EL 734-1001 – Special Education Law - Credits: 3
University of Nevada, Reno
Thursdays, 4:00 p.m. – 6:45 PM
William Raggio Building (WRB) 3046
2013 Spring Semester

Instructor: William E. Sparkman, Ph.D.
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Phone: (775) 327-2255
Office Hours: 1:30 p.m. – 3:00 p.m. Tuesday and Thursday
Other times by appointment

Communication outside of class: The most efficient way to contact me is through e-mail at sparkman@unr.edu. If you call my office and I am not available, please leave a voice mail. I will return your call if you speak slowly with your name, phone number, and the best time to call. You are welcome to stop by the office, but I suggest you call or e-mail first to make sure I am available to visit with you.

UNR Catalog Description: Case law with special consideration given to litigation relating to students with disabilities and school officials.

Course Pre-requisite: There is no prerequisite for the course. However, graduate standing is assumed.

Disclaimer: This course is designed as an introduction to the topic of special education law and is NOT intended to provide students with legal advice. Students are responsible for obtaining such advice from their school attorney or from their own legal counsel. This course and any materials herein are intended for educational and informational purposes only.


You will be assigned others readings as appropriate during the semester. In most cases, these will be available through WebCampus.

Class meeting time and location: Thursdays, 4:00 p.m. – 6:45 p.m. WRB 3046

Conceptual Framework for the Educational Leadership Program: The conceptual framework of the Department of Educational Leadership focuses specifically on our program’s mission: “Developing leadership for quality education for all students.” As a
“cohesive community of scholar-practitioners” we recognize that strong instructional leadership is a key characteristic of effective schools. Our collaborative efforts focus on creating leaders with strong fundamental knowledge and skills that enable them to completely engage in reflective practices. As a department, we aim to develop future leaders who possess a love of learning, value democracy, and promote the learning of all students.

Course goal and learning objectives: The goal of this course is to introduce you to the federal and state (Nevada) laws and regulations as well as case law governing the provision of education and related services to students with disabilities in the public schools. This course will provide a substantive review of The Individuals with Disabilities Education Act (IDEA) as amended, Section 504 of the Rehabilitation Act of 1973 as amended, and The Americans with Disabilities Act as amended. In addition to the foundational statutes, we will also focus on relevant case law that has interpreted the many requirements of the law as applied to its implementation in the public schools. The major emphasis of the course will be on the difficult policy issues embedded in special education law as well as the day-to-day professional decision making required to implement appropriately and legally the detailed requirements of the laws and regulations so that the laws’ intent can be realized.

When the U.S. Congress reauthorized the IDEA in 2004 (Pub. L. 108-446, 118 Stat. 2647), it stated the following:

“Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.”

Among the several purposes of IDEA articulated by Congress, the first two speak directly to the legal responsibilities of public schools:

A. to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

B. to ensure that the rights of children with disabilities and parents of such children are protected.

School leaders operate within the confines of a complex legal framework that governs and regulates the operation of school life. Few issues in school law are as complex as those involving special education. While it is very important for school leaders to learn the “nuts and bolts” of special education law, it is equally important to internalize the spirit and intent of the law so that one’s decisions contribute to realization of the law’s fundamental purposes. As a parent, who is also a special educator, told me, “Don’t get so focused on the rules and regulations of special education law that you forget the faces of the children and their parents.”
Learning outcomes: The following learning objectives are crucial for you to succeed in this course:

