

# **Sexuality and the Law**

## **COURSE SYLLABUS**

**Professors Sarah Warbelow and Brian Moulton**

**George Mason University School of Law**

**Spring 2022**

### **COURSE DESCRIPTION**

This course will cover developments in sexual orientation and gender identity law with an emphasis on current legislative developments. Topics to be discussed include privacy and the regulation of sexual activity, marriage, religious refusals, employment discrimination, education, and military policy. Participants will be encouraged to examine sexuality in the context of constitutional and statutory protections and limitations.

### **LEARNING OUTCOMES**

In this course, students will learn: the development of constitutional doctrine regarding privacy, due process and equal protection as it impacts sex, sexual orientation and gender identity, as well as statutory interpretation and statutory proposals for protections against discrimination; how courts and policymakers seek to balance the allegedly competing interests of LGBTQ equality and religious liberty; how to apply these principles to unsettled legal questions regarding sexuality.

### **COURSE EVALUATION AND ASSIGNMENTS**

The class will be conducted using a seminar format. Students will be expected to have completed the assigned readings prior to class and to participate in class discussions in a meaningful way. Quality of participation will be valued over quantity. Grades will be based on participation and a take-home final exam.

Class participation accounts for 20% of your grade. Dissenting viewpoints and an open airing of diverse perspectives are strongly encouraged. No student will be penalized or advantaged on the basis of political opinions. Attendance is mandatory and will factor into a student's participation grade.

The final assignment for this course will be a comprehensive take-home final. Students will have 48 hours in which to complete the exam. It may be obtained any day, 9-5, during exam week but no later than 48 hours before the last day of exams. Additional details will be provided closer to the exam period.

### **CONTACT INFORMATION**

Brian Moulton: [briankmoulton@gmail.com](mailto:briankmoulton@gmail.com)

Sarah Warbelow: [swarbelow@gmail.com](mailto:swarbelow@gmail.com)

Please include both of us when reaching out about the class. We will not have set office hours but are available to meet with students at their request.

### **REQUIRED TEXTS**

Eskridge, Hunter, & Joslin, *Sexuality, Gender and the Law*, **4th Edition** (Foundation Press 2018). The professors will use Westlaw's TWEN to distribute additional assignments and other course information.

## **COURSE CONTENT AND ASSIGNMENTS**

### **January 19: Introduction/Course Overview. Hate Crimes.**

Review of key terminology, constitutional and statutory provisions

*Wisconsin v. Mitchell* (available on TWEN)

*Glenn v. Holder* (available on TWEN)

### **January 26: Privacy - Regulation of Different-Sex Sexual Activity.**

CB pgs. 3-29

*Stanley v. Georgia* (available on TWEN)

### **February 2: Privacy - Regulation of Same-Sex Sexual Activity.**

CB pgs. 29-47

CB pgs. 84-102

CB pgs. 225-252

### **February 9: Marriage.**

CB pgs. 277-281

CB pgs. 297-340

*Littleton v. Prange* (available on TWEN)

### **February 16: Other Relationship Recognition Issues.**

CB pgs. 779-786

CB pgs. 790-796

CB pgs. 826-835

CB pgs. 840-846

### **February 23: Adoption, Surrogacy and Parental Rights.**

CB pg 858

CB pgs. 862-875

CB pgs. 879-885

CB pgs. 902-907

CB pgs. 912-915

### **March 2: Expressive Association and Viewpoint.**

CB pgs. 157-181

CB pgs. 564-599

CB pgs. 973-974

### **March 9: Religious Liberty, Part I.**

CB pgs 507-535

*Bruff v. North Mississippi Health Services* (available on TWEN)

*Benitez v. North Coast Women's Care Medical Group* (available on TWEN)

*Keeton v. Anderson-Wiley* (available on TWEN)

*Pedreira v. Kentucky Baptist Homes for Children* (available on TWEN)

*Ward v. Polite* (available on TWEN)

1.4.22

**March 16: No Class – Spring Recess**

**March 23: Religious Liberty, Part II.**

CB pgs. 539-548

CB pgs. 551-555

*EEOC v. Harris Funeral Home* (available on TWEN)

*Fulton v. City of Philadelphia* (available on TWEN)

*Masterpiece Cake Shop v. Colorado Civil Rights Commission* (available on TWEN)

**March 30: Sexual Orientation and the Workplace.**

CB pgs. 613-619

CB pgs. 685-691

CB pgs. 696-701

CB pgs. 675-684

CB pgs. 719-723

*Bostock v. Clayton County* (available on TWEN)

**April 6: Transgender Rights - Employment and Education.**

CB pgs. 106-123

CB pgs. 709-719

CB pgs. 741-749

CB pgs. 1004-1011

**April 13: Transgender Rights - Correctional Facilities, Healthcare, Identity Documents.**

CB 1163-1184

CB 1185-1193

*Walker v. Azar* (available on TWEN)

*Zzyym v. Pompeo* (available on TWEN)

**April 20: HIV Criminalization and Military Policy; Review for Final**

CB pgs. 1105-1131

*Doe v. Trump* (available on TWEN)

*Rhoades v. State of Iowa* (available on TWEN)

*Regina v. Clato Lual Mabior* (available on TWEN)

**April 28 - May 12: Final Examinations Period**