**226.1T: Local Government Law**

Spring 2023

**Course Information:**

This class is a 3 unit or 3 “credit hour” class. A “credit hour” at Berkeley Law is an amount of work that reasonably approximates four hours of work per week for 15 weeks, including (a) classroom time, (b) time spent preparing for class, (c) time spent researching, writing, and revising papers and other written work, and (e) time spent preparing for and completing any other final project or presentation. For the purpose of these calculations, 50 minutes of classroom instruction counts as one hour, and the 15 weeks includes the exam period. You can expect to spend this amount of time per unit per week on out-of-class, course related work as described above.

**Course Description:**

Local government entities provide essential services and shape much of our contemporary daily life. In this course we will study the source, scope, and limits of local government power—specifically the law that governs counties, cities, and special districts. We will examine federalism, government formation, zoning, educational equity, and public finance. We will examine the relationship between states and local entities, conflicts between neighboring public entities, the relationship between local government and the individuals and communities both within and around these entities. We will discuss the capacity for local governments to engage constituents and neighbors and to be responsive democratic communities, as well as the impact of local governments on the regional metropolitan political economy.

Using the casebook Local Government Law, Cases and Materials, 7th edition, by Frug, Ford and Barron, and related readings from planning and public policy literature, this course will examine the social-equitable impact of this body of law—specifically addressing themes of race, gender, and class to understand how local governance is both structured and experienced. At various points throughout the semester, I will invite guest speakers to discuss certain topics.

**Expected Learning Outcomes:**

Berkeley Law has identified several school-wide learning outcomes for all of its courses. Of those, students in this class will be expected to achieve the following Learning Outcomes by the end of this course:

1. Knowledge and understanding of state and local government law and its relationship to local governance, including the ability to assess the strengths and weaknesses of the current legal structure governing local entities;
2. Understanding of use of local government law to solve real-word problems and to create a more just society, including the ability to identify and discuss issues of race, ethnicity, gender, class and/or other group characteristics as they relate to local government law topics; and,
3. Ability to apply legal analysis, reasoning, and research skills to problems impacting local level public entities or organizations and/or populations interfacing with these entities.

**Course Requirements, Policies, and Grading:**

This course will meet once a week. You will be graded both on your level of participation in class discussion and your work on a Final Paper project. The breakdown of your final grade is as follows:

1. **Class Participation—20% of final grade**

You are expected to complete all assigned reading prior to class and to contribute to the class discussion. **There is a reading assignment for the first day of class.** Every student is expected to contribute to the class discussion over the course of the semester, and you are all encouraged to volunteer in every class. I will circulate a sign-up sheet on the first day of class for students to sign up to be “on call” for certain topics that correspond to the reading assigned below. 20% of your grade will be based both on your level of participation in class discussion generally, and your level of preparation and contribution to the discussion around your assigned topic.

1. **Attendance and Impact on Grade**

Berkeley Law, in accordance with ABA accreditation standards, requires class attendance to receive course credit. To avoid a grade reduction or penalty, if you must miss a class, please e-mail me in advance with an explanation and submit a one- to two-page reflection piece on the reading assigned for the day you are absent, due within one day after the missed class. Please note that failure to attend more than two classes will prevent you from receiving credit for this course.

1. **Class Presentation on Final Paper Topic—10% of final grade**

I will reserve class time during our final class (which is a combined two classes) to allow for each student to present on their selected Final Paper topic and for us to discuss how your topic relates to the overall content of our course. Your presentation should be brief (10 minutes, strictly timed) and you should be prepared to answer questions from the audience on your selected topic. Your presentation should identify your topic of research, and its relationship to the material covered in class. This will allow you to summarize your topic and integrate it into the material covered in class. To accompany your presentation, please draft a one-page outline to distribute to your classmates that captures the key points of your research.

