

# Law School Teaching Innovations/Tips

Thurgood Marshall School of Law  
Texas Southern University

**Tip 6**  
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## **COMPETENCY ASSESSMENT: Developing Measures to Assess a Law Student's Competency**

### **Introduction**

Competency assessment in legal education involves the measurement of an individual student's competencies. Although competent performance is expected in legal education, defining what it is and teaching students how to perform competently present many challenges. This teaching innovation/tip is divided into three parts. Part 1 provides a brief overview of the contemporary focus on competency assessment in legal education. Part 2 asks faculty members to develop a measure to assess their students' competency during the month of October in order to share that measure at a faculty development meeting to be held in November in which methods for implementing a competency-based curriculum and lessons learned during the process will be discussed. Part 3 provides a practice-oriented example of a measure to assess competency that requires competent performance among students in a Criminal Law course.

### **The Contemporary Focus on Competency Assessment**

Although increased accountability has become a common theme in legal education since the publication of the MacCrate Report, operationally defining acceptable, competent performance is one of the most challenging and essential components in any accountability endeavor. The faculty in legal education faces many challenges. Students approach learning in law school with the assumption that they will be taught the requisite knowledge and skills to become competent lawyers. Employers of law-school graduates assume that the student's law degree and the state bar's licensure certify competent performance. But many definitional and methodological issues evolve from these assumptions about competencies.

To address some of these assumptions, Teaching Innovation/Tip No. 6 asks faculty members to develop during October a measure to assess their students' competency. The purpose of this request is to examine at a faculty meeting in November some selected assessment methods designed to accurately document competence.

For more information about the Center or to make submissions to *Law School Teaching Innovations/Tips* contact:

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Contemporary educational research holds that competency assessment is always outcome oriented; the goal is to evaluate performance for the effective application of knowledge and skill in a learning setting. Competency assessment techniques address cognitive domains; they can be basic or advanced. Critical elements are single, discrete, observable behaviors that are mandatory for the specific competencies being evaluated. The behaviors should specify exactly what is required for acceptable performance on a task inasmuch as a grade is based on this pre-determined foundation.

Contemporary educational research also holds that competency assessment is based on criterion-referenced evaluation methods where the learner's performance is evaluated against a set of criteria provided to the learner so that both the learner and the assessor are clear on what performance is required. Finally, competency-based education is learner-centered in that outcomes are specified and describe what the learner must do to demonstrate competency. Learners are oriented at the beginning of the learning to the specific outcome competencies and requirements they are expected to acquire, and how they will be evaluated.

## The Teaching Experiment

Over the next month, by November 7, 2005, we would like as many of faculty members as are willing to try the following teaching experiment: Choose a section or a subsection of the textbook that you will cover during the next month. Identify a lawyer competency you believe the coverage requires the students to learn in order to achieve mastery of that material. Identify a very brief exercise, which can be administered as you teach these materials, that you believe will test how many of the students have acquired the competency. Once the exercise is administered the first time, provide feedback on the student's efforts and the competency. When you administer your next exercise, quiz, or exam after that debriefing, test that competency again. Determine how many of your students have acquired that competency. How close to the mark were you in projecting the percentage of your students who would acquire that competency?

Please send the results of your teaching experiment to us by email: [dholley@tsulaw.edu](mailto:dholley@tsulaw.edu) or [apalas@tsulaw.edu](mailto:apalas@tsulaw.edu)

An example of such an in-class exercise that took 12 class minutes to administer follows in the next section. Email us ([dholley@tsulaw.edu](mailto:dholley@tsulaw.edu) or [apalas@tsulaw.edu](mailto:apalas@tsulaw.edu)) with any questions that you have about attempting such an exercise. Review Teaching Innovations/Tips No. 1-5 for further explanations and evidence to support the reasons for undertaking such an assessment exercise, especially Teaching Innovations/Tips No. 4. Let's meet on November 14, 2005, to share our results, and plan follow-up strategies.

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## An Example of a Measure to Assess a Competency

Professor Competency/Competency Assessment Evaluation Goal: 50% of the 60 students enrolled in 2005 in Criminal Law Section 4 should be able to answer correctly 50% of the following sequential and interrelated lawyer competency testing questions.

At least 50% of you should be able to do most of the following lawyering tasks. You are Mr. Bartlett's lawyer at the case book, page 409. You review the facts, and determine that a basis for obtaining an acquittal is to arguably rely on the rules and policies covered in answering syllabus question(s) \_\_\_\_\_ .

(1) Counsel Mr. Bartlett --- tell him if his chances for acquittal are good or bad using this theory of defense? \_\_\_\_\_ .

(2) You can accurately explain to another lawyer (a) that a true defense is \_\_\_\_\_ . (b) An affirmative defense is \_\_\_\_\_? (c) A true defense and an affirmative defense are different names for the same thing --- True or False?

(3) The term "Mistake of Law" is not a legitimate defense to a criminal charge?  
True or False?

(4) If "Mistake of Law" is not a viable basis for acquittal, what knowledge of the law related doctrine is a viable defense, and is it a true and affirmative defense?

## Conclusion

Again, please email us ([dholley@tsulaw.edu](mailto:dholley@tsulaw.edu) or [apalas@tsulaw.edu](mailto:apalas@tsulaw.edu)) with any questions that you have about attempting an exercise to measure a competency. Review Teaching Innovations/Tips No. 1-5 for further explanations and evidence to support the reasons for undertaking such an assessment exercise, especially Teaching Innovations/Tips No. 4. Email the results of your teaching experiment to us by November 11, 2005. And, let's meet on November 14, 2005, to share our results and plan follow-up strategies. An email will be sent with the meeting's time and place.