MEMORANDUM

To: Students Taking Comparison of Massachusetts And National Law
From: Michael L. Coyne and Peter M. Malaguti
Re: Structure and Grading of Course
Date: Spring 2015

PLEASE NOTE:

(1) This memorandum supersedes any conflicting standards or representations made orally or in writing by any individual professor who teaches any section of Comparison.

(2) The numbers are the numbers. None of the professors, including Professors Coyne and Malaguti, have the authority to increase scores for any reason other than a mathematical error. You need a 125 to pass each section. You need a 125 average to pass the class. You will not pass the section or course, and will not be given any extra points, even if you are only one point away. There has to be a cutoff somewhere, and the faculty has imposed a 125 cutoff imposed on all of us.

(3) None of the scores are scaled. You either make the 125 or you don’t.

(4) Please take note that, because the National Conference of Bar Examiners has added an additional subject – Civil Procedure – to the Multistate Bar Examination (MBE), the structure of Comparison now provides seven (7) substantive sections rather than six. They are: Torts, Evidence, Constitutional Law, Contracts, Civil Procedure, Real Property, and Criminal Law/Criminal Procedure.

Books for the Course

Required:

Steve Emanuel’s Bootcamp for the MBE (Aspen Pub. 2010), 11 Volumes

Suggested:

National Conference of Bar Examiners Officially-Released Questions (on sale in Bookstore and at http://store.ncbex.org/).

Structure of the Course

The course is comprised of:

1. A six-hour assessment exam before the course begins;
2. Seven (7) substantive law sections, which will be covered in blocks of two weeks each. At the end of each section you will take a one-hour and fifteen minute (75 minute) 40-question multiple choice test and a thirty-six (36) minute essay exam on the subject;

3. Seven (7) videotaped lectures on “Massachusetts” subjects;

4. A 200-question, six hour, “multistate” final examination; and

5. A three (3) question, one-hour and forty-five minute, “Massachusetts” essay examination.

The grade you receive at the end of the course will be: “Pass,” “Pass with Honors” (for those at or near the top of the class) or “Fail.” There is no letter grade for this course.

Please note that we have changed the structure from a six-section course to a seven-section course, which reflects the fact that the Multistate Bar Exam now tests seven subjects: Civil Procedure (the new subject), Contracts, Constitutional Law, Criminal Law and Criminal Procedure (treated as one subject), Evidence, Real Estate Law, and Torts.

You are required to bring two #2 pencils to all classes and exams.

The Assessment Test

You will see on the attached calendar that we have scheduled two dates for the administration of a six-hour MBE Assessment Test: Saturday, January 2nd from 9 a.m. to 4 p.m. or Wednesday, January 6th from 9 a.m. to 4 p.m. Although the results of the test will not count toward your grade, it will help both you and us to see where you are in terms of readiness for the real bar examination. And, although it will not count toward your grade, taking the test prior to the commencement of classes is mandatory; you will not pass the course if you do not take the assessment test before January 9.

Orientation

There will be an Orientation on Saturday, January 9th from 10:45 a.m. to noon, following your first Evidence class.

The Seven Substantive Law Sessions

Each of the seven Substantive Law Sections will be taught by the following professors in the following order:

<table>
<thead>
<tr>
<th>Section</th>
<th>Professor</th>
<th>Beginning</th>
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<tbody>
<tr>
<td>Evidence</td>
<td>Dean Coyne</td>
<td>January 9</td>
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<tr>
<td>Torts</td>
<td>Professor Martin</td>
<td>January 25</td>
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Prior to the first Evidence class, please read the Evidence section of the Emanuel Confidential book. This chapter will give you suggestions and tips on how to prepare to take the multistate bar exam for that particular topic. Then, re-familiarize yourself with the subject of Evidence by reading the Evidence volume of the Bootcamp for MBE series. The professors of each section will pass out assignments and other materials during the week before his or her section is scheduled to begin. Be prepared to cover multiple choice questions from the appropriate subject book as the professor assigns.

There will be a “multistate” quiz in every class. At the end of each subject section, there will be a final section exam covering that particular subject. That final section exam will consist of 40 multiple choice questions and one 36 minute bar exam essay question. The multistate quizzes will be added to the exam to comprise a “section grade.” You will receive seven such section grades.

