

As of December 14, 2021
(subject to revision)

Privacy and Information Security Law
Antonin Scalia Law School
Law 243
Spring 2022
Wednesday 6:05–8:05 p.m. online via Zoom

Professor Robert H. Ledig
rledig@gmu.edu

COURSE OVERVIEW/DESCRIPTION: The course explores the rapid development of the law governing the collection, use, protection and disclosure of personal and other information by governmental entities and private sector parties. The course also examines the legal obligations in regard to the protection of information from misuse or access by unauthorized third parties and potential liability that may arise from such misuse or access.

REQUIRED TEXT: Solove, Schwartz, Information Privacy Law, Wolters Kluwer (Seventh Edition). Additional materials that will be posted on the class TWEN site.

OFFICE HOURS: Will be by phone or web video conference. Please email me to schedule a time that will work.

GRADING: Your grade will be based on a three-hour final examination that will consist of three essay questions, each of equal value. Your grade is subject to a discretionary single increment adjustment either upward or downward (e.g. from B to B+ or A- to B+) based on class participation.

LEARNING OUTCOMES: By the end of the course students should have an understanding of:

- How concepts of privacy have evolved in the U.S.
- The intersection of privacy and the press
- The interaction of criminal law and privacy
- The sectoral approach that the U.S. has taken to privacy
- Issues regarding information security and data compromise
- International approaches to privacy

COURSE RULES/STRUCTURE:

- As an online course, each student must have their camera on and be visible on camera throughout the class.
- We will use the On Deck approach. We will have four groups of students. One group will be designated to be prepared to present cases and participate actively in discussion of the materials covered during that day of class.

- Discussion between the instructor and students and among students is strongly encouraged.

EMAIL COMMUNICATION: Students must use their MasonLive email account to receive important University information, including communications related to this class. I will not respond to messages sent from or send messages to a non-Mason email address.

ATTENDANCE: Regular and punctual attendance are required to earn academic credit.

- Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1.
- Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs.
- The instructor will record attendance at each class.
- A student who is not present for at least 75 percent of a session of the course is absent from that session.

CLASS RECORDINGS PROHIBITED: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me. I will be recording classes for possible use in appropriate circumstances.

CONTINUITY CONTINGENCY PLAN FOR STUDENTS: To the extent that a student becomes ill and cannot participate in class for a period of time, the student will notify Associate Dean Nields or Assistant Dean Malone of their illness and absence(s).

- They will work with the student and me to arrange for substituted work in accordance with the School's Academic Regulations.
- Substituted work may include providing the student with access to a recording of missed online class sessions with appropriate restrictions on duplication, or other plans to designed to permit the student to obtain substantive interaction and communication about the student effort.

INSTRUCTIONAL CONTINUITY CONTINGENCY PLAN: In the event I am unable to teach any class, we will reschedule the class.

EXAM CONFLICTS: In accordance with AR 4-4.1, excuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination.

ACADEMIC INTEGRITY: It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: <https://sls.gmu.edu/honor/>.

CLASSROOM ACCOMMODATIONS: Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

ADDITIONAL SCHOOL POLICIES AND RESOURCES:

STUDENT HONOR CODE - [Click Here](#)

ACADEMIC REGULATIONS - [Click Here](#)

UNIVERSITY LIFE: University Life provides student support resources such as **Counseling and Psychological Services (<https://caps.gmu.edu/>)**, **Student Health Services (<https://shs.gmu.edu/>)**, and the **Student Support and Advocacy Center (<https://ssac.gmu.edu/>)**. For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>

COURSE ASSIGNMENTS:

January 19 – Class 1	Introduction; Information Privacy Law: Origins and Types pp. 1-40
January 26 – Class 2	The COVID-19 Pandemic and Privacy Issues See TWEN class site for materials On Deck Group 1
February 2 - Class 3	Data Security Considerations See TWEN class site for materials On Deck Group 2
February 9 – Class 4	Privacy and the Media: Information Gathering; Disclosure of Truthful Information pp. 87-94, 102-111 See TWEN site for additional materials On Deck Group 3
February 16 - Class 5	Privacy and the Media: Disclosure of Truthful Information; Dissemination of False Information; EU Right to be Forgotten pp. 116-125, 156-157 n.5, 158-163, 173-179, 182 n.4, 183-195, 1227-1241 On Deck Group 4

- February 23 – Class 6 Privacy and the Media: Dissemination of False or Misleading Information; Privacy Protections for Anonymity and Receipt of Ideas
pp. 195-198, pp. 203-204 (regarding Atlanta Journal-Constitution v. Jewell), 206-211, 213-219, 248-252
See TWEN site for additional materials
On Deck Group 1
- March 2 – Class 7 Privacy and Law Enforcement: How the Fourth Amendment Works; Wiretapping, Bugging and Beyond; Reasonable Expectation of Privacy Test
pp. 267-281, 286-291, 293 n.4, 299-307 n.7, 310-312, 315 n.8, 317-321
See TWEN for additional material
On Deck Group 2
- March 9 – Class 8 Privacy and Law Enforcement: Fourth Amendment and Emerging Technology; Information Gathering About First Amendment Activities; Federal Electronic Surveillance Law
pp. 328-332, 336-344, 346 n.4, 346-358, 374-382, 389-404, 415-420, 422-424, 429-432
See TWEN for additional material
On Deck Group 3
- March 23 – Class 9 Health Privacy: Confidentiality of Medical Information; Constitutional Protection of Medical Information; Genetic Information
pp. 499-507, 514-518, 521-524, 531-539, 546-563, 564-570, 599-613
See TWEN site for additional materials
On Deck Group 4
- March 30 - Class 10 Financial Data: Fair Credit Reporting Act; Gramm-Leach Bliley Act; Federal and State Financial Privacy Laws. Consumer Data: U.S. System of Consumer Data Privacy Regulation
pp. 755-778, 782-790, 792-802, 804-808
On Deck Group 1
Guest lecturers –
- Steve Hutchens, Chief Information Security Officer, Apple Federal Credit Union, Fairfax, Virginia
 - Rick Borden, Counsel, Willkie Farr Gallagher, New York, New York

April 6 – Class 11

Government Records: Public Access to Government Records;
Government Records and Use of Personal Data; Identification
Records and Requirements
pp. 624-632, 648-659, 662n, 6, 670-674, 681-697, 715-720, 727-
729, 735-738, 740-751
See TWEN site for additional material]
On Deck Group 2

April 13 – Class 12

Consumer Data: U.S. System of Consumer Data Privacy
Regulation; Tort Law; Contract Law; FTC Enforcement; Statutory
Regulation
pp. 810-818, 820-828, 832-837, 839-840, 843-845, 849-851,
856-859, 868-881, 896- 907, 907-920, 926-928, 935-940
On Deck Group 3

April 20 – Class 13

Consumer Data: Statutory Regulation; State Statutory Regulation;
First Amendment Limitations on Privacy Regulation; Data
Security
pp. 955-959, 970-972, 974-975, 977-986, 990-992, 994-1000,
1004-1008, 1011-1018, 1030-1032, 1045-1049, 1058-1062
See TWEN site for additional material
On Deck Group 4