# COURSE INFORMATION

TITLE: LS 740 – Legal Issues in Education (3 graduate credit hours)

CLASS MEETING DATES: 5:00-8:00pm every other Tuesday

LOCATION: Marshall University, South Charleston, KANAC 105

INSTRUCTOR: Dr. Sherry L. Early

Office: 204 Graduate College Building Email: [earlys@marshall.edu](mailto:earlys@marshall.edu)

Phone: 304-746-1912

There is no textbook required for this course. Readings can be found as hyperlinks in the syllabus in addition to a **Readings Module** in Blackboard. If you have trouble accessing a link, please notify the instructor at least 48 hours prior to class.

# OVERVIEW:

This course provides students with an overview of legal considerations in educational environments. Relevant case law, current legal trends, personnel issues, and rights for students, faculty, teachers, and administrators will be discussed. The readings and examples are inclusive of primary, secondary, and postsecondary educational environments, otherwise called a P-16 view of education. No attempt will be made to provide legal advice or definitive legal answers to inquiries normally provided by an institution’s or school district’s legal counsel.

OBJECTIVES:

1. Develop skills in researching, citing, and understanding legal issues from a P-16 perspective;
2. Become aware of current legal considerations and their impact on laws, regulations, and judicial decisions;
3. Identifying and understanding the federal and state laws pertaining to legal issues in school systems and higher education settings;
4. Become familiar with legal materials and case briefs;
5. Formulate an overall understanding of how the law impacts administrative decision making with regard to the rights and protection of faculty, administrators, and students.

ATTENDANCE: Attendance is mandatory and there are no make-up classes.

DISABILITIES: Every effort will be made to accommodate persons with disabilities addressed by the American Disabilities Act (ADA). Please inform me immediately so I can attempt to obtain course materials in alternate formats and/or connect you to additional resources. Further information can be found at <http://www.marshall.edu/disabled>

HIGHER EDUCATION FOR LEARNING PROBLEMS (H.E.L.P.): Assistance is available for all graduate students who have been diagnosed by a qualified professional person as having

learning disabilities and/or Attention Deficit Disorder. For more information contact the H.E.L.P. program at 304-696-6252.

AFFIRMATIVE ACTION POLICY: Marshall University prohibits discrimination based on race, color, gender, sexual orientation, religion, age, national origin, veteran status, or disabilities. Marshall University will, whenever appropriate, take affirmation actions to employ advance in employment and otherwise treat without discrimination qualified women, minorities, individuals with disabilities, disabled veterans, and veterans of the Vietnam era. Marshall University will not affiliate with nor grant recognition to any individual, group, or organization having policies or practices that discriminate on the basis of race, color, gender, sexual orientation, religion, age, national origin, veteran status, or disabilities. [http://www.marshall.edueeoaa/Forms/EEO-](http://www.marshall.edueeoaa/Forms/EEO-Policy.pdf)  [Policy.pdf](http://www.marshall.edueeoaa/Forms/EEO-Policy.pdf)

MARSHALL E-MAIL ADDRESS: For students enrolled in MUOnline courses, communication with the instructor is typically via one of the course tools (discussion posts or mail tool). If, however, it is necessary for you to contact the professor, the program administrative assistant, or anyone else at Marshall via email, university policy requires you to use your Marshall Email account. The university contacts students using you MU email account to share important information, including announcements, course-related information, reminders, and deadlines. You MUST have and use your MU email account. The email process includes a procedure for redirecting your email, but you must sign into your MU email account to do this. For more specific information and assistance, refer to <http://www.marshall.edu/gsepd/Technology.html>.

South Charleston Campus ITT Support: Karen: 304-746-1974

Dustin: 304-746-2056

Amad: 304-746-1976

Service Desk Information: 304-746-1969 Toll Free: 1-877-689-8638

# COURSE REQUIREMENTS

Assignments can be submitted electronically as a file attachment. Please use MS Word.

Case Briefs. Seven case briefs will be due by class on the dates we meet (alternating Tuesdays)

The case brief should be typed, single spaced, and no more than two pages maximum. Each brief is worth 15 points for a total of 105 points. An example and rubric are provided in the **Library and Resources Module**.

