

HIGHER EDUCATION LAW (EdL 552) ** 2 CREDITS

SYLLABUS AND COURSE OUTLINE ** SPRING 2005

<u>INSTRUCTOR & CONTACT INFO:</u>	Jeffrey C. Sun jeffrey.sun@und.edu (701) 777-3452 [direct dial]; (701) 777-4365 [fax] (701) 777-4255 [department office]
<u>OFFICE LOCATION:</u>	Room 207E, Education Building, Centennial Drive [Grand Forks Campus]
<u>OFFICE HOURS:</u>	Sundays before class 2:15-3:00pm; Mondays after class 4:00-4:30pm; and by appointment
<u>MAILING ADDRESS:</u>	University of North Dakota Department of Educational Leadership Box 7189 Grand Forks, ND 58202-7189

COURSE DESCRIPTION

This course is uniquely situated as both a survey course of legal issues with a seminar format. These combined elements serve to introduce key topics, address case dispositions, and explore institutional policymaking and implementation.

According to the catalog, this course serves as an

overview of the legal issues that confront college and university personnel. Pertinent federal and state statutes as well as case law will be used to instruct about legal rights and responsibilities of university and college administrators. The legal relationships between the institution and the faculty, the student, the state government, and the federal government will be explored.

<http://www.und.nodak.edu/dept/edl/courses.htm>

In addition, the course focuses on the nature of framing issues, analyzing situations and cases, and providing sensible (sometimes innovative) recommendations/solutions.

COURSE EXPECTATIONS AND CLASSROOM ETIQUETTE

- *Attendance and Engagement:* Your contributions to class discussions, and your absorption and reflection during the interactive components of the course add to your overall learning as well as to others in the cohort. Thus, attendance and engagement are mandatory.
- *Preparation:* Your level of preparedness directly impacts the course dynamics; therefore, readings and other assignments should be completed prior to the course meeting. In addition, absent a valid excuse or prearranged agreement, late assignments will not be accepted.
- *Opportunity and Openness:* The classroom should be a safe place to express ideas, opinions, and beliefs. Indeed, academic criticisms and discussions are critical elements of the course; however, behavior that obstructs traditional norms of academic freedom and mutual respect are not acceptable. Similarly, class participation is encouraged; at the same time, consideration of others such as providing others time to speak and learn should be respected. In other words, please provide opportunities for others to join the discussion.
- *Devices and Disruptions:* Please silence cell phones, beepers, and similar gadgets during class meetings. If you are on-call or an emergency signal is given, please quietly step outside of the classroom to address the matter.
- *Food and Physical Environs:* The class meetings are quite long. Although there will be periodic breaks, there may be times when you need to use the restroom, eat a snack in-class, or stretch a bit more. These are understandable needs. I only ask that you move quietly, keep the room clean, and avoid disrupting others. In addition, please feel free to provide me suggestions on how to make the physical environment and experience more comfortable.

- *Academic Integrity*: Adherence to academic norms and ethical standards is expected of graduate students. Emphasizing this point further, I wish to remind everyone to please properly attribute works (see also, Code of Student Life, Rule 3-3; Graduate Academic Catalog section on Academic Standards).

ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

The University will make reasonable accommodations for persons with documented disabilities. Students are encouraged to contact the Office of Disability Support Services. At the Grand Forks campus, you may reach the staff at 190 McCannel Hall or (701) 777-3425 v/tty. Services are available to students who are registered and submit appropriate documentation. As your instructor, I am happy to discuss specific needs with you as well.

COURSE EVALUATION/GRADING

60% Take-Home Exam (Educational Leadership) OR Scholarly Paper (Law Students)

40% Class Participation, Case Briefings, and In-class Activities

A	90-100	B	80-89	C	70-79
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Class Participation: A substantial portion of this component is directly related to your contributions to the class discussions, particularly to the topical items that are assigned by groups. Each group will introduce the readings to the course – usually following a case briefing format – and offer insights to their topical relevance as well as impacts on administrative decisionmaking.

Take Home Exam: A take home exam will be posted on Blackboard exactly 5 days after the last hour of class (or 120 hours from the last class meeting end time). Three questions will be posted and you must respond to TWO of the questions within the word limit and comply with the format requirements. If you respond to more than two questions, only two random responses will be graded. The exam will be due via e-mail within 120 hours from the time of posting. Points will be deducted for late exams (nb: 2% points per hour will be deducted). **Educational Leadership students** may comply with either Bluebook or APA citation format.

Scholarly Paper: A handout describing the requirements and expectations of the scholarly paper will be distributed on the first day of class. Based on one of the pre-selected topics, the paper serves as a summary of common themes found within cases and articles (the latter is likely based on empirical research and/or scholarly inquiry) and is tied to the issue proposed. The paper length is approximately 15-25 double-spaced pages – including footnotes. **Law students** must comply with Bluebook citation format.

