University of Wisconsin-Whitewater

Curriculum Proposal Form #3

## New Course

**Effective Term:**

**Subject Area - Course Number:** **HELEAD720 Cross-listing:**

(See Note #1 below)

**Course Title:** (Limited to 65 characters) Legal Issues in Higher Education

**25-Character Abbreviation:**

**Sponsor(s):** Richard Mason, Ellyn Dickmann

**Department(s):** Curriculum & Instruction

**College(s):**

# **Consultation took place**: NA Yes (list departments and attach consultation sheet)

Departments:

**Programs Affected:** **MSE-PD Higher Education Emphasis**

**Is paperwork complete for those programs?** (Use "Form 2" for Catalog & Academic Report updates)

NA  Yes  will be at future meeting

**Prerequisites:** Graduate standing

**Grade Basis:**  Conventional Letter  S/NC or Pass/Fail

**Course will be offered:**  Part of Load  Above Load

On Campus  Off Campus - Location

**College:**  **Dept/Area(s):** Curriculum & Instruction

**Instructor:** Mary Beth Mackin

*Note: If the course is dual-listed, instructor must be a member of Grad Faculty.*

**Check if the Course is to Meet Any of the Following:**

Technological Literacy Requirement  Writing Requirement

Diversity  General Education Option:

Note: For the Gen Ed option, the proposal should address how this course relates to specific core courses, meets the goals of General Education in providing breadth, and incorporates scholarship in the appropriate field relating to women and gender.

**Credit/Contact Hours:** (per semester)

Total lab hours: 0 Total lecture hours: 48

Number of credits: 3 Total contact hours: 48

**Can course be taken more than once for credit? (Repeatability)**

No  Yes If "Yes", answer the following questions:

No of times in major:       No of credits in major:

No of times in degree:       No of credits in degree:

Proposal Information: ([***Procedures for form #3***](http://acadaff.uww.edu/UCC/Curriculum_Handbook_09/Procedures_form3.docx))

**Course justification:** An increasing number of students seeking graduate-level preparation for careers in higher-education leadership in areas such as residence life, recruitment and retention, and academic support services have sought admission to the MSE-PD Educational Leadership program. This course is one of a set of five courses being created specifically to address the needs of that group of students that will form part of a distinct emphasis in Higher Education Leadership. The population for whom these courses are intended is different from the students admitted to UW-Whitewater’s Counselor Education program – Higher Education track in that they do not have a particular interest in counseling and the positions for which they are preparing do not require them to complete a nationally-accredited program in counseling.

**Relationship to program assessment objectives:** This course addresses [CAS Standards](http://www.cas.edu/getpdf.cfm?PDF=E86DA70D-0C19-89ED-0FBA230F8F2F3F41) (Part 5b.4-5; Part 8) for master’s-level student affairs professional preparation programs related to legal issues in student affairs and research as well as professional ethics. This course also contributes to the achievement of MSE-PD program goals of enhancing students’ proficiency in **research** about higher education leadership, their understanding of professional **practice**in higher education, and the ability to communicate with others about, and advocate for, student growth and learning in higher education (**voice**).

**Budgetary impact:** Courses in the Higher Education Leadership emphasis will initially be taught by UW-Whitewater administrators funded by program revenue. As the program expands, the course will be taught by qualified adjunct instructors on a self-supporting basis.The population served by these courses does not overlap with the population enrolled in other master’s emphasis areas at UW-Whitewater, and availability of these courses should not affect enrollment in existing courses other than the common core courses of the MSE-PD, which should increase as more students enroll in the Higher Education Leadership emphasis.

**Course description:** (50 word limit) The primary goal of this course is to provide students with a basic understanding of the American legal system so that they can identify the history and sources of law, read and interpret laws and relevant cases, understand how the court systems work, and understanding of personal and institutional liability. Emphasis will be placed on issues and laws likely to be encountered by Higher Education practitioners.

**If dual listed, list graduate level requirements for the following:**

1. **Content** (e.g., What are additional presentation/project requirements?)

2. **Intensity** (e.g., How are the processes and standards of evaluation different for graduates and undergraduates? )

3. **Self-Directed** (e.g., How are research expectations differ for graduates and undergraduates?)