The typical brief consists of the following information:

* Title and Citation-the formal title and legal citation of the case.
* Facts-the concise facts of the case.
* Issues-the issues most prevalent presented in the case.
* Reasoning-the reasoning or the court’s rational for its decision.
* Opinions-the opinions provided by the judges (can include dissenting opinions).
* Comments-the comments or other issues the court says must be noted.

RESEARCH PROJECT: The paper, 7-10 pages, can be developed in one of two ways: (1) a historical evolution of a legal topic that has, and is, impacting higher education. The presentation must be supported by case law, analysis of applicable literature, and follows the APA writing style, 6th edition; (2) an assessment of both sides of a legal issue that has, and is impacting an educational setting (secondary or postsecondary). The presentation must address the legal underpinnings of both sides and a recommendation on which side has the stronger legal case. The papers will be graded based on: (1) scholarship; (2) critical thinking; (3) use of APA, 6th edition; and (4) grammar. Papers that rely on a single source will not receive a high grade.

Each student must submit to the instructor within the first week of the semester, which of the two options they select, as well as the legal issue. The assignment is due **Tuesday, August 23, 2016** and is worth 40 points.

FINAL EXAM: The final exam will begin at **5:00pm on November 29, 2016** and is worth 50 points.

CLASS PARTICIPATION: Everyone is expected to read assigned materials prior to the live class meetings and participate in class discussions. Additionally, students will be encouraged to discuss legal issues and course topics within the **Discussion** module. Class participation is worth 30 points.

LATE ASSIGNMENTS: All assignments are due by the start of class on the dates indicated. Late assignments will receive a minimum of half a grade penalty unless prior arrangements have been made with the instructor.

# GRADING SCALE

210-225 A

195-209 B

180-194 C

165-179 D

# ACADEMIC INTEGRITY

Academic Integrity is expected in all class-related endeavors. Students are expected to be honest in all academic work. Offenses involving academic dishonesty include, but are not limited to the following: cheating on quizzes or examinations, computer dishonesty, plagiarism, or grad falsification. Refer to the Graduate Catalog for further information at: <http://www.marshall.edu/catalog/GraduateF2008/gr_fa08_published.pdf>

# LEXIS/NEXIS ACCESS

For more information on each case, use LexisNexis. The support site is <http://academic.lexisnexis.com/online-services/subscriber-resources/academic.aspx>.

The tutorial site is: [http://lexisnexis.com/tutorial/global/globaltutorial\_frameset.asp?locale=en\_US&lbu=US&adapta](http://lexisnexis.com/tutorial/global/globaltutorial_frameset.asp?locale=en_US&amp;lbu=US&amp;adaptation=Academic&amp;xPage=menu)  [tion=Academic&xPage=menu](http://lexisnexis.com/tutorial/global/globaltutorial_frameset.asp?locale=en_US&amp;lbu=US&amp;adaptation=Academic&amp;xPage=menu)

# READINGS

All readings are provided in Blackboard. Should you have trouble downloading a reading, please contact me via Blackboard at least 48 hours prior to class.

# LIBRARY ACCESS AND CHRONICLE

To access EBSCO Host Academic Search, just select it from the database list on the Library website, <http://www.marshall.edu/library>and log in using your username (MUID) and password (your birthdate in MMDDformat). For more password information, see the resources in the **Library and Resources** module.

Class 1: Course Overview, Resources, Introduction to Education Law

Reading 1: [P-16: Building a Cohesive Education System from Preschool through](https://www.aacu.org/publications-research/periodicals/p-16-building-cohesive-education-system-preschool-through)  [Postsecondary](https://www.aacu.org/publications-research/periodicals/p-16-building-cohesive-education-system-preschool-through)

Reading 2: [Overview of Higher Education Law](https://books.google.com/books?id=BTNxAgAAQBAJ&amp;printsec=frontcover&amp;dq=higher%2Beducation%2Blaw&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwiSmL6JmI_OAhUKOT4KHSJRD3cQ6AEIODAB%23v%3Donepage&amp;q=higher%20education%20law&amp;f=false) (Kaplin & Lee, 2014, pp. 1-8)

