

PHI 3070 PHILOSOPHY OF LAW

DR. GRANT STERLING E-MAIL: gcsterling@eiu.edu OFFICE: 3531 COLEMAN
Tele.: 581-8468 Hours: 11-12 MWF, 10-11TTh (Or by Appt.)

This course deals with the major philosophical questions of legal theory. We will cover topics such as “What is a law?”, “Are we morally obligated to obey unjust laws?”, “How should judges interpret statutes and the Constitution?”, “What justifies punishment, and could the Death Penalty be justified?”, and “Should we punish people for cannibalism if they were really hungry?” The various topics will be illustrated by the use of actual cases pertaining to the issues involved.

Grading and Course Instructions There will be two one-hour exams and a final exam, each of which will be primarily essay in nature and worth one-fifth of the course grade. There will also be a paper assignment, worth one-fifth of the course grade. I will give more details about the paper later in the semester. In-class assignments, including mock Supreme Court cases, will account for the remaining one-fifth of the grade.

Since philosophy classes in general benefit from class interaction, students who participate constructively in class may be given a bonus on their final grade.

Academic integrity:

Students are expected to maintain principles of academic integrity and conduct as defined in EIU’s Code of Conduct (<http://www.eiu.edu/judicial/studentconductcode.php>).

Violations will be reported to the Office of Student Standards. In addition, anyone cheating on any exam or plagiarizing the paper will receive an “F” for the semester.

Students with disabilities:

If you are a student with a documented disability in need of accommodations to fully participate in this class, please contact the Office of Student Disability Services (OSDS). All accommodations must be approved through OSDS. Please stop by Ninth Street Hall, Room 2006, or call 217-581-6583 to make an appointment.

The Student Success Center:

Students who are having difficulty achieving their academic goals are encouraged to contact the Student Success Center (www.eiu.edu/~success) for assistance with time management, test taking, note taking, avoiding procrastination, setting goals, and other skills to support academic achievement. The Student Success Center provides individualized consultations. To make an appointment, call 217-581-6696, or go to 9th Street Hall, Room 1302.

Textbook The textbooks for this course are *Philosophy of Law*, edited by Joel Feinberg and Jules Coleman, and *Ethical Issues in the Courts*, by Julie C. Van Camp.

Reading Assignments Since this class will put an emphasis on analysis and discussion, reading assignments will not be given at the beginning of the semester, to allow greater flexibility. All assignments will be given either one or two periods in advance. Below is an approximate schedule—this is highly tentative.

Introduction: What is Law? Four Weeks

Readings may include:

Fuller on Cannibalism (and Legal Theory);
Aquinas on Natural Law Theory;
Austin and Hart on Legal Positivism;
Plato and Martin Luther King, Jr. on the duty to obey unjust laws.

First Exam, end of week 5 [Probable Date: Feb. 12th]

Liberty. Three Weeks

Readings may include:

Mill on liberty and law
Bork on Constitutional Interpretation and the Right to Privacy

Cases may include:

Griswold v. Connecticut, *Roe v. Wade*, *Cohen v. California*, *Village of Skokie v. National Socialist Party of America*, *Elk Grove v. Newdow*, *Bush v. Schiavo*

Justice. Four Weeks

Readings may include:

Langbein on plea bargaining and torture [handout];
Scheppelle on gender

Cases may include:

Rusk v. State, *Plessy v. Ferguson*, *Brown v. Board of Education of Topeka, Kansas*, *Regents of the University of California v. Bakke*

Second Exam, end of week 10 [Probable Date: March 26th]

Ethics and Responsibility. Two Weeks

Readings may include:

The “M’Naghten rules” and other issues regarding insanity;
Kadish and Schulhofer on the “Impossibility Defense”

Cases may include:

A&M Records v. Napster, *State v. Guido*, *People v. Jaffe*; *United States v. Oviedo*

Term Paper first draft OPTIONAL due date, end of week 13 [April 17th].

This paper will be an analysis of a major Supreme Court case, connecting issues in the case with ideas presented in this course. No two students may work on the same case, and all cases must be cleared with the instructor.

Punishment. Two Weeks {I hope you don’t find two weeks of punishment to be excessive.}

Readings may include:

Discussions regarding punishment and the death penalty

Cases may include:

Furman v. Georgia, *Atkins v. Virginia*

Term Paper Final due date: End of 15th week of class [May 1st, 4:30 PM]

Final Exam: Celebrate Cinco de Mayo, Tuesday, May 5th at 2:45 PM