

University of Southern California, Rossier School of Education

EDHP 679

Legal Issues in the Administration of Higher Education

Spring 2014

(January 14, 2011 – April 29, 2014)

4:15 p.m. to 6:50 p.m.

and

7:00 p.m. to 9:40 p.m.

Prof. Shafiqah Ahmadi, J.D.

Office Location: Waite Phillips Hall-WPH 1003B

Office Hours: By appointment

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Course Description:

Analysis of selected legal issues related to the administration of higher education; emphasis on relations with students, faculty, staff, and selected policy issues.

Course Objectives:

1. To develop an understanding of the organization and governance of higher education from a legal perspective
2. To become familiar with the multiple sources of constitutional, statutory, case law, and regulatory law that govern higher education, and to develop rudimentary legal research skills
3. To develop a basic understanding of methods of legal analysis of issues in the administration of higher education

Book: The Law of Higher Education: Student Version Kaplan, William A., Lee, Barbara A., (2007), Fourth Edition, Jossey-Bass Publishers, ISBN 978-0-7879-7095-6.

Student Evaluation:

1. Class Participation

- a. Attendance
- b. Preparedness when called upon
- c. Participation reflecting knowledge of the course material, and significant contribution to class discussion

2. Discussion Boards

3. Moot Court

4. Moot Court Briefs

5. Final Paper

Class Participation

Class participation is essential to learning. Although class attendance is not mandatory, you will not be able to participate if you are not in class. We will learn by discussing the assigned materials and from each other's experiences and perspectives. As such, most graduate students who work and/ or study in the field of higher education encounter events that have potential legal or policy implications for institutions of higher learning. These issues may relate to faculty or students' rights, governance matters, or issues of potential liability for the university or its employees.

Each Week be prepared to relate at least one such legal issue, including: 1) the facts of the scenario; 2) the rule of principle of law involved; 3) the spectrum of possible outcomes; 4) the policy implications for the institution of higher education; 5) how you might have resolved the legal issues differently, and why. This will count towards your class participation grade. Note: for ideas, read the newspaper or The Chronicle of Higher Education.

If you must miss a class for any reason, please email your TA as soon as possible.

Discussion Boards: Sunday Nights by Midnight

The discussion board on Blackboard will be used weekly to both assess your understanding of the readings and allow for questions regarding the material. Each week you will be required to post a reaction to the weekly reading assignments on Blackboard. Reaction papers should summarize the readings, describe your thoughts or criticisms, and raise 1-2 questions that arose for you while reading. These questions may be used to further class discussion. Papers should be no less than 250 words, and must be posted by Midnight on Sundays, in preparation for our Tuesday class. The purpose of this exercise is to help you synthesize the (often dense) reading assignments, and to prepare you to participate in class discussions. The content will likely be new to you, and I expect that you will have questions. Because this exercise is mainly for your benefit, papers need not be formally written in APA style.

Moot Court Brief: Due Date: February 25, 2014

Length: 10 – 12 pages

Students will work in groups of two with your same partners from the Moot Court. Students are required to submit written briefs to fulfill their midterm requirement and participate in oral argument in moot court towards the end of the semester. The case or problem will focus on a current interest, mimicking an actual case related to higher education; certain facts of the case or problem will be fabricated to address difficult legal issues related to higher education.

Students will receive a problem in advance, which will include the facts of the underlying case and each party's position. Students must then research and prepare for that case as if they were lawyers or advocates for one of the parties.

Moot Court: April 15, 2014 & April 29, 2014

Moot court is an extracurricular activity at many law schools in which participants take part in simulated court proceedings. It includes drafting briefs (written legal document) and participating in oral argument. Moot court does not involve the examination of witnesses or the presentation of evidence; rather, it is focused solely on the application of the law/institutional policy to a common set of evidentiary assumptions to which the competitors must be introduced. The basic structure of a moot court competition roughly parallels what would happen in actual appellate practice.

Students will be required to focus on a current legal issue in higher education. Students will draft briefs (see below Moot Court Briefs) and participate in oral arguments.

Final Paper: Due Date: April 29, 2014 (Last day of class)

8-10 pages

For your final paper select a topic from the list below. Final papers may not be written on the same topic as the moot court.

- 1) Legal and procedural steps in disability-related misconduct
- 2) The influence of technology (Facebook, MySpace, and other social networks) on criminal offenses and campus discipline, such as:
 - a) Sexual Assault
 - b) Stalking
 - c) Harassment in general
 - d) Sexual harassment
 - e) Cyberbullying/Cyberstalking
- 3) Legal and procedural steps in reintegration of disabled veterans on campus
- 4) The rights of documented and undocumented students on college campuses
- 5) On campus hazing

Quality and Originality of Papers:

Your paper should examine the rule of law applicable to your topic as well as its interpretations, critical analyses, and applications offered by others (in case law, law review journal articles, statutes, other scholarly journal articles, books, etc.).