REQUIRED MATERIALS

There is NO textbook. All readings will be placed on on a CD at least 25 days prior to the first day of classes. Cases are edited by the instructor, so there is no need to read the entire case. Equally important, you should not read the case from an edited casebook because the case content may be different.

Students are expected to read assigned materials before walking into class.

COURSE OUTLINE AND ASSIGNMENTS

WEEKEND 1

§1 An introduction to legal issues in higher education [SKIM DOCUMENTS]

§1.1

- §1.1.a Kaplin, W. A., & Lee, B. A. (1995). *The law of higher education*. (Table of Contents).
- §1.1.b Russell, S. E. (1999, Fall). Ask the legal experts. *Council on Law in Higher Education Newsletter*, 3.
- §1.1.c Michaelson, M. (2003, May/June). Beneath the surface: The practice of law at U.S. colleges and universities. *Change* 35(3), 10-15.
- §1.1.d Thomas, N. L. (1998, May/June). The attorney's role on campus: Options for colleges and universities. *Change*, 35-42.
- §1.1.e Ruger, P. H., & Bickel, R. D. (2004, June 25). The ubiquitous college lawyer. *Chronicle of Higher Education*, 50(42), B1.
- §1.1.f Ward, P., & Tribbensee, N. (2003). Preventative law on campus. *Change* 35(3), 17-20.
- §1.1.g Beach, J. A., Rotondo, J. T., Selbach, S. C., & Reed, R. A. (1985). The management and governance of academic institutions. *Journal of College and University Law*, 12, 301-341.
- §1.1.h Brevitz, K. F. (2003). Legal resources for higher education administrators and faculty. *Change* 35(3), 55-58.

§1.2

Required for Educational Leadership Students:

- §1.2.a Schubert, F. A., & Grilliot, H. (2004). *Introduction to law and legal system*. (selected sections)
- §1.2.b Glossary of Legal Terms
- §1.2.c Understanding the Federal Courts
- §1.2.d Surf these websites:
- (i) www.court.state.nd.us/court/Welcome.htm
 - (ii) www.courts.state.mn.us/court/default.aspx

§2 Public regulation and leadership of postsecondary education: student records, sunshine laws, and sources of authority

§2.1

- §2.1.a Goss, B. (2002, July 12). Court says colleges can't release files from student judicial proceedings. *Chronicle of Higher Education*, A24.
- §2.1.b Foster, A. L. (2003, Aug. 8). Three colleges fight subpoenas for students' names. *Chronicle of Higher Education*, 49(48), A27.
- §2.1.c Model Notification of Rights under FERPA for Postsecondary Institutions (U.S. Department of Education, FPCO).
- §2.1.d Letter from LeRoy Rooker, Family Policy Compliance Office (re: use of social security numbers)
- §2.1.e Letter from LeRoy Rooker to Thomas W. McElvain, University of Michigan (re: Canadian International Tax Directorate inquiry)
- §2.1.f *Gonzaga Univ. v. Doe*, 536 U.S. 273 (2002). [skim case]
- §2.1.g Letter from LeRoy Rooker to Evangelos J. Gizis, Hunter College (re: exam posting and partial social security numbers)
- §2.1.h Council on Law and Higher Education (2004). *The Campus Privacy Letter*, 1(1), 1-12. [skim]
- §2.1.i Bosslett, L. (2003). Colleges decide how to comply with new sex-offender law 49(20), A33.

§2.2

- §2.2.a National Association of College and University Business Officers (NACUBO). *Campus crime reporting: A guide to Cleary Act compliance*. Washington, D.C.: NACUBO and ACE.

§2.2.b Harrison, D. L. (n.d.). *Higher education issues after the USA Patriot Act*. Chapel Hill, NC: University of North Carolina.

§2.3

§2.3.a Open Meetings Law – please locate your respective state’s (or a state of interest to you) Open Meetings Law and/or Freedom of Information Statutes

§2.3.b *Smith v. City Univ. of N.Y.*, 708 N.E.2d 983 (NY 1999). {Group A}

§2.3.c *Board of Regents v. The Atlanta Journal*, 378 S.E.2d 305 (Ga. 1989). {Group B}

§2.3.d *Wood v. Marston*, 442 So.2d 934 (Fla. 1983). {Group C}

§2.3.e Selingo, J. (1999, July 2). Michigan Supreme Court says presidential-search are exempt from sunshine law. *The Chronicle of Higher Education*, A31.

§2.3.f *Star Tribune Co. v. Univ. of Minn. Bd. of Regents*, 683 N.W.2d 274 (Minn. 2004).

§2.3.g *Univ. Professionals of Ill. v. Stukel*, 344 Ill.App.3d 856 (2003).

