



Course Name: Legal Issues in Higher Education, Winter Term 2019

Course Number: CSSA 554, section (sec.) 400

Credits: 3

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Note: Minor changes may be made to this syllabus throughout the course. In the event that there are any changes, they will be clearly announced in a timely fashion.

Course Description

College Student Services Administration (CSSA) 554 is an introduction to and exploration of major legal issues and topics in higher education, specifically addressing the student affairs/services milieu in U.S. public and private colleges and universities. The course provides an overview of the various sources and origins of law, the logistics of conducting basic legal research and writing, and the frameworks for analyzing legal and policy/practice issues. CSSA 554 focuses on three major content areas of education law and policy: torts (tort liability and risk management), freedom of speech and expression (including hate speech), and equity and discrimination. CSSA 554 is designed as a "first (or sole) law course" for graduate students, and has no prerequisites. Students should, however, expect rigorous reading, challenging research and case presentation assignments, and robust class discussions.

This course has no pre-requisites.

Course Focus

- Questions, questions, questions . . .
- Conflicting as well as shared interests and rights
- Sound educational policy/practice--and--legal considerations→assessing issues (red flags)
- Sources of Law (including federal, state, local, institutional) -- and their relationships
- Court Systems – Federal and State
- Major higher education law areas and topics; including constitutional and contract law
- Freedom of Speech – principles and limits
- Torts and Risk Management
- Equity and Inclusion; Discrimination
- Legal research and Writing fundamentals
- Case discussion, debate, and interpretation
- Working effectively with legal counsel and colleagues, on and through legal issues

Communication

Please post all course-related questions in the Q&A Discussion Forum so that the whole class may benefit from our conversation. Please contact me privately for matters of a personal nature. I

will reply to course-related questions within 24 hours (on non-holiday weekdays). I will strive to return your assignments and grades for course activities to you within five days of the due date.

Course Credits

This course combines approximately 90 hours of instruction, online activities, and assignments for 3 credits.

Technical Assistance

If you experience any errors or problems while in your online course, contact 24-7 Canvas Support through the Help link within Canvas. If you experience computer difficulties, need help downloading a browser or plug-in, or need assistance logging into a course, contact the IS Service Desk for assistance. You can call (541) 737-8787 or visit the [IS Service Desk](#) online.

Learning Resources

Learning resources and materials include: One required text book, one optional text book; as well as readings, videos, powerpoints, and other materials that are posted each week in the Canvas course site – Modules. See the [Start Here] Module for details, including the availability of the required course text for free download/reading from the OSU Valley Library.

Note to prospective students: Please check with the OSU Bookstore for up-to-date information for the term you enroll ([OSU Bookstore Website](#) or 800-595-0357). If you purchase course materials from other sources, be very careful to obtain the correct ISBN.

Measurable Student Learning Outcomes

Please see the Learning Outcomes listed for each Week (1 – 10), as well as the pertinent CSSA Competencies: This course will address specifically CSSA competencies: 1(c), 1(e), 2(a), 3(b), 5(b)

Other Competencies may be touched on; see the document on the CSSA organization site: *CSSA Competencies and Values* for a full listing of the five Competencies and sub-competencies.

Other Specific Themes Addressed in this Course; You will:

1. Learn from whence various types of legal authority come.
2. Conduct basic legal research in case law, statutes, and regulations.
3. Write a scholarly legal research memorandum (research paper).
4. Come to distinguish a tort from a tart, and how to minimize the occurrence of the former.
5. Gain a greater appreciation for the complexity of First Amendment legal issues, and for the state of free expression in the U.S. and (to some extent) the world.
6. Challenge your assumptions and presumptions, and your fellow student-scholars' assumptions/presumptions, about "the law" and its application to higher education.

7. Play the role of "reverse reporter" and track legal issues from a list of higher education and popular publications and periodicals.
8. Begin to develop a sense of when you need to consult with legal counsel, your supervisor, and with colleagues regarding legal and policy, as well as hybrid (policy + law) issues.