The Seven (7) One-Class Lectures on “Massachusetts” Subjects

As shown on your calendar, during the seven multistate sections there will be a series of one-class lectures/presentations on seven “Massachusetts” subjects. These lectures will be taped, and available online. You are to view or listen to those lectures and take notes after each section exam if you have not done so already. The subjects are:

<table>
<thead>
<tr>
<th>LECTURE</th>
<th>PROFESSOR</th>
</tr>
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<tbody>
<tr>
<td>Mass. Civil Procedure</td>
<td>Professor Dimitriadis</td>
</tr>
<tr>
<td>U.C.C., Arts. 3, 4, &amp; 9</td>
<td>Professor Sullivan</td>
</tr>
<tr>
<td>Wills &amp; Trusts/Business Ass’ns</td>
<td>Professor Devlin</td>
</tr>
<tr>
<td>Mass. Crim. Law &amp; Procedure</td>
<td>Professors Coppola &amp; Rodriguez</td>
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<tr>
<td>Domestic Relations</td>
<td>Professor Malaguti</td>
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<tr>
<td>Legal Ethics</td>
<td>Professor Rudnick</td>
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The 200 Question, Six Hour, “Multistate” Final Examination

The six-hour, 200 question multistate final exam is given on a Saturday (this semester on April 30). It will run from 9:00 a.m. to 12:00 noon (morning session), and from 1:00 p.m. to 4:00 p.m. (afternoon session). You will answer 100 multiple choice questions in the morning and 100 multiple choice questions in the afternoon. This exam will only test the seven “multistate” topics; it will not test the seven “Massachusetts” subjects.

The 5 Question, Three Hour, “Massachusetts” Essay Examination
On Sunday, May 1, the day after the 200 question, multiple-choice exam, there will be a Massachusetts "essay" final examination. It is a five question, one-hour forty-five minute essay examination on the seven multistate subjects, as well as the "Massachusetts" subjects. **That test is mandatory, and the grade you receive on it will count.** It will begin at 1:00 p.m. and finish at 3:00 p.m.

**Grading**

**The Multistate Sections**

There are a total of 50 “raw” points that you can achieve in each of the seven sections. You can achieve the 50 “raw points for each section as follows:

**Multistate Quizzes**

Highest Possible Score: 5

You will be given five (5) to seven (7) multistate quizzes in each section. Each quiz will receive a grade of 1 to 5. We will average the scores of your three highest quizzes. For example, if your three highest scores are: 5, 4, and 3, you will be awarded a 4 for the quizzes (5+4+3=12; 12÷3=4).

**Essay Section of Final Section Exam:**

Highest Possible Score: 5

As the calendar shows, each substantive law professor will give an essay quiz pertaining to that section. The essay quizzes will be scored from 1 to 5.

**Final Section Exam:**

Highest Possible Score: 40

In each section you will take a multistate test that will consist of 40 multiple-choice questions. Each multiple choice or short answer question you answer correctly will give you one point.

After your final “raw” score has been calculated, it will be converted into a “bar examination” score, which is based on a total of 200 points. The conversion is quite simple: we will multiply your final raw score by 4 (the number of times that 50 goes into 200). For example, if your final raw score is 39 out of 50, your “bar examination” score will be 156 (39 times 4 equals 156).

The reason we convert the raw score to 200 is because that is how the Board of Bar Examiners does it for the real thing. **The passing grade for each section is 125. You must pass five (5) of the seven (7) sections to qualify to take the final 200-question examination; that is, you must obtain a 125 or more on at least five (5) of the sections. If you do not pass at least five (5) of the seven (7) subjects, you will fail the course and have to repeat it. Stated differently, once you fail a third section, you will have failed the course and will have to repeat it. Once you have failed three (3) sections, you may continue to take section quizzes and section exams for the practice, but you will not be allowed to take the final, 200 question, six-hour exam.**
You must also have at least 805 total points (a 115 average) at the end of the seven (7) sections to qualify to take the final 200-question examination. This minimum score applies even if you have passed five (5) of the seven (7) sections. Your combined section grades will be averaged together to constitute fifty percent (50%) of your final grade (assuming, of course, that you score at least a 115 average on those sections, and also obtain at a 125 or more in at least five of them). **The scores are not scaled.**

