

Contracts Evaluation Guide

Please Read This Document Carefully

I. INTRODUCTION: FORMATIVE ASSESSMENTS

Pursuant to faculty vote, the Law School has adopted a new policy for all first year and required upper level courses that must satisfy the following parameters:

1. Faculty *must* provide students with three formative assessments during the course of the semester;
2. These formative assessments *must count* toward the final grade;
3. If the formative assessments are given in a course that is tested on the MBE (multiple choice) component of the bar exam, then at least one formative assessment *must include multiple choice questions*.

Within these parameters, professors have some discretion on when/how to provide these formative assessments. You may be wondering, at this point, *what the heck is a “formative assessment”?* A formative assessment is simply a fancy way of saying some form of assessment (test, quiz, paper, etc.) that takes place during the semester so that students can gauge how they are doing. The reason that the policy was adopted by the Law School was in response to the “bar passage crisis.” Law students across the country are failing the bar exam at alarming rates, and this was an attempt to help ensure students are on track in all their courses, and have lots of practice doing law school exams.

In Contracts I, all students will be required to take the following three formative assessments:

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| 1. Test 1 (5% of final grade) | Monday September 16, 2019, 3:30-4:30
Will cover all material to date |
| 2. Test 2/Midterm
(10% of final grade) | Monday October 7, 2019 or Tuesday October 8, 2019
(set by administration)
Will cover all material to date |
| 3. Test 3 (5% of final grade) | Monday November 4, 2019, 3:30-4:30
Will cover <i>only</i> material after midterm |

IMPORTANT: If you have documented academic accommodations, please contact the Assistant Dean of Student, Lorraine Lalli (llalli@rwu.edu). Your tests and midterm will be administered through her office.

Please note that you will have formative assessments in all of your 1L classes. You will also have various writing assignments due during the semester for Legal Practice. You may have multiple assignments/tests the same day or week. This cannot be avoided. It will be extremely important for you to engage in methodical and rigorous time management. Simply “cramming” at the last minute will not work.

II. THE BAR PASSAGE CRISIS

You may have heard that bar exam scores were alarmingly low this year. In California, for instance, only 40% of test takers passed. In Rhode Island, just over 50% of test takers passed. There has been much discussion of what is responsible for this widespread dip in bar passage rates. One theory that has been advanced is that students across the board have not developed the skills they need for “self-regulated” learning.

Below is an excerpt from a very compelling article discussing concept of self-regulated learning:

Bar examination pass rates are plummeting. Many laws schools are searching urgently for some way to stem the tide of decline. Silver bullet cure-alls are attractive, all too often adopted, and almost never fruitful. So what should schools do? Should a school teach to the test? Induce less proficient students into not taking the bar exam? Reteach doctrine in a bar prep course? Begin bar prep in 1L year? Spoon-feed black letter law? Require faculty to use only multiple-choice questions in exams? Only essay questions? The answer to all these questions is “no,” but the questions themselves miss the point—like asking a Mergers & Acquisitions lawyer whether her achievements were due to taking more depositions.

The right questions do not focus on what *we* can do to change results but on what *students* can do for themselves. Although scholars have rightly focused on how to change curricula and pedagogy to meet the current crisis, there is far less research on changing what *students* do instead of what law schools do. My claim in this Essay is that proposals to change law schools, while certainly significant, tend to overlook the important fact that most students learn and study wrong; fixing that ailment is where the academy should focus its attention. ...

To be fair, this problem is not just a law school problem. Since high school, students have been sold a false bill of goods: Diligent students supposedly read ahead and highlight furiously; good students allegedly acquire an outline and reread it over and over; top-achieving students purportedly game their professors by sticking solely to the study methods handed down by lore and anecdote; “studying” is the epicenter of grades.

Rowing against that tide is daunting. Convincing students of the efficacy of unorthodox methods faces the strong undercurrent of asking students to act differently than their peers and even run afoul of some professors’ advice. But empirical studies demonstrate that the orthodox methods defy everything we know from science about how the brain acquires knowledge and develops analytical skills. Rereading is one of the worst ways to encode memory, yet tradition dictates that students study for exams and the bar by reading outlines endlessly. Following another person’s dictates on learning outsources the regulation of that learning and kills the crucial skill of metacognition, yet students blindly follow syllabi and bar prep courses’ one-size-fits-all programs. Relying solely on lectures prevents students from building their own cognitive schema, yet students spend weeks having their minds wired externally. Failing to leverage spaced repetition and forced recall practice makes learning far less effective and efficient, yet many students do not start testing

themselves, if at all, until just days before finals or the bar exam. But, there are tools to correct all of this.

