

ADOPTION LAW
Law 6715
Fall 2018
Room 359
Thursdays 5:00-6:50 p.m.
Two (2) credit hours

Professor Stephen Pennypacker
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SYLLABUS AND CLASS POLICIES

REQUIRED TEXT:

ADOPTION LAW: THEORY, POLICY AND PRACTICE – Second Edition by Cynthia Mabry and Lisa Kelly (Hein 2010). You should also have access to Chapter 63 of Florida Statutes during all class periods. There may be additional materials distributed in class or via e-mail.

Contact Information

Office hours: By appointment
Phone: (352) 870-8766 or (352) 359-0157
Email: pennypackers@law.ufl.edu or stephen.pennypacker@pfsf.org

Because I will not have fixed office hours, I am happy to meet with you by appointment at the law school at a convenient time to discuss the class or any issue you like. If you will call or e-mail me, I will get back with you promptly. I will check my law school e-mail daily (and more often as time permits). If you have an urgent request, however, please call me instead of sending an e-mail.

What You Should Expect to Get Out of This Course

My goal in teaching this course is to help you think critically about the law governing adoption. By now you already know how to read a case. In this course, we will explore broad themes that run throughout the law, distill cases, interpret statutes, and identify assumptions that underlie this body of law. I hope to make this class interesting for everyone, including those students who do not intend to practice law in this area.

It is important to remember that we come to this class from various backgrounds, with many different beliefs about how the world should work, and what the law should be. My goal is not to change any fundamental beliefs that you hold. Instead, when you leave this course, my hope is that you not only have a good working knowledge of the subjects that we have covered, and can apply law from cases and statutes to real-life situations, but that you understand that there are assumptions that underlie the law in this area, what these assumptions are, and can think critically about cases, statutes and the body of law that governs adoption.

Summary of Course Requirements

In addition to carefully preparing for class and participating in class discussion, each student must complete a final examination.

TWEN

I will set up a TWEN site for this course. I will post the syllabus and other documents relating to the course. You should register on the TWEN site as soon as possible to have access to posted materials. To sign on, go to the law school page of Westlaw and click on the TWEN icon. Register as a participant in Professor Pennypacker's Adoption Law course.

Email Address

I will use the law.ufl.edu email system to communicate about schedule, assignment, and other issues. To facilitate communication in this course you should have a functioning "@ufl.edu" e-mail address. Due to continuing problems with email forwarding, you may want to think carefully about "forwarding" your @ufl.edu e-mail to certain other ISPs (aol, hotmail, msn) as you do not want to miss any important communications relating to class.

Attendance

Pursuant to law school policy and ABA requirements, students are required to attend class. It is your responsibility to sign the attendance sheet *during* class. You may not sign in for anyone except yourself. If you are less than ten minutes late, you may sign the roster at the end of class (see note below regarding excessive tardiness). ***If you are more than 10 minutes late, you will be considered absent.*** Failure to sign the attendance sheet will be treated as an unexcused absence. I will allow four (4) unexcused absences per semester on a no-questions-asked basis. If it should be necessary for you to miss more than four (4) classes, you must e-mail me to explain the reason for each additional absence. If you know in advance that you will have to miss a class, please make appropriate arrangements with me in advance. You will have no more than seven days after the time of the unanticipated occurrence to bring the reasons for your absence to my attention, provided however, that I will not accept any excuses offered after our last session of the semester. Any unexcused absence that exceeds the allowance will lower your grade by one level. For example, one additional unexcused absence will lower a B to a B- or a C+ to a C.

I will deal with excessive absences and/or tardiness on a case-by-case basis; excessive absences (whether or not excused) or tardiness may result in your administrative removal from the course.

Participation in Class (10%)

Participation in class will constitute 10% of your final grade. The other 90% will be the final exam. Your regular attendance and participation in class discussions are critical to the success of this course. Students should expect to be randomly called on during class to answer questions about the assigned materials. I will also call on students who volunteer questions or comments. As long as you are present and prepared, you will receive credit for class participation; it is the *quality*, not the *quantity*, of your contributions to class that I value. If you are *not* present when I call on you (unless your absence is excused or is one of your four allowed unexcused absences) or if you are not prepared, you will not help you in final evaluation. **At a minimum, you must participate (either by virtue of volunteering or being called upon) at least 2 times during the semester.**

Religious Holidays

The Florida Board of Education and state law govern university policy regarding observance of religious holidays. The following guidelines apply:

Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith. Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence. Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances. If a faculty member is informed of or is aware that a significant number of students are likely to be absent from class because of a religious observance, the faculty member should not schedule a major exam or other academic event at that time.

