

RULE III: EXAMINATIONS

A. Definitions

1. **"Work Product."** A "work product" means a student's written response to any assignment counting or potentially counting toward the final grade in an offering.
2. **"Anonymously Graded Work Product."** An "anonymously graded work product" is one that, according to UNH Franklin Pierce School of Law's (UNH Law) anonymous grading policy, stated in subdivision A(1) of Rule IV, is to be graded without the instructor's knowing the identity of the student.
3. **"Examination."** The term "examination" includes any anonymously graded work product to be carried out within a brief period of time after it is given, such as one-to-four hours for an "in-class examination" or twenty-four (24) hours for a "take-home examination."
4. **"Final Examination."** A "final examination" is an examination administered at the conclusion of an offering, whether or not it covers all of the contents of the offering.
5. **"Interim Examination."** An "interim examination" is an examination administered during an offering, covering substantially less than all the contents of the offering.

B. Submission of all Anonymously Graded Work Products Directly to the Registrar

In order to protect anonymity, assure accurate records, and avoid exam-number errors, students shall submit directly to the Registrar or the Registrar's designee all anonymously graded work products. Students shall make only with the Registrar or the Registrar's designee such arrangements as are necessary to submit such work products irregularly, that is, for example, early or late or at an unusual location.

C. Examination Policy

1. **Examination Experimentation.** Experimentation in examinations is encouraged to improve the examination process as both a learning device and an accurate and comprehensive measurement of learning, **provided however**, that the experimentation does not impose a significant risk of dishonest conduct in any student's completing an examination. To this end, UNH Law shall:
 - a. Permit interim examinations,
 - b. Administer take-home examinations,
 - c. Make available reference and other materials needed during the administration of a take-home examination, and
 - d. Otherwise facilitate an instructor's experimentation consistent with these rules.
2. **Instructor's Discretion.** The instructor responsible for an examination has the discretion to determine its format and type. The instructor shall indicate any special provisions for administering and completing the examination that are consistent with these rules.
3. **Common Understandings of Honesty, Fairness, and Considerations of Others.** Every student taking an examination is bound by common understandings of honesty, fairness, and consideration of others. Every student taking an examination must follow the instructions of the Registrar, the Registrar's designee or proctor. The provisions governing examinations supplement and explicate these understandings. Breach of any understanding or provision may be a breach of the Conduct Code (Rule XIII-1 B and C).

4. **Use of Electronic Devices.** An instructor may determine how computers may be used during an exam. In certain instances, the instructor may permit the use of other electronic devices during an exam such as: (1) a dedicated electronic dictionary, (2) a calculator, or (3) those approved by the deans as a reasonable accommodation. Unless permitted by the instructor, no computer or electronic device may be used to communicate with another person, computer, or electronic device during an exam.

D. Examination Scheduling

1. **Final Examination Schedule.** Every final examination shall be administered during a final examination period according to a schedule determined and published by the Registrar before the midpoint of the term and after consultation with affected instructors and students. To the extent feasible, examinations involving the same students shall be evenly distributed during the examination period.
2. **Scheduling Interim Examinations and Similar Activity for Academic Credit.** Every interim examination or similar activity for academic credit shall be scheduled so as to minimize conflict with any examination or similar activity for academic credit already scheduled and involving substantially the same students.

E. Special Administration of Scheduled Examinations

1. **For Illness or Other Personal Circumstances Beyond a Student's Control.** The Registrar, in consultation with the Assistant Dean of Students, as appropriate, shall permit a student, upon request made as promptly as reasonably practicable in the circumstances, to take an examination at a time other than scheduled, provided the student shows illness or personal circumstances, beyond the student's control, compelling the exception.

For a final examination, a special administration authorized under this subdivision shall take place, if feasible, during the final examination period or, at the latest, prior to the first day of classes for the next semester. Otherwise the student must take the examination when it is next regularly administered or reenroll in the course.

2. **Where a Student Has Two Examinations on the Same Day.** The Registrar shall arrange, for a student who has two (2) examinations scheduled on the same day, for one (1) examination to be specially administered at a date and time determined by the Registrar, provided:
 - a. The student requests a special administration in writing within such time as the Registrar may prescribe.

