

Eastern Illinois University
Department of Counseling & Student Development

Syllabus: CSD 5760.001 Legal Issues in Student Affairs
Term: Fall, 2006 Effective: Monday, August 21
Instructor: James A. Wallace, Ph.D.
Office: 2112 Buzzard Hall
Hours: Monday (10:00 am – 12:00 pm; 1:00 – 3:00 pm)
Wednesday (10:00 am – 12:00 pm)
Class Meets: Monday, 4:00 – 6:30 pm
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Course Purpose & Description:

Preparation for a career in the student affairs profession requires working knowledge of law and legal issues affecting higher education (current and past); the development of professional ethics and moral values; and the ability to conduct research utilizing legal resources and documents. Students seriously committed to a career in student affairs should give serious consideration and effort to attending both the ASJA (Association of Judicial Affairs Administrators conference (Feb. 7-11, 2007) and the Stetson University School of Law 27th Annual Conference on Law in Higher Education (February 17-21, 2007) both held at the Sheraton Sand Key Hotel - Clearwater Beach, FL). *Conference Internships* have been available in past years to support two students attending the Stetson conference. Internships cover conference fees, lodging at the Sand Key, and conference materials. Transportation is the intern’s responsibility. Dr. JAW will attend the Stetson Law Conference.

Upon successful completion of this course, students should be able to demonstrate mastery of the following ethical and legal issues in college student affairs practices:

- a. Basic sources of postsecondary education law.
- b. Court systems and processes governing the administration of education law in the U.S.
- c. Distinctions between laws governing public and private institutions of higher education.
- d. Sources and scopes of authority in higher education governance.
- e. Basic issues involved in tort liability, contractual liability, and liabilities for violations of federal constitutional rights by both institutions and individuals.
- f. Application of legal principles in institutional and personal relationships with students, including admissions, financial aid, discipline, academic regulations, protests and demonstrations, organizations, student press, civil disobedience,

- first amendment rights, on and off-campus housing, behaviors, records, copyrights, domestic partner agreements, individual safety and technology.
- g. Federal regulation of postsecondary education (past, current, & future).
 - h. Civil rights compliance, Anti-discrimination laws, and Affirmative Action.
 - i. Application of professional codes of ethics in student affairs practices.

Instructional & Learning Models

Pedagogy for this graduate level course will include the use of problem solving, guided group discussions, case studies, examinations of contemporary issues, and cooperative learning. Students will be responsible for engaging in extensive and careful readings of the assigned materials so that informed discussion with classmates and other professionals is possible. To this end, the constructivist information-processing model of learning will apply. Students will be expected to reflect on the readings, classroom discussions, and out-of-class work to enhance their understanding of higher education laws as they apply to the practice of student affairs.

Required Texts & Supplemental Reading Materials

Kaplan, W., & Lee, B. (1995). The law of higher education: A comprehensive guide to legal implications of administrative decision making. San Francisco: Jossey-Bass.

Selected monographs (1990—2005) published by the *National Association of College and University Attorneys*; the *National Association of Student Personnel Administrators*; the *National Association of Student Affairs Professionals*; the *Chronicle of Higher Education*; and excerpts from McEllistrem, S., Grzkywacz, P., Roth, J.A., & Whimpenny, K. (Eds.) (2000). Higher education law in America. Burnsville, MN: Oakstone Publications.; College Administrator Publications, Inc @ <http://www.collegepubs.com/index.shtml>, and *The National Center for Higher Education Risk Management* at <http://www.ncherm.org/legal.html>.

Style Manual of the American Psychological Association (5th Edition)

In keeping with CSD department practices and professional journal requirements, students are required to adhere to the guidelines set forth in the style manual of the American Psychological Association (5th Edition) in the preparation of all papers, presentations, bibliographies, and the general citation of resources.

Class Attendance & Professionalism Policies

In adhering to the class attendance policies in the general catalog, attendance at all class meetings is required. Professional courtesy requires that the course instructor receive notification of any planned or emergency absence(s) from class. Each absence (non-emergency in nature) will result in the lowering of the final grade by one grade letter. Exceptions are granted solely at the discretion of Dr. JAW.

As this is a professional degree program, students are expected to dress accordingly. On at least one occasion, specific attire (collegiate paraphernalia) may be required. Students who do not conduct or present themselves in a professional manner will not earn total class participation/professionalism points. NO HATS in class or Buzzard allowed.