A student who is to be excused from class for a religious observance is not required to provide a second party certification of the reason for the absence. Furthermore, a student who believes that he or she has been unreasonably denied an education benefit due to religious beliefs or practices may seek redress through the student grievance procedure.

Learning Objectives

After completing this course, students should be able to:

1. Describe the common law and statutory foundations of adoption and their application to jurisdiction and venue in state and federal courts;
2. Demonstrate an understanding of the procedural rules and statutes that govern the process of domestic, interstate, and intercountry adoption;
3. Explain an attorney's ethical obligations when representing a child, prospective adoptive parent, or adoption entity in the adoption process;
4. Identify the necessary parties to an adoption proceeding including paternity and maternity, when and how notice must be given, and ground for termination of parental rights.

Workload and Class Preparation

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. Adoption Law has two (2) "classroom hours" of in-class instruction each week, requiring at least four (4) hours of preparation outside of class. Accordingly, you will have about 60 pages of reading each week. Because the course includes statutory and regulatory excerpts that require careful reading, you should spend at least one hour on every 10-15 pages of reading.

Internet Policy and Related Issues

The internet, and more generally your laptop, is a great learning tool and invaluable asset to effective advocacy. It should be used during class time as you will use it in practice: responsibly and ethically, consistent with the high professional standards that will be expected of you by your clients, the court, and other lawyers. Keep in mind that all the students around you are affected by how you use your computer. When you are talking, you should lower your laptop to facilitate communication.

During class, your laptop is to be used **ONLY** to take notes, unless I direct you to some other site. If we are working on another site, you are not to do any other internet or other computer work during class time. Cell phones, PDAs and any other electronic equipment should be turned off and not used

during class. If you need to leave your phone on vibrate to receive an emergency call, please feel free to do so.

If you are found in violation of this policy, you may not be permitted to use your laptop in this class, your grade may be lowered, or you may be dropped from the class.

Professionalism in Class

You are all bound by the University Student Code of Conduct, the College of Law Honor Code and the rules for this course. Proper conduct in the classroom is intended to encourage everyone to participate in, to derive benefit from, and ultimately, to enjoy the class. Any unprofessional conduct and/or conduct that is in any way disrespectful to other students, disruptive, distracting or has a negative effect on the classroom atmosphere is prohibited.

Any unprofessional conduct will be handled on a case-by-case basis. Such conduct may result in administrative removal from the course or a grade reduction. I will be especially strict with students who distract or harass other students in any way.

UF students are bound by The Honor Pledge which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with Professor Pennypacker.

Supplemental Material

You may find supplemental material that might assist the learning of others. For example, you might find a clipping from an on-line article or newspaper that offers an interesting example of a case or a situation that raises one of the issues discussed in the material assigned for that day. If you wish to share the material with the class, please send it to me via email at least 24 hours in advance of the relevant class period; I may distribute it depending upon the submission and whether we have time in a particular class. If you submit material that I use in class, I will consider the submission when I am calculating your class participation grade.

A. TWEN

1. **Registration:** As soon as possible, you should register as a course participant on TWEN via the Westlaw website (<http://lawschool.westlaw.com/twen>).
2. **Access to Westlaw:** For problems or questions, contact your designated student representative.

B. Final Examination (90 %)

The final examination will be a two hour final examination. I will provide more information regarding the examination later in the course.

Exam Accommodations for Students with Disabilities

Reasonable exam accommodations are available to students with permanent or temporary disabilities. To receive accommodations, students should contact the Disability Resources Center (www.dso.ufl.edu/drc/), located in 0020 Reid Hall. You may reach Disability Resources at 392-8565 or accessuf@dso.ufl.edu. Once the appropriate documentation is evaluated by Disability Resources, a recommendation is then made and forwarded to the College of Law Assistant Dean for Student Affairs.

Delay in Taking Exams

There are four acceptable reasons for which students may request delaying their exams. Please read the descriptions below and select the form appropriate to your circumstances. Also note that students are not permitted to take exams before the scheduled exam time.

