March 24, 2020

Dear UC Hastings Community,

We have appreciated your principled engagement and your patience as the College has considered whether and how to change its grading policies in light of the unique challenges posed by the COVID-19 pandemic, evolving public health responses including shelter-in-place orders, and the resulting economic downturn. After carefully deliberating and considering all input, the College has adopted the attached Spring 2020 Grading Policy (the “Policy”). This decision was extremely difficult, and we recognize that no decision will satisfy everyone.

The core of the Policy is that all students will have the opportunity to elect credit/no-credit (“CR/NC”) grades in spring 2020 (“SP20”) courses originally designated on WebAdvisor as having a grade type of “LG Letter-Graded” (“LG”). Students may make the election for individual classes after they see their provisional posted letter grades.

This email explains why the College made this decision and engages with some of the powerful arguments for policies we ultimately did not adopt. Other ABA law schools in California and nationally are similarly struggling with the decision of how to handle grading this semester. Our peer schools have adopted varied approaches, including adhering to their existing grading scales and curves without modification, adopting variations of the CR/NC grading option, and requiring mandatory CR/NC grading for all students. The College adopted the attached Policy because we believe it best balances the values and principles at stake to meet our community’s unique needs.

That said, we recognize that community members expressed a wide range of preferred solutions, so selecting this one solution will inevitably disappoint some. There is no one consensus approach. Faculty, staff, and students we trust and admire, whose experiences we honor and value, argued vigorously for variations of or alternatives to the Policy we are adopting today. In so doing, they shared thoughtful reflections and intensely personal and inspiring stories of challenge, perseverance, and grit. We cannot say with certainty that we made the right choice – or, indeed, that there is only one right choice. But we can say that we have exercised our best judgment as an administration and a faculty, and that we tried as best we can to be true to our values and mission.

Though there was no consensus approach, it appears that there was relatively more support for a CR/NC grading option than for mandatory CR/NC grading among faculty and students. Within the optional CR/NC grading regime, preferences varied. For example, both faculty and student survey respondents were split on the question of whether the election between CR/NC and letter grades should be made before or after students receive their SP20 letter grades. The selected option recognizes that no two students are having the same experience this semester, and the selected
option permits each student the maximum choice to tailor their semester to accommodate their individual situation.

We are acutely aware that a solution that makes sense today may seem inadequate in the days or weeks ahead, given the pace of developments with regard to this public health crisis. That is why we have taken pains to make clear that this is the grading policy for now, subject to changing needs and circumstances, and subject to the Academic Dean’s inherent and emergency powers to make adjustments as needed.

Ultimately, the choice of a path forward is a matter of judgment, bearing these and other considerations in mind. That is one reason we are so grateful for the very high level of faculty, administrator, and student interest the discussion of grading has generated, described more fully below.

**Summary of the Spring 2020 Grading Policy**

The Spring 2020 Grading Policy responds to pandemic-related disruption in the following ways, among others:

- **Default Grade Type:** By default, students will be graded pursuant to the grading scales set forth in the Academic Regulations (e.g., for JD students, letter grading) unless they elect to receive CR/NC grades in eligible LG courses after seeing their posted letter grades and by the deadlines and pursuant to the procedures to be established by the Records Office.

- **Grade Election Eligible Courses:** Students may make a separate election for each eligible (i.e., LG) SP20 course – for example, a student taking three GPA courses could elect to take one for a letter grade and two CR/NC or two for a letter grade and one CR/NC. Students may not elect to receive a letter grade in specific courses that the Academic Dean determines must be graded CR/NC, including Legal Research & Writing 2.

- **Grade Election Timing:** Students in LG courses in SP20 who wish to do so may elect between letter grades and CR/NC grades after exams and after Records releases their letter grades in June and by a deadline Records will announce (e.g., “x” days after letter grades are released). The Records Office will not accept or begin collecting grade elections until June, after grades have been posted.

- **Transcript Notation:** SP20 student transcripts will have a notation indicating that this was the “COVID-19 pandemic semester.” There will also be a brief explanation in the published transcript comment notes.

- **Minimum Cumulative GPA:** The minimum cumulative GPA for 1Ls and 2Ls facing possible academic disqualification will be lowered from 2.5 to 2.35, and “[w]hen considering petitions for readmission, the Committee on Disqualified Students will consider and give weight to the impact on the petitioning student of any articulated health, family, financial, or other challenges resulting from COVID-19 and associated disruptions”.


The Policy recognizes that additional changes may be needed on a case-by-case basis. If individual students have issues that this new grading Policy does not address, they can on a case-by-case basis seek other forms of relief in consultation with Assistant Dean of Students Grace Hum, including, among other things, withdrawal from particular courses, leaves of absence, and the like.

We encourage you to study the Policy itself and not to rely on this summary. The Policy is the approved document that is to be administered. This email is not a policy document.

**Principles and Justification**

The College and faculty held meetings; consulted with relevant administrators and staff involved in grading; considered multiple rounds of faculty surveys; developed alternative policy proposal drafts; solicited and reviewed responses to student surveys; studied student petitions and emails; and consulted with peer law school administrators (many of whom are adopting a version of this Policy). In short, we reflected deeply on the issues and possible solutions. In the end, we placed special weight on the principles examined more fully below, which led us to adopt the attached Policy.

**Compassion and Wellness.** We want to acknowledge and honor the efforts of our faculty, administration, staff, and students to quickly move from an academic program that was nearly entirely in-residence to an online program within the space of about two weeks. The pivot has not been without hiccups, but we have managed to maintain instructional continuity and the integrity of our academic program, and for that we are grateful. That said, this is no ordinary crisis. Virtually all of us are subject to shelter-in-place orders, and faculty, staff, and students in particular face sudden and unexpected stress on top of having to adjust to the new instructional format, including moves, illness or the fear of illness, the need to protect the health of family and dependents, childcare or eldercare duties prompted by school closures, economic insecurity associated with a looming economic downturn, internet capacity issues, and many other challenges that are systematic and pervasive rather than episodic and individualized. We recognize that any policy we adopt must acknowledge these challenges. That is why we decided we should not simply continue with the status quo for SP20.

