

CORPORATIONS & OTHER BUSINESS ASSOCIATIONS (BUS 6235.01)
SYLLABUS & RULES
VERMONT LAW SCHOOL – FALL 2022

Prof. Benjamin C. Varadi
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Class Time: 12:45 PM – 2:00 PM, Monday, Wednesday & Friday

Location: Oakes 007

Teaching Assistant: Mercedes Fagan, mercedesfagan@vermontlaw.edu

Office Hours: By appointment, in-person or electronically. While I am happy to meet with you, given the size of the class, please direct your questions on administrative matters and the like first to Ms. Fagan.

Notice: This document is intended as a general guide. I reserve the right to make modifications (and almost certainly will) based on course progression, scheduling conflicts, weather and otherwise.

Web Platform: Microsoft Teams has been selected for class messaging, resource-sharing, and coordination because among the available options, it is the platform you are most likely to interact with in practice. **It is your sole responsibility to check Teams regularly, as we will be using it heavily for course assignments, discussion, resource access and announcements.** If you are unable to access the Team for this class at any time, for any reason, you must me immediately by email. If your problem is of a technical nature, contact helpdesk@vermontlaw.edu as well.

Course Description: This course seeks to provide a basic understanding of the different organizational forms for businesses, including corporations, limited liability companies, partnerships, general partnerships, nonprofit corporations, cooperatives, and sole proprietorships. The course also examines the law of agency, and surveys selected topics relevant to the practice of business law and to the bar exam.

Objectives and Outcomes: By the end of the course, students should have an understanding of the various types of business entities and the legal considerations across their lifecycles, including formation, governance, and dissolution. Students will also develop facility with legal concepts relating to the relationships and obligations between business entity stakeholders including the law of agency and fiduciary duty.

Required Text: The primary text for this course is Epstein, Freer, Roberts and Shepherd, BUSINESS STRUCTURES (West Academic, 5th ed. 2019), ISBN 9781642427462. Additional resources may be provided via Teams as required.

Optional Texts: Students who prefer a physical statutory volume to reviewing statutes online should purchase BAINBRIDGE'S BUSINESS ASSOCIATIONS: AGENCY, PARTNERSHIPS, LLCs, AND CORPORATIONS, 2022 STATUTES AND RULES (West Academic. 2022), ISBN 9781636599014. We will not be relying heavily on statutory material outside of the casebook.

Supplements: You are welcome and encouraged to use whatever external resources best support your understanding and fit your learning style. Here are a few thoughts:

The lead author of our casebook also wrote A SHORT & HAPPY GUIDE TO BUSINESS ORGANIZATIONS, (West Academic, 2d. ed. 2020), ISBN 9781647083731. I think, but am not certain, that you may have free electronic access through West Academic. I personally find this volume a bit too short and too happy, but my perspective may have been skewed by a decade of business law practice and I encourage your feedback if you find it helpful or too cursory.

For a more “textbook-like” summary, casebook co-author Freer is also a contributor to PRINCIPLES OF BUSINESS ORGANIZATIONS (West Academic, 2d. ed. 2018), ISBN 9781634607612, which I *think* can also be accessed electronically through the library.

I do not pretend that my lecture approach is universally applicable, and for those who want to hear another take (or with long commutes), the West Academic audio lectures (*Sum & Substance* and *Law School Legends*) are both good and available free through the West Academic mobile app.

Professionalism & Formality: In the classroom and when discussing the course, I prefer to be referred to as Professor Varadi. In casual conversation not related to the course, informal address is welcome. Students are similarly expected to refer to themselves and each other formally. We will clarify your appellations in class, although you are welcome to email me in advance if that is your preference.

You are expected to comport yourself professionally as that term is commonly understood at VLS and in law practice. When in doubt, endeavor to arrive timely and prepared, minimize disruption, communicate clearly, and demonstrate respect and courtesy for the classroom and your peers.

Written correspondence should be drafted formally, viz., as to a court clerk or more senior counsel. Per VLS policy, electronic correspondence is not confidential, and may be reviewed by IT staff or law school administration.

VLS policy also prohibits eating in class. Beverages are permitted.

A demonstrated lack of professionalism may adversely impact your participation score (discussed below).

Attendance: VLS Academic Regulations require that a student who is absent from twenty percent of regularly scheduled classes shall be automatically withdrawn from the class with a grade of F- Wd. As of this semester, warning and excuse are not required and the withdrawal shall be effected automatically by the Registrar. If you believe you have a circumstance or excuse warranting exception to this policy, contact the Registrar.

It is your sole responsibility to indicate your presence in the required format. If you arrive late or are otherwise unable to indicate your presence, you must contact the TA indicating your attendance before 5:00 PM that day. There are no exceptions. Indicating attendance on behalf of another student, or facilitating such indication, is a violation of the honor code.

If you are unable to attend a given session due to medical, religious, or other circumstances truly beyond your control, you must email the TA or professor as soon as practicable. I will attempt to provide class recordings however this is not guaranteed, and it is the student's sole responsibility to develop an understanding of the material regardless of class attendance.