Your papers should be comprehensive and thematic, including both current and classic contributions to the area of literature reviewed. **Papers should critically analyze both the conceptual and empirical data which has framed the topic or area reviewed.**

Your arguments, assertions, and conclusions must be supported by authority (case studies, court cases, law review articles, statutes, journal articles, etc.)

“Recycled” papers that you have written for previous classes are not acceptable.

The following questions will be considered in evaluating your paper:

1. Did the student provide a thorough examination and description of the selected topic?
2. Did the student demonstrate an in-depth understanding of the selected topic and appropriately drew upon scholarly literature?
3. Did the student write a strong paper in terms of organization, style, and grammar? Did it appropriately utilize APA style?

The paper should follow **APA style** formatting and include a complete **reference** of all works cited. PLEASE CITE ALL IDEAS OR PHRASES OF 4 or MORE WORDS (in quotes) THAT ARE NOT YOUR OWN.

Legal cases should be cited in the following manner: *University of Pennsylvania v. EEOC*, 493 U.S. 182 (1990)

Papers will be graded on organization, quality and logic of expression, depth and sophistication of analysis. Technical or formatting errors will negatively impact grades.

Relying on what you find on the internet, without careful scrutiny for credentials and stature of authors does not constitute quality research.

Plagiarism:

Plagiarism is broadly defined as failing to give credit or attribution to the source of an idea or work that one submits as his or her own; unattributed work is plagiarism whether it is paraphrased or in near-verbatim form. A few examples of plagiarism in law school are listed below.

- Using another's ideas or analysis without citation to the source;
- Using another's work in near-verbatim form with a citation, but without quotation marks;
- Using another's work with one- or two-word alterations in each sentence;

- Using ideas or phrasing from an article, citing the cases used in the article, but failing to cite the article; and
- Using authority cited in another source to support a proposition without personally reading the cited authority.

The University guidelines regarding plagiarism are reproduced in *SCampus*. Each student should read these guidelines carefully. Any student who is unsure about the rules regarding proper citation of sources should raise the issue with the Director of Student Judicial Affairs or a member of the faculty or course assistant. The disciplinary action taken in response to such incidents varies depending on the severity of the violation and any extenuating circumstances. The range of disciplinary actions includes a formal warning, an "F" in the course, and suspension, or expulsion. Claims of "lack of notice" regarding the meaning of plagiarism will not warrant relief.

Additional guidance is available in the publication, *Academic Integrity: A Guide for Graduate Students*, available from the Office of Student Judicial Affairs and Community Standards (213-821-7373) and online at: <http://www.usc.edu/student-affairs/SJACS/forms/GradIntegrity.pdf>.

Final Grade:

<i>Course Assignment</i>	<i>Percent of Grade</i>
Class Attendance & Participation	10%
Discussion Boards	20%
Moot Court Briefs	20%
Moot Court	20%
Final Paper	30%
Total	100%

Grading Scale:		
A+ = 99-100	A = 94-98	A- = 92-93
B+ = 90-91	B = 86-89	B- = 84-85
C+ = 82-83	C = 78-81	C- = 76-77
D = 68-75	F = 0-67	

Class resources/assignments/Discussion/Preparation:

A - contributes regularly to discussion, comments illustrate that materials were read and accurate interpretations developed. Contributions are relevant to discussion questions

B – contributes irregularly, often interpretations are groundless and do not relate to discussion questions

C – often comments illustrate the student has not read materials or has misunderstood materials

F - no contribution

Grading Criteria for papers

I use the following criteria for determining grades on papers (borrowed liberally from Tiffani Crawford, a former student who also teaches):

An excellent paper (A):

1. Will address itself solely to the assigned topic;
2. Will have a logical organization of ideas;
3. Will have effective word choice;
4. Will include substantial evidence with citations to support assertions in the paper (supportive material that is complete, relevant and convincing); and
5. Will contain no more than 5 mechanical and stylistic errors.

A superior paper (B):

1. Will address itself to the assigned topic;
2. Will have a logical organization of ideas;
3. Will have reasonably effective word choice;
4. Will include evidence with citations to support assertions in the paper; and
5. Will contain no more than 10 mechanical and stylistic errors.

A competent paper (C):

1. Will respond to the assigned topic;
2. Will have discernible organizations;
3. Will have adequate word choice;
4. Will include supportive material that is relevant and mostly convincing; and
5. Will contain no more than 15 mechanical and stylistic errors.

An inadequate paper (D):

1. May ramble or stray from the assigned topic;
2. May be weak in organization;
3. May lack clarity and/or variety in word choice;
4. May lack supportive material; and
5. Will contain no more than 20 mechanical and stylistic errors.