- Summarize the legal bases for the governance of public schools in the United States and describe the structural arrangement for control of public schools within a federal system of government.
- Identify and summarize the sources of law that impact schools including constitutional provisions, court decisions, statutory enactments, administrative regulations, and local policies and practices.
- Describe the roles and functions of the state and federal courts in the United States.
- Demonstrate a sufficient grasp of legal terminology in order to read materials for the course and to be able to interpret legal requirements to those affected by the law or rules and regulations.
- Demonstrate an understanding of the fundamentals and history of the development of special education and civil rights for students with disabilities.
- Articulate the major provisions of key federal legislation including IDEA, Section 504, ADA, and NCLB.
- Develop the ability to apply the law and regulations to hypothetical situations involving students with disabilities in public education.
- Understand and communicate the procedural safeguards and dispute resolution under IDEA and Section 504 to colleagues and parents.
- Understand the requirements of a behavioral intervention plan.
- Understand the legal issues involved in the discipline of students with disabilities in public education.
- Understand federal and state law dealing with the confidentiality of education records in respect of the privacy of individuals with disabilities.
- Understand the “stay-put” provision in IDEA and communicate the requirement to principals and teachers.
- Demonstrate the ability to locate relevant information about special education law by using Web-based sources including legal databases.
- Demonstrate the ability to engage in reflective, critical analysis of various legal issues through reading and critiquing legal opinions;
- Apply the concepts and principles of law to selected, hypothetical problems of practice and assess the consequences of your decisions and actions.
- Articulate a rational and legal basis for your decisions and actions to relevant stakeholders.
- Describe and evaluate the role of the judiciary as an influential force affecting policy making and practice.

Unique class procedures/structures: To achieve the goals of the course and to maximize your attainment of the learning outcomes, you will engage in the following intellectual exercises: reading legal opinions to develop a feel for what the rules of law actually mean in practice, practicing applying relevant legal principles to hypothetical problems common in the schools, and participating in activities designed to allow you to communicate your decisions to relevant stakeholders based on a reasonable course of action grounded in established legal principles and honed in case law. I will employ a
variety of instructional strategies including, but not limited to lectures with limited power point presentations, group discussion, role playing, outside reading, and other in-class activities. Class sessions may feature, among other things, discussions, case recitations, some cooperative learning activities, and guest speakers. My goal is two-fold: one, to provide you numerous opportunities to engage actively in critical thinking and deep learning about the material covered; and two, to have you take increasing ownership of your own learning.

**Description of Assignments:** The following is a list and description of the assignments:

1. **Student Information sheet (Nongraded).** Below you will find a form for information about your preferred e-mail and telephone contact, employment, academic program, and career objectives. Please complete the form electronically in the same bulleted format and return it to me (sparkman@unr.edu) from your preferred e-mail address **no later than Monday, January 28, 2013 no later than 4:00 p.m.** Make sure that your e-mail address is linked to WebCampus and MyNevada and that it is correct. I will use this information to get to know you, and to have necessary contact information if the need arises. *I will not share this information with anyone.*

   **Student Information**
   - Course: EL 734 – Special Education Law
   - Semester: 2013 Spring Semester
   - Name:
   - Preferred E-mail address (**make sure this is linked to WebCampus and MyNevada**)
   - Preferred telephone contact and any limitations:
   - Employer:
   - Position:
   - Identify your degree or licensure program and major:
   - What are your short-term and long-term career objectives?

2. **Using Legal Databases and Assignments (Nongraded).** The University Libraries provides access to the two major legal databases: WestLaw and LexisNexis® Academic. This will make our access to legal opinions and other reference materials much easier. I have prepared a *LexisNexis® Academic – A user’s guide* as well as a *LexisNexis® Academic Assignment 1,* and a *WestLaw Information and Practice Assignment*, which are available on WebCampus. I designed these **non-graded** activities as tools for helping you learn to navigate these two robust databases. **Please come to class on Thursday, January 31, 2013 prepared to discuss your answers to the questions posed in the assignments and to talk about your experiences using these databases.**

3. **Course Engagement (attendance, class preparation and participation – 25 points).** I envision this class as a community of learners in which each of us will contribute to the exchange of ideas and to each other’s education through our class discussions and planned learning activities. Everyone needs to be co-owners of the class and collectively responsible for its quality and outcomes. I take responsibility for the
overall design and direction of the course with the expectation that we hold ourselves and each other accountable for a rich intellectual dialogue and experience.

