Class Schedule: Mondays, 5-8pm
Location: 112 Pulliam Hall
Instructor: Saran Donahoo
Contact: Office – 129C Pulliam Hall
         Phone – (618) 453-6077
         Email: donahoo@siu.edu
Office Hours: Mondays, 1:30-4:30pm
             Wednesdays, 1:30-4:30pm
             By appointment

Purpose:
This course will provide an introduction and overview of some of the key legal issues affecting higher education and the jobs of student affairs professionals. This course will allow students to learn about both the law and legal research. This course includes Constitutional, federal, state, and institutional legal issues as addressed in a variety of court cases, public policies, and legislation.

Primary Texts:
Articles as assigned

Recommended Texts:

Forbidden Source:
Wikipedia!

Course Objectives:
- Become familiar with laws and court cases that influence student affairs in particular and higher education in general
- Conduct basic legal research
Utilize knowledge of laws to develop institutional policies and procedures that prevent or address legal concerns on campus.

### Points Scale

<table>
<thead>
<tr>
<th>Assignments</th>
<th>Points</th>
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<tbody>
<tr>
<td>Legal Resource Assignment</td>
<td>5</td>
</tr>
<tr>
<td>Case Brief/Analysis</td>
<td>10</td>
</tr>
<tr>
<td>Current Legal Issue</td>
<td>10</td>
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<tr>
<td>Quizzes</td>
<td>10</td>
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<tr>
<td>Institutional Policy/Handbook Project</td>
<td>15</td>
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<tr>
<td>Midterm Exam</td>
<td>20</td>
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<tr>
<td>Final Exam</td>
<td>20</td>
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<tr>
<td>Participation</td>
<td>10</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>100</strong></td>
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</tbody>
</table>

Students must complete all of the assignments in order to satisfy the requirements of the course.

### Grading Scale

- 100-91% = A
- 90-81% = B
- 80-71% = C

### Attendance

All students are expected to prepare for, attend, and participate in each class period. Missing class meetings will effect your participation and may have negative impact on your grade. Instructor reserves the right to apply this policy on a case-by-case basis.

Students are responsible for obtaining course information and completing all assignments whether present in class or not.

### Late Policy

All students are expected to complete assignments in the manner and by the due date specified by the instructor. Students needing extensions should consult with the instructor individually. Late assignments will result in a lower grade. For students who are absent on the day an assignment is due, the assignment is late.

### Disability

A student with a disability should contact Disability Support Services at 453-5738 (TTY: 453-2293) for service information. Please notify the instructor of necessary accommodations.

### Emergency Procedures

“Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.
Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.”

**Electronic Device Policy**
During class time, all participants need to focus on discussions and other activities related to the material required for the course. As such, students cannot use cell phones, two-ways or electronic devices of any kind during class. This includes all calls, text messaging, Internet usage (other than instructor required or requested) or other non-academic electronic usage during class meetings. You are encouraged to leave your cell phone in your car or at home. If you elect to bring your cell phone to class, it should be off or in silent mode. If the instructor deems it necessary, all students will deposit their devices into the cell phone box for the duration of each class meeting. Students may use laptops, tablets, and devices with similar capabilities for academic purposes ONLY!! **Individuals who misuse these opportunities will lose the right to have them at all.**

**Course Assignments**
Each student will complete his or her own work as required. Work should be typewritten in a 12-point font. All assignments should include a title, title page, and page numbers. With the exception of in-class work (exams, quizzes, etc.), **you must submit all written assignments electronically via email or Desire 2 Learn (D2L).** Remember, your D2L username is SIU + your DAWG Tag number. Refer to the Morris Library D2L page – [https://online.siu.edu/](https://online.siu.edu/) to login and obtain help information.

The university rules regarding plagiarism and academic dishonesty as outlined in the Student Code of Conduct section of the SIU Graduate Student Catalog - [http://www.siu.edu/gradschl/catalog/Student_Conduct_Code.pdf](http://www.siu.edu/gradschl/catalog/Student_Conduct_Code.pdf) remain in effect for all students.

**Legal Resource Assignment**
The purpose of this assignment is to encourage you to learn to use Lexis-Nexis and other sources to conduct online legal research. Utilize legal resources and the case brief instructions to complete the items on the assignment sheet.

