

ESTATES: SPRING 2021 – SYLLABUS

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Notice: This syllabus may be revised from time to time if necessary. Revisions will be posted on the course page on TWEN and notices will be sent to enrolled students via TWEN and included in the class notes.

All times and deadlines are Eastern Time.

INTRODUCTION

This course will meet online at 9:00 a.m. on Tuesday and Thursday via Microsoft Teams. Completion of this course requires diligence, discipline, and self-motivation. Assignments and preliminary podcasts are posted on TWEN. Class will be recorded. A link to the Teams recording will be posted on TWEN under the tab: Class Notes after each Teams meeting. Lecture notes for each assignment will be posted under that assignment's tab after that assignment is discussed in a Teams meeting.

Teams meetings will focus primarily on the problems that are posted for each assignment and will include student participation and polling questions. Students are responsible for downloading and preparing the problems from the course website on TWEN. The applicable statutory provisions are the Uniform Probate Code (UPC), the Uniform Trust Code (UTC), and the Vermont statutes. They are collected in the Statutory Supplement that is posted TWEN and available through Barristers Bookstore. Other statutory provisions are included or referenced in the text.

COURSE OBJECTIVES

This course teaches the fundamental principles governing the transmission of property. The specific learning outcomes are defined in terms of doctrine, skills, and values as described below. Learning objectives for each assignment are included in the assignments that are posted on TWEN.

Doctrine

1. Students should understand the basic structure of the probate process, be able to distinguish between probate and non-probate assets, and evaluate the advantages and disadvantages of the probate process. They should be able to analyze a fact situation, determine whether assets or transfers will be subject to the probate process and explain their conclusion and the rationale for their conclusion.

2. Students should understand the intestacy process, including how and when it occurs, and the policies underlying the intestacy statutes. Students should be able to analyze the intestacy provisions regarding surviving spouses, descendants, and collateral kindred, including systems of representation and be able to apply those provisions to hypothetical situations. Students should be able to explain their conclusion and the rationale for their conclusion and be able to evaluate specific provisions.
3. Students should be able to explain the statutory and common law doctrines governing the execution and revocation of wills, capacity and undue influence, and construction and interpretation of wills and apply those doctrines to hypothetical situations. They should be able to explain their conclusion and the rationale for their conclusion. They should be able to evaluate specific provisions and the policies underlying these rules.
4. Students should understand the doctrines that protect family members from disinheritance and be able to apply those doctrines to hypothetical situations. They should be able to explain their conclusion and the rationale for their conclusion. They should be able to evaluate specific provisions.
5. Students should understand the doctrines governing the creation, modification, interpretation, and termination of trusts and be able to apply those doctrines to hypothetical situations. They should be able to explain their conclusion and the rationale for their conclusion. They should be able to evaluate specific provisions.
6. Students should understand the doctrines regarding class gifts, powers of appointment, and future interests and be able to apply those doctrines to hypothetical situations. They should be able to explain their conclusion and the rationale for their conclusion. They should be able to evaluate specific provisions.

Skills

1. Students will enhance their skills in reading and analyzing statutes, reading and analyzing cases, and problem solving.
2. Students will enhance their skills in identifying relevant issues, determining what legal principles are relevant, and in applying the appropriate legal principles to particular hypotheticals to justify a particular conclusion.
3. Students will obtain experience answering multiple choice questions in preparation for the bar exam.

Values

1. Students will gain a basic understanding of client behavior and ethical principles governing representation of clients in the estate planning context.
2. Students will demonstrate professionalism in meeting course outcomes.

REQUIRED TEXTS AND MATERIALS

1. Jesse Dukeminier and Robert Sitkoff, *WILLS, TRUSTS & ESTATES*, (10th ed. 2017)
2. Stephanie Willbanks, *ESTATES STATUTORY SUPPLEMENT: 2020*

The Estates Statutory Supplement is available on TWEN or through Barristers Bookstore. It contains provisions of the Uniform Probate Code, the Uniform Trust Code, the Vermont statutes, and the Internal Revenue Code.

You are required to have the applicable statutory provisions readily available during class discussions, and you will need to refer to the statutory provisions during the quizzes and the final examination. Students have found that having a printed version is very helpful during class, quizzes, and the final exam. If you do not have access to a printer, you may purchase a copy through Barristers Bookstore.

In addition to the Statutory Supplement complete versions of the Uniform Probate Code and the Uniform Trust Code are posted on TWEN. These are there for your convenience and are not required texts for the course.

GRADING POLICY

The grade in this course will be based 20 percent on professionalism and participation, 30 percent on “numbered” quizzes, and 50 percent on the final examination.

Professionalism and Participation counts for 20 percent of the final grade and will be based on attendance, participation in class meetings on Teams, completing asynchronous class assignments, completing the review quizzes, meeting all course obligations, and demonstrating professionalism.

Attendance

Class attendance is required. Absences will affect your grade. Unexcused absence from three (3) classes, will result in a written warning. Unexcused absence from one additional class will result in a grade of F.Wd. This statement constitutes the notice required by the Academic Regulations.

Absences resulting from religious observance, serious illness, and personal emergency are excused if notice is given to the Professor or through the Registrar within a reasonable time of the absence. Informing the Professor or Registrar of anticipated absences does not convert those absences into “excused” absences. Excused absences may affect your grade if they are excessive because you are not present and cannot contribute to class discussion.

Being late for class may be treated as an unexcused absence if you are significantly or frequently late. Being on time means being in your seat and ready to participate in class at 9:00 a.m. Class begins promptly at that time. The Professor will usually be online a few minutes before class begins.

