Sexual Orientation, Gender Identity and the Law

COURSE SYLLABUS

Professors Sarah Warbelow and Brian Moulton
George Mason University School of Law
Spring 2016

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 employment discrimination, U.S. military policy, marriage, religious refusals and education. Participants will be encouraged to examine sexuality in the context of constitutional protections and limitations.

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 her or his 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
Sarah Warbelow: swarbelow@gmail.com
Office Hours: We will not have set office hours but are available to meet with students at their request.

REQUIRED TEXTS


The Professors will use Westlaw’s TWEN to distribute additional assignments and other course information.
COURSE CONTENT AND ASSIGNMENTS

January 13: Introduction to Sexual Orientation, Gender Identity and the Law: Course Overview. Where have we been, where are we going?
   Review of applicable Constitutional theories
   Readings: Courting Justice, Gay Men and Lesbians v. the Supreme Court, Murdoch and Price, 2001 (available on TWEN) assigned reading: introduction, chapter 1, 6 & 7.
   Review Lambda Legal’s Fair Courts Project website found here:
   http://www.lambdalegal.org/issues/fair-courts-project
   Review Alliance Defending Freedom issues website found here:
   http://www.adflegal.org/issues

January 20: Privacy, Regulation of different-sex sexual activity.
   CB pgs. 4-29
   Stanley v. Georgia (available on TWEN)

January 27: Privacy, Regulation of same-sex sexual activity.
   CB pgs. 30-33
   CB pgs. 37-53
   CB pgs. 97-114
   CB pgs. 197-221
   MacDonald v. Commonwealth (available on TWEN)

February 3: Marriage, Part I
   CB pgs. 311-314
   CB pgs. 319-323
   CB pgs. 369-373
   Additional readings on TWEN

February 10: Marriage, Part II
   CB Supp. pgs. 42-51
   Obergefell v. Hodges (available on TWEN)
   Brown v. Buhman (available on TWEN)
   Littleton v. Prange (available on TWEN)
   Order from the Alabama Chief Justice (available on TWEN)

February 17: Expressive Association and Viewpoint
   CB pgs. 151-173
   CB pgs. 377-404
   CB pgs. 861-862
   Parker v. Hurley (available on TWEN)

February 24: Religious Liberty, Part I
   CB pgs. 602-606
   CB Supp. pgs. 2-23
   CB Supp. pgs. 66-72
   Benitez v. North Coast Women's Care Medical Group (available on TWEN)
   Pedreirra v. Kentucky Baptist Homes for Children (available on TWEN)
March 2: Religious Liberty, Part II
CB Supp. pgs. 73-78
*Hands on Originals v. Lexington-Fayette Urban County* (available on TWEN)
*Catholic Charities v. DCFS* (available on TWEN)
Additional readings on TWEN

March 9: Spring Break – No Class

March 16: Adoption, Surrogacy and Parental Rights
CB pgs. 767-780
CB pgs. 785-797
CB pgs. 802-807
CB pgs. 815-818
CB pgs. 847-856
*E.L. v. V.L.* (available on TWEN)

March 23: Sexual Orientation and the Workplace
CB pgs. 622-631
CB pgs. 645-660
*Baldwin v. Foxx* (available on TWEN)

March 30: Transgender Rights
CB pgs. 54-63
CB pgs. 631-642
CB pgs. 871-873
CB Supp. pgs. 90-95
*Grimm v. Gloucester County School Board* (available on TWEN)
*Diamond v. Owens*, DOJ Statement of Interest (available on TWEN)

April 6: Health
CB Supp. pgs. 30-38
*Kosilek v. Spencer* (available on TWEN)
*Whole Woman’s Health v. Cole* summary and amicus brief by the National Center for Lesbian Rights (available on TWEN)
Additional readings on TWEN

April 13: Military Policy and Hate Crimes
CB pgs. 1046-1051
CB pgs. 1057-1061
CB pgs. 232-238
CB pgs. 1075-1076
*Wisconsin v. Mitchell* (available on TWEN)
*Glenn v. Holder* (available on TWEN)

April 20: Asylum Policy and International LGBT Issues; Review for Final
Yogyakarta Principles (available on TWEN)
Additional readings on TWEN

Monday, April 25 - Tuesday, May 10 – Examinations