**Due** – January 28th

**Current Legal Issue**
Each student will select a legal issue related to or affecting higher education that receives little attention in the course. For the selected issue, each student will conduct research on the topic and provide a written synopsis, critique, and recommendations directed at postsecondary administrators. Additionally, students will present their topics to the class on the individually assigned date.
The written portion should be no more than 10 pages plus references. The presentation should find a way to engage and include the rest of the class and take no more than 20 minutes. Creativity is both encouraged and expected!

**Due** – Both portions on the assigned date (Complete by **April 29th**)

**Reading Quizzes**

You will take place periodically throughout the course. Quizzes will cover both primary and group reading assignments. (A maximum of five quizzes will count for credit.)

**Due** – In-class

**Case Brief/Analysis**

Select a case to brief, analyze, and present to the class (use cases assigned to your group). The written brief/analysis should be no longer than 3 pages and include all of the information on the instruction sheet. The presentation should summarize the case, offer specific tips for applying the legal interpretation offered in the ruling, and provide examples of how SIU or another institution have addressed this issue (institutional mission, handbook excerpt, or some other policy).

**Due** – Day we discuss the case in class (Complete by **April 29th**)

**Midterm Exam**

This exam will cover any and all topics discussed in the course or assigned in the readings up to this point. This exam is **open note**.

**Due** – In-class on March 4th

**Institutional Policy/Handbook Project**

Focusing on campus population and/or policy area, each will construct a set of institutional policies and accompanying handbook. The handbook should apply legal standards that will help to protect the institution from lawsuits. The policy must be enforceable and able to withstand judicial review. Please see the project handout for more information.

**Due** – May 6th

**Final Exam**

This exam will cover any and all readings or topics covered on or after February 25th.

**Due** – May 6th

**Course Schedule**

**January 14th**

Introduction and Overview  
Briefly go over APA legal citations  
**Exploratory Assignment** – Campus safety: University of Idaho  
How do we know when the campus has done enough?

**January 28th**

**Question:** What is a college?  
**Readings** -  
Kaplin & Lee, pp. 3-16, 23-49, 72-77, Figure 1.2 on pp. 17
February 4th

Law and Higher Education
Institutions & Authority

Questions: Who has authority in and over higher education?
When and how is this authority limited?

Readings –

Est. Private College
Trustees of Dartmouth College v. Woodward, 17 U.S. 518 (1819) (ALL)

Limited autonomy
Bob Jones University v. United States, 461 U.S. 574 (1983) (#1)

Pub as state agency

Limited public aut.
Sterling v. Regents of University of Michigan, 110 Mich. 369 (1896) (#3)

Admin/Trustees
Cahn and Cahn v. Antioch University, 482 A.2d 120 (D.C. App. 1984) (#4)

Pub Aut & Rel
Colorado Christian University v. Weaver, 534 F.3d 1245 (10th cir. 2008) (ALL – both Steele and CCU)

February 11th

Employment of Faculty & Staff – Academic Concerns

Questions: Who controls academic knowledge? When and how?
What are the limits to this control?

Readings –

Academic Freedom
AAUP Statement on Academic Freedom – (ALL)

Students for Academic Freedom Academic Bill of Rights – (ALL)

SIUC Academic Freedom: Rights and Responsibilities (ALL)
http://policies.siu.edu/personnel_policies/Chapter4/acadfree.html


Urofsky v. Gilmore, 216 F.3d 401 (4th Cir. 2000) (ALL)

Dixon v. Univ. of Toledo, Case No. 3:08-cv-2806 (N.D. Ohio 2012) (ALL)

Limits to Speech
Gorum v. Sessoms, 561 F.3d 179 (3rd Cir. 2009) (#4)

Piggee v. Carl Sandburg College, 464 F.3d 667 (7th Cir. 2006) (#4)

Renken v. Gregory, 541 F.3d 769 (7th Cir. 2008) (#4)

Who & what to teach
Furumoto v. Lyman, 362 F. Supp. 1267 (N.D. Cal. 1973) (#1)

Cooper v. Ross, 472 F. Supp. 802 (E.D. Ark. 1979) (#1)

Parate v. Isibor, 868 F.2d 821 (6th Cir. 1989) (#1)

How to teach
Intellectual Property


Fenn v. Yale University, Civil Action No. 3:96 CV 736 (D. Conn. 2005) 3


- Overview of intellectual Property (File: S&B Overview)
- The Law of Patents (File: S&B Patents)

SIUC Patents and Copyrights (#3)

**Supplemental Readings** – Kaplin & Lee, pp. 675-690, 705-718


- Copyright and fair use (File: S&B Copyright)
- Patents and higher education’s entry into the market (File: S&B HE Market)
- Shared and related concerns about intellectual property (File: S&B Shared IP)
- Conclusion (File: S&B Conclusion)
- Notes (File: S&B Notes)

**February 18th**

Employment of Faculty & Staff – Unions, Tenure, etc.