Course Culture and Expectations

- Ambiguity in the law and legal terminology will often challenge you.
- *The inquiry (Socratic) method of instruction and learning will be employed in class.*
- Collaboration and cooperation among the scholars in this class is encouraged.
- *You will be given some legal "fish" and learn to do some legal "fishing."*
- Your classroom will encompass the University and our library, other universities' law libraries (U of O, Willamette), web-based legal sources, and the course Canvas website.
- *You will go beyond traditional legal texts and resources for ideas and challenges.*
- You will become familiar with "Good (Subversive) Learning." You will do the readings and assignments, and come to class well prepared to engage in learning.
- *You will read and discuss "conservative," "liberal," "strict constructionist," "activist," and other legal perspectives, as well as views that defy such categorizations.*
- You will be encouraged to experiment, question, take chances, challenge assumptions.
- *In four of our class sessions, we will begin with an "In-Box" exercise (approx. 30 minutes) which will include your reporting to the class on current cases/articles/issues from the publications you are tracking. These will be discussed in small groups and the class.*
- You will take primary responsibility for your learning, and take the initiative to research and read independently in areas of your particular interest, whether or not they are discussed in class (as not all higher education legal topics will be covered). As instructor I welcome the opportunity to assist you in expanding your learning; contact me any time during the term to discuss this if you wish.

Evaluation of Student Performance

I expect but of course cannot guarantee that everyone will do well in this class. A "good grade" should be evidence of the outstanding, graduate-level work each of you does throughout this course.

1. Discussions – Questions/General -- Weeks 1 through 10	10
2. Discussions – In-Box Post/Share -- Weeks 3, 5, 10	15
3. Examination I -- download Week 6, submit Week 7	20
4. Policy/Rule Critique and Analysis paper -- due Week 6	10
5. Case Brief & Analysis + Presentation, with/partner – due Week 8	15
6. Policy and Law Memorandum (research paper) -- due Week 9	30

Letter Grade

Grade	Percent Range
A	91-100
A-	90
B+	88-89

Grade	Percent Range
B	81-87
B-	80
C	70-79
D	60-69
F	59 or below

Course Content

The chart on the following two pages provides an overview of course topics, readings, and assignments. For details on these, make sure to also see the Module for each week (e.g. Week 1, Week 5) – an overview of each week is provided there, as well as a “task list” for your information and reference. Note the specific details provided with each assignment as well.

Week	Topic	Reading Assignments	Learning Activities	Assignments
1 January 7	Introduction of course, fellow scholars. Baseline Quiz + Scavenger Hunt. Review Syllabus; Canvas course site. Hilite Major areas of H.Ed. law, Intro. to Legal Reasoning, court systems, Sources of law	Browse Kaplin & Lee text, Ch. 1, Canvas course site.	Narrated PPTs on Sources of Law, Court Systems, Discussion questions	Discussion-Questions
2 January 14	Legal sources and references. Federal, state, local law. OSU Valley Library and other school's law library resources/links; hunting for the law.	K & L text, pp. 1-58 and 66-78; pp. 749-815; Appendixes A, D. Greenberg (optional) – Intro. App. A, Ch. 6	Narrated PPTs on Sources of Law, Court Systems, Discussion questions	Discussion-Questions
3 January 21	Introduction to Contracts, elements of contracts; reviewing contracts in your professional capacity. Intro. to Tort Law; various types of liability. Elements of torts; interface of law and policy; preventive law and risk management.	K & L text pp. 213-226; and pp. 343-376. Greenberg (optional) Chs. 1,3,4,5	Narrated PPT on Legal Process; Discussion questions; In-Box Post/Share-Discussion	Discussion-Questions In-Box Post/Share (1)

Week	Topic	Reading Assignments	Learning Activities	Assignments
4 January 28	Torts (continued); Risk management, Enterprise Risk Management; contractual and other potential liability situations. 3 rd party liability for crimes; waivers and insurance.	K & L text, pp. 56-86, and 446-490; Greenberg (optional), Ch. 2. In-Box article (your choice)	Narrated PPTs on Torts; Risk Management Discussion questions Video on Risk Management Case study on torts, risk	Discussion-Questions/General Sign up for a case presentation (due-Week 8)
5 February 4	Free Speech: A case study; Torts and Risk (continued); Higher Ed. Sample Tort cases; Prep. for Exam I – Study Questions	K & L text, pp. 86-90, and 569-704; Cases on Canvas site	Narrated PPT, cases on Free Speech; Discussion questions; In-Box Post/Share-Discussion	Discussion-Questions/General Policy & Law Memo <i>outline</i> due In-Box Post/Share (2)
6 February 11	Introduction to Constitutional law. The First Amendment – free speech and responsible speech vs. hate speech; physical and virtual	Cases and materials on free speech and hate speech; Course Supplement Review	Narrated PPTs; Discussion questions; Analysis of free speech cases Case studies, Case presentations	Discussion-Questions/General Exam I – Download (due Week 7) Policy Analysis paper due
7 February 18	Exam I due, In-Box Reports; Freedom of Speech and offensive speech (continued); The regulation of speech – policy and folly. Disability law, issues.	Cases and materials on free speech and hate speech; In-Box focus: Free Speech or Due Process; <i>Race and Higher</i>	In-Box reports; Narrated PPTs; Discussion questions; Analysis of free speech cases; Case studies, Case presentations	Discussion-Questions/General Exam I – due