Multiple Examinations

A student may reschedule an examination if a student has in class examinations that meet the following criteria:

- 2 exams beginning less than 20 hours apart. Note: Examinations that BEGIN more than 20 hours apart (for example, at 8:30 a.m. on one day and 8:30 a.m. on the following calendar day), DO NOT constitute a conflict under this rule.
- 3 exams within 3 consecutive days
- 4 exams which must be completed within 5 days

Students are responsible for submitting the request(s) for an exam delay. All requests to reschedule an exam due to a conflict must be submitted to the Office of Student Affairs, and delayed examinations should be rescheduled to be taken as soon as reasonably possible with the sound discretion of the administration.

Emergency Delay (accident/illness/death)

In case of illness, contact the Assistant Dean for Student Affairs. If permission is granted, a written statement from the treating physician stating the student was too ill to take the exam at the scheduled time must be presented before the exam may be taken late. For serious reasons other than illness, a student should contact the Office of Student in advance and speak with the Assistant Dean for Students. Only after the student is notified the request has been granted may the student miss a scheduled exam. Arrangements must be made with Student Affairs for taking the exam late. The Assistant Dean for Students shall specify the date and time when a student with an excused absence may sit for the examination.

C. Final Grades

You will be graded based your performance on the final examination and on your class participation. At the end of the semester, the points for all students will be calculated and the letter grades for the course will be assigned subject to the requirements of the mandatory curve.

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

D. Statement related to accommodations for students with disabilities

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

E. Feedback on Quality of Instruction

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

F. Campus Resources:

Health and Wellness

U Matter, We Care:

If you or a friend is in distress, please contact umatter@ufl.edu or 352 392-1575 so that a team member can reach out to the student.

Counseling and Wellness Center: <http://www.counseling.ufl.edu/cwc/Default.aspx>, 392-1575; and the University Police Department: 392-1111 or 9-1-1 for emergencies.

Sexual Assault Recovery Services (SARS)

Student Health Care Center, 392-1161.

University Police Department, 392-1111 (or 9-1-1 for emergencies). <http://www.police.ufl.edu/>
Academic Resources

E-learning technical support, 352-392-4357 (select option 2) or e-mail to Learning-support@ufl.edu.

<https://lss.at.ufl.edu/help.shtml>.

Career Resource Center, Reitz Union, 392-1601. Career assistance and counseling. <http://www.crc.ufl.edu/>

Library Support, <http://cms.uflib.ufl.edu/ask>. Various ways to receive assistance with respect to using the libraries or finding resources.

Teaching Center, Broward Hall, 392-2010 or 392-6420. General study skills and tutoring.

<http://teachingcenter.ufl.edu/>

Writing Studio, 302 Tigert Hall, 846-1138. Help brainstorming, formatting, and writing papers.

<http://writing.ufl.edu/writing-studio/>

Student Complaints Campus: https://www.dso.ufl.edu/documents/UF_Complaints_policy.pdf

On-Line Students Complaints: <http://www.distance.ufl.edu/student-complaint-process>

READING ASSIGNMENTS:

Readings are from the assigned text for the course and are subject to changes announced periodically.

DATE	TOPICS	READING
8/16/18 Thursday	History and Overview of Adoption, Notice, Consent, Revocation of Consent	p. 1-40, 56-65; <u>W.T v. DCF</u> , 846 So.2d 1278, <u>Edwards v. Maxwell</u> , 215 So.3 rd 616, <u>Children's Home Society of Florida v. V.D.</u> , 188 So.3 rd 920 (Fla. 1 st DCA 2016, <u>Heart of Adoptions v JA</u> , 963 So.2d 189, Review Chapter 63 FS
8/23/18 Thursday	Putative Father Registry And Legal Fathers	<u>SD v. AG</u> , 764 So.2d 807, (Fla. 2 nd DCA 2000); <u>D.S. v. J.L. and Miracles Adoption Agency, Inc.</u> , 18 So.3 rd 1103 (Fla. 1 st DCA 2009), <u>Michael H</u> , 491 U.S. 110 (majority opinion only), Savard Bar Journal Article, <u>Department of Health and Rehabilitative Services, v. Privette</u> , 617 So.2d 305, 309 (Fla. 1993), <u>J.A.I and J.K.C v. B.R.</u> , (Fla. 2 nd DCA 2015), <u>A.D.A. and M.J.L v. D.M.F</u> , 204 So.3 rd 523 (Fla. 4 th DCA 2016), <u>K. H. v. Children's Home Society</u> , 120 So.3 rd 104 (Fla. 4 th DCA 2013), <u>Simmonds v Perkins</u> , Fla. Sup. Ct. June 28, 2018

