

**University of Southern California
School of Social Work**

**SOWK 668
Social Work and Law
FALL 2007**

Instructor: Ralph D. Fertig, JD, ACSW, Federal Admin. Judge (ret.)

Office: MRF 337 Telephone: (213) 821.3112 **Office Hours:** Tuesdays,
5:00 – 5:30 pm or by appointment **Email:** RFertig@usc.edu

I. COURSE DESCRIPTION

This course is an introduction to theories of justice and equity and to the practice of American law, the federal and state legal systems, to the institutions and processes of federal and state courts, administrative tribunals, legislatures, and mediators to resolve problems. It shall examine roles, opportunities, and concerns for the practice of Social Work in the structures and procedures of the law in courts, administrative tribunals, correctional institutions, and encompassing work, in criminal, delinquency, dependency, adoption, parole, commitment, or dissolution hearings, on legal proceedings involving those who are dependent, incapacitated or mentally ill, on incorrigibility, neglect, abuse, guardianship, marital, parental status, and foster care.

Focus will be on the rights of individuals in the context of social service systems.

Students will come to know the grounds and rules for presentation of testimony and evidence, the social worker/ client “communications privilege,” the legal duties and standard of care in social work practice and liability for neglect to help prevent being named as a defendant in malpractice suits. They will become familiar with the rights of the poor, welfare recipients, tenants, immigrants, workers, the homeless, children, youth, women, the aged, consumers, minorities, Gay, Lesbian, Bisexual, and Transgender persons, parents, the disabled, the accused, and victims.

The class will explore standards for maintaining relationships with clients that uphold the letter and spirit of the law and the ethical principles of the Social Work profession. This course has implications for practice in the fields of Families and Children; Community Organization, Planning & Administration; Health; Mental Health; and the World of Work.

II. COURSE OBJECTIVES

The learning objectives for the course are:

1. To become acquainted with basic theories of American justice and laws as they impact on social services;
2. To understand the working of American legal processes; as they impact on the delivery of social services;
3. To demonstrate competence in legal reasoning, techniques of legal research, legal analysis, and advocacy as they impact on social work;

4. To recognize roles that Social Workers may play in institutions and procedures of the law;
5. To comprehend the dispute resolution function of the legal system and how it can be useful in social service delivery;

6. To be able to analyze and explain legal documents such as judicial decisions, appellate rulings, legislation, and regulations;
7. To be aware of ways in which Social Workers can assist in protection of and advocacy for clients through work with institutions and practitioners of law;
8. To assess the value assumptions underlying the legal system regarding racial, ethnic or sexual minorities (and social work values such as equal rights and diversity) or on controversial policies such as those to deal with poverty, the family, or agencies responsible for health, mental health, children, or the elderly;
9. To acquire a detailed knowledge of how the law is developed, and:
10. To learn to make ethically based, reasoned arguments for policy proposals, drawing upon the law and the practice of its institutions in interpreting and implementing it.

III. COURSE FORMAT

This seminar will include a variety of teaching learning modalities. The instructor will provide lectures and will call upon students, attempting a Socratic style dialogue, but students will be encouraged to bring questions and comments for discussion. Selected sessions will feature moot courts, mock hearings, or role playing exercises to help deepen the students understanding of the topic under examination or the methodology studied.

In response to a questionnaire submitted at the first session, students will be assigned to a subject area and to research relevant statutory law and then to associated cases which interpret that law for analysis and application to social work practice, to those who are specially impacted by those case decisions, and society.

IV. COURSE EVALUATION AND GRADING

Grades will be awarded on four papers, an oral presentation, and class participation, as follows:

Paper on statutory law: 10% Paper on Trial court decision: 15% Paper on Appeals Court decision: 20% Paper on Supreme Court decision: 25% Presentation on topic area: 20% Class Participation: 10%

Class participation is defined as the active engagement by students in class related learning. This is evidenced by the quality and depth of class comments, participation in experiential exercises, and discussion related to the readings, lectures and field work. Attendance is required in accordance with the School of Social Work and the University's attendance policy (see below).