§2.3.h Hearn, J. C., McLendon, M. K., & Gilchrist, L. Z. (2004). *Governing in the sunshine: Opening meetings, open records, and effective governance in public higher education*. Washington, D.C.: Association of Governing Boards of Universities and Colleges. [skim this monograph]

§2.3.op.a *Associated Press v. Crofts*, 89 P.3d 971 (Mont. 2004). [OPTIONAL]

§2.4

§2.4.a *Vacco v. Diamandopoulos*, 715 N.Y.S.2d 269 (N.Y. App. Div. 1998) (Aldelphi case) {Group A}

§2.4.b Basinger, J. (2004, Feb. 6). Boards crack down on members’ insider deals. *Chronicle of Higher Education*, 50(22), A1.

§2.4.c Bartlett, T., & Rooney, M. Runaway board?: Unilateral actions at Virginia Tech raise questions about the proper role of trustees. *Chronicle of Higher Education*, 49(29), A25.

§2.4.d Pulley, J. L. (2003, June 13). Doing the right thing. *Chronicle of Higher Education*, 49(40), A27.

§2.4.e *South Texas College of Law v. Texas Higher Ed. Coordinating Bd.*, 40 S.W.3d 130 (Tex. Ct. App. 2001). {Group B}

§2.4.f *Lee Publications v. Dickinson School of Law*, 848 A.2d 178 (Pa. Commw. Ct. 2004). {Group C}

§3 State action doctrine

§3.1

§3.1.a *Trustees of Dartmouth College v. Woodward*, 4 Wheat (U.S.) 518 (1819) - (read for historical interest).

§3.1.b Whitehead, J. (1973). Dartmouth: A small college. *The Separation of College and State* (selected passages).

§3.1.c Constitutional Requirements and the “State” Actor (1st and 14th Amendments).

§3.1.d *Rendell-Baker v. Kohn*, 457 U.S. 830 (1982)

§3.1.e Dutile, F. N. (1989, Fall). Higher education and the courts in review. *Journal of College and University Law*, 16(2), pp. 203-207.

§3.1.f *Pove v. Miles*, 407 F.2d 73 (2d Cir. 1968).

§3.2

§3.2.a *National Collegiate Athletic Ass'n v. Tarkanian*, 488 U.S. 179 (1988). [skim]

§3.2.b *Tynecki v. Tufts Univ.*, 875 F. Supp. 26 (D.Mass. 1994). [skim]

§3.2.c *Peoria Sch. of Business v. Accrediting Council*, 805 F. Supp. 597 (N.D. Ill. 1992). [skim]

§3.2.d *State of N.J. v. Schmid*, 423 A.2d 615 (N.J. 1980).

§4 Faculty academic freedom

§4.1

§4.1.a *Sweezy v. New Hampshire*, 354 U.S. 234 (1957). {Group A}

§4.1.b *Keyishian v. Board of Regents*, 385 U.S. 589 (1967). {Group B}

§4.1.c *Pickering v. Board of Educ.*, 391 U.S. 563 (1968). {Group C}

§4.1.d *Givhan v. Western Line Consolidated Sch. Dist.*, 439 U.S. 410 (1979)

§4.1.e *Connick v. Myers*, 461 U.S. 138 (1983).

§4.1.f *Waters v. Churchill*, 511 U.S. 661 (1994) (syllabus only).
§4.1.op.i *Greene v. Howard Univ.*, 412 F.2d 1128 (D.C. Cir.1969). [OPTIONAL]

§4.2.a Gose, B. (2002, Sept. 20). Dispute over guns at the University of Utah may test academic freedom, *Chronicle of Higher Education*, 49(4), A26.

§4.2.b *Levin v. Harleston*, 966 F.2d 85 (2d Cir. 1992).

§4.2.c *Jeffries v. Harleston*, 52 F.3d 9 (2d Cir. 1995) {Group A}

§4.2.d Glazer, N. (1995). Levin, Jeffries, and the fate of academic autonomy. *Public Interest*, 120, 14-40.

§4.2.e O'Neil, R. (2004, Dec 26). Professors target of students' bias suits. *San Francisco Chronicle*, A3.

§4.2.f Horowitz, D. (2004, Feb. 13). In defense of intellectual diversity. *Chronicle of Higher Education*, 50(23), B12.

§4.2.g Wilson, R., & Cox, A. M. (2001, Oct. 5). Terrorist attacks put academic freedom to the test. *Chronicle of Higher Education*, 48(6), A12.

§4.2.h O'Neil, R. (2004, Nov/Dec). Academic freedom and national security. *Academe*, 90(6), 39-42.