The problem is that these tools feel counterintuitive, and they are outside the norm of law student study methods. That is where the opportunity for reform comes in. Instead of controlling students' behavior by requiring more bar prep courses, teaching to the test, or artificially altering summative assessment methods, schools should work to rewire students' understanding of how learning works. Just as we rewire students' brains to think like a lawyer's, so too should we rewire their brains to be more absorbent. (Excerpt from *Using Science to Build Better Learners*).

You *must* read this article prior to the first day of school. Last year, students found it to be an illuminating read (not in a good way!).

Really, there are three “pieces” to academic success in law school. If you are missing one of the pieces, you will not be successful. Here are those pieces:

INPUTS
(notes, outlines)

STUDYING
(memorization, practice)

EXAM TAKING
(how to tackle exam questions)

If you have the wrong “inputs” (i.e. you are studying incorrect law, you have misunderstood the rules, you are missing pieces of the rule, etc.), you simply cannot do well in law school. There is an expression in the field of computer science that you may be familiar with: GIGO (Garbage In, Garbage Out). If your inputs are “garbage” then your results will be “garbage.” At this point, it is a little early to be talking about the studying process or exam/test-taking, so I will save that for later. Instead, I will focus on inputs.

In law school, the primary tool that students use to study from is their “outline.” The outline is a compilation of everything they have learned for a particular subject. It contains the rules, examples, cases, etc. It should literally be the only thing that a student needs in order to study. Many students fail to see how important outlining is. Accordingly, they use other students' outlines from years past, they download a commercial outline, they do their own haphazard outline, or they cobble together an outline at the last minute. These are recipes for failure. Doing your own outline, where you capture everything of importance in the course, is the key to success in law school and long-term learning.

In order to be effective, and to conquer the “forgetting curve” (see article!!), you must outline shortly after each class. If you wait too long to outline, your memory of the material will simply vanish. To demonstrate my point, answer this question: Do you remember everything you did last Monday? Probably not in a lot of detail. The problem, sometimes, is that outlining falls by the wayside because you have so many other things to do in law school. In order to help you to outline on a regular basis, I am offering the class the following Options:

OPTION 1: Three formative assessments (20%); Exam (80%)

OPTION 2: Three formative assessments (20%); Outline (15%); Exam (65%)

Under either option, participation/preparation will also be considered in order to bump or lower a grade.

III. DETAILED EXPLANATION OF OPTION 2: LOGISTICS

1. Weekly Obligation: You will be required to outline class material on a weekly basis and submit *your entire outline* every week through Bridges. The outline must be current, as of that week, to count as complete.
2. Word or Pdf: The outline must be submitted in organic Microsoft Word (not converted) or in pdf format. Doing so will minimize formatting problems for my Teaching Assistants.
3. Own Work & Undertaking Not to Disseminate Outline: The outline must be entirely your own personal effort (you will be required to sign an Honor Code certification to this effect). You may not use other students' outlines or commercial outlines. If you select Option 2, you will be required to attest in writing that your outline is the product of your own effort. If I discover that you have "borrowed" or copied from someone else's outline, this will be grounds for an Honor Code violation and a lowering of your final grade. Additionally, the Honor Code certification requires you to undertake not to share your outline with any student, now or in the future. Note that this does not preclude study groups or discussions of the material—you just can't give your outline to another student.
4. "Pass" and Failure to Submit: *After the first 4 weeks*, you may take one "pass" (meaning that you can fail to hand in your outline that week, without penalty). Failure to hand in your outline in any given week aside from a "pass" week will result in a 2% deduction from the 15% score.
5. Opting-In: If you decide you would like to participate in Option 2, *your first submission is due by Sunday Sept. 1. You must submit your outline by 11:55pm through Bridges*. If I do not receive your submission through Bridges by this date, you will not be able to participate in Option 2.
6. Back-End Opt Out: I recognize that some of you may be concerned about whether this is "right for you." Accordingly, I will be permitting those students who have selected Option 2 to exercise a back-end opt out right. If a student decides, *after four weeks of outline submissions*, that he or she no longer wishes to continue with Option 2, he or she may opt-out by notifying me in writing. The opt-out must come before the fifth outline submission. There will be no penalty or judgment for choosing to opt out, but I highly recommend that you stay in.
7. Four Weeks of Mandatory Submissions: Students cannot take a pass, nor can they opt-out in the first four weeks of outlining. If a student fails to submit an outline during this period, he or she will be removed from Option 2 and receive a deduction of 5% from the final grade.