**Questions**: What are the limits of tenure?

What are the limits of institutional authority in dismissing faculty?

**Readings** – Kaplin & Lee, pp. 159-195, 672-675, (ALL)

**Collective Bargaining**

**NLRB v. Yeshiva**, 444 U.S. 672 (1980) (#2)

SIU Collective Bargaining (#2)

[http://www.siu.edu/~docedit/policies/collbarg.html](http://www.siu.edu/~docedit/policies/collbarg.html)

**Tenure**

**Board of Regents v. Roth**, 408 U.S. 564 (1972) (ALL)


**Upadhya v. Langenberg**, 834 F.2d 661 (7th Cir. 1987) (Nov. 5th arg.) (#3)

**Willens v. University of Massachusetts**, 570 F.2d 403 (1st Cir. 1978) (#3)

**Discrimination**

Clark v. Claremont University Center, 8 Cal. Rptr. 2d 151 (Cal. App. 2 Dist. 1992) (#4)


**Dismissal**

**McConnell v. Howard University**, 818 F.2d 58 (D.C. Cir. 1987) (#1)

**San Filippo, Jr., v. Bongiovanni**, 961 F.2d 1125 (3rd Cir. 1992) (#1)

February 25th

**Question:** What is negligence and how does it influence institutional responsibility for students?

**Negligence and Duty** – go over notes and terms


Duty to warn *Tarasoff v. Regents of the University of California*, 551 P.2d 1378 (Cal. 1976) AL


Duty to protect *Furek v. University of Delaware*, 594 A.2d 506 (Del. 1991) (#1)


Duty to control *University of Denver v. Whitlock*, 744 P.2d 54 (Colo. 1987) (#3)


Supplemental Readings – Kaplin & Lee, pp. 57-66, 103-108, 149-159


OPE February 28th-March 3rd

March 4th

**MIDTERM EXAM!**

ACPA March 4th-7th

March 11th

**SPRING BREAK!**

NASPA Placement Exchange March 13th-17th

NASPA March 16th-20th

March 18th

NASPA March 16th-20th

March 25th

Relationship between Students & the Institution – Admissions, Privacy, and Arbitrariness

**Question:** What rights do students have when it comes to admissions and enrollment?

**Readings** – Kaplin & Lee, pp. 269-278, 280-284 (ALL)

**Admissions** *Arizona Board of Regents v. Wilson*, 539 P.2d 943 (1975) (#1)
In Loco Parentis  
Anthony v. Syracuse University, 231 N.Y.S. 435 (1928) (#3)  
Lansdale v. Tyler Junior College, 470 F.2d 659 (1972) (#4)  

Contract  

Arbitrariness  

April 1<sup>st</sup>  
Relationship between Students & the Institution – Discrimination and Affirmative Action  
**Question:** What is the current state of affirmative action in higher education?  
How does this affect students?  
Readings - Kaplin & Lee, pp. 284-327 (ALL)  

Race  
Ayers v. Fordice, 111 F.3d 1183 (5<sup>th</sup> Cir. 1997) (#3)  
Ayers v. Thompson, 358 F.3d 356 (5<sup>th</sup> Cir. 2004). (#3)  

Disabilities  
Kaplin & Lee, pp. 426-438, 702-705 (#1)  
Zukle v. Regents of the Univ. of Cal., 166 F.3d 1041 (9<sup>th</sup> Cir. 1999) (#1)  
Wong v. Regents of the Univ. of Cal., 379 F.3d 1097 (9<sup>th</sup> Cir. 2004) (#1)  
Supplemental Readings – Kaplin & Lee, pp. 327-355  

April 8<sup>th</sup>  
Constitutional Considerations and Student Rights  
**Questions:** How does Constitution influence campus life?  
How does this affect university function?  
When/how is education property?  
Readings – Kaplin & Lee, pp. 478-508 (ALL)  

Constitution  
Tinker v. Des Moines, 393 U.S. 503 (1969) (ALL)  

Const. & Private HE  

Religion  
Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819 (1995) (#3)  

