**AUBURN UNIVERSITY**

**SYLLABUS**

**Course number:** HIED 7240

**Course Title:** Legal Issues in Higher Education

**Credit Hours:** 3 Semester Hours

**Prerequisites:** Graduate Student Status

**Corequisites:** None

**Instructor**: Laura Parson, PhD, Assistant Professor, Higher Education, Department of Educational Foundations, Leadership and Technology: 4086 Haley Center, 334-844-3592, [ljp@auburn.edu](mailto:ljp@auburn.edu)

**Office Hours:** Tuesday, 11 am – 3 pm

**Class Location:** 2435 Haley Center

**Day and Time:** Wednesday, Noon - 2:50 pm

**Texts:** Kaplin, W. A. & Lee, B. A. (2014). The law of higher education. (5th Ed., Student Version). San Francisco: Jossey Bass. (***Referred to as LHE in course schedule and on Canvas***)

Olivas, M. A. & Gadja, A. (2016). The Law and Higher Education: Cases and Materials on Colleges in Court, Fourth Edition. Durham, NC: Carolina Academic Press. (***Optional***)

Each student should have a copy of the 6th edition of the

*Publication Manual of the American Psychological Association.*

**Course Description:** Constitutional and statutory provisions for education and an analysis of judicial decisions affecting higher education

***This course was designed in collaboration with Kim White, J.D.***

This course meets the Law, Policy, and Governance competency [*Professional Competency Areas for Student Affairs Educators*](https://www.naspa.org/images/uploads/main/ACPA_NASPA_Professional_Competencies_FINAL.pdf) endorsed by NASPA and ACPA

***Law, policy, and governance (LPG):****Includes the knowledge, skills, and dispositions relating to policy development processes used in various contexts, the application of legal constructs, compliance/policy issues, and the understanding of governance structures and their impact on one’s professional practice.*

***Key Outcomes:***

* *Describe how national and state/provincial constitutions and laws influence the rights of students, faculty, and staff on all types of college campuses*
* *Describe evolving laws, policies, and judicial rulings that influence the student-institutional relationship and how they affect professional practice*
* *Act in accordance with national, state/ provincial, and local laws and with institutional policies regarding non-discrimination*
* *Demonstrate awareness of inequitable and oppressive ways that laws and policies are enacted on vulnerable student populations at national, state/provincial, local, and institutional levels*
* *Describe the student conduct process at the institutional level and demonstrate concern for the legal, social, moral, educational, and ethical expectations of the community*
* *Critically examine laws and policies to ensure their equitable and fair use on campus.*
* *Provide appropriate and ethical influence with the governing bodies to which one’s institution reports. Challenge biased laws and policies and advocate for the design and advocate for their equitable use on campuses*

**Course Objectives:**

At the conclusion of this course, students will be able to:

1. Understand the basic structure of the legal system and major areas of law applicable to higher education
2. Utilize legal resources to determine the current state of the law for issues relating to higher education
3. Analyze situations common to higher education and determine what legal issues may be implicated
4. Critically analyze legal issues orally and in writing, especially through a social justice lens
5. Craft practical ways of addressing legal problems encountered in student affairs

**Course Schedule:** See course plan.

**COURSE REQUIREMENTS:**

Since the law is fluid and easily accessible resources exist to aid in the research of legal issues, the memorization of case names, citations, or other highly specific information is not a requirement of this course. Instead, the assessment methods of this course focus on a knowledge of general legal principles applicable to higher education, an ability to think critically and to understand nuance, and the demonstration of the ability to meaningfully and civilly participate in classroom discussions of course content. There is always room for improvement, and the ability to receive feedback and use it to improve one’s work is a valuable skill; therefore, students may submit assignments a week before the assignment’s due date if they wish to receive feedback and resubmit their assignment. You may also resubmit your work until November 28 for feedback and, if appropriate, a higher grade. The grading rubric will be posted on Canvas along with each assignment’s prompt.

**Class Attendance/Participation (15 points):** Students are expected to read the material on their own and come to class prepared to ask questions about concepts they do not understand and to engage in meaningful discussions about the material and its implications for higher education. Students will be responsible for being discussion leaders for specific cases or topics but are also required to participate in discussions led by the instructor and by other students. Students are expected to thoughtfully contribute to discussions with respect, practicing civility.