F. Examination Administration

1. **Registrar's Authority and Responsibility.** The Registrar shall have the authority and responsibility for administering all examinations and is authorized to promulgate and carry out instructions, consistent with these rules, for administering an examination.
2. **Regarding Changes in Examinations.** Once the examination has been distributed, students are not to reach out to the faculty regarding their exam as that may compromise their identity during the exam period.
 - a. A student who believes a mistake has been made or who is not sure how to interpret a particular question or part of a question must explain the uncertainty in writing on the exam. They should include any assumptions they have made to resolve the uncertainty. The instructor, with the rationale provided by the

student, should take this into account in the grading process due to academic freedom.

3. Student Consultation During Examination Administration Prohibited Except as Expressly Authorized.

- a. **Consultation with others.** Unless explicitly authorized in the written instructions for an examination, a student shall not consult about the examination with any other student or anyone else,
 - i. During the administration of an examination, or
 - ii. In the case of administration of the same examination at different times, during the entire period in which the examination is administered.
- b. **Consultation with outside materials.** While taking an examination, a student may consult only such outside materials as indicated in the instructions for the examination.

4. Supervision of Examination Administration. All examination administration shall be supervised by the Registrar or by proctors selected by and responsible to the Registrar. A proctor shall assure that :

- a. The instructions for the examination are followed;
- b. The Academic Rules and Policies are observed,;
- c. Attendance is taken of all students beginning and completing the examination instrument.

5. Location of Examination Administration.

- a. Generally all examinations, except take-home examinations, shall be completed in a designated classroom or classrooms during the time period for which the examination is scheduled.
- b. **Take-home examinations.** Take-home examinations may be completed anywhere within the time permitted. Students shall not consult with anyone until the end of the examination period, unless authorized by course instructor. Take-home exams are administered electronically through the use of exam software.
- c. **Hybrid Examinations.** All exams for distance education (asynchronous or synchronous) courses for the hybrid JD program will be administered with a learning management system chosen by UNH Law and will be recorded by that system.

6. Examination Length. The time period for completing an examination other than a take home examination in an offering should not exceed by more than one (1) hour the product of multiplying the number of credits of the offering by the percentage of a student's final grade attributed to performance on the examination.

7. Examination Work Product. Except as otherwise determined by the instructor, all responses shall be written on paper provided by UNH Law. Except as authorized under subdivision (8), the medium of response, for example, writing by hand in a bluebook provided by the Registrar for the particular administration, shall be the same for all students completing an examination.

8. Exceptions to Accommodate Disabilities. Students with a disability may qualify for certain exam accommodations. Any student seeking an accommodation for examinations must follow the procedures outlined in the UNH Law Student Handbook.

9. Exceptions To Accommodate Students For Whom English Is A Foreign Language.

- a. *Students for whom English is not a native language may apply to the Registrar to receive extra time during examinations. Time accommodations, as permitted under this Rule, shall be granted if the student has satisfactorily demonstrated qualification under one or more of four criteria enumerated in this rule. Any student seeking extra time under this provision must submit a written request to the Registrar within four weeks of the beginning of the*

first semester in which the student seeks the accommodation, or, if later, in conjunction with a motion showing good cause why the application is filed after the deadline. The four independent criteria for qualification are as follows:

