Privacy Law

Times: MW 3:00–4:15 P.M. Room: 108
Instructor: Steven J. Macias Office: 234
Email: smacias@siu.edu Phone: 618-536-8464
Office Hours: MW 4:15–5:15 P.M.

Description
This course examines the law relating to information privacy as it runs through many different practice areas, including, but not limited to, tort law, media law, criminal law, health law, election law, education law, and the laws regulating the financial and credit industries. Information privacy, the focus of this course, differs from the decisional privacy cases studied in Constitutional Law. Here, the focus is on how the law regulates access to, and dissemination of, personal information, whether by the government or a third party.

Learning Objectives
Upon completion of the course, student should:
- be able to articulate the differences between information privacy and decisional privacy.
- understand how issues of information privacy arise in the context of tort law, criminal law, constitutional law, and contract law.
- become familiar with existing statutory protections for information privacy as well as the modern legislative trends, including the online resources to keep current with those trends.
- be able to explain how the First Amendment both protects and undermines information privacy.
- be able to explain how the Fourth Amendment protects information privacy.
- appreciate how the unique contexts of employment and educational settings affect the analysis of employee and student privacy.
- appreciate “Privacy Law” as a growing field of practice as well as the role of the International Association of Privacy Professionals within the field.
- have gained an historical sense of the development of privacy law as well as developed an appreciation of the theoretical complexity of privacy as a concept.
- have mastered bar-tested privacy topics such as the privacy torts, First Amendment limitations on recovery for privacy violations, and Fourth Amendment privacy invasions.

Structure of Course
The course will be largely discussion-based. Beginning around the fourth class, students will be assigned to present current events of their choosing that line up with the reading for each class day. Because privacy is a topic that is frequently in the news, finding interesting current events should be an easy task.
Evaluation
There will be a take-home examination that will account for 85% of the semester grade. The exam will be distributed during the final week of the semester and must be submitted within the examination fortnight. More details will follow in due course.

The remaining 15% of your grade will be based on class participation and current events presentations. Each student will present twice over the semester. The presentations should last no more than five minutes per student. More details will be forthcoming.

Required Casebook

Recommended Materials

Additionally, the casebook’s website <www.informationprivacylaw.com> has an excellent selection of resources on all aspects of privacy law.

You should familiarize yourself with the International Association of Privacy Professionals (IAPP). The ABA will soon likely recognize the IAPP certification programs that will allow attorneys to hold themselves out as “Privacy Law Specialists.”

Finally, you should consider subscribing to the BNA Law Reports, Privacy Law Watch and/or Privacy & Security Law Report, via Bloomberg. These Reports will provide you with daily developments in the world of privacy law, which you will find useful in preparing for your current events presentations.

Administrative Assistant
Susan Williams, susanw@law.siu.edu
Office: 243
Please contact Susan if I am unavailable and she will relay any messages to me.

Attendance Policy
The School of Law Rules primarily govern students’ attendance requirements. Pursuant to those Rules, the maximum number of absences for this course is set at four (3). The sanction set out in Rule III.5(g)(iii)—a reduction in a student’s final grade of three-tenths (0.3) of a point per absence—is in effect for any student who exceeds the three permitted absences.

Because oral participation is a central (and graded) component of this course, attendance is essential. This means that it is not possible to duplicate the classroom experience through watching a video of the course for any given day. Being “on call” and prepared to undergo oral examination serves as a pedagogical benefit both to the individual student as well as to the entire class.
Signing the daily attendance sheet is a representation that you have completed the readings and spent time thinking about the questions asked in the class slides. It is also a representation that you have spent at least 1.5 hours in preparation for the class as required by ABA Standard 310(b)(1) set out below. I will consider any misrepresentation on the attendance sign-in sheet to be “educational wrongdoing”—information that I must report to the bar examiners of any state to which you apply for admission.

