



Course Syllabus: Advanced School Law  
College of Education  
EDLE 6063 Section DX1/X20  
Spring 2023

Contact Information

Instructor: Matthew Capps  
Office: BH 201F  
Office hours: M 1:30-2:45 T 9:00-10:30 W 10:00-11:00;1:30-2:45  
Office phone: (940) 397-4138  
Cell Phone: 940-613-6884  
Twitter: Optional  
E-mail: matthew.capps@msutexas.edu

Instructor Response Policy

Instructor will respond within 24 hours to email. I do not look at D2L every day. If you need a quick response email the address above.

Textbook & Instructional Materials

1. Educational Policy and the Law 4<sup>th</sup> Ed. (2005) by Mark Yudof, David Kirp, Betsy Levin, and Rachel F. Moran

Course Description

The examination and discussion of advanced legal and fiscal issues affecting public school education. The format emphasizes a study of the implications and impact of the legal process and court decisions on the policies, procedures, and operation of public schools plus continued examination of school funding, accounting, and budgets.

Course Objectives/Learning Outcomes/Course Competencies

The purpose of this course is to provide graduate level students in educational administration the opportunity to expand their knowledge and appreciation for fiscal and legal issues affecting education. The goal of the course is to introduce the student to concepts and issues beyond the beginning level courses in school finance and school law. Basically, this course should help you understand how our schools have arrived at their current condition and what the future holds for them both legally and financially.

## Student Handbook

Refer to: [Student Handbook-2022-23](#)

### Academic Misconduct Policy & Procedures

Academic Dishonesty: Cheating, collusion, and plagiarism (the act of using source material of other persons, either published or unpublished, without following the accepted techniques of crediting, or the submission for credit of work not the individual's to whom credit is given). Additional guidelines on procedures in these matters may be found in the Office of Student Conduct.

#### [Office of Student Conduct](#)

More specifically, plagiarism can occur in many ways. One, if a student uses another student's work and presents it as the student's own, that is considered plagiarism and will result in a 0 on the assignment. If a student has a significant amount of narrative from other sources presented as his/her own (determined by % match in Turnitin), that is considered plagiarism and will result in a 0 on the assignment. Each draft submitted will have an associated plagiarism match provided by Turnitin. You may have one direct quote (cited in APA format). All other material must be cited AND original to the student.

## Grading/Assessment

Multiple opportunities present themselves for a student to present knowledge and understanding of key legal issues that impact public schools today. This course is delivered through a Socratic/traditional law school style modified to meet delivery methods of today. To that end, students need to do two key activities; 1) create a case brief for each court case, 2) present/discuss the brief to the class and then lead a discussion based upon key questions. In addition, some articles are presented as discussion points. Credit is awarded for case briefs (online) along with participation in discussion.

Assignment	Points	Total
Case Brief (33)	10	330
Case Presentation (5)	14	75
Discussion (10)	12	120
F2F Discussion (3 F2F case brief)	12	36
Final Exam	104	104
Total		650

### Grading Scale

Grade	Range
A	598.5-665
B	532-598.4
C	465.5-531
D	399-465.4
F	Really?

### Final Exam

The final exam is an application of case law understanding in a school setting (i.e. what is your legal response to a set of issues at the district level). [104 points]

### Extra Credit

Not available

### Late Work

Late work is not accepted for any reason.

### Important Dates

F2F

February 4

March 4

April 15

Last day for term schedule changes: January 12-16. Check date on [Academic Calendar](#).

Deadline to file for graduation: February 20 Check date on [Academic Calendar](#).

Last Day to drop with a grade of "W:" March 27th [Click here to enter appropriate date](#). Check date on [Academic Calendar](#).

Refer to: [Drops, Withdrawals & Void](#)

### Desire-to-Learn (D2L)

Extensive use of the MSU D2L program is a part of this course. Each student is expected to be familiar with this program as it provides a primary source of communication regarding assignments, examination materials, and general course information. You can log into D2L through the MSU Homepage. If you experience difficulties, please contact the technicians listed for the program or contact your instructor.

All assignments are submitted as word documents in D2L. Word press, PDF, google docs, etc.. are not accepted and will be counted as 0.

### Attendance

This is an online course so attendance is not part of the requirement. However, the course is challenging. If you do not stay on top of the reading, you will quickly get left behind.

General guidelines for time commitment are as follows.

2-3 hours per hour of course credit for class preparation (reading)

1 hour per hour of course credit for course engagement (course engagement, watching videos, discussion etc..)

This means for a 3 hour course you should expect to devote 10-12 hours per week. This does not include time spent working on the literature review.

### Online Computer Requirements

Taking an online class requires you to have access to a computer (with Internet access) to complete and upload your assignments. It is your responsibility to have (or have access to) a working computer in this class. Assignments and tests are due by the due date, and personal computer technical difficulties will not be considered reason for the instructor to allow students extra time to submit assignments, tests, or discussion postings. Computers are available on campus in various areas of the buildings as well as the Academic Success Center. Your computer being down is not an excuse for missing a deadline!! There are many places to access your class! Our online classes can be accessed from any computer in the world which is connected to the internet. Contact your instructor immediately upon having computer trouble. If you have technical difficulties in the course, there is also a student helpdesk available to you. The college cannot work directly on student computers due to both liability and resource limitations however they are able to help you get connected to our online services. For help, log into [D2L](#).

### Change of Schedule

A student dropping a course (but not withdrawing from the University) within the first 12 class days of a regular semester or the first four class days of a summer semester is eligible for a 100% refund of applicable tuition and fees. Dates are published in the [Schedule of Classes](#) each semester.

### Refund and Repayment Policy

A student who withdraws or is administratively withdrawn from Midwestern State University (MSU) may be eligible to receive a refund for all or a portion of the tuition, fees and room/board charges that were paid to MSU for the semester. HOWEVER, if the student received financial aid (federal/state/institutional grants, loans and/or scholarships), all or a portion of the refund may be returned to the financial aid programs. As described below, two formulas (federal and state) exist in determining the amount of the refund. (Examples of each refund calculation will be made available upon request).

## Services for Students with Disabilities

In accordance with Section 504 of the Federal Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, Midwestern State University endeavors to make reasonable accommodations to ensure equal opportunity for qualified persons with disabilities to participate in all educational, social, and recreational programs and activities. After notification of acceptance, students requiring accommodations should make application for such assistance through Disability Support Services, located in the Clark Student Center, Room 168, (940) 397-4140. Current documentation of a disability will be required in order to provide appropriate services, and each request will be individually reviewed. For more details, please go to [Disability Support Services](#).

## College Policies

### Smoking/Tobacco Policy

College policy strictly prohibits the use of tobacco products in any building owned or operated by MSU TEXAS. Adult students may smoke only in the outside designated-smoking areas at each location.

### Campus Carry Rules/Policies

Effective August 1, 2016, the Campus Carry law (Senate Bill 11) allows those licensed individuals to carry a concealed handgun in buildings on public university campuses, except in locations the University establishes as prohibited. The new Constitutional Carry law does not change this process. Concealed carry still requires a License to Carry permit, and openly carrying handguns is not allowed on college campuses. Refer to: [Campus Carry Rules and Policies](#)

### Active Shooter

The safety and security of our campus is the responsibility of everyone in our community. Each of us has an obligation to be prepared to appropriately respond to threats to our campus, such as an active aggressor. Please review the information provided by MSU Police Department regarding the options and strategies we can all use to stay safe during difficult situations. For more information, visit [Safety / Emergency Procedures](#). Students are encouraged to watch the video entitled "Run. Hide. Fight." which may be electronically accessed via the University police department's webpage: ["Run. Hide. Fight."](#)

### Smoking/Tobacco Policy

College policy strictly prohibits the use of tobacco products in any building owned or operated by WATC. Adult students may smoke only in the outside designated-smoking areas at each location.

### Alcohol and Drug Policy

To comply with the Drug Free Schools and Communities Act of 1989 and subsequent amendments, students and employees of Midwestern State are informed that strictly enforced policies are in place which prohibits the unlawful possession, use or distribution of any illicit drugs, including alcohol, on university property or as part of any university-sponsored activity. Students and employees

are also subject to all applicable legal sanctions under local, state and federal law for any offenses involving illicit drugs on University property or at University-sponsored activities.

#### Grade Appeal Process

Update as needed. Students who wish to appeal a grade should consult the Midwestern State University [MSU Catalog](#)

#### Notice

Changes in the course syllabus, procedure, assignments, and schedule may be made at the discretion of the instructor.

#### Course Schedule:

**Course outline with assigned course topics, assigned readings, and assignments are required for certification courses.**

Use this area to tell the students what is scheduled for the duration of the class. Please note the disclaimer above and include that with your schedule. There can be no blanks in your table. You must put some kind of text in all the blanks such as: N/A or No content. (Use the same color text as background if you want to keep it uncluttered for your sighted learners). Tables must not extend to another page (cannot be wider than the page). If it is going to extend to next page, you will need to create another table with heading. You can use a dash (-) or "to" between dates, avoid using the @ sign unless in web address.

## Course Schedule

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
Week #1 1/17-1/22	Introduction- Discuss syllabus, brainstorm research topics, set course agenda.	
Week #2 1/23 – 1/29	<p>Key Underlying Issue: Purpose and Control of Schooling</p> <p><b>Discussion</b></p> <p>Gutman’s preference for state controlled education Galston’s preference for parent control of education Green’s use of social science evidence to criticize Gutman Where do you stand and why?</p> <p><b>Readings</b></p> <p>Civic Education and Social Diversity – Gutman - link Two Concepts of Liberalism – Galston - link Civic Values in Public and Private Schools – Green - mailout</p>	Discussion Thread in Groups
Week 3 1/30 -2/5 (f2f)	<p>The Pierce Compromise</p> <p><b>Discussion.</b></p> <p>The Pierce compromise between state and family interests How much state regulation of private schools? Compulsory schooling issues: the Yoder exemption. How valid is it after Employment Div. c. Smith? (p.41)</p> <p><b>Readings</b></p> <p>Yudof p. 10-42 <u>Pierce v. Society of Sisters</u> (U.S. Sup. Ct. 1925) <u>Farrington v. Tokushige</u> (U.S. Sup. Ct. 1927) <u>Wisconsin v. Yoder</u> (U.S. Sup. Ct 1972)</p>	Capps will present three cases.
Week 4	School Choice: Charters and Vouchers/Finance	Discussion threads

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
2/6-2/12	<p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Schools and markets               <ol style="list-style-type: none"> <li>a. How markets work</li> <li>b. What role should the state play in a market based educational system?</li> <li>c. Is school choice a threat or an opportunity?</li> </ol> </li> <li>2. Is there a right to state financed private education?</li> </ol> <p><b>Readings</b></p> <p>Yudof p. 938-950, 974-976            Consumer Voters in the Public Sector            Voucher Plans, Accountability and Equity            "Politics, Markets and the Organization of Schools"            "Teacher Attitudes and the Success of School Choice"            "The Promise of Charter Schools"</p>	
Week 5 2/13 -2/19	<p>School Choice: Legal Issues</p> <p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Privatization and school charters/vouchers</li> <li>2. Are vouchers constitutional?               <ol style="list-style-type: none"> <li>a. Federal constitution</li> <li>b. Issues of federalism</li> <li>c. State constitution</li> </ol> </li> </ol> <p><b>Readings</b></p> <p>Yudof, p. 102-121            "The Legal Aspects of Privatization and Vouchers in Education"  <u>Agostini v. Allen</u> (U.S. Sup. Ct. 1997)  <u>Mueller v. Allen</u> (U.S. Sup. Ct. 1983)</p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>



Week or Module	Activities/Assignments/Exams	Due Date/Requirements
Week 6 2/20 – 2/26	<p>Public Schools and Religious Socialization</p> <p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. The socialization dilemma</li> <li>2. Religious socialization               <ol style="list-style-type: none"> <li>a. School prayer/establishment clause</li> <li>b. What should be the role of religion in public schools</li> </ol> </li> </ol> <p><b>Readings</b></p> <p>Yudof p 124-126,143-165</p> <p><u>Edwards v. Aguilar</u> (U.S. Sup. Ct. 1987)</p> <p><u>Lee V. Wiseman</u> (U.S. Sup. Ct. 1992)</p> <p><u>Doe v. Santa Fe. ISD</u> (5th Cir. 1999) - link</p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>
Week 7 2/27 – 3/5 (f2f)	<p>Religious Socialization Cont</p> <ol style="list-style-type: none"> <li>c. Religiously based Exemptions/ Free Exercise</li> </ol> <p><b>Readings</b></p> <p>Yudof p. 166-183</p> <p><u>Smith v. Board of School Comm’r</u> (11<sup>th</sup> Cir. 1987)</p> <p><u>Mozert v. Hawkins</u> (6<sup>th</sup> Cir. 1987)</p> <p><u>Kennedy v. Bremerton School District</u> (U.S. Sup Ct. 2021)</p>	

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
Week 8  3/6 – 3/12	<p>Public Schools and Political Socialization</p> <p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Why is <i>Barnette</i>, a free exercise clause case, included here?             <ol style="list-style-type: none"> <li>a. Does <i>Barnette</i> signify constitutional support for school choice?</li> <li>b. Was the case decided correctly in your view?</li> </ol> </li> <li>2. Public school library book censorship</li> </ol> <p><b>Readings</b></p> <p>Yudof p 184-211            Library Book Selection and the Public Schools  <u>West Virginia St. Board v. Barnette</u> (U.S. Sup. Ct. 1943)  <u>Board of Education of Island Trees v. Pico</u> (U.S. Sup. Ct. 1982)</p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>
Week 9  3/20 -3/26	<p>Student Free Speech/ <i>Tinker v. Des Moines School</i></p> <p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Were the students merely parroting the views of their parents? If so, is the case more about parent speech rights than students speech rights?</li> <li>2. Who had the better argument regarding disruption: school district or plaintiffs?</li> <li>3. Was this case correctly decided? Not how your answer reveals a lot about how you view the purpose of schooling.</li> <li>4. What constitutional rights do students have at private schools?</li> <li>5. Do students have constitutional rights at charter schools? At school operated by private entities under subcontract with public school districts? At private schools participating in a publicly funded voucher program? Should they?</li> <li>6. Should the recent spate of school shootings diminish student right of expression?</li> </ol> <p><b>Reading</b></p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
	Yudof p.224-250 <u>Tinker v. Des Moines School District</u> (U.S. Sup. Ct.1969) <u>Bethel School District No. 403 v Fraser</u> (1986) <u>Hazelwood School District v Kuhlmeier</u> (1988)	
Week #10 3/27 – 4/2	Equal Educational Opportunity and Race <b>Discussion</b> <ol style="list-style-type: none"> <li>1. The Brown decision               <ol style="list-style-type: none"> <li>a. A legal, political, or social decision?</li> <li>b. Role of social science evidence in the court decision</li> </ol> </li> <li>2. Applying Brown to de jure segregation               <ol style="list-style-type: none"> <li>a. The period of Southern renaissance</li> <li>b. Judicial involvement</li> <li>c. Arkansas school desegregation</li> </ol> </li> </ol> <b>Readings</b> Yudof, p. 363-387 <u>Brown v. Board of Education</u> (U.S. Sup. Ct. 1954) <u>Brown v. Board of Education (Brown II)</u> (U.S. Sup. Ct. 1955) <u>Green v. County School Board</u> (U.S. Sup. Ct 1968) <u>Swann v. Charlotte-Mecklenburg</u> (U.S. Sup Ct. 1971)	Briefings and discussion threads required within your groups.  See schedule for presentation of case

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
<p>Week #11 4/3 – 4/9</p>	<p>Equal Educational Opportunity and Race Cont <b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Applying Brown to de facto segregation <ol style="list-style-type: none"> <li>a. What role should social science research play in documenting the harms of de facto segregation systems?</li> <li>b. Who is responsible for school attendance zones: local district or the state?</li> <li>c. Is there no remedy for de facto segregation?</li> </ol> </li> <li>2. Implications of Milliken for school choice systems that have a discriminatory effect based on race, ethnicity, and class.</li> </ol> <p><b>Reading</b> Yudof p. 388-418 <u>Keyes v. School District No. 1 (U.S. Sup. Ct. 1973)</u> <u>Milliken v. Bradley (U.S. Sup. Ct. 1974)</u> <u>Levin “School Desegregation Remedies...”</u></p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
<p>Week #12</p> <p>4/10 – 4/16 (f2f)</p>	<p>Unitary Status and Affirmative Action: Where are we?/Finance</p> <p><b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Achieving unitary status</li> <li>2. Second generation problems               <ol style="list-style-type: none"> <li>a. Ability grouping</li> <li>b. Student assessment</li> <li>c. Affirmative action</li> <li>d. Racial/ethnic balance in school choice programs</li> </ol> </li> </ol> <p><b>Reading</b></p> <p>Yudof p. 418-420, 430-444,490-506</p> <p><u>Board of Education of Oklahoma City v. Dowell</u> (U.S. Sup. Ct. 1991)</p> <p><u>Missouri v. Jenkins</u> (U.S. Sup. Ct. 1995)</p> <p><u>Hobson v. Hansen</u> (DC Cir 1967)</p>	

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
<p>Week #13 4/17-4/23</p>	<p>Liability Issues <b>Discussion</b></p> <ol style="list-style-type: none"> <li>1. Review of liability for school district and employees</li> <li>2. Principles of liability under 42 U.S.C. 1983               <ol style="list-style-type: none"> <li>a. School district and employee liability</li> <li>b. Supervisory liability</li> <li>c. Liability for third parties</li> </ol> </li> <li>3. Liability under Title IX (sexual harassment)               <ol style="list-style-type: none"> <li>a. School district liability for teacher-student sexual harassment</li> <li>b. School district liability for student-to student harassment</li> </ol> </li> <li>4. Liability under Title VII for sexual harassment and discrimination against employees</li> </ol> <p><b>Readings</b></p> <p><u>Doe v. Taylor</u> (5<sup>th</sup> Cir. 1994)  <u>Walton v. Alexander</u> (5<sup>th</sup> Cir. 1995)  <u>Gebser v. Lago Vista ISD</u> (U.S. Sup. Ct. 1998)  <u>Davis v. Monroe County School District</u> (U.S. Sup. Ct. 1999)  <u>Burlington Industries v. Ellerth</u> (U.S. Sup. Ct. 1998)  <u>Faragher v. City of Boca Raton</u> (U.S. Sup. Ct.)</p>	<p>Briefings and discussion threads required within your groups.</p> <p>See schedule for presentation of case</p>

Week or Module	Activities/Assignments/Exams	Due Date/Requirements
Week #14 4/24-4/30	Finance <b>Discussion</b> 1. Concepts of School Finance Equity: 1970 to present 2. Right to a "Free" Public Education 3. Race and School Finance  <b>Reading</b> Yudof p. 777-803,847-854 <u>Serrano v. Priest</u> <u>San Antonio Independent School District v. Rodriguez</u> <u>Kadrmas v. Dickson Public Schools</u> <u>Powell v. Ridge</u>	Briefings and discussion threads required within your groups.  See schedule for presentation of case
Week #15 4/30-5/6	Final Exam	

Appendix A: Standards/Competencies

Course Objectives or Student Learning Outcomes	Standard or Competency
Student will respond to a district level issue within legal boundaries	NELP Standard 2 (2.1-2.3), Standard 3 (3.1-3.2), Standard 5 (5.1-5.3), Standard 6 (6.1), Standard 7 (7.1-7.4)

Appendix B:

Assignment/Module/ Course Activities	Standard or Competency
Final Exam	NELP Standard 2 (2.1-2.3), Standard 3 (3.1-3.2), Standard 5 (5.1-5.3), Standard 6 (6.1), Standard 7 (7.1-7.4)