**Big Data and the Law**

**Spring 2022**

Professor Annie Brett

HH Office 333

Email: brett@law.ufl.edu

Office Hours: Tuesday, 10:30-11:30 and 3:00-4:00, or by appointment

**Meeting Time and Location**

Tuesday 4:00-6:00pm; Room HH 180

**Course Description**

Big data is transforming our society. New insights derived from big data have the potential to reshape baseline understanding in many legal fields, from the environment to public health to criminal justice. At the same time, digitalization poses major challenges to existing legal regimes, forcing lawyers to work in areas with little or no clearly defined law or in areas where major new laws are actively being created. This course explores the legal impacts of the rise of big data, addressing how our governance mechanisms shape and are shaped by innovations in data; how regulatory choices about data collection, access and control can dictate the winners and losers in a new “information economy”; and the major issues that lawyers dealing with data should understand. This course combines an exploration of current topics in data governance and regulation with hands-on exercises that will allow students to gather the skills and knowledge necessary to become critical and ethical users of big data, including practice engaging with data agreements and generating legal responses to data breaches.

**Required Readings**

This course does not have a required casebook. We will draw on a mix of readings from cases, law review articles, policy whitepapers and popular media. Readings will be made available on the course Canvas site.

**Learning Outcomes**
After completing this course, students should be able to:

1. Understand the rapidly evolving landscape of big data, including the major legal challenges associated with data collection, ownership and access
2. Analyze current and proposed regulatory mechanisms being used to govern big data
3. Compare US and international approaches to data governance
4. Evaluate the efficacy of data policy agreements and data protection measures
5. Understand how big data can be used in regulation and litigation

**Class Participation**

Active participation is an essential component of this class. I ask that each of you arrive to class having done the readings and prepared to meaningfully engage in discussion. Participation will account for 25% of your final grade.

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to speak and listen honestly, thoughtfully, and respectfully and allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

**Evaluation**

This class will not have an exam. Grades will be based on participation (25%), two individual short writing exercises (50%), and one group presentation at the end of the semester (25%). The law school policy on exam delays and accommodations can be found [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form).

**UF Law Grading Policies**

This course will be graded in accordance with the law school’s grading policy.

|  |  |
| --- | --- |
| 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: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

**Attendance Policy**

Per ABA requirements, please attend all classes unless you have a compelling reason not to do so, in which case you should email me beforehand. Missing more than 2 classes may negatively impact your grade.

**Preferred Name**It is important to the learning environment that you feel welcome and safe in this class; and that you are comfortable participating in class discussions and communicating with me on any issues related to the class.  If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise.  I would like to acknowledge your preferred name, and pronouns that reflect your identity.  Please let me know how you would like to be addressed in class, if your name and pronouns are not reflected by your UF-rostered name.

**Accommodation for Students with Disabilities**

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). 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.

**Recordings**

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled.  The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding.  All other purposes are prohibited.

Specifically, students may not publish recorded lectures without the written consent of the instructor. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.”

**UF Law Honor Code:**

Students are bound by the UF Law Honor Code, which can be found here:

https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor- code-and-committee/honor-code

**Online Course Evaluation Process**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

**Reading Assignments**

This syllabus is offered as a guide to the direction of the course, and it will be updated on Canvas with specific reading assignments and may be adjusted based on new developments. The first week’s assignments are below, but Canvas will be your go-to location for assignments. It will also have links to the all the readings for your convenience. Per ABA Standard 310, it is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

|  |
| --- |
| **Part I: Understanding Data and the Data Lifecycle** |
| **Class 1**  | **What is Data?** *Required Readings:** Pages 23- 59, William Magnuson, [A Unified Theory of Data](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3688687), 58 Harv. J. on Legis. 23 (2021).
* [*Naperville Smart Meter Awareness v. City of Naperville*](http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2018/D08-16/C:16-3766:J:Kanne:aut:T:fnOp:N:2203659:S:0), 900 F.3d 521 (7th Cir. 2018)
 |
| **Class 2** | **Data Collection** |
| **Class 3** | **Data Processing and Use** |
| **Class 4** | **Data Storage**  |
| **Part II: The Impacts of Big Data on the Legal System** |
| **Class 5** | **Overarching Impacts** |
| **Class 6** | **Government Data** |
| **Class 7** | **Participation and Accountability** |
| **Part III: Regulating Big Data** |
| **Class 8** | **Proposals for regulation: Data as property** |
| **Class 9** | **Other proposals for regulation** |
| **Class 10** | **Ethical Considerations**  |
| **Class 11** | **International Approaches**  |
| **Class 12 & 13** | **Student Presentations and Wrap-up** |