

**PubH 6114, Foundation of Environmental
and Worker Protection Law
Course Syllabus
Fall Semester 2005
1 Credit**

Instructor: Michael Austin, MS, JD

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Office Hours: By appointment

Course Time and Place: Wednesday 4:40 – 5:30, A389 Mayo

Important Dates: First class 9/6/05; 12/21/04 Oral presentation

I. Course Description

Law is made by courts while settling disputes between private entities and by statute. We will examine traditional and constitutional law making authority of courts, legislatures and administrative agencies. This foundation course is required before taking others in this series on environmental and worker protection law.

II. Learning Objectives

At the end of this course, students will be able to:

- Describe the structure and organization of government
- Understand how cases and controversies are settled in common law

- Discuss legal issues underlying several public health and environmental public policies
- Demonstrate techniques of persuasive legal research, writing and oral presentation

III. Methods of Instruction and Work Expectations

Students are encouraged to introduce issues of current interest from the media or from their workplace for discussion. These issues will be incorporated into the curriculum when appropriate.

Through lecture and discussion, private common law rights of action are introduced to establish traditional standards for worker and environmental protection. Issues of both a personal and more institutional nature will be discussed. Our focus will shift from issues of a personal nature to more institutional issues while emphasizing private common law rights of action.

Students will be introduced to our legal system; then we will discuss tort law. Tort law is a private system of law established by tradition that requires a defendant to compensate an injured plaintiff.

Each week students will write a short paragraph or one page outline that answers a question based on the reading assignment.

Each student will conduct legal research and write five pages on the legal aspects of an environmental or public health problem. The paper must advocate a public policy that might solve the problem, and include at least 10 primary references.

Each student will prepare and present a 6-8 minute persuasive speech in class based on the legal research and writing project. Students will critique each other.

IV. Weekly Schedule

A) Introduction

Evolution of our governmental system

The U.S. Constitution

Authority of the Courts

State Powers

Federalism

Commerce Clause

Legal research

B) Agency law

Authority

Administrative Procedures Act

Agency access to private information

Licenses and self audit

C) Tort law

Trespass

Nuisance

Warranties and strict liability

Product safety and product liability

Dealing with scientific uncertainty

VI. Weekly reading assignments

Burnham, William *Introduction to the Law and Legal System of the United States*, West Group, Saint Paul, MN

1	<p><u>William Aldred's Case</u>, Michaelmas Term 8 Jacobi I Regis, 9 The Reports of Sir Edward Coke 47, (1609)</p> <p>Constitution of the United States</p>
2	<p>Burnham, William <i>Introduction to the Law and Legal System of the United States</i></p> <p>Diagram of the Structure of the Federal Government Diagram of State and Federal Court Systems and Hierarchy.</p> <p>Chapter 1: History and Governmental Structure, Some Constitutional History, The Government Structure Provided for in the 1789, Constitution Separation and Balance of Powers Among the Branches of the Federal Government, The States and Federalism, Impact of Government Structure on the Legal System</p>
3	<p>Burnham, William <i>Introduction to the Law and Legal System of the United States</i></p> <p>Chapter II: "Legal Methodology"- Sources of Law and Their Hierarchy, Common Law, Statutory Law in a Common Law System, Statutory Interpretation Methods, The Form and General Nature of Case Law, The Legal Reasoning Process in Case Law</p>

4	<p><u>Dr. Bonhams' Case</u>, Michaelmas Term 6 Jacobi I Regis, 8 The Reports of Sir Edward Coke 107, 77 English Reports 638 (1607), due process, judicial review of parliamentary act</p> <p><u>Murrays' Lease v. Hobokan</u>, 59 U.S. (18 How.) 272, 15 L.Ed. 372 (1855), due process, power of court to review a legislative act</p>
5	<p>Burnaham, William <i>Introduction to the Law and Legal System of the United States</i></p> <p>Chapter III: "The Adversary System and Jury Trials"- The Characteristics and Rationale of the Adversary System, Juries, The Adversary Jury Trial and the Lawyers Role in It, Evidence Law, Criticisms of the Adversary System, Criticisms of the Jury System</p>
6	<p>"A Trench Caves In" – outline tort cause of action for employee against employer</p>
7	<p>Persuasive presentation outline</p>

8	<p>Burnaham, William <i>Introduction to the Law and Legal System of the United States</i></p> <p>Chapter V:" The Judicial System"- Part 1: An Overview of Court Systems and Judicial Officials, Trial Courts and Appellate Courts: Their Basic Characteristics and Interrelationships, State and Federal Structure and Characteristics, Judges and Methods of Judicial Selection, Other Judicial Officials and Assistants, Subject Matter Jurisdiction of State and Federal Courts; Part II: Federalism Complications in the Judicial System, Law Applied in Federal and State Courts, Simultaneous Litigation in State and Federal Courts</p>
10	<p><u>Stubbs V. City of Rochester</u>, 226 NY 516 (1919) –admissibility of evidence that contaminated water caused typhus outbreak</p> <p><u>Daubert v. Merill Dow Pharmaceuticals</u>, 112 S. Ct 2786 (1993) dealing with uncertainty as to causation</p>
11	<p>Burnaham, William <i>Introduction to the Law and Legal System of the United States</i></p> <p>Chapter VI: "Administrative Law"- Part 1: Law and Procedures of Administrative Agencies, Types and Purposes of Administrative Agencies, Rule - Making Functions of Agencies, Adjudicatory Functions of Agencies, Judicial Review of Agency Action, Presidential and Congressional Controls on Federal Agency Action</p> <p><u>Bennett v. Spear</u>, 520 U.S. 154, 117 S.Ct. 1154 (1997), standing to appeal agency action</p>
12	<p><u>Citizens to Preserve Overton Park v. Volpe</u>, 401 U.S. 402 (1971) judicial review of agency action</p> <p><u>Vermont Yankee Nuclear Power Corperaton v. NRDC</u> standard of judicial review</p>