**Course objectives and tentative course syllabus:**

The primary goal of this course is to provide an introduction to legal issues which influence student affairs administration. **Students will** **be able to:**

1. Engage in an overview of the American legal system in order to better understand the importance of state action and how legal issues affect public and private institutions differently. Students will use this understanding to participate in class discussions, written assignments and group projects.
2. Become aware of the legal liability of institutions of higher education and student affairs administrators by reading and investigating, engaging with experienced professionals who understand these issues and reflect upon and critique possible legal scenarios facing institutions of higher education and student affairs administrators.
3. Understand how federal laws affect student affairs practitioners by completing specific reading and written assignments.
4. Develop legal research skills necessary to remain current on legal issues affecting student affairs using current technology and commonly-used techniques. These skills will be demonstrated through specific written assignments.
5. Analyze, synthesize, and communicate issues and ideas salient to the legal aspects of higher education in a class presentation on a current and relevant topic.
6. Identify specific legal issues facing various functional areas within student affairs by class discussion, written assignments and group projects.

**Bibliography:** (Key or essential references only. Normally the bibliography should be no more than one or two pages in length.)

The following books/articles are critical to the development of this course:

Legal Issues in Higher Education course

Bibliography

Barron, J. A., & Dienes, C.T. (2004). *First amendment law in a nutshell*. St. Paul, MN: Thomson/West Publishing.

Bickel, R. D., & Lake, P.F. (1999). *The rights and responsibilities of the modern university: Who assumes the risks of college life?* Durham, NC: Carolina Academic.

Bird, L.E., Mackin, M.B., & Schuster, S.K. (2006). *The first amendment on campus: A handbook for college and university administrators*. Washington, D.C.: NASPA.

Dannells, M. (1997). *From discipline to development: Rethinking student conduct in higher education*. Washington, DC: George Washington University Press.

Gelpi, A, & Ramirez, C.A. (2009). *The FERPA answer book for higher education professionals*. San Francisco, CA: Jossey-Bass.

Gray, F. D. (1995). *Bus ride to justice: Changing the system by the system: The life and works of Fred D. Gray ; preacher, attorney, politician; lawyer for Rosa Parks, Martin Luther King, Jr., the Montgomery bus boycott, the Tuskegee syphilis study, the desegregation of Alabama schools, and the Selma march*. Montgomery: AL: Black Belt.

Kaplin, W. A., Lee, B.A., & Kaplin, W.A. (2009). *A legal guide for student affairs professionals* (2nd ed.) San Francisco, CA: Jossey-Bass.

Lake, P. F. *Beyond discipline: Managing the modern higher education environment*. Bradenton, FL: Hierophant Enterprises.

Lancaster, J. M., and Waryold, D. M. (2008). *Student conduct practice: The complete guide for student affairs professionals*. Sterling, VA: Stylus Publishers

Lewis, A. (2007). *Freedom for the thought that we hate: A biography of the first amendment*. New York: Basic Books

Mfb1949. "Clery Act Handbook 2011 - The Handbook for Campus Safety and Security Reporting." *Scribd*. N.p., n.d. Web. 19 Sept. 2012. <http://www.scribd.com/doc/72915972/Clery-Act-Handbook-2011-The-Handbook-for-Campus-Safety-and-Security-Reporting>.

Nuwer, H. (2004). *The hazing reader*. Bloomington, IN: Indiana University Press.

O'Neil, R. M. (1997). *Free speech in the college community*. Bloomington, IN: Indiana University Press.

Silverglate, H. A., & Gewolb, J. (2003). *FIRE's guide to due process and fair procedure on*

*campus*. Philadelphia, PA: Foundation for Individual Rights in Education.