A crash and burn (F):

1. Is usually done at 5:00 in the morning it is due;
2. Is rarely proofread;
3. Makes no attempt to respond to the assigned topic;
4. Is roughly half of the assigned length;
- a. Shows little or no thought, logic or planning; and shows little or no depth or supportive material.

I will use the following grading rubric as a guide while reading your final papers:

	Does Not Meet Expectation	Meets Expectation	Exceeds Expectation
Depth of Analysis	Provides primarily surface-level assertions, arguments, and conclusions evidencing little to no depth of analysis.	Presents a critical analysis of both the conceptual and empirical data that frames the topic.	Presents a comprehensive critical analysis of both the conceptual and empirical data that frames the topic using a variety of sources, and situates the topic within its current and historical climate
Understanding of Topic/Quality of Sources	Arguments, assertions, and (and/or) conclusions are incoherent or lacking support. Sources are lacking in either number or diversity, or do not adequately support statements.	Arguments, assertions, and conclusions are coherent and supported by appropriate sources, including case studies, court cases, law review articles, statutes, and journal articles.	Arguments, assertions, and conclusions are well-reasoned and well-articulated. Student uses a variety of appropriate sources to present the topic in a creative and interesting way.
Organization/Style/ Grammar/APA	Structure is unclear, and/or not written in acceptable academic language. Paper has persistent mechanical errors (grammar, spelling, APA)	Structure is clear. Paper is written in academic language with attention to style. Paper has no mechanical errors.	Structure is clear and the student presents content in novel and interesting ways. Student demonstrates mastery of academic writing style both in the use of academic language and citation methods.

ACADEMIC INTEGRITY:

I expect you to give credit to others in your writing when credit is due (in other words, if you can identify that the idea you are presenting came from someplace else, give that someplace else credit). I'm not a stickler for form, just for principle. Out respect for all hard-working students, I will forward cases of suspected cheating or plagiarism through the university discipline system. If you are in a time crunch, talk to me, don't test me. University policy stipulates that any act of cheating, plagiarism, or general academic misconduct (e.g., fabricating references) will result in an automatic "F" for the course and may lead to suspension from the University.

Reasonable Accommodation of Disabilities:

Students with disabilities who meet the criteria of applicable state and/or federal law are entitled to reasonable accommodation. Should you require such an accommodation, please contact the instructor immediately so that the appropriate accommodations can be investigated for timely implementation.

Topics by Week:

Week 1 (1/14/14)	Overview of the course Introduction to the American Legal System <u>Readings:</u> None
Week 2 (1/21/14)	Perspectives and Foundations <u>Readings:</u> Overview of Higher Education Law (Kaplin: pp. 9-59)
Week 3 (1/28/14)	Perspectives and Foundations <u>Readings:</u> Legal Planning and Dispute Resolution (Kaplin: pp. 60-79)
Week 4 (2/4/14)	The College and its Governing Board and Staff <u>Readings:</u> The College's Authority and Liability (Kaplin: pp. 83-116)
Week 5 (2/11/14)	The College and its Governing Board and Staff <u>Readings:</u> Employment Contracts/ Collective Bargaining (Kaplin: pp. 117-124)
Week 6 (2/18/14)	The College and its Governing Board and Staff <u>Readings:</u> Personal Liability of Employees (Kaplin: pp. 124-134)
Week 7 (2/25/14) (Moot Court Briefs Due)	The College and its Governing Board and Staff <u>Readings:</u> Employment Discrimination/ Affirmative Action (Kaplin: pp. 135-182)

Week 8 (3/4/14)	The College and Its Students
	<u>Readings:</u>
	The Student/ Institution Relationship: Legal Status of Students/ Admissions/ Financial Aid (Kaplin: pp. 293-373)
Week 9 (3/11/14)	The College and Its Students
	<u>Readings:</u>
	Student Housing, Campus Computer Networks/ Campus Security/ Other Support Services (Kaplin: pp. 374-406)
Week 10 (3/18/14)	Spring Break/NASPA – No Class
Week 11 (3/25/14)	The College and Its Students
	<u>Readings:</u>
	Disciplinary Issues and Rules/ Grades/ Degree/ Speech/ Student Files and Records (Kaplin: pp. 407-474)
Week 12 (4/1/14)	The College and Its Students
	<u>Readings:</u>
	Student Protests/ Speech/ Student Files and Records (Kaplin: pp. 475-512)
Week 13 (4/8/14)	The Rights and Responsibilities of Student Organizations and Their Members
	<u>Readings:</u>
	Student Organizations/ Fraternities and Sororities/ Student press/ Athletics Teams and Clubs (Kaplin: pp. 513-589)
Week 14 (4/15/14)	Moot Court
Week 15 (4/22/14)	No class - work on your final paper
Week 16 (4/29/14) (Due: Final Papers)	Moot Court
	Recap of Legal Issues in the Administration of Higher Education