13	Burnaham, William <i>Introduction to the Law and Legal System of the United States</i> Chapter IX: "Constitutional Law"- Part I: Judicial Review Structure and Powers, Judicial Review, Separation of Powers and the Federal Judiciary, Separation of Powers Issues Between Congress and the President, The Relationship Between States and the Federal Government: Vertical Federalism, The Relation Between States: Horizontal Federalism
14	Heart of Atlanta Motel Inc. v. United States, 379 U.S. 241 (1964) – power of Congress to regulate commerce Minnesota State Board of Health v. City of Brainerd, 241 NW2d. 624 (1976) State police power
15	In Re: Bengt Thulin, CO-02-864 state power to commit mentally ill person Korematsu v. United States, 323 U.S. 214 (1944) federal power to restrict Japanese descendants during a state of war
16	Persuasive Presentations

VII. Evaluation and Grading

Students will be evaluated as follows:

- Weekly assignments: 25 points
- Legal research and writing exercise: 60 points
- Oral persuasive exercise: 15 points

1. Grading Criteria –

A/N option must complete all assignments to a C- level (70%) and letter grade will be determined by total effort as follows:

A = 95 -100 points (4.0) Represents achievement that is outstanding relative to the level necessary to meet course requirements.

A- = 90-94

B+ = 87-89

B = 83-86 points (3.0) Represents achievement that is significantly above the level necessary to meet course requirements

B- = 80-82

C+ = 77-79

C = 73-76 points (2.0) Represents achievement that meets the

minimum course requirements

C- = 70-72

S - Achievement that is satisfactory will be expected to complete all assignments and receive a minimum of 70% to receive a passing score (achievement required for an S is at the discretion of the instructor but may be no lower than a 70%).

F (or N) -- Represents failure (or no credit) and signifies that the work was either (1) completed but at a level of achievement that is not worthy of credit or (2) was not completed and there was no agreement between the instructor and the student that the student would be awarded an I

I - (Incomplete) Incomplete grades will be recorded for term papers not completed by the end of the term. Weekly assignments and the oral presentation must be completed by the assigned date. Incomplete work will be permitted for weekly assignments or the oral presentation only at the discretion of the instructor when, due to extraordinary circumstances, e.g., hospitalization, a student is prevented from completing the work of the course on time. An incomplete for these assignments requires a written agreement between instructor and student. Extension for completion of the work will not exceed one year, after which time the "I" converts to an "F" or "N".

2. Grading Option – Students may change the grading option without permission and as specified by the University without penalty during the initial registration period or during the first two weeks of the term. **The grading option may not be changed after the second week of the term.**

3. Course Withdrawal – Students may withdraw from the course through the second week of the term without permission. After the second week, students will be required to obtain permission from their advisor and course instructor (via e-mail to the SPH Student Services Center) and a **“W” will remain on their transcript.**

4. Course Incomplete – An incomplete grade is permitted only in cases of exceptional circumstances and following consultation with the instructor. In such cases an “I” grade will require a specific contract with the instructor for timely completion of remaining assignments. Extension for completion of the work will not exceed one year, after

which time the “I” converts to an “F” or “N”.

5. Scholastic Dishonesty – Scholastic dishonesty is a violation of the student conduct code broadly defined as “any act that violates the rights of another student in academic work or that involves misrepresentation of your own work. Scholastic dishonesty includes, but is not limited to: cheating on assignments or examinations; plagiarizing – which means misrepresenting as your own work any part of work done by another; submitting the same paper – or substantially similar papers – to meet the requirements of more than one course without the approval and consent of all instructors involved; depriving another student of necessary course materials; or interfering with another student’s work.” Scholastic dishonesty in any portion of the academic work for a course shall be grounds for awarding a grade of “F” or “N” for the entire course.

It is University policy to provide, on a flexible and individualized basis, reasonable accommodations to students who have documented disability conditions (e.g., physical, learning, psychiatric, vision, hearing, or systemic) that may affect their ability to participate in course activities or to meet course requirements. Students with disabilities are encouraged to contact Disability Services for a confidential discussion of their individual needs for accommodations. Disability Services is located in Suite 180 McNamara Alumni Center, 200 Oak Street. Staff can be reached by calling 612/626-1333 voice or TTY. The website is <http://disserv3.stu.umn.edu/index2.html>.