

ESTATES: FALL 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.

INTRODUCTION

Completion of this course requires diligence, discipline, and self-motivation. Assignments and podcasts are posted on TWEN. Class will be recorded. A link to the recording will be posted on TWEN under the tab: Class Recordings after each class. Lecture notes for each assignment will be posted under that assignment's tab after that assignment is discussed in class.

Class 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 Parentage Act (UPA), the Uniform Trust Code (UTC), and the Vermont statutes. They are collected in the Statutory Supplement that is posted TWEN. Some 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, testamentary 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.

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)

The intestacy provisions of the Uniform Probate Code have been revised, and the textbook is currently under revision. A copy of the revised Chapter 2 will be posted on TWEN under the tab: Syllabus and Related Materials. Assignments will refer to that draft Chapter 2 for Assignments 3 and 4.

2. Stephanie Willbanks, *ESTATES STATUTORY SUPPLEMENT: 2021-2022*

The Estates Statutory Supplement is available only on TWEN. The Statutory Supplement contains provisions of the Uniform Probate Code, the Uniform Trust Code, the Uniform Parentage Act, the Vermont statutes, and the Internal Revenue Code. The Uniform Parentage Act, the Vermont statutes and the IRC are only available in the Statutory Supplement while the UPC and the UTC provisions are also in the textbook.

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. You will not have access to your computer files during the quizzes or the final examination. You are strongly encouraged to print a copy of the Statutory Supplement for use during class, the quizzes, and the final examination.

Do not use a prior edition of the Statutory Supplement. It has been revised for Fall 2021.

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% on professionalism and participation, 30% on numbered quizzes (*i.e.*, “quizzes that count”) and 50% on the final examination.

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

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 2021-2022.” 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 “Quizzes, Surveys, and Written Assignments.” To receive credit, you must complete the review quizzes by the posted deadline. No credit will be given for completing the review quizzes after the posted deadline unless you have obtained an extension from the Professor prior to deadline.

The review quizzes are a required component of the course. There are 19 review quizzes including the course administration survey. Failure to complete 90% of the review quizzes (17 quizzes) will result in a grade of F.Wd. for the course.

Further information and instructions for the review quizzes are posted on TWEN under the tab: Quiz Instructions and Schedule.

Attendance

Class attendance is required. Absences will affect your grade. Unexcused absence from four (4) 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. The Professor has absolute discretion to determine if the facts qualify as a personal emergency. 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 8:30 a.m. Class begins promptly at that time.

Participation

Students are expected to be prepared for class, to contribute to class discussion, to participate in any group work, and to participate in the polls. 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.

If you are not prepared, please pass. While passing can have a detrimental effect on your Professionalism grade, it will be obvious that you are not prepared and that will have an even greater negative impact on your Professionalism grade.

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

Course Obligations

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

- enrolling in Estates Fall 2021 on TWEN,
- completing the Course Administration Survey by 10:00 p.m. on Sunday, September 5, 2021,
- being prepared for class,
- completing all the review quizzes by the posted deadlines (failure to complete 90% of these quizzes will result in a grade of F.Wd.),
- completing the “numbered” quizzes (*i.e.*, the quizzes that count for the 30 percent of the final grade) by the posted deadlines (failure to complete 2 (50%) of these quizzes will result in a grade of F.Wd.),
- completing the final examination by the deadline (date and time), and
- informing the Professor if unable to attend class or to meet a deadline before that deadline occurs.

Professionalism

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

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, Surveys, and Written Assignments.” There are both review quizzes (titled) and the quizzes that count toward your grade (numbered: Quiz #1: Fall 2021; Quiz #2: Fall 2021, etc.). Be sure to take the numbered quiz. Read the instructions for the quizzes are posted on TWEN as soon as possible. If you receive accommodations for exams, you will receive additional instructions for the numbered quizzes that count.

The numbered quizzes are a required component of the course. There are 4 numbered quizzes. Failure to complete two of these quizzes (50% of the numbered quizzes) will result in a grade of F.Wd. for the course.

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 spring 2021 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.

OTHER IMPORTANT INFORMATION

Prerequisite

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

Office Hours and Questions

Office hours will be Wednesday from 2:00 to 3:30 p.m. or by appointment.

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.

Meeting Course Deadlines

You are required to complete all required components of the course by the posted deadlines, including date and time. The numbered quizzes will be administered through TWEN. Your access will be terminated at the end of the posted deadline. The final examination will be administered electronically using ExamSoft (Examplify). You are expected to complete the examination within the allotted time. Failing to stop when instructed to do so will result in a penalty. The penalty will be in the discretion of the Professor.

In some situations students may be taking the examination other than in ExamSoft. Those students are required to follow all instructions from the Professor and the Registrar's Office. Failure to follow instructions, including submitting all materials by the deadline, will result in a penalty. The penalty will be in the discretion of the Professor.

Honor Code

All components of this course are governed by the Vermont Law School Honor Code. You will be asked to acknowledge the Honor Code at the beginning of each quiz and the final exam. The General Instructions for Quizzes, posted on TWEN, includes the Honor Code language in TWEN. Similar language will be included in ExamSoft (Examplify).

If you take the final examination other than in ExamSoft, you will be required to sign and submit a separate Honor Code Form. The Registrar's Office will manage any such examinations and retain the Honor Code Form. The Honor Code Form is a required

component of the examination, and failure to submit it will result in the filing of an Honor Code complaint and a grade of zero (0) for the examination.

Teams

If school is closed or delayed due to weather, class will be held virtually using Teams. Office hours may, at the option of the Professor, be held virtually using Teams. Appointments will be sent for any events occurring on Teams. Additional information will be posted on TWEN.

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; and (3) lecture notes that will be posted after class discussion. Additional materials, such as polling questions, may also be posted under each assignment.

Links to recorded class sessions will be posted on TWEN after each day under the tab: Class Recordings.

The class notes for each day will indicate the schedule for the following days. The class notes will be posted on TWEN after each day under the tab: Class Notes.

A preliminary schedule of assignments is posted on TWEN under the Announcements tab.