This course will examine relevant court cases as well as state and federal laws that define the boundaries for legal recognition and personal sexuality in the 20th century. The course includes examination of the cases on same sex relationships, employment, adoption, and sexuality issues. Using scholarly articles and the judges' own words, we will examine the legal assumptions behind current and historical cases defining personal sexuality and sexual orientation. This course highlights an interesting area of law and politics that is the modern equivalent of the original civil rights cases from the turn of the 20th century involving race. As such, this topical issue is sure to be increasingly an important aspect of state and federal court decisions and legislative battles. This is a good course for students interested in the law and the development of legal and political ideas over time.

**This class meets the General Education Requirement for U.S. Diversity and Pluralism**

**Learning Objectives for U.S. Diversity and Pluralism**

U.S. Pluralism and Diversity courses enable students to demonstrate:

1. knowledge and understanding of the diversity and pluralism of U.S. society with respect to race, ethnicity, and gender, as well as class, sexual orientation, and/or religion.

2. knowledge and understanding of the social and cultural influences that shape the perspectives of various social groups as well as students' own points of view.

3. knowledge and understanding of the contributions of various social groups to U.S. society.

4. knowledge and understanding of the sources and manifestations of controversy or conflict arising from U.S. diversity and pluralism.

**REQUIREMENTS**

Students will be expected to attend class and participate in discussions. Constructive, informed, respectful participation that contributes directly to conversations about the course material will raise borderline grades; lack of participation
or consistently disruptive participation may result in lower grades. You will be expected to keep up with the reading throughout the course. Simply attending class will not be sufficient for a passing grade.

Students will be expected to complete 6 class preps. Each class prep is to be submitted in hard copy on any Monday in keeping with the following schedule. TWO preps must be submitted BEFORE the first test, a further TWO must be submitted BEFORE the second test and the last TWO must be submitted before the final. Essentially the course is split into three parts separated by a test so in each part of the course the assignments will be two class preps and a test. If I assign more than one case on a day, you can select any one (but only one) of the cases discussed on the chosen day. Students can select ANY cases to “prep.” These class preps should be 1.5 - 2 pages (double spaced, times new roman, 12 point font). Note: I do NOT accept any emailed copies of papers. It is your responsibility to print out your paper in time for class and papers emailed to blackboard will NOT be accepted.

If you are preparing a case each class prep must have:
- a complete and correct citation to the case at the top of the page;
- a quote or two from the opinion (not the headnotes or case summary) that effectively captures key assumptions of how the court has defined sexual orientation or lesbian and gay individuals;
- and, for each quote, a short description of the arguments or assumption embodied in the quote

If you are preparing an article, each class prep must have:
- a complete and correct citation from the article at the top of the page;
- a quote or two from the article that captures the thesis of the article and the main arguments of the author;
- and a reaction to the thesis of the article or the main arguments (were they convincing, correct data usage, were the assumptions made accurate)

There will also be two in class exams and a final exam. The dates of these exams are listed in the syllabus and the final exam will be on the date scheduled by the University.

The weights of these various obligations break down as follows:

<table>
<thead>
<tr>
<th>Obligation</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class participation</td>
<td>10%</td>
</tr>
<tr>
<td>6 class preps</td>
<td>40%</td>
</tr>
<tr>
<td>Exam 1</td>
<td>15%</td>
</tr>
<tr>
<td>Exam 2</td>
<td>15%</td>
</tr>
<tr>
<td>Final Exam</td>
<td>20%</td>
</tr>
</tbody>
</table>
POLICIES

Students with disabilities. If you have a documented disability and anticipate needing accommodations in this course, please make arrangements to meet with me soon. Please request that the Disabilities Resource Center send a letter verifying your disability.

Extensions for papers. To avoid creating inequities for other students in the class, no extensions will be given for papers. Late papers will be penalized half a grade per day for every day that the paper is late, starting at the beginning of class the day the paper is due unless the student can provide a University-approved excuse.

Plagiarism or cheating. This one’s simple: don’t do it. Don’t even think about doing it. Plagiarism is the use of someone else’s words or ideas without giving the original author credit by citing him or her. If you use someone else’s language directly, you must use quotation marks. If you rely on another person’s ideas in creating your argument, you must provide a citation. If you have any questions about plagiarism, please contact me before you submit the assignment for grading. If you plagiarize or cheat in this class, the BEST outcome you can hope to achieve is a failing grade from me, in addition to any mandatory university sanctions. Ignorance will not provide a defense to the application of this policy.

Attendance. Attendance will be taken at the beginning of each class. If you arrive to class after attendance has been taken you will be marked absent for that day, but will still be able to receive participation points. It is imperative that you arrive to class on time to avoid disruption both to me and your fellow students. Each student may have three (3) unexcused absences. Beyond this, whatever the reason, any absence will negatively affect your grade.

Quality of Submitted Work. Based on an assessment of work submitted in prior years, it is clear that some individuals spend very little time and/or effort on their submitted class preps and assignments, consequently, the submitted work includes absurd statements, inaccurate citations and very poor sentence structure. To encourage students to pay more attention to their submitted work (beyond the grade I issue to the submissions), I will occasionally highlight them in class.

Emails. If there are any changes to the course/assignments/updates I will be emailing you. You need to make sure that you regularly check your email. The best way to get in contact with me is via email. Please try to limit emailing me through blackboard as you will get a slower response compared to when you email me directly.

