

The Law and Higher Education

15:230:606
Tuesdays, 12:40 – 3:00 p.m.
Beck Hall Room 011
Livingston Campus

Professor Barbara Lee
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Course Objectives

This is a graduate-level course that requires substantial reading and analysis of both the course text and the decisions of state and federal courts. The course has the following general learning goals:

1. Enable the student to understand the foundational legal principles affecting the practice of college student affairs
2. Provide the tools to equip the student to analyze a situation and identify potential legal issues
3. Enable the student to understand how to incorporate legal principles into the policy development process

Specific Learning Outcomes—Based upon ACPA/NASPA Professional Competencies

At the end of the course, the successful student should be able to:

1. Explain the basic tenets of personal or organizational risk and liability as they relate to one's work
2. Explain the differences between public and private higher education with respect to the legal system and what they may mean for students, faculty, and staff at both types of institutions.
3. Describe the evolving legal theories that define the student–institution relationship and how they affect professional practice
4. Maintain an appropriate degree of confidentiality that follows applicable legal and licensing requirements, facilitates the development of trusting relationships, and recognizes when confidentiality should be broken to protect the student or others.
5. Describe how national constitutions and laws influence the rights that students, faculty, and staff have on public and private college campuses.
6. Explain the concepts of risk management and liability reduction strategies.
7. Explain when to consult with one's immediate supervisor and campus legal counsel about those matters that may have legal ramifications.
8. Act in accordance with federal and state/province laws and institutional policies regarding nondiscrimination.

9. Describe how policy is developed in one's department and institution, as well as the local, state/province, and federal levels of government.
10. Identify the major policy makers who influence one's professional practice at the institutional, local, state/province, and federal levels of government.
11. Identify the internal and external special interest groups that influence policy makers at the department, institutional, local, state/province, and federal levels
12. Describe the public debates surrounding the major policy issues in higher education, including access, affordability, accountability, and quality.
13. Describe the governance systems at one's institution, including the governance structures for faculty, staff, and students.
14. Describe the system used to govern or coordinate one's state/province system of higher education, including community college, for-profit, and private higher education.
15. Describe the federal and state/province role in higher education
16. Explain the advantages and disadvantages of different types of decision making processes (e.g., consensus, majority vote, and decision by authority).
17. Identify and then effectively consult with key stakeholders and those with diverse perspectives to make informed decisions.

Course Requirements and Grading

The course will rely heavily on student discussion and analysis of real situations involving student affairs professionals. Students are responsible for all assigned reading and for participation in class discussion. Evaluation of students will include:

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| Four short essay-type quizzes (open book, first 30 minutes of class) | 40 percent |
| Research paper on topic of student's choice (must be approved by instructor) and brief presentation to class | 40 percent |
| Class participation | 20 percent |

Required Course Materials

Course Text: William A. Kaplin and Barbara A. Lee. *A Legal Guide for Student Affairs Professionals*, 2d edition. Jossey-Bass, Inc., 2009.

Cases and materials posted on course website (Sakai)

Students with Disabilities

Students with documented disabilities who require academic accommodations should confer with staff of the Office of Disability Services for Students (<http://disabilityservices.rutgers.edu/>) or call (732) 932-2848; fax (732) 932-2849. That office will determine the appropriate accommodations and will advise the instructor accordingly.

Assignments

- September 3, 2013 **Course Introduction**
Overview of Higher Education Law
- Assignment for 9/3/13
- Text, Chapter One, pp. 3-25; 33-36; 45-49
The Judicial System in the United States
- September 10, 2013 **Legal Planning and Dispute Resolution**
- Assignment for 9/11/13
- Text, Chapter Two, pp. 57-98
- September 17, 2013 **Institutional Liability in Tort, Contract, and Constitutional Claims**
- Assignment for 9/17/13
- Text, Chapter Three, pp. 105-138
Nero v. Kansas State University
Nova Southeastern v. Gross
Orzech v. Fairleigh Dickinson University
- September 24, 2013 **Regulation of Employment in Higher Education**
- Assignment for 9/24/13
- Text, pp. 159-195
Green v. Tulane University
Newberry v. East Texas State Univ.
Quiz #1

October 1, 2013

Faculty Academic Freedom

Assignment for 10/1/13

Text, pp. 196-235

AAUP 1940 Statement on Academic Freedom and Tenure

AAUP Statement on Professional Ethics

Martin v. Parrish

Garcetti v. Ceballos

Parate v. Isibor

October 8, 2013

**Student Contract Rights, Student Academic Freedom
FERPA**

Assignment for 10/8/13

Text, Chapter 5, pp. 243-262; 269-278

Johnson v. Schmitz

Tatro v. University of Minnesota

FERPA and Campus Security

October 15, 2013

Peer Harassment and Assault, Sex Discrimination & Retaliation

Assignment for 10/15/13

Text, pp. 262-269

OCR Dear Colleague Letter

Williams v. University of Georgia

McGrath v. Dominican College

Emeldi v. University of Oregon

Quiz #2

October 22, 2013

Admissions and Financial Aid

Assignment for 10/22/13

Text, Chapter 6, pp. 280-330; skim pp. 330-343; read 343-355

U.S. v. Virginia

Grutter v. Bollinger

Fisher v. University of Texas-Austin

October 29, 2013 **Housing Regulations and Searches
Computer Network Issues
Campus Security**

Assignment for 10/29/13

Text, Chapter 7, pp. 359-390
Limpuangthip v. United States
State v. Houvener
Estate of Butler v. Maharishi University
Research paper topic and outline due today by email

November 5, 2013 **Student Legal Rights in Academic Matters**

Assignment for 11/5/13

Text, Chapter 8, pp. 402-438
Regents of University of Michigan v. Ewing
Guckenberger v. Boston University
Ward v. Polite

November 12, 2013 **Discipline of Students**

Assignment for 11/12/13

Text, Chapter 9, pp. 441-474
University of Texas Medical School v. Than
Tatro v. University of Minnesota
Schaer v. Brandeis University
Quiz #3

November 19, 2013 **Student Free Speech**

Assignment for 11/19/13

Text, Chapter 10, pp. 478-508
Rosenberger v. Rector and Visitors of the University of Virginia
UWM Post, Inc. v. Board of Regents, University of Wisconsin

November 26, 2013 No class—Thursday classes meet today

December 3, 2013 **Legal Issues Involving Student Organizations**

Assignment for 12/3/13

Text, Chapter 11, pp. 513-549; skim pp. 549-565
Summary and analysis of *Christian Legal Society v. Martinez*
Pi Lambda Phi Fraternity v. University of Pittsburgh
Research Paper Due

December 10, 2013 **Athletics**

Assignment for 12/10/13

Text, Chapter 12; pp. 568-601 and pp. 762-780
Choike v. Slippery Rock University
Knapp v. Northwestern University
Quiz #4