IV. DETAILED EXPLANATION OF OPTION 2: SUBSTANCE

A. EVALUATION CRITERIA

I will not be looking at your outlines until the final submission. At that point, I will look at your entire outline and evaluate you based on the following criteria:

1. CONTENT – Is it comprehensive? Does it cover everything we did in class in sufficient detail? Is it accurate?
2. ORGANIZATION – Are things organized in a logical, easy-to-follow, way? Are you putting things “where they belong”? Is there a flow to the outline? Are you organizing conceptually?
3. PRESENTATION/FORMATTING – Is there consistency in formatting? It is visually appealing? Does it use appropriate spacing, white space, headings, alignment, bullets, etc.?
4. CASES – Are you using cases appropriately, as opportunities to “practice” the doctrines?

The outline will be given a grade out of 15. To ensure fairness to all students, I will not be involved in the individual outlining process in any way, beyond providing class-wide advice. Any specific questions about your particular outline should be directed to the Teaching Assistants.

B. OUTLINING: GENERALLY

The outline that *I* want you to create may or may not coincide with *your* notion of an outline. What *I* mean by “outline” is an organized document that contains ALL the information we have learned about contracts and that is a self-contained, comprehensive study tool. Someone who is unfamiliar with the subject matter should be able to pick up your outline and be able to understand legal rules/doctrine from it without resort to extraneous material.

I wanted to address a really important issue: what this outlining is intended to accomplish. I suspect that some of will choose this option because you feel that it will help your grade, and will be simply looking to “give her what she wants.” In other words, you may approach this as an assignment that needs to be completed, and you would be looking to tick all the boxes to maximize your chance of getting full points.

However, I want to suggest that you approach this exercise differently. That is, I would like you to view the process of outlining as a *means in and of itself* – not simply as a means to an end. What do I mean by this? Being able to outline is really just another way of saying that you are able to conceptualize/organize a vast amount of information in a clear and cohesive manner. *Every single aspect of law practice involves this skill.* Consider the following:

- If you are a trial attorney, you need to present logical, easy-to-follow, opening and closing arguments for the judge/jury. You also need to conduct direct or cross-examination in a way that the trier of fact will be able to understand. You can’t randomly jump from one topic to the next.

- If you are a corporate attorney, drafting contracts, the contracts need to be precise, comprehensive, and logical. You can't randomly throw in a severability clause into the middle of a document.
- If you are preparing a will, you need to think through exactly how the estate will be distributed – e.g. specific gifts first, then estate division (with survivorship provisions), then residue.

I cannot overstate how important macro-conceptualization and organization is to being a lawyer. It is the basis for all of law practice.

The outlining process is intended to be more than simply a way to obtain a study tool so that you learn Contracts. Obviously, I want you to learn Contracts, and an outline is a way to accomplish that. However, I am equally trying to teach you something bigger than Contracts, a skill that will be transferrable to everything you do. This is perhaps more important to me (or at least equally important) to teaching you the doctrinal material.

I want to share with you an email that I received from a student in June 2019. This student did not have a very good experience with Option 2 (you can read his full reflection paper where he writes, “I did not find Option 2 to be as helpful as I thought it was going to be at the beginning of the semester. ... I think Option 2 is a good idea, but I do not think it was right for me or my learning style.”). Several months after the semester ended, this student asked me to update his reflection. Here is what he said:

This summer I have been working for an immigration firm in Woburn, MA. We have had extensive training sessions with an incredible amount of reading required to familiarize ourselves with the material that we are going to be working with the rest of the summer and I just wanted to say thank you for all the help with Option 2 this past semester. I know my reflection paper may not have been very encouraging for future 1Ls who may look at it to choose Option 2 but I wanted to be honest with my feedback.

However, I would like to add some additional feedback to my reflection paper if that is possible and you can keep or take out whatever you think is best. I think that during the start of the semester and up to about the halfway point it was safe to say I had no idea what I was doing in regards to outlining and creating an efficient study tool for myself. I was aimlessly throwing information into a Google Doc and that is to my own fault. Once I finally started to get an idea on how to stay organized and what was expected of me, I felt overwhelmed and thought I was too far gone in respect to the amount of information I had to look back to and edit with new information I had to put in each week to keep up along with studying and maintaining focus in my other classes. But again that was to my fault.

With the training sessions I have had this summer at this firm, I have used the Option 2 technique to consciously take notes with a purpose and formatted a word document similarly to how you had wanted us to do it initially. Starting from scratch, I did not have that overwhelming feeling or pressure on me and I was to successfully organize and outline about 1,500 pages of reading that has been assigned to me and the other intern working here this summer. I have been able to directly apply the

skills I have learned this semester from Option 2 to my internship and I wanted to thank you for helping me this semester because now I feel organized. I can look back and find information that I need to study again when I need to because everything is formatted the same way. My margins are lined up, my bullet points are bullet points where they are supposed to be and I have numbered lists for definitions that require different elements.