**Course Objectives and tentative course syllabus** with [mandatory information](http://www.uww.edu/acadaff/UCC/Mandatory_Info_Course_Syllabi.docx)(paste syllabus below):

HELEAD720 Legal Issues in Higher Education

(Proposed Course for UW-Whitewater’s

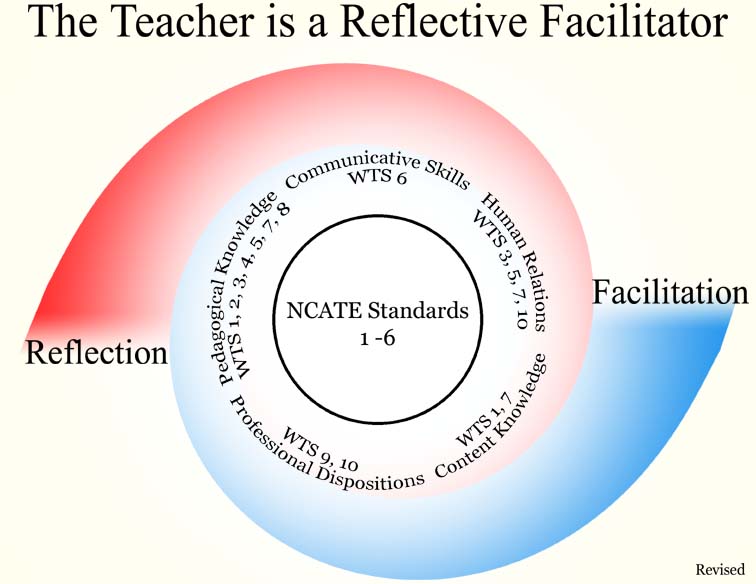
Master of Science in Education in Professional Development-

Emphasis on Higher Education Leadership)

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Email: [mackinm@uww.edu](mailto:mackinm@uww.edu) **Office Hours:** By appointment



Our conceptual framework, The Teacher is a Reflective Facilitator, is the underlying structure in our teacher preparation program at UW-Whitewater. This structure gives conceptual meanings through an articulated rationale to our operation. It also provides direction for our licensure programs, courses, teaching, candidate performances, faculty scholarship and service, and unit accountability. In short, our teacher education program is committed to reflection upon practice; to facilitation of creative learning experiences for pupils’ to constructivism in that all learners must take an active role in their own learning; to information and technology literacy; to diversity; and to inquiry (research scholarship) and assessment. Therefore, all syllabi pertaining to courses required for licensure reflect commitment to these underlying principles

**Course Purpose**

The primary goal of this course is to provide students with a basic understanding of the American legal system so that they can identify the history and sources of law, read and interpret laws and relevant cases, understand how the court systems work, and limit personal and institutional liability. Emphasis will be placed on issues and laws likely to be encountered by Higher Education practitioners.

**Course Objectives**

The primary goal of this course is to provide an introduction to legal issues which influence student affairs administration. Students will:

1. Develop a basic understanding of the American legal system.
2. Recognize the importance of state action and how legal issues affect public and private institutions differently.
3. Be aware of the legal liability of institutions of higher education and student affairs administrators.
4. Identify specific legal issues facing various functional areas within student affairs.
5. Develop an understanding of how federal laws affect student affairs practitioners.
6. Develop skills of legal research necessary to remain current on legal issues affecting student affairs using current technology and techniques.
7. Develop skills of analysis, synthesis, and communications (verbal and written) concerning issues and ideas salient to the legal aspects of higher education.

**Attendance Policy**

An important aspect of this course is class participation and learning which takes place in the classroom. Students are expected to attend all class sessions. If circumstances prevent you from attending class, please contact the instructor in advance.

**Course Requirements**

It is my expectation that students will attend and participate thoughtfully and actively in all class meetings. Graduate courses typically rely more on discussions rather than lectures. To help you prepare for this style of instruction I would encourage you to read carefully, take good notes and reflect on the information you are learning. It will be very helpful to our discussion if you note at least three important observations and two questions arising from the assigned readings to share in class. **Please come prepared to discuss the assigned material each class.**

It is expected that all assignments will be completed by the deadlines indicated. Guidelines for each assignment are included in the syllabus or will be presented in class. Do not hesitate to ask questions if any instructions are unclear to you.

**Student Rights & Responsibilities**

The University of Wisconsin-Whitewater is dedicated to a safe, supportive and non-discriminatory learning environment. It is the responsibility of all undergraduate and graduate students to familiarize themselves with University policies regarding Special Accommodations, Academic Misconduct, Religious Beliefs Accommodation, Discrimination and Absence for University Sponsored Events (for details please refer to the Schedule of Classes; the “Rights and Responsibilities” section of the Undergraduate Catalog; the Academic Requirements and Policies and the Facilities and Services sections of the Graduate Catalog; and the “Student Academic Disciplinary Procedures (UWS Chapter 14); and the “Student Nonacademic Disciplinary Procedures" (UWS Chapter 17).