§4.2.op.a *Dambrot v. Central Michigan Univ.*, 55 F.3d 1177 (6th Cir. 1995) [OPTIONAL]

§4.3.op.a *Central State Univ. v. AAUP*, 526 U.S. 124 (1999) [OPTIONAL]

§4.3.a Alexander, K. (1999, October 29). Professor wins free-speech case : A federal judge rules Irvine Valley College's disciplinary actions against Roy Bauer unconstitutional. *Los Angeles Times*, B3.

§4.3.b *Feldman v. Ho*, 171 F.3d 494 (7th Cir. 1999). {Group B}

§4.3.c *Urofsky v. Gilmore*, 216 F.3d 401 (4th Cir. 2000) {Group C}

§4.3.d Weaver, R. L. (2000). Free speech, crime, and the challenge of advancing technology. *International Review of Law*, 14(1), 25-32.

§4.3.e AAUP (1997, June). *Academic freedom and electronic communications*. Washington, D.C.: American Association of University Professors.

§4.3.f O'Neil, R. (2004, Jan. 16). Controversial weblogs and academic freedom. *Chronicle of Higher Education*, 50(19), B16.

§4.4

§4.4.a *Edwards v. California Univ. of Pa.*, 156 F.3d 488 (3d Cir. 1998) {Group A}

§4.4.b *Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991). {Group B}

§4.4.c *Martin v. Parrish*, 805 F.2d 583 (5th Cir. 1986). {Group C}

§4.4.d Federal judge rules college must reinstate foul-mouthed professor. (1999, Sept. 10). *Chronicle of Higher Education*, A14.

§4.4.e Wilson, R. (2002, Aug. 2). An ill-fated sex survey. *Chronicle of Higher Education*, 48(47), A10.

§4.4.f Wilson, R. (1999, March 12). Wisconsin scales back its faculty speech code. *Chronicle of Higher Education*, A10.

§4.5.op.a McMurtrie, B. (2001, July 20). 3 theologians face a dilemma for themselves, their colleges, and the Church. *Chronicle of Higher Education*, 47(45), A8.

§5 First Amendment rights of students: focus on free speech

§5.1.a Ogles, J. (1999, September 1). U. South Florida only catching up with other universities' free speech policies. *The Oracle (U-Wire)*.

§5.1.b Langhauser, D. P. (2003). Freedom and regulation of speech on our campuses. *Change* 35(3), 38-39.

§5.1.c *Labme v. University of Southwestern La.*, 692 So.2d 541 (3d Cir. Ct App. 1997). {Group A}

§5.1.d *Healy v. James*, 408 U.S. 169 (1972).

§5.1.e Olivas, M. A. (1990). Snapshots from three decades: The law and higher education. *Change*, 22(2), 64-69.

§5.1.f Walsh, S. (2004, Mar. 5). The Drake Affair. *Chronicle of Higher Education*, 50(26), A8.

§5.1.op.a Orlans, H. (2003, May/June). Berkeley: The years of turmoil. *Change*, 35(3), 6-7. [OPTIONAL]

§5.2.a *Hammond v. South Carolina State Univ.*, 272 F. Supp. 947 (D. South Carolina 1967). {Group B}

§5.2.b *Widmar v. Vincent*, 454 U.S. 263 (1981).

- §5.2.c *Rosenberger v. Rectors of the Univ. of Va.*, 515 U.S. 819 (1995)
- §5.2.d *Gay Student Servs. v. Texas A&M Univ.*, 737 F.2d 1317 (5th Cir. 1984) {Group C}
- §5.2.e *Gay Rights Coalition v. Georgetown Univ.*, 536 A.2d 1 (D.C. App. 1987) (syllabus only) {Groups A & B}
- §5.2.f Mooney, C. J. (1994, November 16). Religion vs. gay rights: Yeshiva U. debates whether recognition of gay groups threatens its identity. *Chronicle of Higher Education*, A39.
- §5.2.g Bollag, B. (2005, Jan. 25). Choosing their flock. *Chronicle of Higher Education*, 51(21), A39.
- §5.2.h Gose, B. (1998, November 27). Do bans on fraternities violate the first amendment?. *Chronicle of Higher Education*, A37-A38.

- §5.3.op.a *Bob Jones Univ. v. U.S.*, 461 U.S. 574 (1983) [OPTIONAL]
- §5.3.op.b *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002) [OPTIONAL]
- §5.3.a *Locke v. Davey*, 540 U.S. 712 (2004) [skim]

- §5.4.a *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988) [skim]
- §5.4.b *Papish v. Board of Curators*, 410 U.S. 667 (1973) {Group C}
- §5.4.c *Yeagle v. Collegiate Times*, 497 S.E.2d 136 (Va. 1998) {Group B}
- §5.4.d *Stanley v. McGrath*, 719 F.2d 179 (8th Cir. 1983) {Group A}
- §5.4.e *Kincaid v. Gibson*, 236 F.3d 342 (6th Cir.2001) {LAW STUDENTS, Others Optional}
- §5.4.f.LAW *Pitt News v. Pappert*, 379 F.3d 96 (3d Cir. 2004) {LAW STUDENTS, Others skim}

- §5.4.g Schmidt, P. (1999, March 5). Federal court upholds U. of Oregon's policy on mandatory student fees. *Chronicle of Higher Education*, A36.
- §5.4.h Savage, D. G. (2000, May). Paying for free speech. *ABA Journal*, 86, 30.
- §5.4.i Schmidt, P. (1999, November 12). Finding balance between mandatory fees and free speech. *Chronicle of Higher Education*, A32.

