LAW 0000-00—Spring 2024

Gender, Sexuality, and The Law

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Office Hours: Fridays 10:00–12:00, 315 Commons Center (or by appointment)

Course Description: This course will provide students with a broad overview of the laws, policies, and politics surrounding gender and sexuality in the United States. We will focus on the legal and pragmatic implications of issues including, but not limited to: educational and workplace discrimination; marriage, divorce, and child custody; the right to become (or not become) a parent; and criminal justice. By the end of this course, students should have an understanding of the ways in which our laws and policies have affected the lives of marginalized sex and gender groups.

Course Evaluation: Each student will be responsible for: (1) engaging with course materials during class; (2) preparing and presenting two case briefs; (3) preparing three response papers; and (4) preparing one final paper.

Class Engagement: Each week, we will have at least one in-class activity where you (or your group) will be expected to submit an assignment. Your engagement grade will be based on a combination of your contribution to in-class discussions (i.e., answering discussion questions and/or posing your own questions) and these in-class activities. *While this grade will not be strictly based on attendance, systematic failure to attend class is likely to affect your ability to participate in class discussions and activities, thus impacting your engagement grade.*

Case Briefs: Twice throughout the semester you will be expected to turn in a short write-up of a case (500 words max) and give a brief presentation on it in class on the day that case is scheduled to be discussed. This should be a low-maintenance presentation that discusses the facts of the case, holding of the case, the reasoning behind the holding, and any concurring/dissenting opinions. You may also discuss your personal thoughts as to the holding, reasoning, etc. Students will complete a form to list their preferences for case selection and the schedule will be finalized by Week 2 of our course.

Response Papers: Three times throughout the semester, students will be expected to turn in a relatively brief response paper (500–1500 words) answering a given question about concepts covered in the

course. Students are welcome to focus these responses on their personal thoughts but should be sure to tie in citations to readings and/or lectures where relevant.

Final Paper: Students will be expected to turn in one final paper in some way related to the content of this course. At least one month before the final due date, students should submit a paragraph proposing their final topic. Students are also welcome to propose final topics in person during office hours. The final paper should be 10–12 pages double-spaced.

Evaluation: Course grades will be based on class engagement (30%), case briefs (15% total), response papers (15% total) and the final paper (40%).

Readings: All readings will be made available on our course website under the "Readings" tab. While court cases are publicly available and easily searchable, you will want to read the versions posted by the professor, as many of our cases will be edited to cover only relevant concepts.

Course Policies:

Attendance: Students are expected to attend class. Students are permitted one absence, no questions asked. All other absences should be discussed with the instructor. Systematic absences are likely to impact your grade in several ways, especially with regard to the completion of in-class assignments. Make-up assignments may be possible for systematic absentees, but this is subject to the discretion of the professor and based on the circumstances surrounding an individual's absences.

Class Participation: Students are expected to attend class prepared and having read the materials assigned in advance. We will engage with the Socratic method of cold calling at times. Twice throughout the semester, students may e-mail the instructor to request that they not be called on that day, no questions asked. Students may wish to take advantage of this opportunity when life circumstances have made it such that they could not thoroughly engage with the assigned readings and/or feel they may not be able to adequately participate in class due to some other reason.

Technology Use: If there are aspects of the course that would be more accessible through the use of technology, please feel free to use laptops or tablets. However, when it comes to cellphones, please keep them in your backpacks until instructed. All writing for the class must be your own original work—which means that it may not be plagiarized nor produced by text generating software such as ChatGPT.

Extensions: Students will be permitted a one-week extension on any single assignment, no questions asked, *so long as they contact the instructor in advance of the due date for that assignment*. Additional extensions may be granted on a case-by-case basis. Extensions are available to help you cope with the unavoidable difficulties of student life (and life more generally), but please use them wisely. Keep in mind that all assignments for the course must be submitted by the last day of class.

Course Content: This course is apt to discuss difficult subject matter, especially regarding violence against women and persons with marginalized sexuality and gender identities. Please do what you need

to take care of yourself. Students may feel the need to take up a different position, engage in some manual activity, or simply leave for a brief period of time. This course is intended to be accessible to all students. Transcripts of my lectures are available for students who may need to receive the information in a different time and place, due to physical or mental barriers to attendance in a particular class. However, these transcripts should not be seen as a perfect substitute for attendance in class, as they will not be able to describe the invaluable contributions of your classmates to group discussions. Students should feel free to contact the instructor directly if accessibility needs are not being met for this course.

University Policies: [This section is to be completed in accordance with future university policies.]

Schedule of Readings

Week 1: Why Gender?

Tuesday:

- pp. 1–6: Bartlett, "Gender Law," 1994.

Thursday:

- pp. 1–17: McBride & Perry, "Women's Rights in the USA Policy Debates and Gender Roles," 2016.
- pp. 32–39: Frank, "Law and the Gay Rights Story. The Long Search for Equal Justice in a Divided Democracy," 2014.