*Course Objectives:* 1, 4, 5

**Case Brief and Discussion Leading (15 points):** Prepare a 1-2 page written brief of an assigned case. The brief should summarize the basic facts of the case, the issue of law the court was considering, how the court ruled, and their rationale for the ruling. Submit the brief to the instructor at least one week before your assigned class session. On your assigned course session, informally present the brief to the class and lead a classroom discussion regarding the assigned case. Be prepared to lead the course discussion for 30 minutes; you should come with questions to prompt discussion and real-world implications for higher education practitioners, administrators, and faculty. The student should print enough copies to distribute to the class and be prepared on the scheduled date to present and lead the discussion of that case as it relates to that class’s focus. Students will sign up by date of availability using a wiki on Canvas Week 1. Brief instructions and a sample will be posted on Canvas.

*Course Objectives:* 1, 2, 4

Due: Sign up for your brief date on Canvas Week 1

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| **Criteria** | **Proficient** | **Points** | **Comments** |
| Summarize basic facts of the case | All significant facts were included and extraneous facts were omitted | /2 |  |
| Identify legal issues, ruling, and rationale for the ruling | Clearly articulated the legal issue and how the court applied the law to the issue | /5 |  |
| Effectively facilitates class discussion | Succinctly presented the case and engaged fellow students in a discussion about the importance of the case | /8 |  |

**Case Studies (2, 10 points each):** The instructor will provide a scenario that one might encounter when working in higher education. Students will write a response explaining the legal issues implicated, identify any additional information that may influence the outcome, and make suggestions about how the situation might be addressed. These responses may be in a memo format. Suggested page length: 1-2, single-spaced

*Course Objectives:* 2, 3

Due: September 26 and October 31

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| **Criteria** | **Proficient** | **Points** | **comments** |
| Concisely describes legal issues | Legal issues were clearly articulated; any missing or needed information were identified and described | /4 |  |
| Crafts proposed solution(s) within the context of the law | Suggested ways of ensuring the institution is complying with the law and the rights of those involved are protected | /6 |  |

**Legal Summary and Possible Approaches Paper:** As a higher education professional, faculty member, or student affairs administrator, it is important to make informed decisions about current legal issues. To do so, one must look to and learn from past cases and decisions, as well as relevant statutes and other sources. To evaluate competency in this area, each student will research and write a 10-12 page paper in APA format according to the following parameters:

*Course Objectives:* 2, 3, 5

Due: November 28; draft due November 7

* + You are a member of Auburn’s task force charged with recommending a position and approach to a current legal issue facing your institution.
  + The audience for this position paper is colleagues and members of upper administration who are somewhat familiar with the issue, but they are not familiar with related case studies and have not yet had the opportunity to think deeply about their own positions or possible approaches to addressing the issue.
  + Write a legal summary and possible paper on a legal issue or institutional policy of your choosing.
  + The introduction should engage the audience and provide them with the organization of the paper and its contents. The body of the paper should address the legal issue by providing summaries of related case studies. The last section should suggest potential approaches based on your understanding of the legal issue.

Possible topics include, but are not limited to:

1. The Impact and Future of Title IX
2. Free Speech
3. Student Diversity in Admissions and Financial Aid
4. The Student’s Right to Privacy
5. New Trends in Student Discipline and Due Process
6. Expression and Dissent by Students
7. Undocumented Citizens and Access to Higher Education
8. Emerging Law in Student Self-Harm and Mental Health Concerns
9. The Student and Sexual Harassment
10. Student Athlete Unionization
11. Student Organizations and Discrimination
12. Accountability for Professional Standards and Ethics

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| **Criteria** | **Expectations** | **Points** | **Comments** |
| Summary of Law | Careful, accurate, and thorough summary of relevant statutes, case law, and other sources of legal authority; evidence that the student is knowledgeable about the relevant law and implications for higher education | /20 |  |
| Possible Approaches | Thoughtful reflection on insights gained from the review of relevant law; analysis demonstrates critical thinking and ability to discern key elements of law; clearly described possible approaches with logical and sound rationale provided | /20 |  |
| Conventions/APA | Report is well organized and written; very few grammar errors; no spelling errors; no typos; no APA errors | /10 |  |

*Course assignment designed by Tim Love, J.D., M.S. Modified for the Auburn setting. Used with permission.*

**GRADING:**

Class Attendance/Participation 15 points

Case Brief and Discussion Leading 15 points

Case Study 1 10 points

Case Study 2 10 points

Theory-to-Practice Paper 50 points

**Total: 100 points**

The following grade scale will be used:

A = 100 – 90

B = 89 – 80

C = 79 – 70

D = 69 – 60

F = 59 or below

**LEGAL RESEARCH RESOURCES**

Students will need to access full-text federal and state court cases as part of their research for assignments. If you know either the name of the case (the parties involved) or the official citation for the case, a case can easily be accessed electronically through the Auburn library.