- §5.4.op.a *Hays County Guardian v. Supple*, 969 F.2d 111 (5th Cir. 1992) [OPTIONAL]
- §5.4.op.b *Sinn v. Daily Nebraskan*, 829 F.2d 662 (8th Cir. 1987) [OPTIONAL]

- §5.5.a.LAW *Axson-Flynn v. Johnson*, 308 F.3d 939 (10th Cir.2002) {LAW STUDENTS, Others skim}
- §5.5.b.DOC *Brown v. Li*, 308 F.3d 939 (9th Cir. 2002) {DOCTORAL STUDENTS, Others skim}

- §5.5.op.a *Southern Christian Leadership Conference v. Louisiana Sup. Ct.*, 252 F.3d 781 (5th Cir. 2001) [OPTIONAL]

- §5.6.op.a Jervis, J. L. (2004). Many faces of risk: Free speech versus public safety. In J. BLock McLaughlin, *Leadership admid controversy: Presidential perspectives* (New Directions for Higher Education, No. 128) (pp. 15-33). Wiley Periodicals, Inc. [OPTIONAL SKIM]
- §5.6.op.b Silvergate H. A., French, D. , & Lukianoff, G. (2005). FIRE's guide to free speech on campus. Philadelphia: Foundation for Individual Rights in Education. [OPTIONAL SKIM]

WEEKEND 2

§6 Issues of contract law and beyond the 1st Amendment

- §6.1
- §6.1.a *Steinberg v. Chicago Med. Sch.*, 371 N.E.2d 634 (Ill. 1977) {Group A}
- §6.1.b *Banchero, S.* (1999, April 3). Governors State lacked approval to give degree. *Chicago Tribune*, 1.
- §6.1.c *Beukas v. Board of Trustees*, 605 A.2d 708 (NJ App. 1992)
- §6.2.a *Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214 (1985)
- §6.2.b *Mangla v. Bronn Univ.*, 135 F.3d 80 (1st Cir. 1998). {Group B}

- §6.2.c Pavela, G. (1999, October 22). For the same reasons that students can be expelled, degrees ought to be revocable. *The Chronicle of Higher Education*, 46(9), B6-B7.
- §6.2.d *Ross v. Creighton Univ.*, 957 F.2d 410 (7th Cir.1992) {Group B}
- §6.2.e Davenport, D. (1995, Fall). The catalog in the courtroom: From shield to sword?. *Journal of College and University Law* 12, 201-226.
- §6.2.f Makar, S. D. (2002, Nov. 8). Litigious students and academic disputes. *Chronicle of Higher Education*, 49(11), B20.

§7 Student Oversight: Discipline, Searches, and Sex

- §7.1.a *Board of Curators of the Univ. of Missouri v. Horowitz*, 435 U.S. 78 (1978).
- §7.1.b *Pugel v. Board of Trustees of Univ. of Ill.*, 378 F.3d 659 (7th Cir. 2004) {Group C}
- §7.1.op *Washington v. Chrisman*, 455 U.S. 1 (1982). {OPTIONAL}
- §7.2.a Carlson, S. (2001, July 27). Computer searches in public labs are legal, federal judge rules. *Chronicle of Higher Education*, 47(46), A32.
- §7.3.op.a *Furek v. University of Del.*, 594 A.2d 506 (Del. 1991). [OPTIONAL]
- §7.3.op.b *Freeman v. Bsuch*, 349 F.3d 582 (8th Cir. 2003) {OPTIONAL}
- §7.3.a Council on Law & Higher Education (2004). Student Affairs Law & Policy Quarterly, 1(1) [Skim]
- §7.3.b Silvergate, H. A., & Gewolb, J. (2002, Aug. 16). Rape charges: It's time to end 'he said/she said' justice. *Chronicle of Higher Education*, 48(49), B20.
- §7.3.c Brownstein, A. (2001, July 6). A battle of wills, rights, and p.r. at Columbia. *Chronicle of Higher Education*, 47(43), A32.
- §7.3.d Hoover, E. (2004, Apr. 9). Crying foul over fan's boorish behavior. *Chronicle of Higher Education*, 50(31), A1.
- §7.3.e Hoover, E. (2003, Dec. 5). More help for troubled students. *Chronicle of Higher Education*, 50(15), A25.
- §7.3.f Bartlett, T. (2003, Oct. 23). Did a university let a sex researcher go too far?. *Chronicle of Higher Education*, 50(10), A10.
- §7.3.g Bell, S. T. (2004, June 25). Minors on campuses can pose many liabilities. *Chronicle of Higher Education*, 50(42), B16.
- §7.3.h Diamond, E., & Bates, S. (1995, Oct.). Law and order comes to cyberspace. *Technology Review*, 98(7), 22-33.