**Laptops and Other Electronic Devices**
Laptop computers should *not* be used in class for any purpose other than taking notes. If any student inappropriately uses a laptop (for sending email, chatting, web browsing, etc.) he/she will be marked as absent for the day. The easiest way to avoid suspicion of laptop misuse is not to use one in class in the first instance.

**D2L Website**
There is website for this class on D2L, [http://online.siu.edu](http://online.siu.edu), which will contain supplemental course materials. It will also be my primary means of communicating with students outside of class. Thus, it is imperative that you visit the website frequently as you are strictly responsible for all materials and information posted therein.

**Workload Expectations**
The American Bar Association (“ABA”) standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.”

This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session, 6 hours for the week. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a total of 9 hours per week (3 in class and 6 preparing for class) on course-related work.
# Reading Assignments

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<th>Class</th>
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<td>1</td>
<td>W, Aug. 23</td>
<td>Introduction</td>
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<td>M, Aug. 28</td>
<td>Perspectives: Conceptualizing Privacy</td>
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<td>3</td>
<td>W, Aug. 30</td>
<td>Perspectives: Criticisms</td>
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<td>W, Sept. 6</td>
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<td>6</td>
<td>W, Sept. 13</td>
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<td>7</td>
<td>M, Sept. 18</td>
<td>Dissemination of False Information</td>
<td>178–88, 199–213</td>
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<td>8</td>
<td>W, Sept. 20</td>
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<td>M, Sept. 25</td>
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<td>10</td>
<td>W, Sept. 27</td>
<td>Fourth Amendment &amp; Technology</td>
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<td>11</td>
<td>M, Oct. 2</td>
<td>Reasonable Expectation of Privacy Test</td>
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<td>12</td>
<td>W, Oct. 4</td>
<td>Digital Searches &amp; Seizures</td>
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<td>M, Oct. 9</td>
<td>NSA Surveillance</td>
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<td>W, Oct. 11</td>
<td>Confidentiality of Medical Information</td>
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<td>15</td>
<td>M, Oct. 16</td>
<td>State &amp; Federal Statutory Protections</td>
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<td>16</td>
<td>W, Oct. 18</td>
<td>Constitutional Right to Information Privacy</td>
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<td>17</td>
<td>M, Oct. 23</td>
<td>Genetic Information</td>
<td>585–604 + handouts</td>
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<td>20</td>
<td>W, Nov. 1</td>
<td>The Use of Government Records</td>
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<td>21</td>
<td>M, Nov. 6</td>
<td>Consumer Data Privacy Regulations</td>
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<td>Tort, Contract &amp; Property Law</td>
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<td>W, Nov. 29</td>
<td>Education Privacy</td>
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<td>27</td>
<td>Make-up</td>
<td>Employment Privacy</td>
<td>1017–43</td>
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<td>28</td>
<td>Make-up</td>
<td>TBD</td>
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IMPORTANT DATES *
Semester Classes Begin ................................................................. 08/22/2017
Last day to add full-term course (without Dean’s signature): 08/27/2017
Last day to withdraw from the University with a full refund: 09/01/2017
Last day to drop a full-term course for a credit/refund: .................. 09/03/2017
Last day to drop a full-term course (W grade, no refund): .......... 10/29/2017
Final examinations: ................................................................... 12/11-12/15/2017

**ADVISEMENT:**
SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

**MISSON STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE**
SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

**Syllabus Attachment**

**Fall 2017**

**SUMMER SEMESTER HOLIDAYS**
Labor Day Holiday 09/04/2017
Fall Break 10/07—10/10/2017
Thanksgiving Break 11/22—11/26/2017

**WITHDRAWAL POLICY ~ Undergraduate only**
Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar’s office. For the proper procedures to follow when dropping courses and when withdrawing from SIU visit: [http://registrar.siu.edu/students/withdrawal.php](http://registrar.siu.edu/students/withdrawal.php)

