Please complete this form and attach a copy of the syllabus for new courses. Forward it as an email attachment to the Secretary of the Graduate Council. A printed copy of the form with signatures should be brought to the Graduate Council Meeting. Complete the Coordinator Form on page 2, if changes in this course will affect other units.

Please indicate:  __X__ NEW   ____ MODIFY   ____ DELETE

Local Unit:  Public and International Affairs  Graduate Council Approval Date: 

Course Abbreviation:  PUAD  Course Number:  625

Full Course Title:  Higher Education Law

Abbreviated Course Title (24 characters max.): Higher Education Law

Credit hours:  3  Program of Record:  M.P.A.

Repeatable for Credit?  ___D=Yes, not within same term  Up to hours  ___T=Yes, within the same term  Up to hours

Activity Code (please indicate):  _X_ Lecture (LEC)  ___ Lab (LAB)  ___ Recitation (RCT)

___ Studio (STU)  ___ Internship (INT)  ___ Independent Study (IND)  ___ Seminar (SEM)

Catalog Credit Format  3 : 3 : 0  Course Level:  GF(500-600)  __X__ GA(700+)  ____

Maximum Enrollment:  25  For NEW courses, first term to be offered:  F04

Prerequisites or corequisites:

Catalog Description (35 words or less): Please use catalog format and attach a copy of the syllabus for new courses. Analysis of the many legal issues confronting higher education; ie, governance, faculty matters and student issues. Examples include due process, freedom of speech, and privacy. Course reviews all the key constituents in higher education – student, faculty, administrators, board of trustees, and parents - and how their roles are changing.

For MODIFIED or DELETED courses as appropriate:

Last term offered:  Previous Course Abbreviation:  Previous number:

Description of modification:

APPROVAL SIGNATURES:

Submitted by:  ________________________________ email:  ________________

Department/Program:  ________________________________ Date:  __________________

College Committee:  ________________________________ Date:  __________________

Graduate Council Representative:  ________________________________ Date:  __________________
GEORGE MASON UNIVERSITY
Course Coordination Form

Approval from other units: NONE

Please list those units outside of your own who may be affected by this new, modified, or deleted course. Each of these units must approve this change prior to its being submitted to the Graduate Council for approval.

<table>
<thead>
<tr>
<th>Unit:</th>
<th>Head of Unit’s Signature:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Graduate Council approval: ____________________________________________ Date: __________

Graduate Council representative: _________________________________ Date: __________

Provost Office representative: _________________________________ Date: __________
Overview

Many have suggested that prior to the 1960’s, problems in higher education were kept within the ivory tower. The roles of all the key constituents in higher education were clearly defined: students were there to learn, and were subject to the *in loco parentis* authority of the institution; faculty members taught, and no one questioned their authority when it came to knowledge and teaching; administrators ran the institution, and they knew better than the students and faculty how to make decisions that kept the institution operating; and the board of trustees governed from afar.

Increasingly, these key constituents are taking their disputes outside the institution for resolution — usually to the courts, but sometimes to the state and federal governments. The traditional roles are no longer clear or satisfactory to the key participants. Courts, legislatures, and administrative agencies are making decisions that directly impact, if not dictate, institutional action. Legal issues in higher education, therefore, have become a major consideration in policy and decision making.

This course will help students gain an understanding of legal issues in higher education. It is not possible to address all of the legal issues in higher education, but with readings, current legal issues update, class discussions, and a research project, the students should gain better insight about what is going on in higher education.

Some of the broad questions that will be addressed during the course are:

- What forces have led to the increase of the law’s influence in higher education?
- What is the legal difference between public and private institutions?
- What legal issues are significant to each of the key constituents in higher education?
- What has been the role of the courts and state and federal governments in shaping policy?
- What should be the attorney’s role in higher education?

Course objectives

1. To acquire a working understanding of a) the broad field of higher education law, b) the role of law on campus, and c) the relationship between law and academia, and lawyers and administrators;
2. To develop problem-solving skills related to current legal issues in higher education;
3. To develop a sense of confidence in analyzing and discussing legal issues in higher education;
4. To research an issue in higher education law and write an in-depth analysis.

Required Text Books

3. AAUP (2000), *Policy Documents & Reports*

Course Requirements

1. Class Participation (approximately 10% of the total grade)
Participation in class discussion is extremely important. Class participation includes class attendance, understanding of the required readings, and class discussions. I will assume that you have read the assigned readings prior to the class, and will use our class time to discuss the material. Students will be asked to give a briefing of each of the cases we read. I will call upon students on a random basis as the materials warrant.

2. Research Papers (approximately 90% of the total grade)

There will be 2 research projects in this class. Each paper will be 45% of your grade. Both legal research papers will allow you to apply the principles discussed throughout the semester to form a well-thought out and well-researched argument on an unresolved legal issue in higher education. The first paper will be on either a university governance or faculty/staff issue. The second paper will be on a student issue.

Each project should: (1) identify a current legal issue in higher education and discuss why this issue is important; 2) identify and discuss the key cases and statutes, and 3) analyze the current scholarly views regarding the issue. You will be given wide latitude in choosing the issue. The only criteria is that the issue must have legal implications. Your paper should present all sides of the issue, its legal implications, and you should provide recommendations based on sound legal reasoning.