Before Option 2 I did not even know there was a difference between bullet points and numbered lists. I am able to page break where topics end and new ones begin, and the document as a whole looks appealing. I have taken my notes that I have taken on separate handouts assigned to us to meetings and newer employees that sit on the training sessions on the side of me look along with them and they are able to follow them as well. I just wanted to reach out and say thank you for all your help in making me feel prepared and professional this summer and that I am looking forward to taking Conflicts of Law with you in the fall.

As you can see, from the above, Option 2 is intended to teach a “life skill,” not just a Contracts skill. That is, Option 2 is not just a way to create an outline ... it’s a way of thinking.

Below, you will find more of the nitty-gritty on what I would be looking for in an outline.

C. CONTENT

What the Outline MUST Contain

- Fulsome, narrative descriptions of all the legal rules and doctrines we cover. There should be no “short-hand.”
- Examples from class and/or other examples. You should have examples for every concept we cover (sometimes multiple examples).
- Cases. Briefs should be done *after* class, not before. I do not want to see briefs with irrelevant information we did not cover.
- *Everything* of significance we discuss in class (e.g. policy, arguments, counter-arguments, student questions, hypotheticals, etc.)
- Everything you need to study – i.e., there is only one outline (this one)
- Tips, suggestions and traps – often I will say in class “look out for X”. This needs to be in your outline.

What the Outline Must NOT Contain

- Things we did not cover
- Extra material from outside sources (though you may use outside sources in order to better understand the material)
- Irrelevant material from the cases

D. FORMAT & PRESENTATION

What I am looking for is your ability to conceptually organize a large amount of information in a way that is understandable to an outside reader and easy to follow. Please note that organizing does *not* mean simply putting headings on things and numbering or bulleting them. Organizing means

that you have thought about the materials and that you have put them together in a way that is logical, comprehensive, and is easy to follow. It is like taking all the puzzle pieces and putting them together in your own way.

In organizing your outline, please adhere to the following rules:

- Start new topics on new pages
- Include appropriate amounts of white space
- Do not over-use bullets
- Do not over-use numbers, letters, etc. (I do not want to see things like section A)1)a)(iii))
- Do not use any sort of automated template
- There is no need to get overly fancy with colors, effects, etc. If you choose to do this, do it sparingly and consistently
- Be consistent with spacing, formatting, and especially abbreviations
- Choose an attractive and appropriate font (my personal favorite is Garamond).¹ For a great article on typography in legal documents, *see* <https://abovethelaw.com/2011/04/small-firms-big-lawyers-the-perfect-font-to-show-you-don%E2%80%99t-care/>. Below is an excerpt critiquing Times New Roman:

“If you want to send a message that you really don’t care what your document looks like, or that you never really gave it any thought, then this is the font for you. It might mean that you don’t really understand computers very well, and never bothered to learn how to change the default font. It probably also means that you never took a moment to consider the judge (or the client or whoever is reading what you wrote) and how she will have to slog through yet another gray document filled with too-small text that looks like every other one she’s read today. But mostly it just means that you’re apathetic, and that you don’t consider what you write to be work worthy of craftsmanship. So what is this font that says so much about you, and what should you use instead? Times New Roman = I don’t care. It’s Times New Roman, of course, the ubiquitous typeface of uncaring attorneys.”

¹ Garamond is considered one of the most classic and readable fonts. *See* <https://designforhackers.com/blog/garamond/> (“Amongst designers – especially print designers – Garamond is considered one of the best fonts in existence. It’s timeless, and very readable.”). It has been reported that if the U.S. Government switched over the Garamond, it would save hundreds of millions a year. *See* <https://www.theatlantic.com/national/archive/2014/03/14-year-old-figures-out-that-bad-fonts-cost-the-government-hundreds-of-millions-of-dollars/359842/>. Note that Times New Roman has recently been dubbed the “sweatpants of fonts.” *See* https://www.huffpost.com/entry/times-new-roman-resume-best-worst-fonts_n_7167390 (using Times New Roman in a resume “is akin to putting on sweatpants” for an interview). For some other font options, *see* <https://www.businessnewsdaily.com/5331-best-resume-fonts.html>. As you can see, I am serious about my fonts!



For extra guidance, I have put together some tips on formatting based on common mistakes I saw last year (See Formatting Tips).