8/30/18 Thursday	Termination of Parental Rights, Right to Counsel, Burden of Proof, Procedural safeguards	p. 67-75; Doe, 543 So.2d 741; JCI, 989 So.2d 32; OAH v. RLA, 712 So.2d 4 J.B. V. Florida Department of Children and Families 170 So. 3 rd 780, Gift of Life Adoptions v. S.R.B., Fla. 2 nd DCA July 27, 2018, Home at Last Adoption Agency, Inc. v. V.M., 126 So.3 rd 1236 (Fla. 5 th DCA 2013) F.S. 39.806
9/6/18 Thursday	Intercountry Adoption; Readoption, Immigration, and Citizenship Issues	p. 411-54, Guest Lecturer – Kim Loughe, Executive Director, Intercountry Adoption Accrediting and Maintenance Entity, Inc.
9/13/18 Thursday	Jurisdiction/Venue/ UCCJEA/Choice of Law	p. 156-60; Brookshire v. Blackwell, 682 SE2d 295; CLW, 467 So.2d 1106; Balestrieri, 622 So.2d 561; Baby Boy D, 769 A.2d 508; JDS, 893 P.2 nd 732); S.J. and I.J. v. W.L. and L.L. 755 So.2d 753, B.S. v. Department of Children and Families, Fla. 1 st DCA April 25, 2018, Makaros v. Chichocki, 159 So.3 rd 957 (Fla. 5 th DCA 2015),
9/20/18 Thursday	Suitability of Adoptive Parents/ Same Sex Couples Statute of Repose/DCF Intervention	In re: Matter of Adoption of X.X.G., 45 So.3d 79; §63.182; Adoption of D.P.P., 158 So.3 rd 633, 1In re SNW, 912 So.2d 368; §63.082(6); In re KAG, 152 So.3d 1272; RL and JM, 147 So.3rd 1054, Goodman v. Goodman, 126 So.3 rd 310, Martin v. In Re: the Adoption of L.M..D. (64 So.3 rd 758, Fla. 3 rd DCA 2011), J. G. v. Department of Children and Families, (Fla. 4 th DCA May 30, 2018)
9/27/18 Thursday	Finalizing the adoption; Adult, Relative, Stepparent Adoptions/ Equitable Adoption /Open Adoption/ Public vs. Private Adoption	§63.112; p. 187-204; p. 709-17 Tarver, 533 So.2d 765; Guest Lecturer – Mary Kay Wimsett, Esq.
10/4/18 Thursday	Who May Adopt, Who May be Adopted	p. 113-147, M.D.C. v. B.N.M.J., 117 So.3 rd 489 (Fla. 1 st DCA 2013), G.S. v. T.B., (Fla. 2008), Rodriguez v. Rodriguez, 219 So.3 rd 944 (Fla. Third DCA 2017), I.B. and J.S. v. In Re: Adoption of Z.E.S., Fla. 4 th DCS 2018)

10/11/18 Thursday	Ethical Issues in Adoption /Adoption Entity duties Surrogacy/Pre-Planned Adoption / Safe Haven;	p. 637-62; <u>Florida Bar v. Joyce Dove</u> , 985 So.2d 1001 (Fla. 2008) §63.0423; §63.039; §63.212; §63.213; F.S. 383.50, 383.51
10/18/18 Thursday	ICPC	p. 455-96; §409.401, Pennypacker Article in Juvenile Handbook Regulation 12 (Private Adoption)
10/25/18 Thursday	Indian Child Welfare Act	p. 271, 282-92; p. 307-31; Bureau of Indian Affairs Guidelines; <u>Adoptive Couple v. Baby Girl</u> , 133 S.Ct. 2552 (2013)
11/1/18 Thursday	Living Expenses, Regulation of Fees, Baby Selling, Adoption Tax Credit/Special Needs Kids/ Subsidy	p. 169-80; §63.097; §63.132; §409.166; <u>In re adoption of a child by I.T and K.T.</u> , 397 A2d 341; <u>Brod</u> , 522 So.2d 973, <u>Home at Last Agency, Inc., v. J.L.C.-W and R.C.C.- W</u> , 98 So.3 rd 699 (Fla. 5 th DCA 2012)
11/8/18 Thursday	Confidentiality, Privacy, Access to Records and Post Adoption Contact; Open adoption	p. 533-48; p. 552-57; p. 571-74; §63.162; §63.085; §63.0427
11/15/18 Thursday	Review for final exam Q & A; Evaluations	
s FINAL EXAM Monday, December 10, 2018 1:00 p.m. – 3.00 p.m.		