EXAMPLES OF CORRECT CITATIONS

Legal Citations:
On May 20, 1974, the Court of Appeals of Washington (Division One) in Singer v Hara (11 Wn. App. 247 at 264) “concluded that the state's denial of a marriage license to [same sex] appellants is required by our state statutes and permissible by both the state and federal constitutions.” While state courts in Minnesota (in Baker v. Nelson 191 N.W.2d 185), New York (in Anonymous v. Anonymous 67 Misc. 2d 982, and later in Kenney v Kenney 76 Misc 2d 927), and Kentucky (in Jones v. Hallahan 501 S.W.2d 588) had previously issued opinions that denied marriage to lesbian and gay couples, the legal claim in Singer v Hara was the first of the challenges to state policies
that prohibited same sex marriage to rely primarily on state constitutional provisions rather than rights associated with the US Constitution.

Academic Citations:
As Scheingold (1998, 124) notes “according to some critics of left-activist cause lawyering, legal challenges to the foundations of established authority are counter productive as well as ineffectual.” …… Through the use of law, the state protects certain social, political, and economic configurations (Abel 1998) or, in this case, a certain sexual configuration.

MATERIALS

There is no book for this course, most of the material for the course will be available on blackboard, the rest you will be responsible for obtaining via the internet. The blackboard page will also have any updates, so be sure to check it regularly.

SYLLABUS

W  1/20  Introduction
F  1/22  Gallup Polls


http://www.gallup.com/poll/27757/Americans-Rate-Morality-Social-Issues.aspx

M  1/25  Michael Foucault, A History of Sexuality (excerpts)
      Nan Hunter: The New Law of Marriage, 14 The Good Society 11, 11-15
F  1/29  Stoumen v. Munro 219 Cal. App. 2d 302 (1963)
      Boutilier v. INS  387 U.S. 118 (1967)
      People v. Onofre 415 N.E.2d 936 (1980)


Ellison v. Brady 924 F.2d 872 (1991)


Di Stefano v Di Stefano 60 A.D.2d 976 (1978)
In the Matter of Jacob 86 N.Y.2d 651 (1995)
Meredith Larson: Child Custody, Visitation and Termination of Parental Rights 10 Geo. J. Gender & L. 713

NO CLASS

EXAM 1

Perez v. Sharp 198 P.2d 17 (1948)
McLaughlin v. Florida 379 U.S. 184 (1964)
Loving v. Virginia 388 U.S. 1 (1967)

Julie Novkov Racial Union (Epilogue)

Jones v. Hallahan 501 S.W.2d 588 (1973)

F 2/26 NO CLASS

Scott Barclay and Shauna Fisher, "Cause Lawyers in the First Wave of Same Sex Marriage Litigation" in Sarat and Scheingold, Cause Lawyers and Social Movements

W 3/3 Hawaii

Washington, DC

F 3/5 US Government’s Response
2. Proposed Federal Marriage Amendment to the US Constitution
   1. Congressional Bill in 2004
   2. Congressional Bill in 2006
   3. Marriage Protection Amendment
3. Constitutionality of Federal DOMA


Vermont

W 3/10 Early and Competing Responses in LGBT Movement

F 3/12 Dan Pinello, America's Struggle with Same Sex Marriage - Introduction
Arizona

Connecticut

Oregon
2. Li v. State 338 Or. 376 (2005)

California
1. Lockyer v. City and County of San Francisco 33 Cal.4th 1055 (2004)
2. In re Marriage Cases 49 Cal.Rptr.3d 675 (2006)

New Jersey
1. Lewis v Harris 188 N.J. 415 (2006)

Iowa
1. Varnum v Brien 763 N.W.2d 862 (2009)

Georgia

Kansas
1. In re Estate of Gardiner 42 P.3d 120 (2002)

7. Martinez v. County of Monroe 850 N.Y.S.2d 740

EXAM 2

NO CLASS

NO CLASS

NO CLASS

NO CLASS
M 4/5   NO CLASS

W 4/7   Rosenberg, Can the Courts.... (chapters on same sex marriage)

F 4/9   Phyllis Bossin: Symposium: The Legislative Backlash to Advances in Rights for Same Sex couples: Same Sex Unions: The New Civil Rights Struggle or An Assault on Traditional Marriage? 40 Tulsa L. Rev 381
Linda McClain: The Evolution - or End - Of Marriage? Reflects on the Impasse over Same Sex Marriage, Family Court Review; 44: 2: pp 200-208

Evan Gerstmann “Litigating Same Sex Marriage : Might Courts Actually be Bastions of Reality?” PS: Political Science and Politics, 38: 2: 217 – 220

W 4/14  Scott Barclay, Anna-Maria Marshall, and Mary Bernstein, eds. Queer Mobilizations: LGBT Activists Confront the Law - excerpts


M 4/19  Scott Barclay, “In Search of Judicial Activism in the Same Sex Marriage Cases: Sorting the Evidence from Courts, Legislatures, Initiatives and Amendments”

W 4/21  Jennifer Hawkins - Legal Recognition of Same Sex Relationships 10 Geo. J. Gender & L. 751


M 4/26  Morrison v. State Board of Education 1 Cal. 3d 214 (1969)
Gaylord v. Tacoma School District 88 Wn.2d 286 (1977)

Brennan v. Metropolitan Opera Association 729 N.Y.S.2d 77 (2001)

F 4/30  Gary Mucciaroni - Same Sex Different Politics... (excerpts)


F 5/7  3:30 pm -5:30 pm FINAL EXAM