I want to be explicit about why I am recommending certain things in outlining. I am not recommending them because I am “particular” about “how I like things” or because “I want things done my way.” I am recommending them because they reflect basic organizational principles, take advantage of visual memory, and prepare your “future self” for the exam. For instance:

- A basic organizational principle is that you put “like” things together. So, for example, if you are organizing your closet, you might do it in a variety of ways: by color; by item; by how often you wear stuff; by season; etc. You may even have organization within organization (e.g. organize by season and color). The same principles are true here – you need to figure out what is “like” and put it together. This will enable your brain to process all the relevant information for that topic, without having it be disjointed and popping up all over the outline.
- I require that you write out full narrative descriptions of the rule. If you don’t, when it comes time to study, you will not remember what the actual rule is in some instances. Best case scenario, you go back and look it up (which wastes time); worst case scenario, you get it wrong. In either event, save yourself the trouble and write out full rules/examples to prepare your “future” self for studying.
- You should start new topics on new pages so you don’t inadvertently blur doctrines together. You would be surprised, but seeing a heading at the top of a page reorients your brain to the new topic and separates it from the prior one.

E. GUIDANCE ON NOTE-TAKING

- Your outline is only as good as your note-taking. The goal of your note-taking should be to take down everything we talk about in class. This includes class discussion, examples,

questions that students ask, incorrect answers with explanations as to why they are incorrect, discussions of policy, etc.

- You should be taking notes in a new document every class.
- While note-taking, you are not:
 - Toggling between different documents. Use one document.
 - Trying to organize. Organization comes later. It is impossible to organize your notes and listen/take notes in class.
 - Adding notes to your outline. You outline *after* class.

F. WHEN TO OUTLINE

- Because of the “forgetting curve,” I highly recommend that you outline on the *day of class*. Ideally, you will want to outline and review the material right after class if your schedule allows. This will enable you to figure out what you know and don’t know, and get help with respect to the latter *while it is still fresh in everyone’s mind*.

V. ASSISTANCE WITH OUTLINING: TEACHING ASSISTANTS

I have three 2L students who will serve as teaching assistants for this class—Tyler Martin, John Olson, and Lucas Sylvia. The students who select Option 2 will be assigned to one of the three TA's based on alphabetical order.² This will be your TA for the semester. Each of these TAs underwent significant training this summer in what feedback to provide you with, and how to provide it. They were each provided with multiple sample outlines to mark-up, which they then submitted to me for feedback. So, rest assured—these students know what I am looking for in an outline.

Every week, your TA will ensure that you have timely submitted your outline, and will provide you with guidance and feedback on how you can improve your outline. The TAs will also hold regular office hours so that you can meet with them in person. **The TAs' office hours will be on Wednesdays from 12:00-2:00 in Rooms 268A (Martin), 268B (Olson), & 268C (Sylvia).** After the first four to six weeks, we may cut back on office hours. Bear in mind, these TAs are 2L students who have a lot to do in their own right!

Each of these TAs selected Option 2 last year and produced excellent outlines, so they have first-hand experience on how to do this, and the struggles and stressors you are facing. You are free to follow the TAs' guidance, or not. Ultimately, this is *your* submission and you need to hand in a final outline that you think satisfies the criteria. With that said, if you choose not to follow the advice of your teaching assistants (without any explanation), please do not expect that they will continue to provide feedback. I do not want them spending time week after week making the same comments, only to be ignored. If you choose not to listen to the feedback provided by your teaching assistant, that is fine—but just know that they will not continue with their efforts in vain.

TAs will ordinarily not be flagging mistakes in your outlines. The whole point of self-regulated learning is for *you* to discover where the gaps are in your knowledge. Accordingly, do not use the fact that a TA has reviewed your outline as any sort of indication that the content is accurate and/or complete. They are here to help with the organization/conceptualization process, not the substantive material. If you have questions about the actual material, you should come see me.

VI. HELPING YOU DECIDE WHAT TO DO

Obviously, I think Option 2 is the right way for you to go (or I wouldn't offer it). However, I don't want to sway you in one direction or the other. I want you to make whatever decision is best for you.

To that end, I have made accessible to all of you students' reflections on Option 2 from last year (some students preferred to remain anonymous; others were comfortable with me disseminating their reflection with their name on it). I would say that the reactions are generally positive overall, but there are some mixed/negative reactions. The one thing I would say that is a constant among all the students is this: *If you don't buy in to Option 2, it will not work for you.* So if you are not prepared to have an open mind, to embrace the challenge of doing something new and difficult, to struggle, and be frustrated for at least several weeks, you should not select Option 2. The whole point of Option 2 is to make you struggle. It should be hard. If it's not hard, you are doing it wrong.