As members of this class, each of us has obligations to ourselves and each other. First, and foremost, we must come to class each week prepared by having read the assigned materials and taken time to make sense of them in terms of their personal and professional significance. We must also come to class having completed any activities or assignments that will be used as a basis for class discussion. If we do not come to class prepared and willing to participate, we are shortchanging ourselves and our colleagues who are relying on us to contribute to the learning environment. Next, we need to be on time and stay through the conclusion of class, if at all possible, so we can minimize the disruptions to the learning opportunities. I realize that you have competing obligations that may impact your attendance and punctuality. Remember that parking can become a challenge so take that into consideration when coming to class. If you are going to be absent or late, and are able to do so, I would appreciate a brief e-mail alerting me. I do not need to know the reason. I know you will take the initiative to talk with your colleagues or me to get any information or materials you missed. Please talk to me if you know in advance that you will be absent so we can discuss any work that may be missed. I know that because of your professional obligations to your schools there may be times when you are late to class. If you think you will be late on a regular basis, we need to talk about this.

It is the policy of NSHE to be sensitive to the religious obligations of its students. If you miss a class because of the observance of religious holy days, you will be given an opportunity to make up any missed work. The make-up will apply to the religious holy day absence only.

I expect you to participate willingly, but judiciously to class discussions in an informed and thoughtful manner. I am more interested in the quality of your comments than in the quantity, but you must make a concerted effort to get involved in the discussions. I reserve the right to talk with you personally if there are any issues with your participation. We will depend on each other to share this responsibility for a productive learning environment.

Exemplary engagement would be characterized by the following: Attends all classes. Is on-time. Has prepared for class. Regularly contributes interesting, insightful comments to class discussion. Relates materials read to actual practice. Presents good examples of concepts discussed. Builds on comments of others. Raises good questions. Responds appropriately to others’ questions, concerns, or reactions. Assists in moving class discussion forward. Respectful of others’ contributions to class. Encourages differences of opinion and healthy debate. I credit these characteristics to Dr. Marianne Huger, George Washington University, from her syllabus for EDUC 6510, Higher Education Administration.

4. Interviews with special education case manager, school psychologist, the LEA representative for the school- 20 points. At the beginning of the semester, please
interview personally school or district personnel, who are directly involved in special education, and who can provide insights into various phases of special education from identification, evaluation, IEP meetings, placement, and provision of special education and related services. While I do not have a particular template for your interview, nor the number of individuals to interview, the following questions would be interesting: How were you prepared to deal with issues of special education law? How adequate was that preparation? Explain the ways that you are directly involved in special education issues. What are the five most important things that a prospective school leader needs to know, understand, or be able to do with respect to special education? The outcome is for you to elicit from the individuals some valuable insights into the real world of special education practice with particular attention to the five most important law-related issues that you should know or be able to do. Feel free to discuss with me any questions you have about this assignment before it is undertaken or during the execution of it. Please come to class on February 7, 2013 prepared to discuss the results of your interview. A paper copy of your interview must be submitted at that time.

5. Case briefs – 25 points. One important way to learn about the law and legal issues is to read and brief the opinions from court cases. In doing so, you will be exposed to legal reasoning and discover first hand how judges apply principles of law to a specific sets of facts. There are 42 edited cases presented in the textbook. Some of the cases are old, but they still contain relevant information and demonstrate the application of the law to special education situations. One way to develop your capacity for analytical and critical thinking is to read and brief court cases for presentation and discussion in class. You will not have to prepare written briefs, although this might be helpful in organizing your thinking about the case. Each week, I will select students at random to brief a case orally as part of an interactive exchange among us. I expect you to use one of the legal databases (Westlaw or LexisNexis) to check on the subsequent appellate history of each case to determine if it is still good law. The format for the brief is straightforward. I want you to be able to identify the parties to the lawsuit, the procedural posture that the case represents and the specific court (trial court, appeals court, U.S. Supreme Court), the date of the decision, a summary of the facts, the particular issue(s) before the court, the court’s decision, the legal rationale underlying the decision, and the implication of the decision to practice. We will discuss this in more detail in class. Because these cases are edited by the authors, you may want you to access the case using WestLaw or LexisNexis and read the case in its entirety to gain a deeper understanding of the complexity of cases as well as looking at the concurring and dissenting opinions if there are any. The intent is not to make you legal scholars, but to develop the deep learning necessary so you know when and how to apply rules of law during the exigencies of your work in schools or when you are working with legal counsel.