Week 2: Constitutional Rights

Tuesday:

- *Stanton v. Stanton*, 421 U.S. 7 (1975)
- *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127 (1994)

Thursday:

- *Lawrence v. Texas*, 539 U.S. 558 (2003)
- Eyer, "Transgender Constitutional Law," 2022.

Week 3: Gender, Sexuality, and the Workplace (part 1)

Tuesday:

- *Phillips v. Martin Marietta*, 400 U.S. 542 (1971)
- *Price-Waterhouse v. Hopkins*, 490 U.S. 228 (1989)

Thursday:

- Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," 1989.
- *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011)

Week 4: Gender, Sexuality, and the Workplace (part 2)

Tuesday:

- *Bostock v. Clayton County*, 590 U.S. 644 (2020)
- Fredericksen, "Protecting Transgender Youth after Bostock: Sex Classification, Sex Stereotypes, and the Future of Equal Protection,"(2022).

Thursday:

- *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986)
- Siegel, "A Short History of Sexual Harassment," 2003.

Week 5: Gender, Sexuality, and the Workplace (part 3)

Tuesday:

- *United States v. Virginia*, 518 U.S. 515 (1996)
- *National Coalition for Men, et al. v. Selective Service System, et al.*, 593 U. S. ____ (2021)

Thursday:

- Lyons et al, "The Role of Sex Work Laws and Stigmas in Increasing HIV Risks among Sex Workers," 2020.

Week 6: Gender, Sexuality, and Education

Tuesday:

- *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999)
- *Fitzgerald v. Barnstable School Committee*, 555 U.S. 246 (2009)

Thursday:

- Millhiser, "The Supreme Court is Running Away from Transgender Rights Cases," 2024. https://www.vox.com/scotus/2024/1/17/24040460/supreme-court-transgender-sports-bathrooms-metropolitan-school-ac

Week 7: CLASSES CANCELLED

Please use this time to catch up on work for this class, other classes, or simply take a break.

Week 8: Marriage and Divorce

Tuesday:

- Yefet, "Divorce as a Formal Gender-Equality Right," 2019.

Thursday:

- *Obergefell v. Hodges*, 576 U.S. 644 (2015)
- Fein, "An Inequitable Means to an Equitable End: Why Current Legal Processes Available to Non-Biological, LGBTQ+ Parents Fail to Live up to *Obergefell v. Hodges*," 2022.

Week 9: Sex and Consent

Tuesday:

- *Griswald v. Connecticut*, 381 U.S. 479 (1965)
- *Eisenstadt v. Baird*, 405 U.S. 438 (1972)

Thursday:

- *Roe v. Wade*, 410 U.S. 113 (1973)
- *Bellotti v. Baird*, 443 U.S. 622 (1979)

Week 10: Pregnancy and Parenthood (part 1)

Tuesday:

- *Young v. United Parcel Service, Inc.*, 135 S. Ct. 1338 (2015)
- Erdmans, "Title IX and the School Experiences of Pregnant and Mothering Students," 2012.

Thursday:

- *Hecht v. Superior Court*, 20 Cal. Rptr. 2d 275 (1993)
- *J.B. v. M.B.*, 170 N.J. 9 (2001)

Week 11: Pregnancy and Parenthood (part 2)

Tuesday:

- *V.L. v. E.L.*, 136 S.Ct. 1017 (2016)
- *Quilloin v. Walcott*, 434 U.S. 246 (1978)

Thursday:

- *Stanley v. Illinois*, 405 U.S. 645 (1971)
- Groppe & Phillips, "Supreme Court Rejects Appeal from Parents who Lost Custody of Trans Teen," 2024. https://www.usatoday.com/story/news/politics/2024/03/18/supreme-court-rejects-appeal-parents-trans-teen/73010769007/

Week 12: Gender and Violence

Tuesday:

- bell hooks, "Violence in Intimate Relationships" (2020).
- *Castle Rock v. Gonzales*, 545 U.S. 748 (2005)

Thursday:

- *U.S. v. Morrison*, 529 U.S. 598 (2000)
- *Wisconsin v. Mitchell*, 508 U.S. 476 (1993)

Week 13: Gender and Criminal Law

Tuesday:

- *State v. Kelly*, 97 N.J. 178 (1984)
- Allard, "Rethinking Battered Woman Syndrome: A Black Feminist Perspective," 1991.

Thursday:

- Manjoo, "Women and Detention," 2014. https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/OnePagers/Women_and_Detention.pdf
- Aldrich, et al., "Gender-Affirming Care, Incarceration, and the Eighth Amendment," 2023. https://journalofethics.ama-assn.org/article/gender-affirming-care-incarceration-and-eighth-amendment/2023-06

Week 14: [TBD Based on Student Preferences]

Tuesday:

- No Readings!

Thursday:

- No Readings!

Your final paper will be due on XX/XX/XXXX at midnight.

NOTE: The policies, requirements, and schedule for this course are subject to change (with advanced notice from the instructor).