§8 Employment discrimination: harassment based on race, national origin, sex, and sexual orientation

- §8.1.a *Griggs v. Duke Power*, 401 U.S. 424 (1971).
- §8.1.b *Hazelwood Sch. Dist. v. U.S.*, 433 U.S. 299 (1977) (highlighted portions only)
- §8.1.c Leatherman, C. (1999, February 5). \$12.7-Million judgment in tenure case leaves many academic experts stunned. *Chronicle of Higher Education*, A14-A15.
- §8.1.d Suggs, W. (1999, July 16). Penn discriminated against male applicant to coach women's crew, EEOC finds. *Chronicle of Higher Education*, A42.
- §8.1.e *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986). (syllabus only).
- §8.1.f *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993). {Group A}
- §8.1.g *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998). {Group B}
- §8.1.h EEOC Regulations Against Harassment (handout)
- §8.1.i *Oncale v. Sundowner Offshore Servs, Inc.*, 523 U.S. 75 (1998). (syllabus only).
- §8.1.j Sixel, L. M. (1999, November 9). Ex-UT dental professor wins harassment suit: Same-sex trial may be first for Texas. *Houston Chronicle*, 13.
- §8.1.op.a *Lapides v. Board of Regents*, 535 U.S. 613 (2002). [OPTIONAL]
- §8.2.a *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998) (syllabus only)

- §8.2.b *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999) (syllabus only)
- §8.2.c Leatherman, C. (1996, December 6). To get rid of a difficult employee, a college may hush up problems in a professor's past. *Chronicle of Higher Education*, A14-A16.
- §8.2.op.a Gall, R. W. (1997). The university as an industrial plant: How a workplace theory of discrimination harassment creates a "hostile environment" for free speech in America's universities. *Law & Contemporary Problems*, 60(4), 203-243. [OPTIONAL]
- §8.2.op.b Sexual harassment prevention models (In Harassment Free Hallways, AAUW) [OPTIONAL]
- §8.3.a Thornton, S. (2004, Oct. 8). Where – not when – should you have a baby? *Chronicle of Higher Education*, 51(7), B12.
- §8.4.a *Wisconsin v. Mitchell*, 508 U.S. 476 (1993) (syllabus) {Group A}
- §8.4.b Glenn, D. (2001). The war on campus: Will academic freedom survive?. *The Nation*, 273(18), 11-12, 14.
- §8.4.c Gould, J. B. (2001). The precedent that wasn't: College hate speech codes and the two faces of legal compliance. *Law & Society Review*, 35(2), 345-392. {DOCTORAL STUDENTS Skim}
- §8.4.d Anonymous (2003). Political correctness grips nation's colleges. *Human Events*, 59(2), 16.
- §8.4.e Winbush, R. A. (1999). Campus hate crimes: Fruit on the American tree of violence, *Black Collegian*, 30(1), 145-146, 148-149.

§9 Affirmative action: law and strategies

- §9.1.a Bowen W. G., & Bok, D. (1998, September 23). Merit and the relevance of race in college admissions affirmative action: The use of race-based selection has opened many fields for blacks, a new study shows. *Los Angeles Times*, B7.
- §9.1.b Steele, S. (1995, March 1). Affirmative action must go. *New York Times*, A1.
- §9.1.c Rimer, S., & Arenson, K. W. (2004, Dec. 13). In college, exactly what is diversity?. *New York Times Upfront*, 137(7), 17.
- §9.1.d Expert Report of Claude Steele for Gratz v. Bollinger, Nos. 97-75321 and 97-75928 (E.D. Mich.) {Group A}
- §9.1.d Expert Report of Thomas J. Sugrue for Gratz v. Bollinger, Nos. 97-75321 and 97-75928 (E.D. Mich.) {Group B}
- §9.2.a *Regents of the Univ. of California v. Bakke*, 438 U.S. 265 (1978) (Syllabus only)
- §9.2.b *Grutter v. Bollinger*, 539 U.S. 306 (2003) [LAW STUDENTS, Others Skim]
- §9.2.c *Gratz v. Bollinger*, 539 U.S. 244 (2003) [LAW STUDENTS, Others Skim]
- §9.2.d Schmidt, P. (2004, Mar. 19). At U. of Washington, a first test of the Michigan rulings. *Chronicle of Higher Education*, 50(28), A20.
- §9.2.e Schmidt, P. (2005, Jan. 7). Federal court declines to set new limits on affirmative action. *Chronicle of Higher Education*, 51(18), 34.
- §9.2.f Healy, P. (1998, May 29). Berkeley struggles to stay diverse in post-affirmative action era. *The Chronicle of Higher Education*, A31.
- §9.3.a Selingo, J. (1999, November 10). Florida will end race-based admissions, enroll top 20% from each school, governor says. *The Chronicle of Higher Education*.
- §9.3.b Horn, C. L., & Flores, S. M. (2003). Percent plans in college admissions: A comparative analysis of three states' experiences. Cambridge, MA: The Civil Rights Project, Harvard University. [DOCTORAL STUDENTS]
- §9.4.a *Podberesky v. Kirwan*, 38 F.3d 147 (4th Cir. 1994) {Group C}
- §9.4.b Healy, P. (1997, Oct. 31). Education department sends strong warning on race-exclusive scholarships. *Chronicle of Higher Education*, A47.
- §9.4.c Schmidt, P. (2004, Mar. 19). Not just for minority students anymore. *Chronicle of Higher Education*, 50(28), A17.
- §9.5.a Alger, J. (2003, May/June). What's ahead for affirmative action. *Change* 35(3), 34-35.