6. Examination: Pre-Tests/Post Test - 40 points. I will provide you pre-tests for each chapter and four (4) post-tests for combination of the chapters. The tests will use an objective format with true-false and multiple choice responses. This will allow you to have an on-going assessment of your progress and allow us to take corrective action as needed in the class. My goal is for you to learn the basic material and to have regular feedback.
7. **Action research and policy brief with formal presentation – 40.** Given the wide-range of legal issues involved in special education and the fact that the issues are constantly evolving, it is impossible to go into much depth in a traditional semester course. One way that you can begin to learn the intent of the law as well as the “nuts and bolts” is to engage in action research of realistic situations involving students or employees with disabilities. We will identify teams of two or more individuals in the class and I will work with each team to identify an appropriate and relevant topic for the action research project. Once the research is completed, each team will prepare a policy brief and make a formal presentation to the class. We will discuss this in detail in class and I will provide an example of a policy brief early in the semester as well as establish a due date. In addition, I will provide explicit directions and a rubric for my assessment of the policy brief and the formal evaluation.

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<th>Assignment</th>
<th>Weight</th>
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<tr>
<td>Course engagement</td>
<td>25</td>
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<tr>
<td>Interviews</td>
<td>20</td>
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<tr>
<td>Case briefs</td>
<td>25</td>
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<tr>
<td>Examinations (4 post-tests)</td>
<td>40</td>
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<tr>
<td>Action research and policy brief with formal presentation</td>
<td>40</td>
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<td><strong>Total</strong></td>
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**Grading scale:**

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<tr>
<td>A</td>
<td>93-100%</td>
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<tr>
<td>A-</td>
<td>90-92.99</td>
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<tr>
<td>B+</td>
<td>87-89.99</td>
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<td>B</td>
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<td>B-</td>
<td>80-82.99</td>
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<td>C+</td>
<td>77-79.99</td>
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<td>D+</td>
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<td>63-66.99</td>
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I discourage late work. If there are serious issues that make it impossible for you to complete an assignment on time, please talk with me in advance.

**Class Schedule and Topic Outline and Readings**

**Week 1 – January 24, 2013**

- Course overview
- Introductions
- Reflections on our professional experiences related to special education.
- Brief review of principles of educational governance in the United States
- Sources of law impacting public education
- Role, structure, and functions of the courts
- Finding the law
  - Legal citations
  - Using legal databases

Readings:
WebCampus – Legal Citations
Textbook, Appendix B – Frequently Used Acronyms and Terms, pp. 359-362.

**Week 2 – January 31, 2013**
- Review of legal databases and practice assignments
- The historical context of special education law
- Early landmark special education decisions (PARC and Mills)
- Federal statutory responses
- Overview and comparisons of IDEA, Section 504, and ADA

Readings:

**Week 3 – February 7, 2013 (Invited guests and speakers)**
- The Personal Side of Special Education Law – Who is involved?
  - Students
  - Parents
  - Educators
  - Service Providers
  - Advocates
  - Decision Makers
- Who is Protected
  - Constitutional claims – Equal Protection Analysis
  - Statutory Claims – IDEA, Section 504, ADA
  - Special Situations

Readings:
Chapter 4, “The People,” pp. 49-64.

**Week 4 – February 14, 2014**
- The Special Education Process Begins
  - Identification and Evaluation
  - Eligibility

Readings:
Week 5 – February 21, 2013
- Post-Test 1 (Chapters 1-7)
- Individualized Education Program

Readings:

Week 6 –February 28, 2013
- Free Appropriate Public Education (FAPE)
- Related Services

Readings:
Chapter 9, “Free Appropriate Public Education,” pp. 131-145.
Chapter 10, “Related Services,” pp. 147-170.

Week 7 – March 7, 2013
- Placement and Least Restrictive Environment (LRE)
- Private School Placements, Residential Placements, and Public Choice Programs

Readings:

Week 8 – March 14, 2013
- Post-Test 2 (Chapters 8-12)
- Special Issues with Secondary Students
- Cost Issues

Readings:

Week 9 – March 21, 2013 – UNR Spring Break – No Class

Week 10 – March 28, 2013
- Procedural Safeguards
- Discipline

Readings:
Week 11 - April 4, 2013
- Dispute Resolution
- Americans with Disabilities Act
- Section 504 of the Rehabilitation Act of 1973

Readings:
Chapter 18, “Americans with Disabilities Act and Section 504 of the Rehabilitation Act,” pp. 287-299.