² The decision of which student is assigned to which TA will be made after I know how many students opt-in. Depending on the distribution of students who eventually opt-out, I reserve the right to switch you to a different TA after Week 4 to balance out the workload for the TAs.

Many students last year described having somewhat of an “epiphany” moment, where they finally “got it.” At that point, the exercise became much easier. Some described it as fun (I kid you not!). I want to give you a sense of the struggles students experienced and how they overcame them:

Student 1

Option 2 started off rough for me because I did not know what was expected of me. I had to relearn how to outline which was very different for what I was taught when we started Law School. This frustrated me in the beginning but as time went on I got a handle of it and it worked out. ... This is the first semester in contract that I can confidently say that I understood what was going on in Contracts. Last year I disliked contracts because I did not understand the concepts but this semester has been different and it is because of Option 2. Option 2 forced me re-teach myself the concepts after class through outlining, studying and Cali Lessons.

Student 2

Prior to choosing Option 2, I considered myself an organized, detail-oriented individual. Option 2 quickly showed me that my skills were not nearly as great as I thought they were. Option 2 showed me that being “neat” does not necessarily equate to “organized,” and having things lined up and looking pretty does not mean they are organized in the correct way that makes the studying process much easier. My biggest struggle was in the beginning stages of Option 2, when I had to develop my skills of conceptualizing topics. It seemed to take much more time than it should have, and I would get frustrated when I did not know where to put certain notes in my outline. However, about one month in it felt like I had finally developed a working outline that was working for me. For incoming 1L students: whether they know it or not, this will be helpful for them. I can understand how it might be even more difficult at first, because most will have no outlining experience whatsoever. However, I would rather have started from scratch, rather than learning a way I think works for myself for the entire first semester and then have to change it.

Student 3

However, I must say, I struggled with organizing my outline at the beginning of the semester. It was frustrating at first, getting feedback on how to properly outline when I thought what I was doing was the best I could do. But once I bought in to the way it should be done taking the feedback into consideration, the material became easier. Things in class began to make a lot more sense, it became easier to remember what topic we covered in class last week, and (I think most importantly) it became easier to relate the topic of that day to the topics we learned in the past. Once I was able to see the bigger picture with all these topics, talking about it in class became easier and even reading cases became easier. I think students in law school might be a little more stubborn when it comes to learning in unconventional ways (I know I was at first), but this method forced me and my colleagues to “buy in”, try something new and it works.

Student 4

Prior to choosing option 2 I would outline for each of my classes after each class, but the outlining that I was doing was not “real” outlining. Option 2 taught me how to make a clear and organized outline. At first, this process took me a long time, but once I got used to the

process, it became second nature. By completing this weekly task, I was understanding concepts much clearer, and I gained a greater understanding of the material. Not only did I understand material better, but I learned how to create a visually appealing document. Moreover, this process provided me with the skills needed to create documents that show others I take pride in my work.

Student 5

I submitted my first outline and I believe it was three pages and covered duress and undue Influence. That initial submission was not very organized. I at first thought that Professor Monestier was being too picky with the formatting of the outline. Later I was able to see why the formatting was important: the outline was a map of how I thought about particular issues. The process of outlining became significantly easier as the weeks went by, and it took less time to outline sections of the class.

Student 6

Initially, I thought that this would be a breeze. I felt that my outline from last semester considering that I was happy with my grade was written well enough to allow me to do well on the outline submission and the quizzes. The reality was far from that. After submitting my first outline I was very disappointed with how I had performed and began to question the decision I made in choosing option 2. I began dismissing the process, fighting myself internally, and being stubborn in applying the feedback I was receiving and just continued performing in a way I believed was the way my brain naturally conceptualized the doctrines we were presented with in class. I didn't know that in being reluctant to apply the feedback, I was only hurting myself. I was stopping myself from really learning this organizational skill that has now helped me in so many ways. After constant struggle with myself, I caved in and decided to apply the feedback to see if this would actually help me learn better. This was truly the best decision because since taking this step, I have seen a great amount of improvement in the way I study for the quizzes and how much easier it is to fully know the elements of doctrines and apply them. Also, I found that this learning style allows me to retain the material a lot longer than the studying techniques I was used before.