§9.5.op.a Henderson, L. J., Jr. (2004). Brown v. Board of Education at 50: The multiple legacies for policy and administration. *Public Administration Review*, 64(3), 270-274. [OPTIONAL]

§10 Discrimination based on disability

Horn, L., Berkthold, J., & Bobbitt, L. (1999, June). *Students with disabilities in postsecondary education: A profile of preparation, participation, and outcomes*, pp. iii-vii. Washington, D.C.: National Center for Educational Statistics - Department of Education. (executive summary).

Rothstein, L. F. (1991, Spring). Students, staff and faculty with disabilities: Current issues for colleges and universities. *Journal of College & University Law*, 17, 471-482.

U.S. Department of Education (1998, September). Auxiliary aids and services for postsecondary students with disabilities higher education's obligations under section 504 and Title II of the ADA. U.S. Department of Education - Office for Civil Rights. <http://www.ed.gov/offices/OCR/auxaids.html>

School Bd. of Nassau County v. Arline, 480 U.S. 273 (1987).

"Kansas State Faculty Member Says University Dismissed Him Because He Has AIDS." *Chronicle of Higher Education*, Sept. 30, 1987, pp. A11, A12.

Bragdon v. Abbott, 524 U.S. 624 (1998). (syllabus only).

Zucke v. Regents of the Univ. of California, 166 F.3d 1041 (9th Cir. 1999).

Hebel, S. (1999, July 2). New Supreme Court rulings could impede disability-bias suits against colleges. *The Chronicle of Higher Education*, A31.

Sutton v. United Airlines, Inc., 527 U.S. 471 (1999) (syllabus only).

Albertsons, Inc. v. Kirkingburg, 527 U.S. 555 (1999) (syllabus only).

Murphy v. United Parcel Serv., Inc., 527 U.S. 516 (1999) (syllabus only).

Healy, P. (1999, April 16). Supreme Court rejects appeal of anxious student. *Chronicle of Higher Education*, A40.

Mangan, K. S. (2004, Aug 6). Students with disabilities sue over medical-school admissions test. *Chronicle of Higher Education*, 50(48), A33.

Matthews v. NCAA, 79 F.Supp.2d 1199 (E.D. Wash. 1999)

Selingo, J. (1997, January 7). Judge says Boston U. violated rights of learning disabled. *Chronicle of Higher Education*, A65.

Reisberg, L. (1998, February 27). A university recruits students with disabilities the way some institutions go after athletes. *Chronicle of Higher Education*, A45.

Carnevale, D. (1999, October 29). Colleges strive to give disabled students access to on-line courses. *Chronicle of Higher Education*, A69.

Tennessee v. Lane, 124 S.Ct. 1978 (2004) (syllabus only).

[optional: *Board of Trustees of Univ. of Alabama v. Garrett*, 531 U.S. 356 (2001)]

§11 Title IX: Equity in athletics and Special issues in athletics

Setty, S. (1999, Summer). Leveling the playing field: reforming the office for civil rights to achieve better Title IX enforcement. *Columbia Journal of Law and Social Problems*, 32, pp. 331-358.

Coben v. Brown Univ., 101 F.3d 155 (1st Cir.1996)

Letter by the United States Department of Education, Office of Civil Rights (1998, July 23)
Title IX and Regulations (handout).