1. **Use of Laptops and Mobile Devices**

You may use a laptop or other device to access reading assignments during class. Berkeley Law strongly encourages you to take hand-written notes (as research demonstrates that students absorb information better this way). Accessing the internet for any purpose other than class-related activities is prohibited. **During student presentations, only the student presenter may use a laptop or electronic device to assist with his/her presentation; all others must put away laptops and electronic devices.**

1. 3. **Final Paper—70% of final grade**

You must complete a 15-20 page double-spaced, original research paper for the course, due no later than the close of exam period. We will discuss topic selection in class, but in general you may (1) target your research to a non-profit or public agency that is in need of legal research on a question of interest to you; (2) select a local government topic of interest to you and develop a case study regarding a specific place/local government institution that is actively addressing that issue; or (3) research a pressing issue of local government policy and assess options for reform; or (4) analyze a narrow issue of local government doctrine or theory and its impact on a particular jurisdiction or set of jurisdictions You should expect to schedule at least one appointment with me during office hours to discuss your topic of interest and research strategy. Your paper may draw from and develop the content that is covered in class, but you must also conduct independent research that builds on the material covered in the syllabus. It is both acceptable and appropriate to research critiques of state and local government law topics found in other disciplines or bodies of scholarship.

You will be graded on your (1) scope of research, use of sources and analytical depth of treatment of the sources used; (2) thoroughness, clarity, and organization; (3) quality and originality of reasoning; and (4) incorporation/sophistication of land use law topics and concepts into your analysis.

You will be required to submit a working draft of your paper for my review and feedback prior to final submission. I will provide you feedback on your working draft although I will not be grading this draft. Failure to submit a working draft on time, however, will reduce your final grade.

**Assigned Reading and Method of Instruction:**

This syllabus provides an overview of the major topics and readings we will cover during the semester. I may issue an updated version of this syllabus during the semester to account for the pace of our discussions, new developments in the law, guest speakers, and final reading assignments. I may also assign supplemental reading in class.

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| **Section** | **Reading Assignments** | **Week** |
| ***Introduction to the Problems of Decentralization*** |
| 1. What is local government law?
 | -- | 1 |
| 1. Decentralization: How Much Power Should Local Governments Have?
 | -FFB 1-23 (Calvino, Tocqueville, Madison, *Romer*), Briffault, “States and Local Governments” (excerpt, bCourse) | 1 |
| 1. Cities: Are They Public or Private Entities?
 |  | 2 |
| 1. Private and Quasi-Private Forms of Local Power
 |  | 2 |
| 1. Special Districts, School Districts, & Public Authorities
 |  | 3 |
| 1. Counties: Administrative Subdivisions of the State, General Purpose Local Governments, and/or Regional Governments?
 |  | 3 |
| ***Local Governments in the Federalist System***  |
| 1. The City-State Relationship as a Matter of Federal Constitutional Law & Dillon’s Rule
 |  | 4 |
| 1. The Home Rule Power
 |  | 4 |
| 1. State Legislative Preemption
 |  | 5 |
| 1. City-Federal Relations
 |  | 5 |
| ***The Relationships Among Local Governments*** |
| 1. City Formation
 |  | 6 |
| 1. Annexation
 |  | 6 |
| 1. Secession & Dissolution
 |  | 6 |
| 1. Conflicts Among Cities
 |  | 7 |
| ***Public entities as innovators and/or agents of change?* Part I** |
| 1. Local Governments as Innovators & Agents of Change—Education and Equity
 |  | 8 |
| ***The Relationships Among Local Governments*** |
| 1. Sprawl
 |  | 9 |
| 1. Regional Governance, Planning
 |  | 9 |
| ***Public entities as innovators and/or agents of change?* Part II** |
| 1. Local Governments as Innovators & Agents of Change—Affirmative Litigation
 |  | 10 |
| ***Relationships between local governments and their citizens*** |
| 1. Paying the City’s Expenses & Managing Local Fiscal Crisis
 |  | 11 |
| 1. Delivery of services: Policing
 |  | 12 |
| ***Student Presentations—TO BE DETERMINED WITH CLASS*** |