Week	Topic	Reading Assignments	Learning Activities	Assignments
		<i>Education</i> (JCUL article)		
8 February 25	In-Box reports; Freedom of speech on campus – history, issues, protests; speech codes. Roles of a university attorney (legal counsel; General Counsel)	Race and higher education (continued); <i>Higher Ed and Disability Discrimination</i> (JCUL article)	In-Box reports; Case studies, case presentations Video interview on Affirmative Action, Equity and Inclusion	Discussion-Questions/General Case Brief/Presentation
9 March 4	Freedom of speech – final discussion of issues, current topics and cases/case studies; Role of campus legal counsel.	Cases and materials on free speech and hate speech	Discussion Questions; Video interview with OSU Associate General Counsel	Discussion-Questions/General Policy & Law Memorandum due
10 March 11	Special topics (tbd); wrapup and final questions. Review: Fifty Years of Higher Education Law (JCUL article)	N/A	Discussion questions; Video interview with Oregon Supreme Court Justice In-Box Post/Share-Discussion	Discussion-Questions/General In-Box Post/Share (3)

Course Policies

Instructor Availability, Expected Response Times

I will visit the Canvas course website every Tuesday (the day assignments are due to be posted) and Thursday to review the Discussions, collect assignments, respond to questions, provide updates, and add my comments as I see appropriate and helpful. I may also visit the site on other days as I see necessary/helpful.

Questions should be posted to Canvas [Discussions] forums as much as possible, with individual emails to me being limited to specific 1:1 questions (e.g. on grades, requests for individual information, or matters that are not appropriate to be raised in Discussions). Students should

expect a response to posted/emailed questions within 24 – 48 hours, Monday Noon through Friday Noon. Weekend emails or posts will normally receive a response on Monday afternoon or Tuesday morning.

Discussion Participation

Students are expected to participate in all required/graded discussions. While there is great flexibility in online courses, this is not a self-paced course. You will need to participate in our discussions on at least two different days each week – typically Tuesdays and Thursdays -- with your posts (e.g. for the In-Box) due no later than Thursday evening.

Late Work Policy

Points will be deducted for late work, commensurate with the lateness of the submission; the instructor will explain this to you as the need arises. Students who expect to (or are requesting to) turn in work late should contact the Instructor directly – preferably ahead of the due date -- to discuss the timelines and expectations for any anticipated, or unexpected, late work.

Incompletes

Incomplete (I) grades will be granted only in emergency cases (usually only for a death in the family, major illness or injury, or birth of your child), and if the student has turned in 80% of the points possible (in other words, usually everything but the final paper). If you are having any difficulty that might prevent you completing the coursework, please don't wait until the end of the term; let me know right away.

Guidelines for a Productive and Effective Online Classroom

Students are expected to conduct themselves in the course (e.g., on discussion boards, email) in compliance with the university's regulations regarding civility. Civility is an essential ingredient for academic discourse. All communications for this course should be conducted constructively, civilly, and respectfully. Differences in beliefs, opinions, and approaches are to be expected. In all you say and do for this course, be professional. Please bring any communications you believe to be in violation of this class policy to the attention of your instructor.

Active interaction with peers and your instructor is essential to success in this online course, paying particular attention to the following:

- Unless indicated otherwise, please complete the readings and view other instructional materials for each week before participating in the discussion board.
- Read your posts carefully before submitting them.
- Be respectful of others and their opinions, valuing diversity in backgrounds, abilities, and experiences.

- Challenging the ideas held by others is an integral aspect of critical thinking and the academic process. Please word your responses carefully, and recognize that others are expected to challenge your ideas. A positive atmosphere of healthy debate is encouraged.

Statement Regarding Students with Disabilities

Accommodations for students with disabilities are determined and approved by Disability Access Services (DAS). If you, as a student, believe you are eligible for accommodations but have not obtained approval, please contact DAS immediately at 541-737-4098 or at <http://ds.oregonstate.edu>. DAS notifies students and faculty members of approved academic accommodations and coordinates implementation of those accommodations. While not required, students and faculty members are encouraged to discuss details of the implementation of individual accommodations.