ALL ASSIGNMENTS AND FINAL COURSE GRADE WILL BE SCORED AS A PERCENTAGE ON A SCALE OF 1% TO 100%. PERCENTAGES EQUAL THE FOLLOWING LETTER GRADES:

100%-93 =A 92% -90 =A 89%-87%=B+ 86%-83%=B
82%-80%=B 79%-77%=C+ 76%-73%=C
72%-70%=C 69%-67%=D+ 66%-63%=D
62%-60%=D- 59% AND BELOW =F -

Within the School of Social Work, grades are determined in each class based on the following standards which have been established by the faculty of the School:

(1) Grades of A or A- are reserved for student work which not only demonstrates very good mastery of content but which also shows that the student has undertaken a complex task, has applied critical thinking skills to the assignment, and/or has demonstrated creativity in her or his approach to the assignment. The difference between these two grades would be determined by the degree to which these skills have been demonstrated by the student.

(2) A grade of B+ will be given to work that is judged to be very good. This grade denotes that a student has demonstrated a more-than-competent understanding of the material being tested in the assignment.

(3) A grade of B will be given to student work that meets the basic requirements of the assignment. It denotes that the student has done adequate work on the assignment and meets basic course expectations.

(4) A grade of B- will denote that a student's performance was less than adequate on an assignment, reflecting only moderate grasp of content and/or expectations.

(5) A grade of C would reflect a minimal grasp of the assignments, poor organization of ideas and/or several significant areas requiring improvement.

(6) Grades between C- and F will denote a failure to meet minimum standards, reflecting serious deficiencies in all aspects of a student's performance on the assignment.

It is expected that students will attend class regularly, participate in class discussions, and submit work promptly. Hard copies must be submitted on schedule and e-mailed submissions will not be accepted. Failure to meet these expectations may result in reduction in grades.

(NOTE: Please refer to the *Student Handbook* and the *University Catalogue* for additional discussion of grades and grading procedures.)

V. ATTENDANCE POLICY

Students are expected to attend every class and to remain in class for the duration of the session. Failure to attend class or arriving late may impact your ability to achieve course objectives which could affect your course grade. Students are expected to notify the instructor by telephone or email of any anticipated absence or reason for tardiness.

All students are expected to regularly attend class and be on time. A student with more than two unexcused absences during the course of this class may receive a grade of no credit. A student who is tardy three or more times to class may receive a grade of no credit. If a student receives a no credit grade in this seminar, they will be required to repeat this class.

University of Southern California policy permits students to be excused from class, without penalty, for the observance of religious holy days. This policy also covers scheduled final examinations which conflict with students' observance of a holy day. Students must make arrangements *in advance* to complete class work which will be missed, or to reschedule an examination, due to holy days observance.

VI. Course Expectations and Guidelines

Class Participation

Students are invited to make thoughtful linkages between the readings and recent news as reported in reliable journals as well as with social work practice. Students are encouraged to e-mail such articles and comments on subject matter, readings, or discoveries to the instructor and to indicate if such notes are to be shared with the class. Class participation will count for ten per cent (10%) of one's grade.

Written Assignments

By the second session, each student will be assigned to one of the following subject areas of the law and social work. Assignment will be based upon the student's submission of a one page paper which shall identify a problem for which she/he seeks to understand any legal implications or perspectives in a specific case or concern in the agency in which s/he is placed. Any student not now placed in an agency shall select a case or concern in an agency in which s/he has worked.

Describe the case (respecting the confidentiality privilege, do not give actual names) or the concern: It could be a policy, a procedure, or an interest expressed by the agency, or one you believe should be addressed by the agency, and it could be related to a specific population, community, or subject sector which the agency serves or, you believe, should be served.