Class Assignments & Activities

Assign. I: Federal or State Supreme Court Justice on Education – Select a sitting state or federal supreme court judge and prepare a brief biographical sketch. The biographical sketch should be no longer than one page in length (case law citations (i.e., seminal judicial opinions, documents, books written, et cetera should be included as an appendix).

Assign. II: Case Brief – Case briefs should include identification of specific legal issues, rulings by the court, coll./univ. administrator options, implications of court decisions for students and other constituencies, differences in how the case law would apply for private versus public institutions, and finally, possible global implications for American higher education. Oral presentations will be limited to 10 minutes (including Q&A). A written version of the brief must be presented to Dr. JAW at the beginning of the presentation.

Assign. III: Special Issue Annotated Biography - Students are to select a topic and prepare an annotated bibliography of at least 15-20 references. References may include cases, articles appearing in law review journals, books, etc. Your annotated bibliography contains a brief description of the each article, book or case, along with specifics attendant to the strengths of the piece (e.g., biases, unique ideas, new knowledge, critical situational analyses, information of value to the researcher (you!)), and weaknesses (e.g., personal rating if opinion versus research piece).

Assign. IV: Designated Expert/Questioner – Each student will have the opportunity to serve as the DEQ for at least one class meeting. DEQ responsibilities include, but are not limited to, presenting class members with questions to be answered or discussed based on assigned readings, having read assigned materials and serving as respondent to questions posed by members of the class, and preparing a list of references to be shared with all class members. DEQ duties may be served by inviting a ‘Panel of Experts’ to come before class members and respond to their questions regarding their experiences and areas of expertise. Panels may include professionals, university staff, students and community leaders. Notification of the panel members’ names and areas of expertise should be provided to the instructor via email at least two weeks prior to the date they will invited to speak before the class. Time for panels is limited to 1 hour. If the DEQ would like to distribute handouts or duplicate materials, see Dr. JAW.

Tests & Grades

The two major exams for this course are the Midterm and Final. Technology permitting, both exams will be made available through WebCT. However, because the use of WebCT will be dependent on the University's success with the installation of the new Banner system, exams may be distributed in hardcopy format.

Several pop quizzes may be given and results will serve as extra points toward the final course grade.

In general, final grades for this course will be determined by student performance on assigned projects, exams, quizzes, and instructor assessment of student contributions to class discussions and knowledge acquisition efforts. Consistent absences will result in fewer class participation points (Dr. JAW's discretion). Each assignment and activity will be graded using the traditional letter grades of A, B, C, D & F; with A=4.00.

Students with documented disabilities who wish to receive academic accommodations or services should contact the Office of Disability Services at 581-6583.

Course Calendar and Weekly Reading Assignments

- Week 1, Aug 21 **INTRODUCTIONS**
Course Syllabus & Requirements * Texts * Assignments * Judicial Terms Handout * Case Brief Protocols * Personal Involvement with Legal Issues in Undergraduate School * Discussion of individual knowledge of the application of laws governing higher education and laws specific to student affairs administration
- Week 2, Aug 28 **OVERVIEW OF POSTSECONDARY LAW**
Evolution of laws governing Postsecondary Education * Sources of Postsecondary Law * Litigation in the Courts * The Public-Private Dichotomy
DEQ: Lori Morrisette – Pub./Pvt. Dichotomy
- Week 3, Sep 04 **NO CLASS DUE TO LABOR DAY OBSERVATION**
- Week 4, Sep 11 **THE PUBLIC-PRIVATE DICHOTOMY**
Religion and the Public-Private Dichotomy * Organization of Postsecondary Institution Legal Affairs Offices *
Due: **Federal or State Supreme Court Justice on Education**
DEQ: Katy Tomlinson – Religion & Pub/Pvt. Dichotomy
- Week 5, Sep 18 **COLLEGE TRUSTEES, ADMINISTRATORS AND STAFF**

The Question of Authority * Sources & Scope of Authority *
Institutional Liability for Acts of Others * Personal Liability of
Trustees, Administrators, and Staff * Institutional Management of
Liability Risk

DEQ: Sunni Solomon – Inst. Liability for Others

DEQ: Jen Elliott – Inst. Mngt. of Liability Risk

Week 6, Sep 25

THE COLLEGE AND THE FACULTY

The Contract of Employment * Collective Bargaining *
Nondiscrimination & Affirmative Action in Employment *
Standards and Criteria for Faculty Personnel Decisions

Due: **Case Brief Presentations**

DEQ: Brock Severson – Nondiscrimination & Affirm. Action

DEQ: Shilpa Maheshwari – Contract of Employment

Week 7, Oct 02

THE COLLEGE AND THE FACULTY (CONT.)