**Assignments**

Case Brief & Presentation (as noted) 10 pts

3 Response Memos (as noted) 5 pts each

Midterm Exam June 13 30 pts

Group Presentation June 27 15 pts

Final Exam July 2 30 pts

**Grading Scale:**

The following grading scale applies:

94-100 = A

87-93 = A/B

80 – 86 = B

73-79 = B/C

72 or < = C

**Required Text:**

* Kaplin, W.A. and Lee, B.A. (2007). *The law of higher education* (4th Ed., Student Version). San Francisco: Jossey-Bass.

Students will be expected to independently search for assigned court opinions using legal research methods explained in class. Additional readings will be available on reserve in the library or provided on D2L.

**ASSIGNMENTS**

**Case Brief (10 pts of the course grade)**

Each student will be asked to write one case brief and present it in class. Cases will be randomly drawn during the first day of class and presented according to the class syllabus. The case brief should be posted to D2L for the class to review by noon on the day before the class meeting during which the case will be discussed. Briefs will follow the format specified in the handout on the first day of class.

Students are expected to read, analyze, interpret, and summarize the case. Additional comments may be used to address broader legal issues raised by the case or address arguments raised in dissenting opinions. Briefs are just that: brief, and will typically not be more than two pages long.

**Briefs should be written individually and represent only the author’s work**. Case briefs are easy to find online but you must write your own! You may not share your draft brief with others in class before presenting it in class and submitting it for grading. You should be prepared to briefly present on and answer questions about the case in class.

**Brief Response Memos (15 pts of the course grade)**

Each student will be asked to independently prepare three response memos to be given to the Vice Chancellor, providing intelligent, well-reasoned suggestions regarding a variety of pressing campus issues. The problem/issue/concern will be handed out in class the week before it is due. These papers can be a maximum of two pages (double spaced) and must be based on your research and readings. You must offer a specific recommendation and a clear rationale for the recommendation in straight-forward language (no legal jargon). Please spell check and read aloud before submitting the paper on D2L. They are due on or before noon the day of class. The response memos will be discussed in class so while you will submit them on the D2L site, please bring a copy to class to discuss/debate. I want to see solid reasoning based on reading and examination of the issues.

* You will have at least one week to prepare your response memos. This will be adequate if you stay current with the readings and attend each class. Students must work independently on these memos.
* Please do not share these memos with each other before class.
* Please “shepardize” cases to ensure you are dealing with the most current decision.

**Group Presentation (15 pts of the course grade)**

The class will be divided into two groups and asked to examine one real-life case study in depth to examine legal principles and present lessons learned. Groups will be expected to work together to:

1. Examine the assigned fact pattern in considerable depth: primary source documents, task force findings, investigation information, reports in the media, related litigation, etc.
2. Apply legal concepts learned in this course to the assigned fact pattern; cite statues, federal regulations, and case law applicable to the case.
3. Present lessons learned from your fact pattern and subsequent legal analysis: what every Student Affairs administrator should have learned from this to improve practice on their campus (policies to change, training to do, etc.).
4. Present a 45-minute summary of your findings in the above three areas on June 27; plan on an additional 15 minutes of question and answer. All group members must participate in the presentation. Presentation format is up to you- be creative and relevant.

Grades will be based on the collective participation of all group members as well as the ratings of peers.

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**Changes to the Syllabus: This syllabus and the attached weekly assignment schedule are subject to change at the discretion of the instructor.**

**Weekly Assignments**

**May 30 Introduction to the Course**

**Sources of the Law and State Action**

Articles

Janosik, S.M. (2005). Anticipating legal issues in higher education. NASPA Journal, 42, 401-414.

Santora, K.C. & Kaplin, W.A. (2003, April 18). Preventative law: How colleges can avoid legal problems. Chronicle of Higher Education, pp. B20-B21.