If your camera is not on or you do not respond when called on and have not informed the Professor of technology issues, you will be marked absent for that day. If an emergency or other valid reason causes you to be late, let the Professor know.

Please email the Professor and do not leave these types of messages in chat as they will disappear after the close of class.

Participation

Students are expected to be prepared for class and to be on Teams ready for class to begin at 9:00 a.m. (Eastern Time). Students are expected to contribute to class discussion, to participate in any group work, and to participate in the polls.

If you are not prepared, please pass. Passing can have a detrimental effect on your Professionalism grade. Class participation is measured primarily by its meaningfulness and utility to the classroom discussion. While frequency of participation matters, it is the substance of your contribution that matters more.

Some assignments may be assigned as asynchronous. Students are required to complete those assignments by the posted deadlines.

There are Tips for Teams posted on TWEN under the Syllabus tab to help you get the best experience in this course.

Review Quizzes

There are "review quizzes" for each assignment. Some review quizzes cover more than one assignment (those on wills), and there are two review quizzes for some assignments. The review quizzes are titled by topic and "Review Quiz 2020-21." There are in addition to the "numbered" quizzes (also called the "quizzes that count.") The review quizzes are administered through TWEN and can be accessed from the tab labeled "Exam, Quizzes, and Surveys." To receive credit, you must complete the review quizzes by the posted deadline.

Further information and instructions for the quizzes are posted on TWEN under the Announcements and Syllabus tabs.

Course Obligations

Students are expected to meet all course obligations in a timely fashion. This includes:

- enrolling in Estates Spring 2021 on TWEN,
- completing the Course Administration Survey by 10:00 p.m. on January 14, 2021,
- being prepared for class meetings in Teams,
- completing all the review quizzes by the posted deadlines,
- completing the "numbered" quizzes (*i.e.*, the quizzes that count for the 30 percent of the final grade) by the posted deadlines,
- completing the final examination, and

- informing the Professor if unable to attend class on Teams or to meet a deadline before that deadline.

Professionalism

Students are expected to demonstrate professionalism throughout the course. This including demonstrating responsibility, respect, and civility in all interactions including in Teams and on email.

The VLS email system is an official method of communication at VLS and for this course. You are expected to check your VLS email on a daily basis. Course emails are sent through TWEN so you are also required to check whatever email you listed on Westlaw also on a daily basis. All emails must be professionally written. There is an article posted on TWEN entitled: Email Like a Lawyer.

Numbered Quizzes will count for 30 percent of your final grade. There will be four quizzes of 10 multiple choice questions each. The maximum score that will count toward the final grade, however, is 30 points (out of a possible 40 points). The quizzes will be administered through TWEN under the tab "Quizzes and Exams." There are both review quizzes (titled) and the quizzes that count toward your grade (numbered: Quiz #1: Spring 2021; Quiz #2: Spring 2021, etc.). Be sure to take the numbered quiz. Read the instructions for the quizzes are posted on TWEN under the tabs: Announcements and Syllabus as soon as possible. If you receive accommodations for exams, you will receive additional instructions for the numbered quizzes that count.

Final Examination will count for 50 percent of the final grade. It will be a modified open-book examination; you may consult only your textbook, the supplement, class handouts, material from the course web page, and any materials substantially prepared by you for this course. The exam will include essay and short answer questions and it may include multiple choice questions.

The general exam instructions are posted on TWEN as Assignment #21. Additional instructions for the final exam will be provided later in the term. The final exam reflects the materials covered in class discussion. The focus is on identifying the issues, understanding and applying the appropriate rules, and providing a detailed explanation (analysis) explicitly referring to the facts in detail.

Prior Examinations and Exam Review Memos

Final exam essay questions from 2018 through fall 2020 are posted on TWEN. There is an exam review memo posted for each exam. The memo is not a model answer or an issue outline, but it does discuss the issues raised by the questions.

Preparing for the Final Examination

More detailed suggestions are posted on TWEN. The best advice is:

- ✓ Be prepared for each class. Do not fall behind as it is difficult to catch up.
- ✓ Create an outline. Use the Course Overview (found on TWEN) as your scaffolding.
- ✓ Complete all the review quizzes. Retake them from time to time.
- ✓ Work through some of the review hypotheticals posted on TWEN.
- ✓ Ask questions when you don't understand.

Most importantly:

- ✓ Look at the prior examinations and review memos.
- ✓ Practice taking one or two of the prior examinations.

OTHER IMPORTANT INFORMATION

Prerequisite

Students must have satisfactorily completed, *i.e.*, received a passing grade in, Property prior to enrolling in this class.

Questions

Teams sessions will include time for questions. The Professor will stay on Teams after class for some time to answer questions. This will be in lieu of regularly scheduled office hours. You can also ask questions before class. The Professor is usually on Teams 10 to 15 minutes prior to class. You can also make an appointment to meet with the Professor in Teams.

You may also email questions to the Professor at: swillbanks@vermontlaw.edu. Please send only one question per email as it is easier to respond efficiently and effectively to one question at a time.

Copyright

All materials (written and recorded) in this course, including those in the Supplement, on the course web site, and handed out in class, are copyrighted. This also includes any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor. Class may not be recorded without the prior express approval of the Professor.

SCHEDULE AND ASSIGNMENTS

Class will proceed through the assignments in order. Some will take more than one day. Assignments are posted only on TWEN. There is a separate tab for each assignment.

Each assignment tab includes (1) the readings and problems; (2) preliminary podcasts; posted; and (3) lecture notes that will be posted after class discussion.

Links to Teams sessions will be posted on TWEN after each day under the tab: Class Notes. The class notes for each day will indicate the schedule for the following days. A preliminary schedule is posted on TWEN under the Announcements tab.