Students may select a topic area from one of the following categories of social work concern or may seek the instructor's permission to engage in any other suitable social work focus:

Disability rights Domestic/
Family law Education Elderly
Gender discrimination Health
Immigration Juvenile
delinquency Juvenile
dependency Mental Health
National origin discrimination
Racial discrimination Sexual
harassment Torts & Social
worker liability Workplace
standards

Oral presentation:

Each student should be prepared to make a presentation to the class on the selected subject area (20% of grade) during one of the sessions (beginning with the 7th session through the 15th). Presentations should be interesting, geared to educate and interest classmates and colleagues in professional life on both the statutory and case law governing the selected area, and on how it affects social work practice. The student may utilize power point or other visual or audio devices. Where approved by the instructor, presentations may be organized and made by teams of no more than two students sharing different dimensions of the subject area.

Written papers:

In all papers submitted, students are to organize their presentations in response to the guidelines provided and to identify the guidelines as sub-headings.

First paper: due 9/18: Analyze the statutory law associated with the assigned subject area for a first paper (10% of grade) in no more than five pages using the following guidelines:

- 1) Indicate the underlying social need or social problem which is addressed;
- 2) Analyze the public policy issue and how it is expressed in the legislation;
- 3) Summarize the legislative history: who supported it and why, who opposed it and why; catalyzing forces involved; important changes made to secure passage, if any.
- 4) How does this impact those served by the agency in which you have your field placement?
- 5) How does it affect your agency?

Second paper: due 10/9: For her/his second paper (15% of grade), each student will be assigned a District court case which interpreted the law in the subject area selected for her/his initial paper. Analysis (no more than five pages) should follow these guidelines:

1) What jurisdiction was invoked? Any threshold issues? What venue? 2) What are the issues of the case? What evidence was presented to the Court? 3) What, if any precedents are relied upon, and how are the facts of those cases similar to – or different from – those of the instant case? 4) How does the Court resolve these issues? 5) How does the Court's ruling interpret the law in this area? 6) How does this impact those served by the agency in which you have your field

placement? 7) How does it affect your agency?

Third paper: due 11/6: For his/her third paper (20% of grade), students will be assigned an Appeals Court decision which interpreted the law in an area of social significance. Analysis of not more than six pages should follow these guidelines:

1) What are the issues on appeal?
2) If there is unanimity OR in the case of a split among the Judges, indicate for the majority: What, if any precedents are relied upon, and how do they liken or distinguish the facts of those cases to the instant case.
3) If there is a split, provide the same analysis as above which was provided by the dissent. 6) How does the Court resolve these issues? 7) How does the Court's ruling interpret the law in this area? 6) How does this impact those served by the agency in which you have your field

placement? 7) How does it affect your agency?

Final paper: due 12/13: For her/his fourth paper (25% of grade), each student will receive a Supreme Court decision which interpreted the law in either that subject area selected for the student's initial and second paper, or as an appeal to the third paper. Analysis of not more than eight pages should follow these guidelines:

1) On what basis did the Supreme Court accept review? 2) What are the issues on appeal? 3) If there is unanimity OR in the case of a split among the Justices, indicate for

the majority: What, if any precedents are relied upon, and how do they liken or distinguish the facts of those cases to the instant case. If there were concurring opinions, analyze any differences among them.

4) If there is a split, provide the same analysis for the dissent. 5) How does the Court resolve these issues? 6) How does the Court's ruling interpret the law in this area? 7) Since the issuance of this decision, what courts have relied upon it to help

decide cases in the area of your concern? You may confine yourself to federal appeals and district courts in the ninth circuit, and to state court cases in California.

8) How does this impact those served by the agency in which you have your field placement? 9) How does it affect your agency?

10) How does this decision impact broad public policy?

VII. REQUIRED TEXTBOOKS

One primary text is required for this course, and a second text is optional; each book is available for purchase at the University Book Store. Other materials may be distributed as handouts.