Student Fees  
U. S. Constitution: Bill of Rights – (ALL)  
http://www.law.cornell.edu/constitution/constitution.billofrights.html  

April 15<sup>th</sup>  
Student Organizations and Activism
Readings - Kaplin & Lee, pp. 498-508, 511-565 (ALL)

Rt. to Organize
(excerpt)
Healy v. James, 408 U.S. 169 (1972) (#2 – all in this section)
Christian Legal Society v. Walker, 453 F.3d 853 (7th Cir. 2006) 2
Christian Legal Society Chapter of the Univ. of Cal. v. Martinez, 130 S. Ct. 2971 (2010) 2


Speech Issues
Kaplin & Lee, pp. 371-378 (#1)

Student Press
Papish v. Board of Curators of the Univ. of Mo., 410 U.S. 667 (1973) (#3)

Greek Life
Phelps v. President & Trustees of Colby College, 595 A.2d 403 (Me. 1991) (#4)


U. S. Constitution: Bill of Rights – (ALL)
http://www.law.cornell.edu/constitution/billofrights.html

Supplemental Readings – Kaplin & Lee, pp. 253-269
April 22nd

Gender, Sex, and Athletics


National Collegiate Athletic Association v. Yeo, 171 S.W.3d 863 (Tex. 2005) (ALL)

Sexual Harr.


Hayut v. State University of New York, 352 F.3d 733 (2nd Cir. 2003) (#4)

Morse v. Regents of the Univ. of Colo., 154 F.3d 1124 (10th Cir. 1998) (univ. liability for student on student harassment) (#4)

Oden v. Northern Marianas College, 284 F.3d 1058 (9th Cir. 2002) (univ. liable if they know of sexual harassment, but fail to act) (#1)

Delgado v. Stegall, 367 F.3d 668 (7th Cir. 2004) (#1)


Cullitan, C. M. (2010, Fall). “I’m his coach, not his father.” A Title IX analysis of sexual harassment in college sports. Texas Review of Entertainment & Sports Law, 12, 53-76. (#1)


Gender Equity

Cohen v. Brown University, 101 F.3d 155 (1st Cir. 1996) (#3)

Boulahanis v. Board of Regents, 198 F.3d 633 (7th Cir. 1999) (#3)


Student Athletes


Ross v. Creighton University, 957 F.2d 410 (7th Cir. 1992) (#2)

NCAA v. Lasege, 53 S.W.3d 77 (Ky. 2001) (#2)


Ch. 38: Discrimination based on Sex - 20 USC §1681 (2004) (Lexis) or http://www.dol.gov/oaam regs/statutes/titleix.htm (ALL)

Supplemental Readings – Kaplin & Lee, pp. 262-269, 568-601


April 29th

Student Rights: Grades and Discipline

Readings – Kaplin & Lee, pp. 402-410, 441-474 (ALL)

Grading

Brown v. Li, 308 F.3d 939 (9th Cir. 2002) (#1)

Acad. Misconduct

Univ. of Houston v. Sabeti, 676 S.W.2d 685 (Tex. App.–Houston [1st Dist.] 1984) (#3)

Waliga v. Board of Trustees, 488 N.E.2d 850 (Ohio 1986) (#3)

Acad. Dismissal

Regents of the University of Michigan v. Ewing, 474 U.S. 214 (1985) (#2)

DP & Dismissal

Tigrett v. Rector & Visitors of the Univ. of Va., 290 F.3d 620 (4th Cir. 2002) (#4)

U. S. Constitution: Bill of Rights – (ALL)
http://www.law.cornell.edu/constitution/constitution.billofrights.html

SIU Student Code of Conduct – (ALL)

Case Brief/Analysis Due

Supplemental Readings – Kaplin & Lee, pp. 359-371, 380-399


May 6th

Final Exam!
Policy/Handbook Projects Due!

RESOURCES

Bluebook Abbreviations - http://homepages.law.asu.edu/~kayed/research/Bluebook/abbrev.htm
Foundation for Individual Rights in Education (The FIRE) - http://www.thefire.org/
Restorative Solutions - http://www.restorativesolutions.us/colleges.html
SIU History - http://www.siuc.edu/~policies/policies/history.html
SIU Law Library Research Guides - http://www.law.siu.edu/lawlib/guides/index.htm#research
State Citation Abbreviations - http://www.law.cornell.edu/citation/3-200.htm#3-210_State