**INCOMPLETE POLICY ~ Undergraduate only**
An INC grade may be assigned when, for reasons beyond their control, students engaged in passing work are unable to complete all class assignments for the course. An INC must be changed to a completed grade within one full semester (undergraduates), and one full year (graduate students), from the close of the term in which the course was taken or graduation, whichever occurs first. Should the student fail to complete the remaining course requirements within the time period designated, the incomplete will be converted to a grade of F and such grade will be computed in the student's grade point average. For more information visit: [http://registrar.siu.edu/students/withdrawal.php](http://registrar.siu.edu/students/withdrawal.php)

**REPEAT POLICY**
An undergraduate student may, for the purpose of raising a grade, enroll in a course for credit more than once. For students receiving a letter grade of A, B, C, D, or F, the course repetition must occur at Southern Illinois University Carbondale. Effective for courses taken Summer 2013 or later, only the most recent (last) grade will be calculated in the overall GPA and count toward hours earned. This policy will be applied to all transferrable credit in that only the last grade will be used to calculate grade point average. Only those courses taken at the same institution are considered repeats under this policy. See full policy at [http://registrar.siu.edu/students/repeatclasses.php](http://registrar.siu.edu/students/repeatclasses.php)

**GRADUATE POLICIES**
Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog at [http://gradschool.siu.edu/about-us/grad-catalog/](http://gradschool.siu.edu/about-us/grad-catalog/)

**DISABILITY POLICY**
Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must contact DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/)

**PLAGIARISM**
See the Student Conduct Code [http://srr.siu.edu/student-conduct-code/](http://srr.siu.edu/student-conduct-code/)

**MORRIS LIBRARY HOURS:** [http://libguides.lib.siu.edu/hours](http://libguides.lib.siu.edu/hours)

**ADVISEMENT:** [http:// advisement.siu.edu/](http:// advisement.siu.edu/)

**SAFETY AWARENESS FACTS AND EDUCATION**
Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here: [http://safe.siu.edu](http://safe.siu.edu)

**SALUKI CARES**
The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: call(618) 453-1492, email siucares@siu.edu, or [http://salukicares.siu.edu](http://salukicares.siu.edu)

**SIU’S EARLY WARNING INTERVENTION PROGRAM (EWIP)**
Students enrolled in courses participating in SIU’s Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the Core Curriculum’s Overview webpage: [http://corecurriculum.siu.edu/program-overview/](http://corecurriculum.siu.edu/program-overview/)

**EMERGENCY PROCEDURES**
We ask that you become familiar with Emergency Preparedness @ SIU. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts visit: [http://emergency.siu.edu/](http://emergency.siu.edu/)

**STUDENT MULTICULTURAL RESOURCE CENTER**
The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in Grinnell Commons, to see the resources available and discover ways you can get involved on the campus. Visit us at [http://inclusiveexcellence.siu.edu/](http://inclusiveexcellence.siu.edu/)

**LEARNING AND SUPPORT SERVICES**
Help is within reach. Learning support services offers free tutoring on campus and math labs. To find more information please visit the Center for Learning and Support Services website:

**Tutoring:** [http://tutoring.siu.edu/](http://tutoring.siu.edu/)
**Math Labs** http://math.siu.edu/courses/course-help.php

**WRITING CENTER**
The Writing Center offers free tutoring services to all SIU students and faculty. To find a Center or Schedule an appointment please visit: [http://write.siu.edu/](http://write.siu.edu/)

**DIVERSITY**
Southern Illinois University Carbondale’s goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. For more information visit: [http://diversity.siu.edu/](http://diversity.siu.edu/)

**MILITARY COMMUNITY**
There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at [http://veterans.siu.edu/](http://veterans.siu.edu/)

**SIU ONLINE:** [https://online.siu.edu/](https://online.siu.edu/)

Need help with an issue? Please visit SALUKI SOLUTION FINDER at [http://solutionfinder.siu.edu/](http://solutionfinder.siu.edu/)