

FAMILY LAW

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Office Hours: Tues/Wed 3:00 – 4:00 p.m. and by appointment.

Course Description

“The demographic changes of the past century make it difficult to speak of an average American family.”

Troxel v. Granville, 530 U.S. 57, 64 (2000)

What is a “family” in today’s world?



The Pew Research Center recently released data that confirms the Court’s dicta, finding as follows:

- Marriage rates are on the decline: less than half of all adults in the nation are married. The median age for women and men is at an all time high of 26.5 and 28.7 years, respectively.
- Almost 40% of Americans say marriage is becoming obsolete.
- The public sees the term “family” as encompassing more than just marriage, including single parents and gay or lesbian couples raising children.
- About 60% of wives are in the workforce, a rate that has doubled since 1960. Most of the people surveyed endorse the notion that married couples should share work and home responsibilities equally.



When we consider this data against the backdrop of other trends -- including adult children living with their parents for extended periods, children being cared for by grandparents, increased options for bringing children into the world, and the continued prevalence of marriages ending divorce – it becomes clear that there no longer is a “typical” American family.

What, if anything, do these changes mean for the law? Why is the law even involved in families? Aren’t families private entities of our own making? Why should we care – as a legal or policy matter – whether the law labels a particular formation as a “family”?

These are just some of the questions we will confront in this course.

Just as in other substantive legal courses, cases and “Blackletter law” will be the focus of our study. That said, the body of law affecting families is quite broad and encompasses a wide range of areas -- from criminal law and torts, to employment law and contracts. In addition, federal constitutional law provides the outer limits of how states may or may not regulate families and thus is essential to fully understanding this important area. Finally, because family law reflects societal changes that have altered the construct of family, such as movements for racial justice, women’s rights, and LGBT rights, we also will consider and assess law reform efforts in this arena.

So, what does this mean for the family law course? What can students expect?

Course Objectives

By the end of the semester, students should have achieved the following:

- A basic familiarity with the law regulating families, family, including such areas as marriage, divorce, child custody, and property division.
- A solid understanding of constitutional limits on state regulation of families.
- The ability to analyze and critique policies and law reform efforts related to families.
- An appreciation for the interdisciplinary influences on the development of the law affecting families.
- Enhanced verbal communication skills based on class exercises.

Course Requirements and Grading

Required Text:

Weisberg and Appleton, MODERN FAMILY LAW: CASES AND MATERIALS (4th Edition) (Aspen 2010).

TWEN Registration:

I communicate to students through TWEN, the West Education Network. Assignments and announcements, e.g., class cancellations or revisions to the syllabus, will come to you through this page. To access the site, go to www.lawschool.westlaw.com and click the link for TWEN. If you have problems accessing or using TWEN, please contact your student Westlaw representative.

Other Requirements:

COURT OBSERVATION. Students must attend at least one court proceeding with a family court judge or magistrate and write a short paper following that observation. I will provide more details about this assignment upon the start of the semester.

CLASS PARTICIPATION. Discussing the materials assigned for a given class is a key part of the course. **Students should be prepared to answer questions**

based on the reading in every class. From time to time, I may ask students to serve as discussion leaders on various topics. In all cases, participation will be evaluated based on its quality of engagement with the assigned material, that is, their ability to participate substantively in class.

What is substantive class participation?

Comments that, for example:

- Contribute to our understanding of the assigned material – *e.g.*, a solid knowledge of the facts, procedural history, holding, how it relates to other cases assigned.
- Clarify ambiguities or inconsistencies in the doctrine, reasoning of the court, or development of the law.
- Place the case in context – *e.g.*, consider whether a particular case or policy may be reconciled with prior case law or policy.
- Identify ongoing themes in judicial decision-making, such as how the construct of “motherhood.”

If you can't be prepared because of an emergency or illness, please inform me **before class via email**. Chronic unpreparedness will result in a lowered final grade.

REGULAR ATTENDANCE. If you cannot attend class because of emergency or illness, please inform me **before class via email**. Four unexcused absences – that is, failing to notify me ahead of time – will result in a lowered final grade in this course.

Grades:

The majority of your grade (65%) will be based on a three-hour exam that will test you on the principles and doctrine covered in class.

The remainder (35%) will be based on court observation, the short paper, class participation, and attendance, as explained above.

As the registration materials indicate, laptops are prohibited in this class.

Assignments for Day One

- **Important: I will be unable to hold class on January 22, 2013. Our first meeting will be January 24, 2013.**

- **Register** on TWEN.
- **Complete** the short written assignment awaiting you on the TWEN site.
- **Read and complete** the assignment for **January 24, 2013**.

I. Private Family Choices		
Date	Reading Assignment	For Discussion
1. January 24	Evolution of the Right to Privacy: CB 1-20	Problem 1, page 14
2. January 29	When Privacy Rights Conflict: CB 74-90	Problem, pages 90-91
3. January 31	Liberation of Privacy: CB 58-74	Problem, page 73
4. February 5	Conflicting Privacy Rights – Life and Death: 92-102	Problem, page 100

* Pew Research Center, *The Decline of Marriage and the Rise of New Families* (November 18, 2010).