Reading 3: [Understanding Education Law](https://books.google.com/books?id=Ce5EAQAAQBAJ&amp;printsec=frontcover&amp;dq=law%2Band%2Beducation&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjs2Yv8lY_OAhUCzz4KHZL9CH0Q6AEIMTAB%23v%3Donepage&amp;q=tort%20&amp;f=false) (Imber, VanGeel, Blokhuis, & Feldman, 2014, pp. 1-11)

Class 2: Admissions and First Amendment Rights Reading 1: [*Plyer v. Doe*](http://caselaw.findlaw.com/us-supreme-court/457/202.html)

Reading 2: Advising Undocumented Students

Reading 3: [Understanding Laws Related to Transgender Individuals](https://www.aclu.org/sites/default/files/field_pdf_file/lgbttransbrochurelaw2015electronic.pdf)

Reading 4: [Gender Reassignment](https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination)

Reading 5: [*Gratz et al. v. Bollinger et al.*](https://www.law.cornell.edu/supct/html/02-516.ZS.html)

Reading 6: [Recruitment and Admissions for First-Year Athletes](https://books.google.com/books?id=DLVBR3FqMosC&amp;printsec=frontcover&amp;dq=education%2Bstudent%2Bathletes&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjd9NPY1ZHOAhUFNj4KHSfcCUQQ6AEIJTAA%23v%3Donepage&amp;q=education%20student%20athletes&amp;f=false)

Reading 7: [*Tinker v. Des Moines School District*](http://www.infoplease.com/us/supreme-court/cases/ar39.html)

Reading 8: [Do Students Still Have Free Speech Post-Tinker?](http://www.theatlantic.com/education/archive/2014/04/do-students-still-have-free-speech-in-school/360266/)

Reading 9: [Understanding Student Censorship](http://ncac.org/resource/first-amendment-in-schools#firstamendpublicschools)

Readings 10-12: Choose at least three First Amendment Rights from Blackboard

\* Case Briefs 1 and 2 are due

Class 3: Creating and Maintaining Inclusive Environments

Reading 1: [Implementation of Services for Student with Disabilities](https://books.google.com/books?id=hyxmmswb42gC&amp;printsec=frontcover&amp;dq=education%2Blaw&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjH6cyC5pHOAhUBcz4KHUXmDjsQ6AEIUjAF%23v%3Donepage&amp;q=education%20law&amp;f=false)

Reading 2: [Marshall University Office of Disability Services](http://www.marshall.edu/disability/office-of-disability-services/)

Reading 3: [Title IX and Affirmative Action](https://books.google.com/books?id=jK6WOme5yaQC&amp;pg=PA394&amp;dq=higher%2Beducation%2Blaw%2Btitle%2Bix&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjD5q6Q55HOAhUEzz4KHRpTCNYQ6AEIZDAI%23v%3Donepage&amp;q=higher%20education%20law%20title%20ix&amp;f=false), Chapter 6

Reading 4: [Protecting Students with Learning Disabilities](http://www2.ed.gov/about/offices/list/ocr/504faq.html)

Reading 5: [Marshall University Women’s Center Defines Sexual Harassment](http://www.marshall.edu/wcenter/sexual-harrassment/)

Reading 6: [Marshall University Women’s Center Defines Sexual Assault](http://www.marshall.edu/wcenter/sexual-assault/)

Reading 7: [Marshall University Women’s Center Defines Stalking](http://www.marshall.edu/wcenter/stalking/)

\* Case Brief 3 is due

Class 4: Tort/Liability and Academic Freedom

Reading 1: [Tort Liability](https://books.google.com/books?id=9UbtyXF8nwcC&amp;printsec=frontcover&amp;dq=law%2Band%2Beducation&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjsye_pm4_OAhVGbD4KHckxD0MQ6AEITzAG%23v%3Donepage&amp;q=law%20and%20education&amp;f=false) (Vacca & Bosher, Chapter 4)