**Fairness and Equity.** We carefully reflected on fairness considerations and concluded that they did not point in a single direction.

Some community members argued cogently and forcefully that fairness (and compassion) principles cut against allowing a CR/NC grading option and in favor of mandatory CR/NC grading to level the playing field. They pointed out that burdens such as caring for sick or at-risk relatives would likely fall disproportionately on our most vulnerable students, including those with limited financial means, families to support, or health issues. They argued, further, that allowing some students to elect letter grades would reflect negatively on students who stay with the default CR/NC grading scale; struggling students might thus feel pressure to elect letter grades precisely at the time when they most need to be protected from such pressures. In this view, only a
mandatory CR/NC grading scale in all LG courses could address inequities that always exist but are heightened by the COVID-19 public health crisis.

Others argued just as passionately that to be denied the option to seek a letter grade would deprive them of the benefits of their hard work—work they have continued to do despite disruptions. Some of the most passionate proponents of a letter grade option included students who identified as coming from marginalized or disadvantaged backgrounds or students who have been struggling academically and wanted the chance to prove that they had overcome the difficulties they had experienced in the past. These students also cited fairness principles as supporting an optional CR/NC SP20 grading policy.

These competing appeals to fairness and equity require us to reflect on the purposes of grading policies and of related tools in the Academic Regulations for addressing the needs of students in distress, in general and under the current circumstances. In normal circumstances, students who experience extraordinary circumstances that disrupt their studies have a number of tools, including withdrawing from a class, taking an incomplete, or doing the best they can and, if their grades fall below minimum cumulative GPA thresholds due to such challenges, using the petition for readmission process to explain why their grades do not reflect their potential. Although those tools are still available, a pandemic grading policy for SP20 that includes a CR/NC grade option creates another tool for students in distress—one that does not require them to prove special circumstances that might justify utilizing it. Via this Policy, the College presumes that the pandemic and associated disruptions have impacted students so pervasively that any student should be able to rely on a CR/NC option if the student wants to elect it, without any showing. The Policy also presumes that there are students who don’t need or want any remedy imposed on them.

The Policy mitigates negative signaling effects of a CR/NC grade election on the employment market. First, we suspect that most employers are experiencing the same disorienting conditions that we are, and that this period will long be remembered as a traumatic one; we suspect that most employers will fully understand if students elect CR/NC grading under the circumstances, for many of the reasons thoughtful defenders of the mandatory approach articulated. Second, we intend to highlight the unusual nature of SP20 on student transcripts and in information we make available to employers. Finally, so many peer school students are experiencing some variation of the CR/NC grade regime this semester that we expect some employers to adopt procedures to screen candidates that decrease reliance on grades altogether, including in-interview writing exercises and the like. Our Career Development Office can provide further guidance to students regarding how to communicate about SP20 grades during the coming hiring season.

**Student Choice.** As one of our thoughtful colleagues on the faculty noted, every student’s situation, needs, and coping skills are unique. She wrote: “A compassionate response to this crisis respects not only the range of students' likely experiences during this crisis, but the range of students' coping strategies. Indeed, the satisfaction that comes from feelings of mastery and achievement in a course may be a lifeline to some students and we should not deprive them of the opportunity to pursue quantification of their efforts. To others who are facing insurmountable stresses and obstacles ... the option to choose CR/NC where they need it will be a lifeline. For many students, just knowing they have the option to choose CR/NC selectively will be enough to
reduce stress immeasurably, even if they don't exercise it.” As long as conditions permit, we want our students to be able to choose between CR/NC and letter grades, just as we make other remedies available to students, including withdrawal, taking incompletes, and the like.

**Integrity.** The College has a long history of relying on its Student Code of Conduct to ensure integrity, including on take-home, open-book exams. A few years ago, we prohibited such exams in 1L and other bar subject classes. We did so not because there is anything inherently wrong with take-home exams, but because our analyses suggested that students would benefit on the bar exam if they had practice memorizing subjects. We will continue to rely on students’ good moral character and the conduct code.

**Experience.** The ability of students to elect between CR/NC and letter grades is consistent with and builds on a policy that the College used to have when it allowed students to take up to two LG courses for CR/NC grades. We eliminated that policy because our internal studies showed that when students took upper division bar courses CR/NC, the positive effects bar classes normally had on the probability of bar passage were effectively cancelled out. But the policy was otherwise one that enjoyed wide support among most faculty and students but for the effects on bar passage. While the negative effects on student bar outcomes cautions against permanently bringing back the CR/NC option, a temporary adoption of it to respond to the COVID-19 pandemic is consistent with our past practices.

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We want to thank all members of the community for participating in the decision-making process that informed the College’s and faculty’s decision to adopt this Policy. We can assure you that our assessment of student needs and interests drove the deliberation process. We are proud of our community’s ability to engage in intense-but-civil and reasoned discourse on a tough policy question, even in a time of crisis. It is now time to come together to support implementation of the Policy—and each other. Registrar Sarah Reed, Assistant Dean of Students Grace Hum, Director of Student Services Emily Haan, Assistant Dean for the Career Development Office Amy Kimmel and other student-facing department and program administrators will reach out in the coming days and weeks with more guidance.

We are all here to support you through the remainder of this challenging semester.

David L. Faigman  
Chancellor and Dean

Morris A. Ratner  
Academic Dean

John F. Digardi Distinguished Professor of Law  
Professor of Law