Cases

*Tinker v. Des Moines Independent Community School District*, 393 [U.S.](http://en.wikipedia.org/wiki/United_States_Reports) [503](http://supreme.justia.com/us/393/503/case.html) (1969)

**June 4 The College and the Student: Evolution of a Legal Relationship**

**Understanding the Court System**

Text

*The Law of Higher Education* (LHE), General Introduction (pgs. 1-8),

Chapter 1 (pp. 9-59), Appendixes A, B, and C. and Section 7.1 (pp. 293-317)

Case

*Anthony v. Syracuse University*, 231 N.Y.S. 435 (N.Y. App. Div. 1928).

**June 6 Federal Mandates: Drug-Free Schools, Americans With Disabilities Act, Clery Act, FERPA, Higher Education**

**Opportunity Act**

Text

LHE sections 4.5.2.1, 4.5.2.3, 4.5.2.5, 7.7.2, 8.3.4, 8.7, 10.5.2, and 10.5.4

Articles

34 C.F.R. 668.46. (Clery)

42 U.S.C. § 12101 *et seq*. (ADA)

Clery Act Annual Report Checklist – *Security on Campus*

Pavela, G. (2008, September 18). “Reasonable accommodation” and student misconduct. *ASJA Law and Policy Report*, 298.

Case

*Southeastern Community College v. Davis,* 442 U.S. 397 (1979).

Response Memo 1 due by noon.

**June 11 Liability Issues in Student Affairs**

Text

LHE chapters 2 and 3 and Section 4.4 (pp. 124-135)

Cases

*Bradshaw v. Rawlings*, 612 F.2d 135 (3d Cir. 1979).

*Furek v. University of Delaware*, 594 A.2d 506 (Del 1991).

*Mullins v. Pine Manor College*, 449, N.E.2d 331 (Mass. 1983).

*Nova Southeastern University v. Gross*, 758 So.2d 86 (Fl. 2000).

*Ostrander v. Duggan*, 341 F.3d 745 (8th Cir. 2003).

*Tarasoff v. Regents of Univ. of California*, 551 P.2d 334 (Cal. 1976).

*Webb v. University of Utah*, 125 P.3d 906 (Utah 2005).

Articles

Epstein, J. (2007, August 6). Administrators indicted in hazing death.

Inside Higher Ed.

Pavela, G. (2004, September 9). Training module: Liability for alcohol abuse and campus crime. ASJA Law and Policy Report, 151, 1-4.

Smith, R.B. and Fleming D.L. (2007, April 20). Student Suicide and Colleges’ Liability. Chronicle of Higher Education, p. B24.

Assignment

Brief Response Memo #1 due by noon

**June 13 Midterm Exam**

**Campus Risk Management: Virginia Tech, Threat Assessment,**

**and Behavior Intervention.**

Text

LHE section 7.6

Articles

Wisconsin Governor’s Task Force on Campus Safety Final Report

Pavela, G. (2008, March 20). Focus on student conduct- not our fears. *ASJA Law and Policy Report*, 281.

Pavela, G. (2008, April 17). Threat assessment: An interview with Marisa R. Randazzo, Ph.D. *ASJA Law and Policy Report*, 285.

Cases

*Murakowski v. Delaware*, 575 F.Supp.2d 571 (U.S. Dist. Del. 2008).

*Rhaney v. Univ. of Maryland Eastern Shore*, 880 A.2d 357 (Md. 2005).

*Shin v. Massachusetts Institute of Technology*, 19 Mass. L. Rep. 570 (Mass. Super. 2005).

**June 18 Disciplinary and Grievance Systems**

Text

LHE sections 8.1, 8.2 and 8.4

Articles

General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education, 45 FRD 133 (W.D. Mo. 1968) (en banc).

Stoner, E.N., II, & Lowery, J.W. (2004). Navigating past the “spirit of insubordination”: A twenty-first century model student conduct code with a model hearing script. *Journal of College and University Law*, 31, 1-77.

Pavela, G. (2008, March 13). Due process and “zero tolerance.” ASJA Law and Policy Report 280.

Pavela, G. (2008, February). Understanding due process: An overview for college administrators.

Cases

*Esteban v. Central Mo. State College*, 415 F.2d 1077 (8th Cir. 1969).