Accessibility of Course Materials

All materials used in this course are accessible with the exception of a video located in Week 2 entitled Research Law Library. If you require accommodations please contact [Disability Access Services \(DAS\)](#).

Additionally, Canvas, the learning management system through which this course is offered, provides a [vendor statement](#) certifying how the platform is accessible to students with disabilities.

Expectations for Student Conduct

Student conduct is governed by the university's policies, as explained in the *Code of Student Conduct* (<https://studentlife.oregonstate.edu/studentconduct>). Students are expected to conduct themselves in the course (e.g., on discussion boards, email postings) in compliance with the university's regulations regarding civility.

Academic Integrity

Students are expected to comply with all regulations pertaining to academic honesty. For further information, visit [Student Conduct and Community Standards](#), or contact the office of Student Conduct and Mediation at 541-737-3656.

OAR 576-015-0020 (2) Academic or Scholarly Dishonesty:

- a) Academic or Scholarly Dishonesty is defined as an act of deception in which a Student seeks to claim credit for the work or effort of another person, or uses unauthorized materials or fabricated information in any academic work or research, either through the Student's own efforts or the efforts of another.
- b) It includes:

- i) **CHEATING** - use or attempted use of unauthorized materials, information or study aids, or an act of deceit by which a Student attempts to misrepresent mastery of academic effort or information. This includes but is not limited to unauthorized copying or collaboration on a test or assignment, using prohibited materials and texts, any misuse of an electronic device, or using any deceptive means to gain academic credit.
 - ii) **FABRICATION** - falsification or invention of any information including but not limited to falsifying research, inventing or exaggerating data, or listing incorrect or fictitious references.
 - iii) **ASSISTING** - helping another commit an act of academic dishonesty. This includes but is not limited to paying or bribing someone to acquire a test or assignment, changing someone's grades or academic records, taking a test/doing an assignment for someone else by any means, including misuse of an electronic device. It is a violation of Oregon state law to create and offer to sell part or all of an educational assignment to another person (ORS 165.114).
 - iv) **TAMPERING** - altering or interfering with evaluation instruments or documents.
 - v) **PLAGIARISM** - representing the words or ideas of another person or presenting someone else's words, ideas, artistry or data as one's own, or using one's own previously submitted work. Plagiarism includes but is not limited to copying another person's work (including unpublished material) without appropriate referencing, presenting someone else's opinions and theories as one's own, or working jointly on a project and then submitting it as one's own.
- c) Academic Dishonesty cases are handled initially by the academic units, following the process outlined in the University's Academic Dishonesty Report Form, and will also be referred to SCCS for action under these rules.

Tutoring and Writing Assistance

[NetTutor](#) is a leading provider of online tutoring and learner support services fully staffed by experienced, trained and monitored tutors. Students connect to live tutors from any computer that has Internet access. NetTutor provides a virtual whiteboard that allows tutors and students to work on problems in a real time environment. They also have an online writing suite where tutors critique and return essays within 24 to 48 hours. Access NetTutor from within your Canvas class by clicking on the Tools button in your course menu.

The Oregon State [Online Writing Suite](#) is also available for students enrolled in Ecampus courses.

TurnItIn

Your instructor may ask you to submit one or more of your writings to Turnitin, a plagiarism prevention service. Your assignment content will be checked for potential plagiarism against Internet sources, academic journal articles, and the papers of other OSU students, for common or

borrowed content. Turnitin generates a report that highlights any potentially unoriginal text in your paper. The report may be submitted directly to your instructor or your instructor may elect to have you submit initial drafts through Turnitin, and you will receive the report allowing you the opportunity to make adjustments and ensure that all source material has been properly cited. Papers you submit through Turnitin for this or any class will be added to the OSU Turnitin database and may be checked against other OSU paper submissions. You will retain all rights to your written work. For further information, visit [Academic Integrity for Students: Turnitin – What is it?](#)

Student Evaluation of Courses

The online Student Evaluation of Teaching system opens to students during the week before finals and closes the Monday following the end of finals. Students receive notification, instructions and the link through their ONID. They may also log into the system via Online Services. Course evaluation results are extremely important and used to help improve courses and the online learning experience for future students. Responses are anonymous (unless a student chooses to “sign” their comments, agreeing to relinquish anonymity) and unavailable to instructors until after grades have been posted. The results of scaled questions and signed comments go to both the instructor and their unit head/supervisor. Anonymous (unsigned) comments go to the instructor only.

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