



FALL 2025 COURSE SYLLABUS

Course Number: 390-001
Course Title: Sexuality and Law
Credit Hours: 2
Grading Mode: Letter grade
Meeting Time(s): TUE 8:10P-10:10P
Meeting Mode: ON CAMPUS
Exam Time(s): TAKE HOME
Exam Mode: TAKE HOME
Prerequisite(s): N/A
Corequisite(s): N/A

Instructor(s):

Sarah Warbelow | Brian Moulton

Contact Info:

swarbelow@gmu.edu | bmoulton@gmu.edu

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.

Reading(s) & Supplement(s):

Eskridge, Hunter, & Joslin, Sexuality, Gender and the Law, 5th Edition (Foundation Press 2023). The professors will use Westlaw and Canvas to distribute additional assignments and other course information.

Course Overview

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.

Course 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.

Grading Policies

Attendance:

Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences:

Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Participation & Preparation:

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.

Use of Technology & AI:

Moderate Use Policy: Generative AI tools may be used in this course for the following purposes, and with the following guidelines. Students may use AI in this course to outline and study, but may not use AI during class discussion or the exam. Students must use AI tools responsibly, verify facts presented by AI, disclose when AI tools are used to create course work product, properly cite any AI tools utilized, and should be prepared to produce the transcript of prompts and responses upon request. Misuse will be treated as a violation of academic standards.

Additional Comment(s):

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.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor’s written exam instructions. Electronic

text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e -book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

August 20: Introduction/Course Overview, Liberty & Autonomy I

Review of key terminology, constitutional and statutory provisions
CB pgs. 5-22

August 27: Liberty & Autonomy II, Equal Protection

CB pgs. 22-33
CB pgs. 40-53
CB pgs. 87-97

September 3: Labor Day Week - No Class

September 10: Sexual Activity, Marriage

CB pgs. 145-164
CB pgs. 205-210, 217-244
Ermold v. Davis (available on CANVAS, pgs. 54 to 60)

September 17: Other Relationship Recognition

CB pgs. 247-273
text of Respect for Marriage Act (available on CANVAS) CB pgs. 694-702
CB pgs. 709-715
CB pgs. 722-726
CB pgs. 738-744

September 24: Establishing Parentage, Surrogacy, Multiparent Families

CB pgs. 773-805
CB pgs. 816-828
CB pgs. 829-837

October 1: Adoption, Foster Care, Custody and Visitation

CB pgs. 839-850
CB pgs. 855-879

Wilson v. Williams (available on CANVAS)

October 8: Expressive Association and Viewpoint

CB pgs. 133-139

CB pgs. 192-202

CB pgs. 359-392

October 15: Religious Liberty, Part I

CB pgs. 287-311

303 Creative LLC v. Elenis (available on CANVAS)

Keeton v. Anderson-Wiley (available on CANVAS)

Ward v. Polite (available on CANVAS)

October 22: Religious Liberty, Part II

CB pgs. 319-342

CB pgs. 659-66

Bruff v. North Mississippi Health Services (available on CANVAS)

EEOC v. Harris Funeral Home (available on CANVAS)

Kennedy v. Bremerton School District (available on CANVAS)

October 29: 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

November 5: 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

November 12: Education Part II

CB pgs. 919-920

CB pgs. 932-946

CB pgs. 965-976

Adams v. School Board of St. John's County (CANVAS)

November 19: Sexual and Gender Minorities in the Regulatory State

CB pgs. 1007-1024

CB pgs. 1034-1049

CB pgs. 1061-1066

CB pgs. 1071-1076

United States v. Skrmetti (CANVAS)

December 2 - 15: Final Examination Period

Student Resources

Antonin Scalia Law School Academic Regulations

GMU Common Course Policies Addendum

Mason Square Services

Mason Square Police

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

Student Support and Advocacy Center (SSAC)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703 -380-1434 or Counseling and Psychological Services (CAPS) at 703 -993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703 - 993-8730, or emailing titleix@gmu.edu.

Mason Square Clinic

Van Metre Hall, Room B102

703-991-2831

Counseling and Psychological Services

Student Health Services

Student Disability Services

Student Conduct

University Life