Evaluation: 20% of your grade will be evaluated based on class participation and professionalism. You are not required to have the right answers, but are expected to participate, and to bring intellectual rigor and good faith effort to your assignments and to class interaction. Transactional law can attract practitioners who are not enthusiastic about extemporaneous public speaking, and I will endeavor to provide opportunities for advance preparation.

Note: Self-deprecating language or that deprecating others is deemed unprofessional, and may subject the student to automatic per-instance grade penalties. Students will have the opportunity to "earn back" points lost for self-deprecating statements through subsequent mitigation. We will discuss this further in class.

An **optional mid-term exam worth up to 10%** (approximately one letter grade) will be offered, that can only help your grade. We will discuss more in class.

The **remainder of your grade will be an open-resource final exam**, likely a mix of short and long answer questions. This is not my general preference, but the course material we are working with best supports it, as does the expectation that you will retain foundational knowledge to support further bar exam preparation. You will find this material to largely involve the careful selection and proper application of the appropriate legal concept with limited subjectivity. If your notes and outlines are thoughtful and organized, you will do fine.

Course Outline: In order to facilitate a dynamic collective progress through the material and opportunity to explore interests as they arise, this outline seeks only to illustrate the flow through the material. I have found that students better internalize material when time and attention is focused on the assigned materials rather than reading ahead, and will therefore post reading assignments to Teams. For those who simply can't bear that level of uncertainty, you will find that most readings correlate with the associated book chapters. As discussed above, I reserve an absolute right to alter or amend this overview in my sole discretion.

- I. Introduction: What Businesses Do**
 - a. Different Views of the Role of Business
 - b. View of Courts on the Role of Business
 - c. Introduction to Benefit Corporations
 - d. Lawyers' Views on the Role of Business

- II. Agency Law**
 - a. Agency and Fiduciary Duties
 - b. Agency in Contract Cases
 - c. Agency and Tort liability
 - d. Specific Agency Relationships

- III. Entity Structure Overview**
 - a. Background and the Sole Proprietorships
 - b. Multiple Owners and Formal Structures
 - c. Tax Considerations

- IV. General Partnerships**
 - a. Definition
 - b. Partnership Law
 - c. Legal Issues in Starting a Partnership
 - d. Legal Issues in Operating a Partnership
 - e. Legal Issues in Funding and Adding Partners
 - f. Making Money for the Partners
 - g. Termination of the Partnership

- V. The Corporation: Introduction**
 - a. Definition
 - b. Forming a Corporation
 - c. Legal Issues in Starting a Corporation

- VI. The Corporation: Operation**
 - a. Liability to Creditors
 - b. Making Decisions

- VII. Duties of Corporate Decisionmakers**
 - a. Generally
 - b. Duty of Care
 - c. Duty of Loyalty

- d. Duty of Good Faith
 - e. Derivative Suits
 - f. Shareholders' Right to Inspect
 - g. Indemnification
- VIII. The Close Corporation**
- a. Definition and Management
 - b. Keeping Outsiders Out
 - c. Fiduciary Duties
 - d. Receiving Salaries
 - e. Involuntary Dissolution
- IX. The Public Benefit Corporation (revisited)**
- a. Definition
 - b. Statutory Authority
 - c. Requirements and Special Considerations
- X. Business Finance**
- a. Financial Statements and Determining Value
 - b. Sources of Funding
 - i. Debt Financing
 - ii. Equity Financing
- XI. Fundamental Corporate Considerations**
- a. Amending Articles
 - b. Dissolution
 - c. Merger
 - d. Sale of Assets
 - e. Hostile Takeovers
- XII. Nonprofit Entities**
- a. Definition
 - b. Statutory Authority
 - c. Legal Issues in Starting a Nonprofit
 - d. Legal Issues in Operating a Nonprofit
 - e. Legal Issues in Funding a Nonprofit
 - f. Termination of the Nonprofit
- XIII. The Limited Partnership**
- a. Sources of Law
 - b. Legal Issues in Starting a Limited Partnership
 - c. Legal Issues in Operating a Limited Partnership
 - d. Duties
 - e. Legal Issues in Transferring Limited Partnership Interests
 - f. Withdrawal and Dissolution

- g. Limited Partnerships vs. Limited Liability Partnerships
- XIV. The Limited Liability Company**
- a. Definition
 - b. Legal Issues in Starting a Limited Liability Company
 - c. Legal Issues in Operating a Limited Liability Company
 - d. Transfer of Interest and Withdrawal
 - e. Dissolution
 - f. Special Form: Series LLC
- XV. Cooperatives**
- a. Definition(s)
 - b. Sources of Authority
 - c. Legal Issues in Starting a Cooperative
 - d. Legal Issues in Operating a Cooperative
- XVI. Securities Regulation, Dividends**
- a. Background on Securities Regulation
 - b. Rule 10b-5
 - c. Dividends