Week 12 - April 11, 2013 (WCSD Spring Break)
- Alternative Assignment - Educational Records and other privacy concerns

Readings:

Week 13 - April 18, 2013
- Post-Test 3 (Chapters 13-18)
Employees with disabilities

Readings:
To be assigned.

Week 14 – April 25, 2013
- Legal Liability in Special Education
- Remedies for Violations of the Law
- Where do we go from here? The Future of Special Education Law

Readings:

Week 15 - May 2, 2013 (last instructional day of class)
- Post-Test 4 (Chapters 19-22, employment-related issues)
- Formal presentation of policy briefs will begin.

Week 16 – May 9, 2013 (Final examination schedule 5:00 p.m. – 7:00 p.m.)
- Formal presentation of policy briefs will conclude

Other Relevant Information and Class Policies

Academic integrity: All students are expected to demonstrate the highest standards of academic honesty and conduct. Cheating, plagiarism or otherwise obtaining grades under false pretenses constitute academic dishonesty according to the code of this university.
Academic dishonesty will not be tolerated and penalties can include canceling a student's enrollment without a grade, giving an F for the course or for the assignment. For more details, see the UNR General Catalog.

Copyright: As members of the University Community, we are expected to follow the requirements of federal copyright law (17 U.S.C.A §§ 101-810) with particular attention to the “fair use” doctrine (17 U.S.C. A. § 107). http://sites.unr.edu/administrative-manual/curricula/instructionresearch-procedures/6505.aspx

Disability Services: Any student with a disability needing academic adjustments or accommodations is requested to speak with me or the Disability Resource Center (Thompson Building, Suite 101) as soon as possible to arrange for appropriate accommodations.

Video-taping of class: Surreptitious or covert video-taping of class or unauthorized audio recording of class is prohibited by law and by Board of Regents policy. This class may be videotaped or audio recorded only with the written permission of the instructor. In order to accommodate students with disabilities, some students may have been given permission to record class lectures and discussions. Therefore, students should understand that their comments during class may be recorded.

Academic Success Services: Your student fees cover usage of the Math Center (784-443 or www.unr.edu/mathcenter/), Tutoring Center (784-6801 or www.unr.edu/tutoring/), and University Writing Center (784-6030 or www.unr.edu/writing Center). These centers support your classroom learning; it is your responsibility to take advantage of their services.

Professional behavior: This course is part of a professional program for work in higher education. The nature of such work necessitates a high degree of integrity and ethical behavior by practitioners and scholars alike. We are expected to demonstrate the highest standards of academic honesty and conduct. We are expected to cooperate with one another to contribute to group discussions and projects, and to represent one’s work fairly and honestly.

Please do not become distracted with your personal technology in class. Use the vibrate mode on your cell phone if you need to be connected to your work or family. If you receive an incoming message that requires your immediate attention, you may leave the class without explanation. If you are involved in a crisis situation and need to be available via your cell phone, please let me know before class begins. You may use your laptops in class for notes or to access or verify information. My purpose here is to have you maintain your focus on class discussions or other learning activities.

Oral and written communication skills: The effectiveness of educational leaders is often dependent upon their ability to express ideas clearly, cogently and accurately. My assessment of your oral presentations will include attention to delivery, clarity, content, graphics (if relevant), preparation, and your ability to respond to questions. My
assessment of your written assignments will include, among other things, attention to clarity of thought, grammar, spelling, punctuation, syntax, and, of course, substantive content. *The Publication Manual of the American Psychological Association* (6th Ed.) is the standard for style. Please take this seriously in your written policy brief and formal presentation.

**Feedback encouraged:** I welcome your feedback at any time about the course goals and learning outcomes as well as your thoughts about whether we are making progress in achieving them with the various assignments. Such constructive feedback will help me make necessary adjustments that can enhance your learning, and improve the course.