments and held meetings with their fellow students. They

conveyed to the rest of the APPC the full range of student concerns. Although individual faculty members and students came to the meeting with a great many creative ideas, discussion and deliberation led us to conclude that S/U grading is the least bad option under the extraordinary circumstances.[†]

We note that the law school faculty has the authority to adopt the foregoing proposal. No external body requires us to use letter grades. We base our proposal on three main considerations: compassion; equity; and integrity.

Compassion. Many of our students will be studying for the balance of the semester in very trying conditions. Some will have obligations to family and distractions that they do not face in Ithaca. Some will face anxiety about the wellbeing or even survival of loved ones. All will face the anxiety of not knowing how this crisis will affect the overall job market and their individual prospects in it. They will need to face these anxieties without the direct support networks they have built on campus. Accordingly, many students who communicated their preferences to the APPC sought some relief from the pressure to perform in order to earn a letter grade.

Equity. Although all of our students will be under pressure, some students will feel it more intensely. Students from disadvantaged backgrounds are likely to have the hardest time simulating their normal lives in Ithaca, and thus would be at a special disadvantage during exams. The differences that letter grades measure would reflect those disadvantages and not necessarily effort or ability.

Integrity. The Exam4 software that the law school uses to administer exams permits timed exams and can lock a student out of the hard drive on which the student is taking the exam but cannot monitor a student's use of materials on a second computer, mobile phone, or in hard copy. Some students and others suggested virtual proctoring software that would allow a proctor in a remote location to monitor students through the students' respective computer cameras. The APPC considered this suggestion impractical; a student determined to cheat could have notes or a book positioned outside of the camera's range. More importantly, we have not required that all students have computers equipped with webcams. And finally, we anticipate that some students would raise privacy objections.

Accordingly, the APPC concluded that all exams would necessarily be unproctored. We heard from our student representative that there was widespread fear of cheating if exams were unproctored. How widespread cheating actually would be is unclear, but the fear itself is real and thus a source of genuine anxiety for many students. S/U grading greatly reduces both

[†] The policy does not currently apply to courses in the Tech campus LLM program due to its distinctive nature. Unlike the Ithaca LLM, the Tech LLM operates using letter grades and has a curriculum that overlaps with both the Johnson Tech MBA and the other Cornell Tech degree programs. Because of this overlapping curriculum, the Tech LLM grading scheme raises issues that are different from our Ithaca-based programs. A policy for Tech LLM grading will be forthcoming as soon as practicable.

incentives for cheating and the concern that honest students would have that their dishonest peers are disadvantaging them by cheating.

II. Costs. The APPC is painfully aware that going to all-S/U grading has costs. We see two primary ones.

Incentives: Without the incentive of earning a good letter-grade, students will not prepare as diligently or participate as fully as they otherwise might. The potential for disengagement will exacerbate the challenges that remote instruction already presents.

The APPC considered alternatives that might mitigate the incentive cost. Some colleagues suggested that we delay announcing grading policy until near the end of the semester, to keep students motivated, but that option would be extremely unwelcome to students, who have already been promised an update on grading before remote instruction begins.

Another suggestion was a condensed scale similar to our U/S/H/HH system for LLM students. However, any differentiation beyond S/U would undercut the benefits identified above. In any event, the registrar reported that there is no way to shift to such a system; even shifting to all S/U will be very burdensome for the registrar.

We also considered lifting the constraints of the curve, but this was thought likely to lead to wide disparities in grading from one instructor to another and also fail to address the concerns of compassion, equity, and integrity as effectively as shifting to S/U would.

In addition, we discussed preserving letter grading in the clinic and practicum courses, on the theory that the students in these courses have already done work for faculty to evaluate. We noted, however, that clinic and practicum students are at quite varied points in their casework at this juncture; some have completed most of it, and others will not get the chance to perform capstone work such as spring break fact investigation, community presentations, and trials. Moreover, students' ability to complete their originally assigned casework in the coming months will heavily depend on personal circumstances. Therefore, we decided that these courses should not be exempted from S/U grading.

Yet another suggestion would have required all examinations to be open-format essays, for which the rewards for cheating are lower. The APPC generally agreed that such a move would partly address the integrity concern, but it would not address our concerns about compassion and equity. Moreover, some instructors have found that multiple-choice or other short-answer questions are better suited to their material; given all the other disruptions, we did not want to further intrude on instructor autonomy. (The APPC would take this opportunity to remind faculty who reuse short-answer questions of the substantial risk that one or more students could take a picture of the questions and such questions might thus not be usable in future years.)

Accordingly, we concluded that despite the impact on student incentives, S/U grading was preferable to the alternatives. We take some comfort from the fact that any resulting diminution in student anxiety could in some instances lead to better participation.

Fairness. Although many students supported S/U grading for roughly the same reasons as the APPC, others did not. In particular, some 1Ls took the view that their hard work should be recognized for distinction. This contention was made both by students who earned excellent grades in the first semester and want to continue to distinguish themselves and by students whose first-semester grades were disappointing but who believed that they would demonstrate improvement in the second semester. Some international students made a version of this point particular to them, arguing that first-semester grades are an especially poor measure for them, given the adjustments they had to make in the first semester.

The APPC was not unmoved by these considerations, but we found them outweighed. Students who did well in the first semester will arguably be *advantaged*, not disadvantaged, by the shift to spring 2020 S/U grading, because that shift will effectively lock in their high rank. We do sympathize with those students who would have done better in second semester than first, but we cannot accommodate that concern without incurring still greater costs. We hope to mitigate the harm somewhat by including a notation on transcripts and not calculating cumulative rank at the end of the current academic year. We also expect prospective employers to be well aware of the extraordinary circumstances, and we know that our professional staff will work very hard to reduce the impact on student job placement.