

11.27.23

# **Sexuality and the Law**

## **COURSE SYLLABUS**

**Professors Sarah Warbelow and Brian Moulton**

**George Mason University School of Law**

**Spring 2024**

### **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*, **5th Edition** (Foundation Press 2023). The professors will use Westlaw's TWEN to distribute additional assignments and other course information.

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## **COURSE CONTENT AND ASSIGNMENTS**

### **January 17: Introduction/Course Overview, Liberty & Autonomy I**

Review of key terminology, constitutional and statutory provisions

CB pgs. 5-22

### **January 24: Liberty & Autonomy II, Equal Protection**

CB pgs. 22-33

CB pgs. 40-53

CB pgs. 87-97

### **January 31: Sexual Activity, Marriage**

CB pgs. 145-164

CB pgs. 205-210, 217-244

### **February 7: Other Relationship Recognition**

CB pgs. 247-273

text of Respect for Marriage Act (available on TWEN)

CB pgs. 694-702

CB pgs. 709-715

CB pgs. 722-726

CB pgs. 738-744

### **February 14: Establishing Parentage, Surrogacy, Multiparent Families**

CB pgs. 773-805

CB pgs. 816-828

CB pgs. 829-837

### **February 21: Adoption, Foster Care, Custody and Visitation**

CB pgs. 839-850

CB pgs. 855-879

### **February 28: Expressive Association and Viewpoint.**

CB pgs. 133-139

CB pgs. 192-202

CB pgs. 359-392

### **March 6: No Class – Spring Recess**

### **March 13: Religious Liberty, Part I.**

CB pgs. 287-311

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

*Ward v. Polite* (available on TWEN)

### **March 20: Religious Liberty, Part II.**

CB pgs. 319-342

CB pgs. 659-668

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*Bruff v. North Mississippi Health Services* (available on TWEN)  
*EEOC v. Harris Funeral Home* (available on TWEN)

**March 27: Workplace Part I**

CB pgs. 98-108  
CB pgs. 184-191  
CB pgs. 565-572  
CB pgs. 601-604  
CB pgs. 618-624  
CB pgs. 635-644

**April 3: Workplace Part II/ Education Part I**

CB pgs. 645-658  
CB pgs. 669-674  
CB pgs. 883-890, 892-896  
CB pgs. 902-907  
CB pgs. 909-918

**April 10: Education Part II**

CB pgs. 919-920  
CB pgs. 932-946  
CB pgs. 965-976  
*B.P.J. v. West Virginia State Board of Education* (TWEN)

**April 17: Sexual and Gender Minorities in the Regulatory State**

CB pgs. 1007-1024  
CB pgs. 1034-1049  
CB pgs. 1061-1066  
CB pgs. 1071-1076

**April 24 - May 8: Final Examinations Period**