Student 7

Entering the legal profession, I knew I would spend more time in suits and less in sweatpants — little did I know that setting aside my sweatpants meant forgoing *Times New Roman* to dress-up in *Garamond*. The font change initially felt inconsequential and admittedly laughable. Yet, I did become hung-up on two things — it made my writing cleaner and more professional. Option II felt similar to *the font change*. My old method seemed good enough, and the change felt forced and unnecessary. Although I had extensively outlined the previous semester, the sheer amount of content and emphasis on formatting required for Option II seemed to be a bit of a sham. The first few weeks, I spent hours attempting to manipulate the word processor to put the headings and bullets in the right spot. Then, much to my demise, a few days later, receiving feedback that would require me to...reformat. I was anxiously waiting to see the *method to the madness*. It admittedly took until after the first assessment to begin to understand the purpose of Option II. Although I did not score as high as I wanted, the first quiz was the first contracts exam where I felt confident in my answer — I really did know and understand the material. ... The process of learning how to consolidate the information seemed to be the most valuable to me. It involved the frustrations of formatting, but it forced me to make sense

out of concepts, and actually understand them. ... I now spend a considerable amount of time figuring out the best way to consolidate the information in a sensible way. This is also where the idea of self-regulated learning started to make sense, as the way I consolidated the information seemed to come from my own connections via the reading and in-class discussion rather than relying on the professor to make those connections for me.

Student 8

Do not give up on the option.

If you have ever learned a new skill then you know it takes time. However, this is not a skill this is changing the way you think, so it will take even more time. Once you put in the time and effort you will begin to get into a rhythm. Once you grasp the rhythm then you will realize that outlining and note taking will not take you as much time. Everything will begin to “rhyme.” This will coincide with your ability to study and remember everything on the final. Finally, if you want to actually get something out of law school and not “just go through the motions” then do option 2. If you don’t want to put the work in then you should rethink your choice in law school.

Student 9

At the beginning of the semester I found Option 2 incredibly intimidating, but I also saw many potential benefits. After experiencing what a semester of law school was like, the idea of beginning and maintaining a comprehensive outline the very first week of the semester seemed like a mountain of a goal. On the other hand, I was attracted to Option 2 for the opportunity to take compartmentalized tests throughout the semester and develop a better understanding of material over time leading up to the final. The first couple of weeks of outlining were frustrating at times due to the difficulty of completely relearning a skill that we (students) generally have to teach ourselves during our first semester. However, my personal experience was that once the learning curve of effective outlining is met, maintaining the same quality of work becomes a manageable weekly task that contributes to reinforcing knowledge of the subject. Creating this comprehensive outline helped me study for the contracts tests throughout the semester and taught me how to better organize information in preparation for exams of my other courses as well.

Student 10

This process was eye opening because it helped me recognize the way I learn and got me into the habit of revisiting material a lot earlier than I would have last semester. Option two taught me how to get comfortable with struggling with concepts on my own, when they’re fresh. I learned other small things like how much I like to study and outline on my own, and that rewriting my outline was a complete waste of time. Option two is truly remarkable because it not only addresses the properly identified problem in the way that we as law students are learn but it also forces us to take responsibility for what we are learning. That doesn’t mean this process has been comfortable and easy. It was especially hard around LP Memo due dates and Property quizzes but, having survived, I find it was worth it. Thank you for providing me with new insight and structure to my education.

Student 11

Option 2 has been an interesting experience for me. Admittedly, I hated it at first. There were a few reasons for this, and most of them were internal to me and had little to do with the process itself. First, I felt I had developed a process during first semester that I felt was successful. The process included outlining in four week cycles (Contracts one weekend, Civil Procedure the next and so on), and handwriting the outlines after I typed them up. Initially just getting out of my method was very frustrating and also somewhat scary. ... I was extremely frustrated early on with the feedback I received on my outlines. My first few outlines were not considered to be actual outlines mainly due to the manner in which I presented the information. I felt that for the first few weeks, I was not engaging with the material at all. Instead I was fighting with Microsoft Word and wrestling with formatting issues. I found myself burning numerous valuable hours attempting to format (and apparently failing). At this point in the semester the Option 2 experience had made me depressed, frustrated, and confused. Eventually, on your recommendation, I met with our TA to have her look at my outlines to see where I was falling short. This meeting really changed everything for me. She took the time to look at my first semester outlines and assured me that I was in fact doing the same thing but I just needed to get a structure down. She provided tips on how to use Microsoft Word and restored my confidence in my abilities. After I met with her, I was actually able to engage with the material for the remainder of the semester. This is when Option 2 really began to work for me. No longer was I wasting hours dragging the little “L’s” on the ruler thing over just to have them jump back to where they were to begin with. Now I was actually thinking about how to conceptualize things, prioritizing information and actively re-learning the material. I stopped hating Option 2 and began to actually appreciate it. ...I also know now that I really wasn’t outlining before, I was really just loosely organizing my notes. This is something that will stick with me, and has already impacted my other courses. I am happy that I took this option, because it forced me to self-evaluate and made me grow even when I was resistant to it. Looking back at my first semester outlines I find myself wondering how I did as well as I did. In hindsight, my reservations were largely unfounded, and I think that Option 2 has been a rewarding experience.