Required text:

Theodore J. Stein, *The Role of Law in Social Work Practice and Administration*, Columbia University Press, New York, 2004. *The Constitution of the United States of America* (available on line) *The Universal Declaration of Human Rights* (available on line) *An Evangelical Declaration Against Torture: Protecting Human Rights in an Age of Terror* (on line) “*Social Justice and People of Faith: A transnational Perspective*” in SOCIAL WORK, VOL. 52, No. 2, April, 2007, pp 139-148 *Law cases and statutes as assigned by class*, readable online or in legal reports, access to which will be explained in a class visit to the USC Law Library, will be assigned as noted below in the schedule of classes.

Optional reading: Raymond Albert, *Law anti Social Work Practice*, 2nd Edition, Springer Series on Social Work, 2000;

Students will learn how to conduct legal research and will become familiar with treatises, annotated codes and statutes, reports of Decisions at all levels, to *Shephardize* cases, and will be directed to appropriate Journals to assist in their drafting of papers in the realm of Social Work and Law.

VIII. ACADEMIC ACCOMMODATIONS

Any student requesting academic accommodations based on a disability is required to register with Disability Services and Programs (DSP) each semester. A letter of verification for approved accommodations can be obtained from DSP. *Please be sure the letter is delivered to the instructor as early in the semester as possible.* DSP is located in STU 301 and is open from 8:30 a.m. to 5:00 p.m., Monday through Friday. The phone number for DSP is (213) 740-0776.

IX. EMERGENCY RESPONSE INFORMATION

To receive information, call main number (213)740-2711, press #2. “For recorded announcements, events, emergency communications or critical incident information.”

To leave a message, call (213) 740-8311 or additional university information, please call (213) 740-9233

Or visit university website; <http://emergency.usc.edu>
If it becomes necessary to evacuate the building, please go to the following locations carefully and using stairwells only. Never use elevators in an emergency evacuation.

University Park Campus City Center

MRF – Lot B Front of the building (12th & Olive)

SWC – Lot B Orange County Campus

WPH – McCarthy Quad Faculty Parking Lot

VKC – McCarthy Quad Skirball Campus Front of building

Do not re-enter the building until given the “all clear” by emergency personnel.

X. COURSE OUTLINE and ASSIGNMENTS

8/28/07 1st session: INTRODUCTION to the COURSE: History of Forensic Social Work, and an Overview of Social work in the Environment of the Legal System.

Course objectives 1 & 2

Theodore J. Stein, *The Role of Law in Social Work Practice and Administration*, 3–6

Raymond Albert, *Law and Social Work Practice*, 3-18

SOURCES of LAW

THE LAW DEFINED; FEDERAL & STATE CONSTITUTIONAL LAW; STATUTORY LAW; THE EXECUTIVE BRANCH OF GOVERNMENT AS A SOURCE OF LAW; THE JUDICIAL BRANCH AS A SOURCE OF LAW AND JUDICIAL REVIEW: Stein, 17 – 42; LAW AND THE SOCIAL ENVIRONMENT; THE NATURE OF CASE LAW; Albert, 19 - 70

9/4/07 2nd session: LEGAL RESEARCH *COURSE OBJECTIVES 2, 6, & 9*

CASE-FINDING TOOLS; LOCATING & READING CASE LAW; FEDERAL STATUTES & REGULATIONS; COMPUTERIZED LEGAL RESEARCH, JOURNALS AND LEGAL PERIODICALS: Stein, 74 – 95; LEGAL RESEARCH RESOURCES & TECHNIQUES: Albert, 246–255.