Readings 2 & 3: Education-Related Travel [Travel Liability for College Students](https://www.insidehighered.com/news/2011/01/03/court_holds_university_liable_for_travel_related_deaths)

[Minors and Traveling Abroad](https://www.edurisksolutions.org/Templates/template-blogs.aspx?pageid=47&amp;id=271&amp;blogid=100)

Reading 4: [Student Organization Activities](https://www.acui.org/Publications/The_Bulletin/2013/2013-09/21786/)

Reading 5: [School Extracurricular Activities](https://www.acsi.org/legal-legislative-pages/legal-resources-landing-pages/12-transportation-issues-landing-page/field-trips-when-are-schools-liable-for-student-safety)

Reading 6: [Protecting Academic Freedom](https://www.aaup.org/our-work/protecting-academic-freedom)

\* Case Brief 4 is due

Class 5: Teacher/Faculty Considerations and FERPA

Reading 1: [Terms and Conditions of Teacher Employment](https://books.google.com/books?id=Z5raCgAAQBAJ&amp;printsec=frontcover&amp;dq=law%2Band%2Bteachers&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwjhktOyz5HOAhXE4D4KHYJNDkYQ6AEIHjAA%23v%3Donepage&amp;q=law%20and%20teachers&amp;f=false)

Reading 2: [Special Issues in Faculty Employment](https://books.google.com/books?id=0pjru3veKjMC&amp;pg=PR37&amp;dq=law%2Band%2Beducation&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwiB2LqgzJHOAhVDcz4KHYNNCC44ChDoAQhBMAU%23v%3Donepage&amp;q=law%20and%20education&amp;f=false)

Readings 3 & 4: [Collective Bargaining](https://books.google.com/books?id=BTNxAgAAQBAJ&amp;printsec=frontcover&amp;dq=law%2Bin%2Bhigher%2Beducation%2Bcollective%2Bbargaining&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwj8ktXG05HOAhWGPD4KHbesCyYQ6AEIKjAB%23v%3Donepage&amp;q=collective%20&amp;f=false) (Kaplin & Lee, 2013, pp. 140-144) and Vacc & Bosher [Chapter 5](https://books.google.com/books?id=9UbtyXF8nwcC&amp;printsec=frontcover&amp;dq=law%2Band%2Beducation&amp;hl=en&amp;sa=X&amp;ved=0ahUKEwje2oTZ0pHOAhVIET4KHa8pDv8Q6AEISDAG%23v%3Donepage&amp;q=law%20and%20education&amp;f=false)

Reading 5: [Marshall University FERPA Guidelines and Considerations](http://mds.marshall.edu/cgi/viewcontent.cgi?article=1002&amp;context=admissions_faculty)

Reading 6: [Intellectual Property and Faculty](https://www.aaup.org/issues/copyright-distance-education-intellectual-property/resources-copyright-distance-education-and/intellectual-property-issues-faculty)

Reading 7: [Teachers and Copyright Laws](http://www.nea.org/home/37583.htm)

\* Case Brief 5 is due Class 6: Right to Know versus Privacy

Reading 1: [Marshall University HIPAA Guidelines and Considerations](http://www.marshall.edu/psych/files/2011/08/Notice-of-Privacy-Rights.pdf)

Reading 2: [HIPAA and Mental Health Considerations](http://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/)

Reading 3: [Mental Health Concerns](http://www.nami.org/Learn-More/Mental-Health-Conditions)

Reading 4: [Self-endangering Students](https://www.naspa.org/rpi/posts/self-endangering-students-the-public-policy-conundrum)

Reading 6: [Behavioral Intervention Teams](https://nabita.org/behavioral-intervention-teams/#school)

Reading 7: [Active Shooter FBI Report](https://nabita.org/wordpress/wp-content/uploads/2013/03/2014-10-08-NaBITA-TOW-New-Information-from-the-FBI-on-Active-Shooters-.pdf)

Reading 8: [The Clery Act](http://clerycenter.org/summary-jeanne-clery-act)

\* Case Brief 6 is due

Class 7: Student Athletes and Paper Presentations

* + Final Case Brief is due—You did it!
  + Research Paper is Due Class 8: Final Exam