*Gomes v. Univ. of Maine System*, 304 F. Supp.2d 117 (D. Maine 2004).

*Goss v. Lopez*, 419 U.S. 565 (1975).

*Dixon v. Alabama State Board of Education*, 294, F. 2d 150 (5th Cir. 1961).

Assignment

Brief Response Memo 2 due by noon.

**June 20 First Amendment Issues**

Text

LHE sections 8.5, 8.6, 9.1 and 9.3

Articles

Hudson, David L. Hate speech and campus speech codes. *First Amendment Center online*

Pavela, G. (2004, October 21). Classroom “hate speech” codes. *ASJA Law and Policy Report*, 157, 1-6.

Pavela, G. (2004, October 14). Freedom of expression. *ASJA Law and Policy Report*, 156, 1-11.

Pavela, G. (2004, November 11). Memorandum to the faculty: Defining the limits of student academic freedom. *ASJA Law and Policy Report*, 160, 1-3.

Cases

*Bowman v. White*, 444 F. 3d 967 (8th Cir. 2006).

*Doe v. University of Michigan*, 721 F.Supp.852 (E.D. Mich. 1989).

*Hazelwood School Dist. v. Kuhlmeier*, 484 U.S. 260 (1988).

*Hosty v. Carter*, 412 F. 3d 731 (7th Cir. 2005).

*Roberts v. Haragan*, 346 F.Supp.2d 853 (N.D. Tex. 2004).

*Virginia v. Black*, 538 U.S. 343 (2003).

*Papish v. Board of Curators of the University of Missouri*, 410 U.S. 667 (1973).

*Rosenberger v. Rector & Board of Visitors of the Univ. of Virginia*, 515 U.S. 819 (1995).

*Tinker v. Des Moines Indep. Comm. Sch. Dist.*, 393 U.S. 503 (1969).

Assignment

Response Memo 3 due by noon.

**June 25 Title IX**

**Sexual Misconduct Issues including Sexual Harassment**

Text

LHE sections 7.1.5, 8.3.3, 9.4.6, 10.5.3, and 10.5.5

Articles

34 C.F.R. 106 – Subpart D Sections 106.31-106.43. (Title IX)

Office of Civil Rights Dear Colleague Letter Re: Title IX (April 2011)

Pavela, G. (2011, May 26 ). Due Process and fundamental fairness in sexual misconduct proceedings: selective case listings. ASCA Law and Policy Report 393

Pavela, G. (2008, February 28). Sexual assault and intercollegiate athletics: No “one free rape rule.” ASJA Law and Policy Report, 278.

Wis. Stats. § 36.11(22) Requirements

Cases

*Davis v. Monroe County Bd. of Education*, 526 U.S. 629 (1999).

*Franklin v. Gwinnett Co. Public School Dist*, 503 U.S. 60 (1992).

*Gebser v. Lago Vista Independent School Dist*., 524 U.S. 274 (1998).

*Simpson v. University of Colorado Boulder*, 500 F. 3d 1170 (10th Cir. 2007).

Assignment

Brief Response Memo 3 due by noon.

**June 27 Group Presentations**

**Rights and Responsibilities of Student Organizations**

**and Their Members**

Text

LHE sections 9.1 and 9.2

Articles

Tribbensee, N.E. (2004, June 25). Faculty adviser, beware: You may be liable. Chronicle of Higher Education, pp. B11-B13.

Pavela, G. (2008, April 10). Discipline, Due Process and Campus Fraternities. *ASJA Law and Policy Report*, 284.

Pavela, G. (2007, September 20). Second circuit limits fraternity claims to “associative freedom.” *ASJA Law and Policy Report*, 263.

Case

*Estate of Ruben Hernandez v. Arizona Board of Regents*, 866 P.2d 1330 (Ariz. 1994), including subsequent appellate history.

*Board of Regents of the Univ. Wis. System v. Southworth*, 529 U.S. 217 (2000).

*Christian Legal Society v. Martinez*, , 177 L. Ed. 2d 838 (2010).

*Gay Student Services v. Texas A&M*, 737 F. 2d 1317 (5th Cir. 1984).

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

Assignment

Response Memo 4 due by noon.

**July 2 Final Exam**

**Group Activity Pulling it All To**