Instructions: Go to the Auburn University homepage (www.auburn.edu) and click on the main link to University Libraries at the top of the page. Click on the Articles & Databases tab.

* Then click on the Nexis Uni under the General Databases column (you may be prompted to log in)
* Enter either the name of the case (e.g., “Healy v. James”) or the actual citation (e.g., “408 U.S.) in the search box to get to the full text of many cases. Note that full texts are typically quite lengthy as they contain footnotes and other detailed information pertinent to the case.

An Alternative: A second, easier and often faster, approach to finding key cases is simply to Google the name of the case or its full citation. Often times, you will receive a direct link to the full text of the case! Google Scholar even has a “case law” option that is a great search resource. If this works, it may not give you access to all the related analysis and other information provided by Lexis-Nexis Academic.

**READING LEGAL OPINIONS**

Appendix C of your textbook contains excellent guidance on reading and analyzing court opinions. You may wish to review this guidance as you begin reading the cases assigned for the course. Some additional points:

1. Case titles appear as "A" v. "B" followed by a series of numbers showing the court, the date, and the volume reference.
2. Terms like "petitioner," "respondent," "appellant" and "appellee" can be extremely confusing. Try to focus on the identity of the party maintaining the action (the plaintiff) and the party against whom it is brought (the defendant).
3. As you read, try to do the following: (1) understand the facts; (2) identify the procedural posture; (3) identify the key issue(s); (4) determine the court's holding; and (5) distinguish the key points in the rationale of the holding. You should then evaluate the arguments “for” and “against” the decision, including those of fairness and furtherance of public policy. Finally, assess the relevance of the case to your future work.
4. Watch out for “dicta,” or extraneous commentary of judges that is not relevant to the holding. Such commentary is advisory only and has no force of law.
5. Consider dissenting and concurring opinions critically. They, too, can be instructive, especially when courts are divided.

Appendix D in your textbook is a glossary of legal terms to which you may want to refer as you encounter legal terminology in the cases. If you cannot locate a term in this glossary, you may want to refer to “Black's Law Dictionary” (available from me).

*Credit to Tim Love, J.D., M.S. who wrote the original Legal Research Resources instructions (modified for the Auburn setting). Used with permission.*

**Class Policy Statements:**

A. Class attendance is required and students are encouraged to contribute to class discussion. Two excused absences are allowed without penalty (please see the student handbook for a description of what constitutes an excused absence). Please make every effort to arrive to class on time as we will often start class with a group activity. Participation is the key to a lively class. 15% of the course grade will depend upon contributions to our class sessions. Class participation provides the opportunity to practice speaking and persuasive skills, as well as the ability to listen. **We will be discussing issues that many of us will have strong opinions about; respectful discussion and critical conversations are key to productive discourse about sensitive topics. Incivility and disrespectful comments will not be tolerated.** Comments that are vague, repetitive, unrelated to the current topic, or without sufficient foundation will be evaluated negatively. What matters is the quality of one's contributions to the class discussion, not the number of times one speaks. Out of professional courtesy, please notify me in advance when you know you will be absent from or late to class.

B. Students who need accommodations are asked to arrange a meeting during office hours the first week of classes, or as soon as possible if accommodations are needed immediately. If you have a conflict with my office hours, an alternate time can be arranged. To set up the meeting, please contact me by E-mail ([ljp@auburn.edu](mailto:ljp@auburn.edu)). Bring a copy of your Accommodation Memo and an Instructor Verification Form to the meeting. If you do not have an Accommodation Memo but need accommodations, make an appointment with The Program for Students with Disabilities, 1244 Haley Center, 844-2096 (V/TT).

C. Academic honesty is fundamental to the activities and principles of a university. All members of the academic community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. When in doubt about plagiarism, paraphrasing, quoting or collaboration, consult the course instructor.

D. This class is a participatory community that values all comments and contributions and all class members are respected.

E. Emergency Procedures: If the fire alarm sounds, calmly exit the building. Meet outside the building at the area specific by the professor and await further instructions. If a tornado warning is issued, calmly move to a designated severe weather shelter (located on the lower levels of the building). Stay in the shelter area until the warning expires. Classes are suspended for the duration of a tornado warning. For all other emergencies, follow instructions provided by AU ALERT and your professor. More information on emergency procedures is available at [www.auburn.edu/emergency](http://www.auburn.edu/emergency).

Original Syllabus: Kim White, J.D.; 4/30/2018

Revised 8/13/18 ljp