Favia v. Indiana Univ., 7 F.3d 332 (3d Cir. 1993)

Harper v. Board of Regents, 35 F. Supp.2d 1118 (C.D. Ill. 1999)

Mercer v. Duke Univ., 109 F.3d 643 (4th Cir. 1999)

Roberts v. Colorado State Bd. of Agriculture, 998 F.2d 824 (10th Cir. 1993)

NCAA (2003). *Gender equity report, 2001-2002*. Indianapolis: Author.

Snow, B. A. (1999, January). Broadening the demand for gender-equity in athletics: Financial aid and coaches' compensation. *Education Law Reporter*, 130, 965-987.

Lords, E. (1999, July 9). More women and fewer men participate in intercollegiate athletics, study finds. *Chronicle of Higher Education*, A40.

Court sides with NCAA on federal funding issue. (1999, March 1). *The NCAA News*.

§12 Academic & Research Administration

§12.1.A Intellectual Property

Sun, J.C. (2002). *Intellectual property issues in higher education* (unpublished paper). New York: Columbia University.

Chew, P. K. (1992). Faculty-generated inventions: Who owns the golden egg? *Wisconsin Law Review*, 1992, 259-314.

AAU Policy Statement

AAUP Policy Statement on Intellectual Property

§12.1.B

Manasa v. University of Miami, 320 So. 2d 467 (Fla. App. 1975)

Weinstein v. University of Ill., 811 F.2d 1091 (7th Cir. 1987)

Weissman v. Freeman, 684 F.Supp. 1248 (S.D.N.Y. 1988)

Hays v. Sony Corp of America, 847 F.2d 599 (7th Cir. 1988)

Gorman, R. A. (2000). Copyright conflicts on the university campus. *Journal of the Copyright Society of the U.S.A.*, 47, 291-315.

§12.1.C

Madey v. Duke Univ., 307 F.3d 1351 (Fed. Cir. 2002)

Chou v. University of Chicago, 254 F.3d 1347 (Fed. Cir. 2001)

Powell, W. W., & Owen-Smith, J. (1998, Spring). Universities and the market for intellectual property in the life sciences. *Journal of Policy Analysis and Management*, 17(2), 253-277.

National Association of College and University Business Officers. (1978). *Patent and copyright policies at selected universities*. Washington, D.C.: National Association of College and University Business Officers. (selected sections)

§12.1.D

Greger, J. L. (1998). Challenges from intellectual property rights. In W. L. Hansen (Ed.), *Academic freedom on trial: One hundred years of sifting and winnowing at the University of Wisconsin-Madison* (pp. 279-282). Madison: University of Wisconsin Press.

Astala, M. (2003). Wronged by a professor?: Breach of fiduciary duty as a remedy in intellectual property infringement cases. *Houston Business and Tax Law Journal*, 3, 31-64.

§12.2 Sponsored Research (Grants and Contracts) Compliance and Misbehavior

Yao v. Board of Regents of Univ. of Wisconsin Sys., 649 N.W.2d 356 (Wisc. App.2002)

Ferrer v. Trustees of University of Pa., 825 A.2d 591 (Pa. 2002)

Hebel, S. (2003, Feb. 7). If you build it, they will come: How SUNY-Albany shocked the research world and reaped a bonanza worth \$850-million (and counting). *Chronicle of Higher Education*, 49(22), A16.

Newberg, J. A., & Dunn, R. L. (2002). Keeping secrets in the campus lab: Law, values and rules of engagement for industry-university R&D partnerships. *American Business Law Journal*, 39, 187-240.

Clinical trial registration editorial statement (2004, Sept. 13)

Scharke C. C. *Human Subject Requirements* (see NIH website)

U.S. Department of Health and Human Services, NIH

Principles and Guidelines for Recipients of NIH Research Grants and Contracts on Obtaining and disseminating Biomedical Research Resources: Final Notice, 64 Fed. Reg. 72090 (Dec. 23, 1999)

National Institutes of Health, Office of Extramural Research (2002). *Public Health Service Policy on Humane Care and Use of Laboratory Animals*. <http://grants2.nih.gov/grants/olaw/references/phspol.htm>

§12.3 Conflicts: Conflicts of Commitment Clauses; Conflict of Interest

Schmidt, P. (2002, March 29). States push public universities to commercialize research: Conflict-of-interest fears take a back seat to economic development. *Chronicle of Higher Education*, A26.

Rhoades, G. (1998). Managed professionals: Unionized faculty and restructuring academic labor. Albany: State University of New York Press. (Chapter 6 only)

Jones, L. M. (2000). The commercialization of academic science: Conflict of interest for the faculty consultant. Ph.D. dissertation AAT9986421 (selected excerpts).

AAMC: Research Conflict of Interest Policy Survey (2004, Sept. 15) (skim report)

Campbell, T. I. D., & Slaughter, S. (1999). Faculty and administrators' attitudes toward potential conflicts of interest, commitment, and equity in university-industry relationships. *Journal of Higher Education*, 70(3), 309-352.