The sources must be reliable and current and your legal analysis should be based on primary sources. If you are using a case or statute, read the actual source. Do not assume that secondary analysis of a case or statute is legitimate. And your citation of cases, statutes, and regulations must be from the primary source, and cases should be cited as listed in the appropriate reporter.

I will evaluate your legal research paper based upon organization, the quality of your writing, your understanding of the topic, the accuracy and reliability of your sources, and your analysis, reasoning, and synthesis. The following items will be required:

One or Two Proposal: For each paper, you must submit a 1 – 2 page proposal. You must provide a description of your issue and why you think it is important. In order to change your topic after submitting the proposal, you must discuss it with me and have my approval.

Research Paper: Each paper should address the above concerns, and it must use the blue book format. You must also submit the original proposal with the final paper. Each paper should be approximately 10-12 pages.

Assignments (This is a tentative schedule and does not include the Supplement)

Introduction to Course
Discussion on The Legal Governance of Higher Education
   1) What is a College?
   2) The Establishment of Private Colleges
   3) Private Colleges and State Action

Text readings pp 1 – 47
AAUP--Constitution of the Association

The Legal Governance of Higher Education (cont.)
   1) The Establishment of Public Colleges and State Agency
   2) The Autonomy of Public Institutions
   3) Local Ordinances and Higher Education
   4) Trustees
   5) Closing a College

Text readings pp 66-92, 117-131
AAUP--Statement on Government of Colleges and Universities (1996)
Faculty Participation in the Selection, Evaluation and Retention of Administrators (1981)
On Institutional Problems Resulting from Financial Exigency (1978)
Governance Standards in Institutional Mergers and Acquisitions (1981)
Faculty Issues: Academic Freedom
1) Who May Teach and What is Taught
2) How Shall It Be Taught
3) Is the Speech a Matter of Public Concern?
4) Is the Speech Protected?

Text readings pp 133-163, 187-198, 241-254
AAUP--1940 Statement of Principles on Academic Freedom and Tenure
Recommended Institutional Regulations on Academic Freedom and Tenure (1982)
Committee A Statement on Extramural Utterances (1964)

Faculty Issues: Academic Freedom (cont.)
1) A Citizen of the Academy
2) Conduct towards Colleagues
3) Conduct towards Students
4) Faculty as Citizens in Society
5) Institutional Academic Freedom
6) Remedies

Text readings pp 226-232, 267-282, 284-297
AAUP--Statement on Professors Political Activity (1969)
Academic Freedom and Artistic Expression (1990)
On Freedom of Expression and Campus Speech Codes (1992)

Faculty Issues: Tenure, Promotion and Continued Employment
1) Tenure and Promotion
2) Reasonable Expectation of Continued Employment
3) Dismissal of Faculty for cause, financial exigency, and program discontinuance
4) Remedies

AAUP--Statement on Procedural Standards in Faculty Dismissal Proceedings (1958)
Statement on Procedural Standards of Renewal or Nonrenewal of Faculty Appointments (1989)
On Full-Time Non-Tenure-Track Appointments (1986)
GMU Policies on Tenure, Reappointment, Promotion and Dismissal (GMU web page)

Faculty Issues: Faculty Research
1) Regulations
2) Consent and Ethics
3) Research secrecy
4) Academic Fraud
5) Conflict of Interest

Text readings pp 490-513, 533-540, 551-561
AAUP--Statement on Professional Ethics (1987)
Statement on Plagiarism (1990)
Statement on Conflict of Interest (1990)
Statement on Multiple Authorship (1990)
GMU Policies on Ethics, Research, Conflict of Interest (GMU web page)

Faculty Issues: Intellectual Property
1) Patents
2) Copyrights
3) Trademarks

Text readings pp 561-605
GMU Policies on Intellectual Property (GMU web page)
Affirmative Action
  1) Institutional issues
  2) Faculty/staff issues
  3) Student issues
  4) Sexual harassment

Text readings pp541-551, 1013-1048, 1050-1060, 1079-1097
AAUP--On Discrimination (1976)
  Consensual Relations Between Faculty and Students (1995)
  Due Process in Sexual Harassment Complaints (1991)
  GMU Policies on Discrimination, Sexual Harassment (GMU web page)

Student Issues: Institutional Liability
  1) In Loco Parentis
  2) Tort Theories
  3) Contract Theories

Text readings pp 631-640, 648-668, 680-695

Student Issues: Admissions and Grades
  1) Admissions criteria
  2) Grading policies

Text Readings pp 695-751

Student Issues: Misconduct
  1) Judicial codes
  2) Academic misconduct
  3) Disciplinary procedures
  4) Dismissals

Text readings pp 751-767, 773-783, 791-803, 808-821
AAUP--Joint Statement on Rights and Freedoms of Students (1990)
  GMU Policies on Honor Code, Judicial Code, Honor and Judicial Proceedings
  (GMU web page)

Student Issues: Organizations/Fees
  1) Recognition of student organizations
  2) Distribution of student fees
  3) 1st Amendment issues

Text readings pp 831-894

Student Issues: Student Newspapers and Open Speech
  1) Funding sources
  2) Distribution
  3) Open forums
  4) 1st Amendment issues

Text readings pp 894-903, 914-936

Role of Counsel in Higher Education/Sovereign Immunity