Session includes a visit to the USC Law Library

9/11/07 3rd session: LEGISLATION and ADVOCACY

COURSE OBJECTIVES 1, 2, 3, 4, 6 & 9. THE LEGISLATIVE PROCESS; INTERPRETATION OF LEGISLATION & THE SEARCH FOR

LEGISLATIVE INTENT; IMPLEMENTATION OF LEGISLATION; THE ADMINISTRATIVE PROCESS AND SOCIAL WORK ADVOCACY:

U.S. Constitution On line: CA Business & Professions Code sec. 4996 (Deerings CA Codes annotated, 2007 Matthew Bender & Co. Inc. Business & Professions Code: Div. 2, Healing Arts; Chapter 4, Social Workers; Article 4, Licensure)

An Evangelical Declaration Against Torture: Protecting Human Rights in an Age of Terror (on line)

Optional: Albert, 112 – 188; 227 – 245
ADMINISTRATIVE LAW THE ADMINISTRATIVE
PROCESS: Albert, 210 – 224

9/18/07 4th session: The JUSTICE SYSTEM: INTRODUCTION to CRIMINAL & CIVIL LAW: FEDERAL & STATE COURT SYSTEMS; CRIMINAL & CIVIL PROCEEDINGS: RELEASE FROM PRISON & APPEALS: Stein, 43 – 73; Albert, 71 - 111 First paper (on Statutory law) is due on this date.
COURSE OBJECTIVES 1, 2, 9

9/25/07 5th session: DIVERSITY AND EQUAL RIGHTS *COURSE OBJECTIVES: 1,2,3,6,8,9 & 10 CASE LAW: BROWN V. BOARD OF EDUCATION, 347 US 483, 74 S. CT. 686, 98 L.ED. 873, 1954 US LEXIS 2094 (1954) PARENTS INVOLVED IN COMMUNITY SCHOOLS V. SEATTLE SCHOOL DISTRICT, 127 S. CT. 2738, 2007 US LEXIS 8670 (2007)*

10/02/07 6th session: SOCIAL WORKERS and the COURTS
COURSE OBJECTIVES 5, 7 & 9
FORENSIC SOCIAL WORK; EVIDENCE; PROVIDING TESTIMONY; TESTIFYING IN COURT: Stein, 122 – 149; SOCIAL WORK PRIVILEGE IN FEDERAL COURTS: Albert, 256 – 281, 298 - 325 Role playing exercise

10/09/07 7th session: The ORGANIZATION of SOCIAL SERVICES & REGULATION of the PROFESSION; SOCIAL WORKER-LAWYER PARTNERSHIPS PUBLIC AGENCIES, PRIVATE NON-PROFITS, & FOR-PROFIT ENTITIES; POLICY AND PRACTICE: Stein, 99 – 121; HISTORICAL & CONTEMPORARY PERSPECTIVES: Albert, 329 – 345 PROFESSIONAL LIABILITY & TORT LAW

THEORIES OF LEGAL LIABILITY FOR SOCIAL WORKERS; RESPONSES TO LITIGATION AND REMEDIES: Stein, 150 – 172; PRIVILEGED COMMUNICATIONS AND WORKER-CLIENT RELATIONS: Albert, 282 – 297

Course objectives 4, 5, 7, 8 & 10

Student presentations begin (*ALL STUDENT PRESENTATIONS AND ALL PAPERS HENCEFORTH: COURSE OBJECTIVES 2, 3, 4, 6, 7, 8, 9 AND 10*)

Second paper (on Trial court decision) is due on this date

10/16/06 8th session: CARE and PROTECTION of CHILDREN CHILD ABUSE & NEGLECT AND PLACEMENT OF CHILDREN IN FOSTER CARE; LEGAL LIABILITY AND CHILD ABUSE & NEGLECT INVESTIGATIONS; JUVENILE & FAMILY

COURTS AND HEARINGS; LEGAL STANDARDS FOR DETERMINING CHILD CUSTODY;
TESTIMONY OF CHILDREN; STATUS OFFENDERS & JUVENILE DELINQUENTS; ADOPTION
LAW AND ISSUES: Stein, 229 – 259; 260 – 290 *OBJECTIVES 2, 4, 7*

