



FAULKNER UNIVERSITY
THOMAS GOODE JONES SCHOOL OF LAW

FOUNDATIONS OF LAW – SECTION B

FALL SEMESTER 2019

COURSE SYLLABUS

Professor Robert L. McFarland
Office Location – JSL 271
Office Hours – Monday through Thursday – 12:30 to 2:30 p.m.
Phone: 334-279-5264
Email: rmcfarland@faulkner.edu

Class Times: Tuesday and Thursday – 2:30 P.M. to 3:45 P.M.
Class Location: JSL 180

Welcome to Foundations of Law.

The primary objective of this course is the development of your understanding of the concept of law. As we study the history and traditions of American law and legal institutions we will work to understand and develop the method of legal reasoning utilized by lawyers in the American legal system. Our goal is to develop each student's ability to reason like a lawyer. A secondary goal is to acquire knowledge of the institutions, fundamental norms, and foundational principles of the American legal order.

By the end of the semester you should be able to demonstrate your knowledge and understanding of the information in the required readings. You should also be able to demonstrate the capacity to identify and analyze legal issues presented by a set of facts and predict probable outcomes on the basis of various jurisprudential theories utilizing legal reasoning skills developed in this course.

Learning Objectives

The following are additional interrelated objectives pursued in this course:

- Development of knowledge and understanding of the American legal system;
- Development of knowledge and understanding of various sources of law in the American legal system including, but not limited to, state common law, constitutional law, statutes, regulations and treaties;

- Development of knowledge of competing theories of the nature of law and legal reasoning and understanding of how those theories interact with legal judgment;
- Development of ability to identify material facts and corresponding legal principles from a factual record (issue spotting and rule synthesis); and
- Development of the ability to formulate and articulate sound legal arguments from a set of given facts utilizing the material facts, substantive law and relevant legal arguments (analysis).

TWEN

The Westlaw Education Network (TWEN) allows you to review the syllabus, download additional class materials, utilize study aids, participate in our discussion forum, receive course announcements, and post questions for my review online. You must register for the class TWEN site and check the site frequently. Once you register, TWEN will send you an email notification whenever I post announcements, updated reading assignments, or post other material. Please do not disregard these posts.

Attendance Policy

Attendance for this class is mandatory. Law School policy allows you to miss no more than 15% of scheduled classes regardless of excuse. Because our class meets two times a week, you are permitted no more than four (4) absences under the 15% rule. Your final grade will be reduced “one step” (from A to A–, A– to B+, B+ to B, etc.) for each absence over the maximum. *It is your responsibility* to sign the class roll as evidence of your attendance; you may not have someone else sign the roll for you in your absence. Any student who fails to sign the roll will be counted absent.

Disability & Other Accommodations

If you need any accommodations for any aspect of this course, including the final examination, due to a disability or for any other reason, contact Dean Keele (lkeele@faulkner.edu or (334) 386-7547) or Dean DeBoer (jdeboer@faulkner.edu or (334) 386-7550) as soon as possible. The Center for Disability Services: Project Key serves as the central contact point for all students with disabilities at Faulkner University, including Jones School of Law. Students are responsible for informing the university and law school of their need for services and accommodations. Contact Project Key by telephone at (334) 386-7185 or (800) 879-9816, Extension 7185, by email to Ms. Heidi Guy, hguy@faulkner.edu, or visit <https://www.faulkner.edu/undergrad/student-life/living-on-campus/student-services/center-for-disability-services/>.

Classroom Expectations

I expect you to be on time for class and to be fully prepared to discuss the assigned material, including text, supplement, cases, problems, notes, statutes, rules, additional readings assigned, etc. If some emergency prevents you from preparing for class, please let me know before class starts. Repeated lack of preparation for class when I call on you may lead to a reduction in your final grade.

I expect you to refrain from surfing the Internet, playing video or other games, sending or receiving instant messages or e-mail, making or receiving telephone calls, or engaging in other similar distracting or disruptive behavior during class. All mobile telephones, iPads, iPods, smart watches, computers, and other devices capable of ringing, singing, chirping, burping, or making noise should be turned off or set to “silent” mode during class.

