

University of Houston Law Center

Syllabus

Sexual Orientation & the Law Spring 2020

Instructor:

Corey E. Devine

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Required Text:

- Ball, Schacter, NeJaime, & Rubenstein, *Cases and Materials on Sexuality, Gender Identity, and the Law* (6th ed. 2017)
- Additional readings will be distributed to incorporate recent developments.

Course Description:

This course deals with one of the most dynamic areas of the law over the past three decades. We will examine the manner in which the state regulates sex, sexuality, gender, gender roles, and sexual orientation in a variety of substantive legal areas, including criminal law, employment law, and constitutional law. Many areas covered by this course involve significant ongoing legal disputes, including transgender rights. We will consider the intersection between law and politics over the course of a new legal movement.

Course Objectives:

- Explore what sexual orientation and gender identity are
- Examine how U.S. law regulates sexual orientation and gender identity
- Analyze how the regulation of sexual orientation and gender identity impacts LGBT people

Grading & Final Exam:

Your grade will be based on a closed-book final examination given during the regular exam period.

Course Requirements & Teaching Methods

The success of this class depends on your active engagement. To promote your engagement, the following rules apply:

- We will cover in this class controversial topics. All views are welcomed, especially those that challenge pro-LGBT positions. Constructive disagreement is encouraged. To foster such disagreement, all students must commit to listen and to treat others with respect.
- Attendance is required. If you know that you will miss a class, please let me know in advance. In appropriate circumstances, I will enforce UHLC's minimum attendance rule. Under this rule, a student who misses 3 or more classes will be dropped or forced to withdraw from class.
- I will use a variety of teaching methods in class, including the Socratic Method. This means that I will call on you throughout the semester in hopes of helping you develop your verbal argumentation skills. Preparation and participation are very important.
- Some students in past years have commented that this course feels like a "seminar." This is because active discussion/debate is such an important part of the course. This is not a course where we will simply learn what the law is. Instead, we will ask why the law is what it is and whether it could be different (and if so, what the implications of different regulatory regimes might be).

Office Hours:

Because I am an adjunct professor, I do not keep office hours. On most days, I will be available to answer questions before or after class. If you would like to meet separately, please send me an e-mail to make an appointment. I am available to answer any questions you have about the class or course material. I also am more than happy to talk more generally with you about the practice of law, your job search, or any other issues that arise in law school.

Counseling and Psychological Services (CAPS):

CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. See: http://www.uh.edu/caps/outreach/lets_talk.html.

Pronouns:

I use he, him, his as my pronouns. Please reach out to me in person, by e-mail, or by phone if you have preferred pronouns you would like for me to use. I'll try my best to honor your preferences. Please attribute any lapses to failings of memory, and do not feel embarrassed to correct me if I make any mistakes.

SYLLABUS
Sexual Orientation & the Law
Spring 2020
Tues. 5:30-7:30 p.m.

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office hours by e-mail appointment

Reading Assignments:

All page numbers refer to Ball, Schacter, NeJaime, & Rubenstein, *Cases and Materials on Sexuality, Gender Identity, and the Law* (6th ed. 2017). I will distribute additional cases and materials via e-mail, and I will adjust reading assignments throughout the semester.

I. Foundations

Tuesday, January 14 Class 1	Why study sex? <i>Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality</i> , Gayle S. Rubin (Handout)
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Tuesday, January 21 Class 2	What is sexual orientation? Pages 1-8, 15-21, 27-36, 43-52
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II. Sexuality & Liberty

Tuesday, January 28 Class 3	Sodomy laws Pages 104-146
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Tuesday, February 4 Class 4	What does <i>Lawrence</i> mean? Pages 164-171 (<i>State v. Holm</i>), 185-193 (<i>Williams v. Attorney General of Alabama</i>), 195-200 (<i>Lowe v. Swanson</i>), 205-208 (<i>Singson v. Commonwealth</i>), 213-219 (<i>United States v. Lanning</i>), 226-231 (<i>Roe v. Rector and Visitors of George Mason University</i>)
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III. Sexual Identity and Equality

Tuesday, February 11 Level of scrutiny debate
Class 5 Pages 235-282

Tuesday, February 18 *Romer v. Evans*
Class 6 Pages 293-324

IV. Working

Tuesday, February 25 Sexual Orientation & Title VII
Class 7 Pages 339-344, 354-382
Hively v. Ivy Tech Community College (Handout)

Tuesday, March 3 Gender Identity & Title VII (& the ADA)
Class 8 Pages 393-411
Blatt v. Cabela's Retail Inc. (Handout)

Tuesday, March 10 NO CLASS—SPRING BREAK

V. Coupling

Tuesday, March 17 *Windsor & Obergefell*
Class 9 Pages: 580-599, 605-638

VI. Sexuality, Gender, & the First Amendment

Tuesday, March 24 The high school and college cases
Class 10 Pages 777-813

Tuesday, March 31 Anti-Gay Speech
Class 11 Pages 813-831, 832-841

Tuesday, April 7 LGBT Equality v. Religious Liberty
Class 12 Pages 846-868

Tuesday, April 14 LGBT Equality v. Religious Liberty (Continued)
Class 13 Pages 869-894

VII. Wrap-up & Review

Tuesday, April 21
Class 14

Wrap-up & Review