Faculty Academic Freedom * Staff Reduction due to Financial
Exigency & Program Discontinuation

Due: **Case Brief Presentations**

DEQ: Donna Vitale – Faculty Academic Freedom

DEQ: Lindsay Gustin – Staff Reduction & Financial Exigency

Week 8, Oct 09

THE COLLEGE AND THE STUDENTS

The Legal Status of Students * Admissions * Financial Aid *
Support Services * Disciplinary & Grievance Systems *
Enrollment Management Approaches

Due: **Case Brief Presentations**

Midterm Exam Posted on WebCT

DEQ: Temetria Hargett - Admissions

DEQ: Paul Willard – Disciplinary & Grievance Systems

DEQ: Kristen Flores – Legal Status of Students

Week 9, Oct 16

THE COLLEGE AND THE STUDENTS (CONT.)

Disciplinary Rules & Regulations * Grades, Credits, & Academic
Degrees * Procedures for Suspension, Dismissal, and other
Sanctions * Student Protests and Demonstrations

Midterm Exam Due on WebCT

DEQ: Shareese Shannon – Student Protests and Demonstrations

Week 10, Oct 23

THE COLLEGE AND THE STUDENTS (CONT.)

The Special Problem of Hate Speech * Student Organizations *
Fraternities and Sororities * Student Press*

Due: **Special Issue Annotated Bibliography**

DEQ: Ali Quinones – Fraternities & Sororities

DEQ: Amber Shaverdi – Student Organizations

DEQ2: Kristen Flores – Hate Speech

DEQ: Yi Lin – Student Press

- Week 11, Oct 30 **THE COLLEGE AND THE STUDENTS (CONT.)**
Intercollegiate Athletics * Student Files & Records * Campus Security * On-campus & Off-campus Housing * International Students * Students with DisAbilities
DEQ: Laura Coffey – International Students
DEQ: Mark Bates – Intercollegiate Athletics
DEQ: Jason Goldfarb – Student Files & Records
DEQ: Sunni Solomon – Campus Security
- Week 12, Nov 06 **THE COLLEGE AND THE COMMUNITY**
General Principles * Zoning & Land Use Regulations * Local Government Taxation * Student Voting in the Community * Relations with Local Police * Community Access to Institutional Property * Community Activities for Faculty & Students
DEQ: Jen Elliott – Local Government Taxation
DEQ: Shareese Shannon – Zoning & Land Use Regs.
- Week 13, Nov 13 **THE COLLEGE AND STATE GOVERNMENTS**
State Provision of Public Postsecondary Education * State Chartering & Licensing of Postsecondary Institutions * State Regulation of Out-of-State Institutions * State Regulatory Laws Affecting Postsecondary Education Programs
DEQ:
- Week 14, Nov 20 **NO CLASS DUE TO THANKSGIVING OBSERVATION**
- Week 15, Nov 27 **THE COLLEGE AND THE FEDERAL GOVERNMENT**
Federal Constitutional Powers over Education * Federal Regulation of Postsecondary Education * Federal Taxation of Postsecondary Education * Federal Aid to Education Programs * Civil Rights Compliance * Dealing with the Federal Government
Final Exam Posted on WebCT
DEQ: Susan Rogers – Federal Aid to Education
- Week 16, Dec 04 **THE COLLEGE AND EDUCATION ASSOCIATIONS**
Overview of Education Associations * Applicable Legal Principles * The College and the Accrediting Agencies * Athletic Associations & Conferences * The American Association of University Professors (AAUP) * Dealing with Education Assns.
Review of Course Materials Pre- and Post-Midterm Exam
DEQ: Bernadette So - The College and the Accrediting Agencies
- Week 17, Dec 11 ***Final Exam Due 12:00 pm via WebCT***

If individual presentations are complete, there will be no class meeting at the officially appointed hour(s) for the final exam. If all individual presentations are not complete, ***all students*** are required to attend a class meeting during the officially appointed hour(s) for the final exam.

DEQ:

Commencement: December 16

Grades Available: December 18 @ 12:00 pm