Assessment

There will be a “practice exam” near mid-term. This exam will simulate the final exam, and I will review your essay answers and provide feedback.

Your final grade in this course will be based on the final exam. The final exam will be comprised of an essay exam, multiple choice exam, and short-answer exam. We will discuss and review each of these exam formats prior to the final exam.

Law school policy permits me to raise and lower all grades based on my evaluation of classroom performance. I intend to utilize this authority to reward excellent classroom preparation and participation. I also intend to utilize this authority, if necessary, to reduce grades due to lack of preparedness or poor participation.

Reading Assignments

Reading assignments for the semester are listed in the attached course outline and assignments. As noted, I may supplement these readings with outside material.

The assigned readings will be taken from two sources.

- Most readings will be taken from the required textbook – Adam J. MacLeod and Robert L. McFarland, *Foundations of Law*, (1st ed. Carolina Academic Press 2017) (ISBN – 978-1-5310-0463-7).
- Other required readings will be posted on TWEN.

Part I. What is Law?

Class 1: Law & Human Inquiry – August 13, 2019

- Pages xv – 57

Class 2: Human Artifact & Divine Command – August 15, 2019

- Pages 59 - 85

Class 3: Law as Reason – August 20, 2019

- Pages 87-116

Class 4: Law as Revelation – August 22, 2019

- Pages 117-145

Class 5: Natural Law and Justice – August 27, 2019

- Pages 147-185
- Martin Luther King, Jr., *Letter from a Birmingham Jail*, available at <http://www.nlnrac.org/american/american-civil-rights-movements/primary-source-documents/letter-form-a-birmingham-jail>

Class 6: The Promulgation of Human Law – August 29, 2019

- Pages 187-220

Part II. Sources of Law in the Anglo-American Tradition

Class 7: The Common Law - September 3, 2019

- Pages 223-265

Class 8: The Common Law Mind – September 5, 2019

- Pages 267-296

Class 9: Positivism and Consequentialism – September 10, 2019

- Pages 297-333

Class 10: Common Law and Positive Law – September 12, 2019

- Pages 335-367

Class 11: Law and Equity – September 17, 2019

- Pages 369-405

MIDTERM EXAM – CLASS 12 – September 19, 2019

Part III. Anglo-American Constitutionalism

Class 13: Natural Rights and Social Contracts – September 24, 2019

- Pages 409-438

Class 14: The Constitution of the United States – September 26, 2019

- Pages 439-474

Class 15: Democracy and Republicanism – October 1, 2019

- Pages 475-506

Class 16: Vested Rights and Police Powers – October 3, 2019

- Pages 507-551

Class 17: Courts, Law, and Judicial Power – October 8, 2019

- Pages 553-592

Part IV. Law in the 20th Century

Class 18: The Law as Science – October 10, 2019

- Pages 595-622
- Robert L. McFarland, *Life Worthy of Life: Down Syndrome, Equality, and my Son Silas* available at <http://www.thepublicdiscourse.com/2016/10/18123/>

Class 19: Analytical Jurisprudence – October 15, 2019

- Pages 623-654

Class 20: Rules of Recognition – October 17, 2019

- Pages 655-682

Class 21: The Inner Morality & Authority of Law – October 22, 2019

- Pages 683-733

Class 22: The Integrity of Law – October 24, 2019

- Pages 735-765

Part V. Law in the 21st Century

Class 23: Liberty and Personal Autonomy – October 29, 2019

- Pages 769-795

Class 24: Law and Freedom – October 31, 2019

- Pages 797-826

Class 25: The Neutrality of Law – November 5, 2019

- Pages 827-860

Class 26: The New Consequentialism – November 7, 2019

- Pages 861-887

Class 27: Pre-Moral Foundations of Law – November 12, 2019

- Pages 889-930
- Adam J. MacLeod, *Law's Logic at the End of Life*, available at <http://www.thepublicdiscourse.com/2013/01/6918/>

Class 28: Moral Foundations of Law – November 14, 2019

- Pages 931-970

Class 29: REVIEW (no assignment) – November 19, 2019

FINAL EXAM –

The final exam is scheduled for Tuesday, December 10 at 9:00 a.m. Locations and other information will be distributed in the review session on November 19.