10/23/07 9th session FAMILIES and the LAW; DOMESTIC VIOLENCE

DEFINING FAMILIES IN THE LAW; CUSTODY & VISITATION: Stein, 175 – 206; VIOLENCE
BETWEEN PARTNERS IN AN INTIMATE RELATIONSHIP; ELDER ABUSE: Stein, 291 – 312.
OBJECTIVES 4, 5, 7, 8, 9, & 10
Student presentations

10/30/07 10th session: EDUCATION and the LAW *OBJECTIVES 4, 7, 8,9, & 10* STATE & FEDERAL
ROLES; CASE LAW AND FEDERAL STATUTES AFFECTING EDUCATION; INDIVIDUALS WITH
DISABILITIES IN EDUCATION ACT: Stein, 207 -228 and hand-outs. Student presentations

11/06/07 11th session: LEGAL RIGHTS in the WORKPLACE *OBJECTIVES 4,5, 7, 8, 9, & 10*
TITLE VII OF THE CIVIL RIGHTS ACT OF 1964 AS AMENDED; AGE DISCRIMINATION IN
EMPLOYMENT ACT; EQUAL PAY ACT; AMERICANS WITH DISABILITIES ACT, TITLE I; FREE
SPEECH; RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY; OCCUPATIONAL SAFETY &
HEALTH LAWS; WORKERS COMPENSATION AND UNEMPLOYMENT BENEFITS; FAMILY
MEDICAL LEAVE ACT: Hand-outs Student presentations Third paper (on Appeals court decision)
is due on this date.

11/13/07 12th session: LEGAL ISSUES in HEALTH CARE PATIENT RIGHTS; RIGHT TO TREATMENT
AND TO REFUSE TREATMENT; INFORMED CONSENT; SURROGATE DECISION MAKING; MEDICAL
CARE AND LIABILITY OF A PARENT; MINOR'S RIGHT TO CONSENT TO MEDICAL TREATMENT: END OF
LIFE ISSUES: CARE, GUARDIANSHIP, AND ADVANCE DIRECTIVES. Stein, 313 – 336; Albert, 381 – 407.
LIABILITY FOR NEGLIGENCE IN NURSING HOMES: Albert, 408 – 428 *OBJECTIVE;S 4,5, 7, 8, 9, & 10*
Student presentations ;

11/20/07 13th session: MENTAL HEALTH and the LAW THE LAW OF CIVIL COMMITMENT;
PATIENT RIGHTS; PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT; OUTPATIENT
CIVIL COMMITMENT; MENTAL ILLNESS & CRIMINAL LAW: Stein, 337 - 363 *OBJECTIVES 4,5, 7,
8, 9, & 10* Student presentations

11/27/07 14th session: ISSUES in IMMIGRATION Handouts and guest lecturer from USC
Immigration Clinic, University of Southern California *OBJECTIVES 4, 5, 7, 8, 9, & 10*

INTERNATIONAL HUMAN RIGHTS

UNIVERSAL DECLARATION OF HUMAN RIGHTS Adopted and proclaimed by the United Nations General Assembly resolution 217 A (III) of 10 December 1948

Available on line “***Social Justice and People of Faith: A transnational Perspective***” in SOCIAL WORK, VOL. 52, No. 2, April, 2007, pp 139-148

Case law: Filartiga v. Pena-Irala, 630 F 2d 876 (2d circuit, 1980).

OBJECTIVES: 1, 3, 6, 7, 8 & 10

Student presentations

12/04/07: 15th session: MEDIATION: Handouts and class exercise

OBJECTIVES 5, 7, 8, & 10 Finals week:

Fourth paper (on Supreme Court decision) is due by 2:00 pm on Tuesday, December 11, 2007, to be placed in my faculty mailbox or under the door of my office, MRF 337. IF you wish the paper returned to you, provide an adequately stamped, self-addressed envelope