

ESTATES: FALL 2023 – SYLLABUS

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Notice: This syllabus may be revised from time to time. Revisions will be posted as announcements in Canvas and included in the class notes.

INTRODUCTION

Completion of this course requires diligence, discipline, and self-motivation. Assignments and podcasts are posted in Canvas. Class will be recorded in Teams and an audio recorder. The audio recording will be posted after each class meeting in Canvas in the module: Class Recordings. Class notes are also posted in Canvas in the module: Class Notes.

All assignments are posted only in Canvas. Each module includes the reading assignment and problems; a preliminary podcast; and the lecture notes. The Lecture notes will be available after that assignment is discussed in class. Most modules will also include review quizzes.

Class will focus primarily on the problems that are posted for each assignment. Students are responsible for downloading and preparing the problems from Canvas. 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 in the Statutory Supplement that is posted in the Syllabus module in Canvas.

COURSE OBJECTIVES AND LEARNING OUTCOMES

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 in the modules in Canvas.

Doctrine

1. Students should understand the basic structure of the probate process, be able to distinguish between probate and non-probate assets, and be able to 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*, (11th ed. 2022)

2. Stephanie Willbanks, ESTATES STATUTORY SUPPLEMENT: 2023

The Estates Statutory Supplement is available only in Canvas in the module: Syllabus and related materials. 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 most of 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 are strongly encouraged to print a copy of the Statutory Supplement for use during class, the quizzes, and the final examination.

In addition to the Statutory Supplement, complete versions of the Uniform Probate Code and the Uniform Trust Code are posted in Canvas in the module: Statutory Provisions. These are there for your convenience and are not required texts for the course.

3. ASSIGNMENTS

The assignments include readings and problems. The assignments are posted only in the modules in Canvas. You are responsible for reading the assigned problems and outlining a response prior to class discussion. Always note what statute, case, or other authority supports your analysis.

GRADING POLICY

The grade in this course will be based 15% on professionalism; 30% on quizzes; and 55% on the final examination.

Professionalism and Participation counts for 15% of the final grade and will be based on attendance, punctuality, class preparation and participation, review quizzes, responsibility, civility, respect, and meeting all course obligations in a timely fashion.

Attendance

The attendance policy is posted in Canvas in the Syllabus and Related Materials module. You are responsible for understanding and following that policy.

Class attendance is required. Absences will affect your grade. If you are absent (or considered absent) from five (5) classes, a grade of F.Wd. will be sent to the Registrar immediately. Prior notice is not required.

Class begins at 9:00 a.m. Joining class on Teams does not count as attendance.

If circumstances arise that require you to be absent from more than five classes, you must seek and obtain accommodations from the Vice Dean for Students before those circumstances result in five absences.

Class Preparation and Participation

You are expected to be prepared for and to participate in class when called on. 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. This is a small class so you should expect to participate during every class. There will be “cold-calling,” but volunteers are strongly encouraged. See the additional posting on Class Preparation and Expectations posted in Canvas in the Syllabus and Related Materials module.

You are not expected to have the correct answers in class. If you have prepared, please participate. Often the class learns more when a student does not have the correct answer initially. That allows us to work through the material together.

Review Quizzes

The review quizzes are optional, but completion counts toward the Professionalism component of the final grade. There are review quizzes for most modules. Details are included in a separate posting in Canvas in the module: Syllabus and Related Materials. Instructions, including an Honor Code statement, are included in each quiz.

Responsibility

You are responsible for the information in the Syllabus and in the other materials posted in the Syllabus and Related Materials module. You are also responsible for the readings and problems in each module. The readings and problems are not included in this syllabus but as separate Word document in each module. That allows you to download the document and use it for class preparation, your notes, and your course outline.

You are responsible for taking the “numbered quizzes” when they are scheduled. If extraordinary circumstances of an emergency nature beyond your control occur, please contact the Registrar. Because the quizzes are available over a 2.5 day period, extensions will be granted only in exceptional circumstances.

You are responsible for reading your school-related email daily.

Respect and Civility / Diversity, Equity, and Inclusion

You are expected to show respect for the Professor and your classmates. Please arrive on time and do not leave during class except for emergencies. Please turn off your cell phone. Please refrain from checking email, playing games, checking social media, shopping, and other computer activities that distract your classmates.

Please raise your hand to be recognized. Please respect the contributions of your classmates, particularly when you do not agree with them. Please refrain from side conversations when others are speaking. If you are a frequent contributor to class discussion, you might not always be called on to speak.

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 ExamSoft/Examplify. You should confirm that your registration for ExamSoft/Examplify is current at the beginning of the semester.

Final Examination will count for 55 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.

The general exam instructions are posted in Canvas in the Assignment #21 module. 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.

The final exam will be administered through ExamSoft/Examplify.

Prior Examinations and Exam Review Memos

Final exam essay questions from 2018 through fall 2022 are posted in Canvas. 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

Review Problems

There are a number of review problems, many based on prior examinations, posted in Canvas in the module: Review Suggestions and Problems. There is both a file with the problems and a separate file with the analysis. These are posted for your benefit. You are not required to access any of them, but you are strongly encouraged to use them to review and to prepare for the final exam.

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 held prior to class beginning at 8:00 a.m. in the classroom or by appointment. There may also be some virtual office hours on 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.

Honor Code

All components of this course are governed by the Vermont Law and Graduate 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 the Quizzes, posted in Canvas in the module Syllabus and Related Materials, include the Honor Code language.

When completing the final exam and after completing the quizzes, you will be required to sign and submit a separate Honor Code Form. The Honor Code Form is a required component of the quizzes and the examination. Failure to submit it will result in the filing of an Honor Code complaint and a grade of zero (0) for the quiz or the examination.

Teams

You will be enrolled in the Estates Fall 2023 Team. Classes will be recorded with Teams. These recordings are for your benefit. If you are ill or otherwise unable to attend class on campus, you may watch the class in Teams as it occurs. Joining class by Teams does not count as class attendance. See the detailed statement about Teams in Canvas in the module: Syllabus and Related Materials.

EMAIL

The VLGS email system is an official method of communication at VLS and for this course. It is the primary way that I communicate with you. You are expected to check your VLGS email on a daily basis. Course emails are sent from Canvas.

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.

ACCOMMODATIONS

If you require accommodations for any reason, you must contact the Associate Dean of Diversity, Equity, and Inclusion Lisa Ryan, lryan@vermontlaw.edu, (802) 831-1079. For additional information, see <https://www.vermontlaw.edu/community/students/academic-success/accommodations>