You will see a common denominator in all of these reflections—Option 2 was hard, particularly at the beginning—but students pushed through and were the better for it. If you know right now that you are not potentially open to Option 2 and are not prepared to put in the work, I would strongly advise you not to select Option 2.

But if you are open to it, I think Option 2 can be instrumental in setting you on the right path in law school and as a lawyer. Here is a message a received from a student after the final Contracts exam:

Again, not sure if you know this, but this option changed my life. I’m not perfect and, jeez did I miss stuff today but I am getting better and I have you to thank for that. I am very serious. Without Option 2 and support this semester, I do not think I would have survived with the pressure. I will not know my fate until grades are released in the summer and I know my GPA. But guess what? No matter what happens, I have the tools I need and will keep at it.

*** All student reflections are available under “Option 2” link on TWEN.

VII. SOME COUNTER-INTUITIVE ADVICE: HERESY FOR A LAW PROFESSOR TO SAY

1. *Individual Classes Are Not Important, The Exam Is*

No matter how many times I say this, students either don't believe me or don't listen to me: your focus should be on preparing for the final exam, not on preparing for individual classes. Too many students get underwater because they spend so much time focused on preparing for a certain day's class. They are scared they are going to get called on and embarrass themselves. This fear leads them to over-prepare for the class, and under-prepare for the exam (because there is no time left over). To do Option 2, you have to shift your mindset. Proportionally, you should spend far more time *after class* working with the material than *in class*. For instance, see the numbers below for illustration:

Reading (2 hours)

Class Time (1.25 hours)

Outlining (3 hours)

[this time doesn't
include studying]

The reading is just intended to get you prepared for class, so that you can understand what is going on. The post-class time is meant to capitalize on all the work you've done in reading and taking notes in class, and memorialize it in an organized, easy-to-understand manner.

2. *Do Not Do Case Briefs Before Class*

I beg of you, don't! Even though every professor will tell you to. You can certainly take some notes on the cases, underline/highlight the book, write down the rule, etc. However, I do not think you should be doing a full case brief before class. Why? Several reasons.

- a) First, it will be wrong, or largely wrong. No 1L law student will get the right take-away from a case entirely on his or her own.
- b) Second, because of the time you invested in your case brief, you will feel committed to it, even though it is wrong or doesn't contain the full analysis that the professor wants you to get out of the case. This means that you will insert your inaccurate/incomplete case brief verbatim into your outline, rather than feel like you wasted all that time.
- c) Law school exams don't reward case briefing. You are not going to be asked to case brief on an exam. You will be asked to apply black-letter law to a given fact pattern. A traditional case brief does not even remotely help with that exercise.

3. *Cases (at least in Contracts) Are Not Gospel*

You are led to believe that cases are the be-all-and-end-all of law school. They are not. In most courses, cases are a vehicle for teaching you the law. They explain the law and they apply that law to the facts of that particular case. There are hundreds of cases that the authors of the case book could have chosen to illustrate offer and acceptance. There is nothing magical about, say, *Normile v. Miller* or *Izado v. Machado*.

This leads to my next observations:

- a) You can—and should—critique cases. Judges don’t always properly articulate or apply the law (gasp!)
- b) In your outlines, you should treat each case as a mini-hypo. Given the facts of this case, how would you apply the law we have learned? That is how you use cases.

VIII. SOME CONCLUDING THOUGHTS

I realize that a 17 page “Contracts Evaluation” Guide is a little bit overwhelming. But rather than throw all this information at you in class, and then follow-up with multiple handouts, I thought it was best to give this to you in advance so you could read through it at your own pace.

Last year, students were a little bit stressed about the decision of whether to go for Option 1 or Option 2. This year, I have attempted to take away some of this stress, in part, by creating a back-end opt out. *So, there is no downside risk to trying Option 2, and then backing out if you hate it after Week 4.*

I will place all information related to Option 2 in the “Option 2 folder” on TWEN. This includes:

- a) The *Using Science to Build Better Learners* article (along with some other academic articles if you are interested)
- b) Formatting tips – they are not gospel, just tips!
- c) Option 2 reflections from students
- d) Honor Code certification
- e) Sample outlines (what to do, what not to do)

Please spend some time looking through this before school starts so that you can hit the ground running come the first week of classes.