- i. No Prior English-Language Education Criteria:
 - 1. The student has received all preceding undergraduate and graduate degrees from non-English language institutions; and
 - 2. The student has taken the TOEFL (Test of English as a Foreign Language) or IELTS (International English Language Testing System) and submitted the results of the test to UNH Law in support of the student's application for admission.
- ii. Less Than Two Years English-Language Prior Education
 - 1. the student has been enrolled for less than two years in a college or graduate level educational program where instruction was primarily or exclusively in English; or
- iii. Less Than Two Years English-Language Immersion Prior to Law School
 - 1. the student has lived in an English speaking country for less than two years out of the preceding five-year period.
- iv. The Student's English Language Skills are Substantially Inferior to Those of Students Holding a Baccalaureate from an American College or University
 - 1. The student demonstrates that, despite two or more years of preceding English language education and/or two or more years of English language living experience, the student lacks the English Language Skills to complete a timed law school examination to the same ability as a student with a U.S. bachelor's degree as a result of the student not being a native English speaker.
- b. Any student permitted to have extra time under the No Prior English-Language Education criteria shall receive 50 percent more time for each in-class exam during the first two semesters of study and 25 percent more time for each such exam during the third and fourth semesters of study. No extra time is permitted during the fifth and sixth semesters. Any student permitted to have extra time under the remaining criteria shall have 25 percent more time for each in-class exam during the first two semesters of study. No extra time will be permitted during the third and fourth or fifth and sixth semesters of study.
 - i. Advanced Standing Students accepted directly from UNH Law's residential LL.M degree program may receive 25% additional time their first two semesters in the JD program. No extra time will be permitted in the third and fourth semesters in the JD program for Advanced Standing students.
 - ii. For hybrid students, the initial accommodation level (of 50% or 25% as the case may be) will occur throughout the first three semesters. No extra time will be permitted in subsequent semesters for hybrid students.
- c. Students for whom English is not a native language will be permitted to use a dictionary while taking exams. The dictionary is to be purchased by the student and is to contain no additional writing in any language. Dictionaries that do contain additional writing may not be used in the exam, except for open-book exams. Students may use a dedicated electronic dictionary provided it does not have communication capabilities. The right of students for whom English is not a native language to use

- a dictionary extends throughout a student's law school study, whether or not the student is entitled to extra time.
- d. If the Registrar denies a student's request under this Rule, the student shall have a right of appeal of that denial to the Standing Committee for such Appeals, which is made by filing the appeal of the Registrar's decision to the Assistant Dean of Students for the consideration of the Standing Committee.
 - i. The appeal must be filed with the Assistant Dean of Students within two weeks of the Registrar's denial of accommodations.
 - ii. The Standing Committee shall be comprised of the faculty standing Appeals Panel and the Director of the Graduate Legal Writing Program.
 - iii. The written appeal must present evidence and arguments to demonstrate that the student meets one or more of the criteria, and the Standing Committee will review the student's appeal *de novo* on findings of fact and rulings on meeting the criteria
- a. The times when students are likely to have the greatest interest in reviewing examinations and other work products; and
- b. The steps necessary to retrieve work products from [archival] storage.

G. Satisfactory Financial Standing Required to take a Final Examination or be Allowed Credit for a Work Product in Place of a Final Examination

1. **Notice.** UNH Law may, by written advance notice, (a) bar from the regular administration of a final examination or (b) refuse to allow credit for a work product required in place of a final examination that is submitted by a student who, at the time of the administrative notice, is not in satisfactory financial standing with UNH Law as determined by the Director of Finance and Administration in conjunction with the Durham Business Office.
2. **Consequences.** Unless prior to the scheduled administration of a final examination or the due date of the work product required in place of a final examination, a student given advance notice as provided in subdivision (1) is able to attain satisfactory financial standing as determined by the Director of Finance and Administration in conjunction with the Durham Business Office, the student's right to complete the requirements in the offering is barred. Failure to complete the requirements in the offering shall result in no credit or residency but shall not relieve the student from the obligation to pay that semester's tuition.

H. Student Work Products after Grading

1. **Retention by Registrar.** The Registrar shall be responsible for UNH Law's retaining until the end of the second semester following the term in which it is submitted any:
 - a. Final examination;
 - b. Paper; or
 - c. Other work product that counts for one-third (1/3) or more of a final grade in an offering, and is not returned to the student after the instructor has reviewed and graded it. The Registrar shall keep student work products in a secure place under conditions reasonably assuring their continuing confidentiality.
2. **Student Access.** A student shall have access to the student's work products as long as they are retained by UNH Law. The Registrar is authorized to prescribe rules for students' orderly accessing their work products, including limiting access at those times when the Registrar's Office is most involved in other activities, such as the first two weeks of a semester, taking into account: