



lincolnlawschool
OF SAN JOSE

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Serving the legal education needs of **Silicon Valley**
and the **Greater Bay Area**
since 1919



COURSE DESCRIPTIONS

2019-2020

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Upon acceptance to the program, each student is responsible for becoming familiar with the rules, regulations and policies of the Law School as set forth in the most current Catalog, the Student Handbook, Law School website, and other School publications, as well as those of the Committee of Bar Examiners of the State Bar of California (CBE), and for conforming their conduct accordingly. CBE rules, regulations and policies can be found on the State Bar's web page at www.calbar.ca.gov and, once there, by entering the "Admissions" section of their website. Please access the CBE site to ascertain education requirements for admission to the Bar, to register as a law student and to access application forms to register for the California Bar Exam, the Multistate Professional Responsibility Exam, the required Moral Character Determination, and any other requirements.

COURSE DESCRIPTIONS

(Electives are offered on a periodic basis at the discretion of the Dean)

Administrative Law 2 Units; Elective, Pass/No Pass

Statutory and Executive laws frequently empower administrative agencies to flesh-out the law and administer its commands. As such the bureaucratic regime created thereby engenders a complex set of legal rules. These rules may be found in Administrative Procedures Acts and agency rules. The regulatory complex so created, the sources for authority, the processes and rules of the agency and predicates for successful challenges thereto make up the substance of this class.

Advanced Legal Writing 2 units; Required; Pass/No Pass

This fourth-year course consolidates skills in legal analysis and written communication of legal information. It emphasizes concise, coherent analysis in a variety of subject areas. Students are instructed in organizing complex legal arguments in a number of advanced writing exercises.

Agency 2 units; Elective; Pass/No Pass

In many transactions it is more efficient for one person or entity to be represented by another. When one, an "agent," is authorized to act on behalf another, a "principal," the principal is deemed to be duty bound and rights entitled to the consequences of the agent's act. The creation of such a relationship and its effect form the basis of this introductory class.

Bankruptcy 2 units; Elective; Pass/No Pass

The course broadly explores the history, theory and procedure of U. S. Bankruptcy law with special emphasis on property, tort and contract implications of the Bankruptcy Act. The objective of the course will be to provide a reasonably practical, as well as theoretical familiarity with the law in preparation for handling bankruptcy issues in private practice.

Bar Review 0 units; Required; Pass/No Pass

This course seeks to accurately set student expectations for what they will encounter on the California Bar Exam ("CBX") and prepare them to succeed in passing that exam. Instructors will offer LLSSJ 4th year students a cutting edge value-added experience that will realistically map for them a road to passage of the CBX along with the tools necessary to accomplish it. Students are given the opportunity to practice the techniques that are taught with both class exercises and a short version of the-Bar examination. There is currently no tuition charged for the class and no unit credit.

Business Organizations 4 units; Required; Letter Grade

The class analyzes the legal structure and characteristics of various business organizations using the corporation as the basic model. Topics include the utilization of agents; the promotion of business; selection between the various forms available; the attributes of each and problems and issues in formation; the distribution of power and benefits within the organization; the limitations on conduct and the consequences of action or inaction imposed by the applicable duties of care, duties of loyalty and special fiduciary responsibilities emanating from federal law and state law (whether by statute, regulation or common law); the procedural requirements of litigation inter se; capital structure and financing; and the fundamental changes that may occur in the organization such as dissolution, sale of assets, mergers, as well as the rights and duties attendant thereto.

California Residential Landlord-Tenant Litigation 2 units; Elective; Pass/No Pass

Students will study the residential tenancy from its creation and the issues involved, to its termination in Unlawful Detainer and the problems of litigation when a person is ousted from their residence.

Civil Procedure 4 units; Required; Letter Grade

Using the Federal Rules of Civil Procedure and the California Code of Civil Procedure, this course studies the rules which govern civil cases from filing to final disposition. In the first semester, the course surveys each of the procedural stages followed by a detailed consideration of issues of personal and subject matter jurisdiction; venue; and conflicts of law. The second semester will focus on pleadings; joinder; discovery; pretrial disposition; trial; appeal and preclusion.

Community Property 3 units; Required; Letter Grade

The course involves the careful study of the origin, history and development of community property law in California; rights and interests of the respective spouses in the community, including agreements and dissolution; and differentiation of separate and community property.

Constitutional Law 6 units; Required; Letter Grade

A comprehensive study of the American constitutional system, comprised of Supreme Court of the United States interpretations of the most frequently litigated clauses of the U.S. Constitution; emphasis on procedures by which constitutional issues are raised and determined with materials appropriate for the process of decision; national and state power; separation and delegation of powers; due process of law; equal protection under the law; First Amendment and other civil liberties.

Contracts 6 units; Required; Letter Grade

A basic study of the fundamental principles governing the law of contracts, including offer, acceptance and consideration; parties affected by contracts, including joint obligations, conditions, interpretation, assignments and contracts for the benefit of third persons; illegality and discharge; study of the Statute of Frauds and Parole Evidence as they pertain to contracts.

Construction Law 2 units; Elective; Pass/No Pass

The course provides a background in construction law, with an emphasis on practical application of legal concepts pertaining to construction contract agreements to remedies for their breach. Students will be called upon to analyze construction contract clauses, and to learn to advise clients about the risks and benefits of such clauses as they relate to indemnity, remedies (with particular consideration of ADR), attorney's fees and insurance.

Copyright Law 2 units; Elective; Pass/No Pass

This course explores the nature of copyright in contrast to other forms of intellectual property protection. The course will cover copyrightable subject matter, ownership and federal registration. Scope of copyright, particularly for software and media, will be examined, together with general limitations on copyright, including fair use. How copyright should be applied to new technologies, such as digital file sharing is particularly relevant. Infringement actions, damages, injunctions, license agreements, and negotiated settlements will be studied. Brief treatments of international copyright and federal preemption will be included.

Criminal Law 6 units; Required; Letter Grade

Fundamental problems in the substantive law of crimes and its administration; the content of criminal law, punishable acts and omissions, mental state requisite to punishment, scope of liability under modern law for conspiracy and attempt, and for participation in crimes committed by others; the enforcement of the law and an introduction to criminal procedure.

Criminal Procedure 3 units; Required; Letter Grade

This course studies the validity of arrests, searches and seizures, and motions for suppression; the right to counsel and proceedings preliminary to trial; plea bargaining; prosecution and defense tactics and strategies.

Employment Law 2 units; Elective; Pass/No Pass

This course is a survey of the development of and current issues and cases in employment law with an emphasis on California law. It includes a discussion of the evolution of both the Federal and State statutory regulation of the employment relationship including the National Labor Relations Act, Occupational Safety and Health Act, Fair Labor Standards Act and various other state and federal statutes. The course explores the employment relationship, terms and conditions, employment contracts, employee/employer rights and terminating the relationship. In addition, it reviews the erosion of the employment-at-will doctrine and the growth of wrongful discharge litigation.

Evidence 6 units; Required; Letter Grade

The course addresses the rules of common law, California and Federal Rules of Evidence with special attention to hearsay, relevancy, privileges, character evidence, real proof, judicial notice, and other doctrines affecting the admissibility of evidence in judicial proceedings.

Family Law 2 units; Elective; Pass/No Pass

This course addresses the legal rights and responsibilities in both marital and non-marital relationships. Topics include dissolution and separation; maintenance; child custody and support; domestic violence and child abuse; adoption and termination of parental rights.

Firearms Law: 2 units; Elective; Pass/No Pass

This will be a course for students who have already completed law school classes in Criminal Law (1L) and who are concurrently enrolled in Constitutional Law (3L). This course will cover federal and state laws regulating the "right to keep and bear arms." Special emphasis will be placed on California's unique role in shaping modern gun policy, including issues as diverse as domestic violence, mental health, commercial sales, movie props, assault weapons, self-defense and the civil rights movement.

Federal Taxation 2 units; Elective; Letter Grade

This course explores the federal taxation of individuals, business partnerships, and corporations; income, exemptions and deductions; timing problems; capital gains and losses; choice of taxable person; tax procedures; use of statutes, regulations, decisions, and other materials.

Immigration Law 2 units: Elective; Pass/No Pass

Exploration of the U. S. immigration system from constitutional, statutory, regulatory and policy perspectives forms the core of this course. Topics include source and scope of congressional power to regulate immigration; procedures for admission and removal; proposals for immigration reform; and the acquisition and loss of U. S. citizenship.

Independent Study Maximum of 2 units per semester with a maximum of 6 units during entire law school attendance; Elective; Credit/No Credit.

The Independent Study curriculum is designed to provide students with the opportunity to enhance their legal education through non-classroom activities. Students may earn academic credit for approved Independent Study activities. Students interested in participating in Independent Study must review the Independent Study Handbook, which contains the guidelines and forms applicable to the Independent Study curriculum, and follow the procedures set forth therein. The Independent Study curriculum is comprised of the following four elective programs:

- **Directed Research:** This course provides students with an opportunity to conduct thorough research on a topic of their choice and prepare a paper of publishable quality under the direction and supervision of a faculty member. Please be advised that students must obtain written advance approval from the Director of Independent Study in order to take this course.
- **Internship:** This course provides students with an opportunity to receive practical legal training

under the supervision of a judge or an attorney. Please be advised that students must obtain written advance approval from the Director of Independent Study in order to take this course.

- **Law Review:** Members of the Lincoln Law Review may receive credit for their academic work on Law Review through the Independent Study curriculum.
- **Peer Court:** The Peer Court Mentorship Program works with the Santa Clara County Juvenile Probation Department in hosting 'Peer Court' where young offenders get a second chance through peer accountability. The roles of prosecutor, defense attorney and jury are filled by youth volunteers. Faculty members from Lincoln Law School of San Jose serve as mentors to train these volunteers on their roles and responsibilities.

Remedial interventions decided upon can range from restitution, apologies to the victim, rehabilitation such as anger management classes, community service, etc. In addition the youth offender will have an opportunity to serve on a future Peer Court Jury to deliberate on a peer's offense.

Other departments and agencies assisting in this program include the Santa Clara County Probation Department, the Santa Clara County Social Services Agency, East Side Union High School District, Silicon Valley Career Technical Education, Andrew Hill High School and the Santa Clara County Office of Education.

"The program focuses on restorative justice – for the victim, the defendant, and the community – to show the defendant how his or her actions affect the victim and the community," said Supervisor Dave Cortese, President of the Board of Supervisors. "Allowing the defendants' peers to provide the 'sentencing,' has a greater impact on their understanding of the impacts of their crimes."

Insurance Law 2 units; Elective; Pass/No Pass

The course offers a survey of insurance law from the requirement of an "insurable interest" to the scope and limitations of coverage under various policies. Topics include the nature of an "insurable interest"; the standard form insurance contract; the scope of coverage; and the rights and duties of the insurer and insured. The class emphasizes California law.

Intellectual Property Litigation 2 units, Elective; Pass/No Pass

The course will cover unique aspects of Intellectual Property litigation, in general, and the unique aspects of patent litigation with a special emphasis on the local rules for patent cases here in the Northern District. The course will review governing statutes and rules and sample litigation forms. It begins with discussions of who to sue from the plaintiff's perspective, and where to sue. From both the plaintiff's and defendant's perspectives this course will cover pleading requirements, discovery, and trial strategy as well as substantive legal issues. Then it will cover remedies, including injunctive relief, and money damages.

Intellectual Property in Mergers and Acquisitions, 1 unit; Elective; Pass/No Pass

Mergers and Acquisitions is one of the most lucrative and exciting practice areas. Here in Silicon Valley it is almost impossible to practice law without touching M&A practice at some point. This is especially true for the Intellectual Property lawyer. The fact is that the value of an acquisition lies in its intellectual property. Lawyers advising small technology startups hoping one day to be acquired need to counsel their clients on how to get ready for IP due diligence, so they can maximize their firm's value. Likewise, an IP attorney at a larger established company needs to be able to jump into a fast paced due diligence session and extract the key information to make a smart acquisition decision.

Students will end the IP in M&A course knowing the nuts and bolts of how to practice in this booming field of the Law. From the perspective of a company being acquired, students will know how to prepare

a due diligence checklist, to make sure major IP concerns are addressed in advance. Conversely, students will also learn what they need to know to dive into the fast world of in-process due diligence and make a difference.

In particular, you will leave the course with tools to address these major IP M&A topics: (1) identifying pre-existing IP entanglements; (2) identifying limitations on created IP, including employment agreements; (3) identifying and addressing problems with licensed-in IP; (4) determining if procedural IP-compromising rules have been followed; (5) auditing IP protection for strategic business segments; (6) reviewing monetization and protection plans; and (7) negotiating the IP terms of the Asset Acquisition Agreement.

This course requires a prerequisite of Intellectual Property Survey.

Intellectual Property Patent Bar Review 2 units; Elective; Pass/No Pass

This course is designed to prepare students for the Patent Bar Examination. It is an intensive review of the information presented in the substantive intellectual property classes and uses a combination of lecture, written, and online material designed to support passage of the Patent Bar Examination.

Intellectual Property Patent Clinic 2 units; Elective; Pass/No Pass

This IP clinic allows students to have limited recognition before the United States Patent and Trademark Office to work on actual client matters. Students should master the basics of intellectual property strategies and learn the procedural aspects of drafting, searching, and registering patents; all while interacting with clients. A technical degree is required to work with patents.

Intellectual Property Survey, 1 unit; Elective; Pass/No Pass

The course contains three main modules. First, an overview of the fundamentals of intellectual property law, including patents, copyrights, trademarks, and trade secrets, with reference statutory and common law. Second, an analysis of the practical realities of the role intellectual property plays in all stages of a company's life from the start-up phase all to dissolution or reorganization. Third, the mechanisms used by companies to develop and add value to their intellectual property portfolios, and the various alternatives thereto based on market demand. This course accommodates students who want to pursue a career in intellectual property law, as well as those students who simply want a sampler of intellectual property law and practices. A technical background is not required. Please note this is a survey and introductory class only.

Intellectual Property Trademark Clinic, 2 units; Elective; Pass No/Pass

This IP clinic allows students to have limited recognition before the United States Patent and Trademark Office to work on actual client matters related to trademarks only (not patents). Students should master the basics of intellectual property strategies and learn the procedural aspects of drafting, searching, and registering trademarks; all while interacting with clients. This course does not require a technical degree.

Introduction to Law 1 unit; Required; Pass/No Pass

This course, offered to entering first-year students during the weeks preceding the commencement of the first-year of substantive courses is an introduction to the substance and process of law and legal education and explores the general sources of law; an introduction to legal reasoning; the case method and techniques used by the courts in resolving cases. Students are taught to analyze case law and statutes and to cultivate an understanding of the judicial and legislative processes. The course also provides students with an opportunity to practice briefing cases, take a practice examination, and receive individual feedback on their writing and analyses in preparation for the first-year substantive courses.

Legal Research & Writing 2 units; Required & Prerequisite to Moot Court; Letter Grade

This first-year course provides integrated instruction in legal research, analysis and writing. The curriculum alternates short task-based exercises with longer assignments that require effective legal research strategies and management of multiple authorities in legal writing. Primary and secondary sources are explained. Various methods for updating legal authority are also included. The initial research component emphasizes manual library research and later, computer-assisted legal research.

Legal Writing I 2 units; Required; Letter Grade

This course provides a practical approach to the fundamentals of legal writing. Students will gain experience with the elements of analyzing and briefing legal issues, structuring legal argument, and the essentials of solid analytical and persuasive legal writing. Principles taught include reading for specific purposes, framing complex ideas, composing effective prose, and revising for clarity and persuasion. The curriculum includes a series of in-class writing assignments, weekly writing exercises, and one final paper.

Legal Reasoning 1 unit; Required; Letter Grade

This course explores advanced approaches to legal reasoning. Students will build on their experience identifying legal issues, and applying legal principles to variations on fact patterns. Principles taught include the simultaneous analysis of multiple issues, compiling relevant facts from diverse sources, and composing effective communications in varying formats. The curriculum includes a series of in-class writing assignments, weekly writing exercises, and one final assessment.

Legislative Advocacy and Statutory Law 2 units; Elective; Pass/No Pass

This course is a comprehensive study of the California state legislative process, creation of statutory law and how advocates and advocacy impacts the process. There will be limited discussion of federal and local legislative processes. Significant time will be devoted to this interactive course to activities such as drafting legislation, reading and analyzing bills, as well as participating in mock hearings and legislative meetings.

Moot Court 2 units; Required; Pass/No Pass

Emphasis on the skills, techniques, and format of appellate brief preparation, procedure in reviewing courts, oral presentation of facts and law, and the persuasive argument.

Negotiation & Mediation 2 units; Required Course; Pass/No Pass

The objectives of the course are to: (1) familiarize students with various negotiation models as a foundation for creating their own negotiating style; (2) develop an understanding of the context in which particular negotiation and mediation strategies are successfully employed; (3) explore ethical considerations and their impact on negotiations and mediations; (4) develop proficiency in negotiation through role plays and other practical exercises; (5) acquire basic skills essential to service as a mediator, including convening, conducting joint sessions, caucusing and assisting in the creation of durable and enforceable agreements.

Personal Property 2 units; Required; Letter Grade

A study of the law attendant to tangible and intangible personal property that provides an analysis of ownership; possession; methods of acquisition, transfer, and hypothecation; and remedies to vindicate ownership or possession of such property. Attention is devoted to the problems of bailment and common carrier responsibilities. The course also serves as a brief introduction to the concepts of so-called intellectual property.

Products Liability 2 units; Elective; Pass/No Pass

The history of products liability from its antecedents in strict liability and warranties to the modern test of consumer expectations and chain of commerce are carefully analyzed together with the policy issues

that led to the development of this tort as well as of the criticism that it operates to reduce entrepreneurship and to limit markets and choice.

Professional Responsibility/Ethics 3 units with an additional 1; Required; Letter Grade

This course entails study of the legal profession as an institution; the development of a sense of professional responsibility; privileges and duties as a member of the legal profession; review of the fundamentals of ethics and their application to legal problems; study of the Model Rules of the American Bar Association and the Rules of Professional Conduct of The State Bar of California. An addition unit has been added to the class in order for students to analyze, describe and resolve issues connected with the professional and ethical practice of the law. One unit of the course will be devoted to writing including Opinion Letters relating to rule compliance and advice.

Real Property 6 units; Required; Letter Grade

This is a yearlong course for 2nd year students that provides an overview to the law of real property, focusing on interests and estates in land; the co-ownership of such interests and estates; the acquisition of ownership and lesser interests in real estate, the nature of that ownership, restrictions thereon, the consequences of ownership and methods and procedures connected with transfers of such ownership.

Remedies 3 units; Required; Letter Grade

This course provides a review, using both a historical and an analytical approach, to remedy jurisdiction and the principles of remedies with respect to contracts, torts and real property. Topics include the powers of courts of equity; specific performance; specific relief against torts; special equitable remedies; interpleader; cancellation and surrender of contracts; removal of cloud of title; declaratory judgment; the merger or union of law and equity, both procedural and substantive.

Survey of Government Contracts 1 unit; Elective; Pass/No Pass

The course addresses the special considerations imposed when an agency of the federal government is one of the contracting parties.

Torts 6 units; Required; Letter Grade

The course addresses the invasion of legally protected interests of one person by another and study of the simple social obligations which an individual owes to others according to the traditions of the common law and subsequent development. Individual torts are considered within the broad categories of intentional invasions, negligent invasions and absolute liability. Also included are issues related to defamation; deceit; interference with business, political and family relations; and addressing the major problem of determining who should bear the loss incurred through the tortuous act of another.

Trial Practice 2 units; Required; Pass/No Pass

This course provides students with a general introduction to trial practice, procedures and strategies through a combination of lectures and practical skills exercises.

Wills & Trusts 6 units; Required; Letter Grade

This course covers such issues as intestate succession; execution and revocation of wills; incorporation by reference and related issues; planning, creating, and administering trusts; duties and liabilities of trustees; charitable trusts; and the nature and application of the rule against remotely contingent interests.

Workers' Compensation Law 2 units; Elective; Pass/No Pass

This course surveys the law relevant to the practice of Worker's Compensation law before the State of California Workers' Compensation Appeals Board and covers topics from forms, pleadings, procedures and appeals to issues of accidents, occupational diseases and the relationship between tort law and

worker's compensation law.

SPECIAL COURSES AND PROGRAMS

Russian Lawyer Program

The Russian Lawyers Law Office Management Program has been developed in conjunction with the Russian law firm, Intellectus. The school presents a 10 day program whereby Russian lawyers are taught cutting-edge American law office management techniques. These lawyers together with Lincoln faculty have visited some of Silicon Valley's and the nation's most prominent law firms.

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