**The Six Hour Multistate Final Exam and Your Total Numerical Score**

On April 30, there will be a 200-question, six-hour final examination (broken into two 3-hour sessions). You will be awarded 1 point for every correct answer. This exam will count for fifty percent (50%) of your total numerical score. By way of illustration, assume that your average score after the seven sections is a 150, and that you get a 140 on the multistate final exam. The 150 sections average counts for 50% of the total score, and the 140 final exam score counts for 50%. To figure your final score you would add the two scores together and divide by 2. In such a case the final numerical score would be 145:

\[
\begin{align*}
150 \\
140 \\
\hline
290
\end{align*}
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Total Numerical Score: \( \frac{290}{2} = 145 \)

**The Three Hour Massachusetts Essay Final Exam**

The three-hour essay final exam given on May 1 will be graded from 1 to 10. A grade of 5 will be given to a set of essays deemed to be just above that required to pass the Massachusetts essay section of the bar exam. For each point you achieve above a 5, one (1) point will be added to your total numerical score. For each point your total score is below a 5, one (1) point will be deducted from your total numerical score. For example, if your total numerical score is a 144, and you get a 7 on the final essay examination, your overall number grade will increase to a 146. If, on the other hand, you get a 3 on the essay, your overall number grade will fall to a 142.

**Passing the Course**

1. Although a 125 in each section is considered passing, you must achieve at least 805 total points (a 115 average) after the seven (7) multistate subjects to qualify to take the final exam. However, you also must obtain a score of 125 or more on at least five (5) of the seven (7) sections to qualify to take the final exam. If you do not, you will not be allowed to take the final exam and will have to repeat the course.

2. The section grades will count for fifty (50%) percent of your final grade (assuming, of course, that you score at least a 115 average on those sections and have obtained a 125 on at least three of the six).
3. The final multistate exam will count for fifty (50%) percent of your final grade.

4. The "Massachusetts" final essay exam essentially gives you up to five (5) extra points; can add or subtract as many as 5 points to or from your total numerical score depending on the effort you put in. Those who work hard and write complete cogent answers will receive extra points. Those who do not take the final essay exam seriously will lose some points.

5. After counting the section scores, multistate final exam score, and Massachusetts final essay exam score, you must have a 125 to pass the course. Students who receive an overall score lower than 125 will receive an “F,” and will have to repeat the course. Students scoring a 125 or better will receive a “Pass” for the course. Students with a 155 or more average at the end of the course (including the final essay exam score) will receive a “Pass With Honors” for the course. (Students who have previously failed the course may not pass with honors regardless of how well they perform when they do pass.)

6. If you fail the course, and subsequently pass it on a subsequent retry, your “F” will be expunged from your record and replaced with an “I” (incomplete) for that semester. You will be awarded a “P” (pass) for the semester in which you pass the course.

Policies on Grading and Passing the Course:

1. You may only review your section exams and quizzes if you request to do so with the Professor who taught the applicable section within seven (7) days after receiving your scores. We will not go into storage to pull exams if you ask in November to see exams taken in August.

2. On multiple choice tests and quizzes, grades will be changed only if the student can show a demonstrable mistake made by the Scantron machine. Please note that students sometimes mark two answers, and sometimes fail to properly erase an answer before choosing another one. These are incorrect answers and will not be changed. The Scantron sheet must clearly show one answer chosen – the correct answer – for your score to be changed. This means that, just like on the bar exam, you must be diligent in properly erasing incorrectly-marked answers. You should also know that the Scantron machine is extremely accurate. The odds of there being a Scantron error are miniscule.

3. Neither Professor Furi-Perry (who will be grading your essays) nor the Professor teaching the Section to which an essay exam pertains has the discretion to change essay grades after review with a student. The essay grade originally awarded will stand unless there is some demonstrable, non-subjective mathematical error.

4. Any questions about missing or incorrect quizzes and exams must be raised and resolved with the professor who taught the section, not one of the co-directors of the course. The failure to raise an issue with a quiz or exam score within seven (7) days after the score sheet
is passed out in class results a waiver of the right to question the accuracy. It is not fair to require section professors to revisit grading questions weeks after they have taught the section.

5. Once you fail a third section of the course, you will have failed the course. After failing three (3) sections, you may continue to take section quizzes and section exams for the practice, but you will not be allowed to take the final, 200-question, six-hour exam.

6. As you can see, it is important that you take this course seriously from the beginning. Failing a section early on puts you “behind the eight ball” from the start. If you are struggling at the beginning of the course, please come to Professor Malaguti immediately to ask for advice on how to succeed. Please do not let deficiencies linger; if you do, it will soon be too late to do anything about it.