

General Education Course Information Sheet

Please submit this sheet for each proposed course

<i>Department & Course Number</i>	Law 98T
<i>Course Title</i>	Understanding Incentives: How and Why the Law Encourages Behavior
<i>Indicate if Seminar and/or Writing II course</i>	Seminar

1 Check the recommended GE foundation area(s) and subgroups(s) for this course

Foundations of the Arts and Humanities

- Literary and Cultural Analysis _____
- Philosophic and Linguistic Analysis _____
- Visual and Performance Arts Analysis and Practice _____

Foundations of Society and Culture

- Historical Analysis X

- Social Analysis X

Foundations of Scientific Inquiry

- Physical Science _____
With Laboratory or Demonstration Component must be 5 units (or more)
- Life Science _____
With Laboratory or Demonstration Component must be 5 units (or more)

2. Briefly describe the rationale for assignment to foundation area(s) and subgroup(s) chosen.

This course focuses on several areas of social, political and economic concern and explores how our society uses the law to attempt to modify behavior to help attain common goals.

3. "List faculty member(s) who will serve as instructor (give academic rank):

Karen Lorang, Teaching Fellow; Professor Doug Lichtman is the faculty mentor

Do you intend to use graduate student instructors (TAs) in this course? Yes No X

If yes, please indicate the number of TAs

3. Indicate when do you anticipate teaching this course over the next three years: Winter 2012

3. GE Course Units

Is this an ***existing*** course that has been modified for inclusion in the new GE? Yes No X

If yes, provide a brief explanation of what has changed.

Present Number of Units:

Proposed Number of Units: 5

3. Please present concise arguments for the GE principles applicable to this course.

<input type="checkbox"/> General Knowledge	Course will cover theories , methodologies and ways knowing central to economics, behavior science and the law.
<input type="checkbox"/> Integrative Learning	Students will learn to compare and synthesize competing approaches from economic theory, the behavioral science and the legal community.
<input type="checkbox"/> Ethical Implications	The course will inform students about the potential implications of using tax, patent and other legal regimes to encourage innovations which could raise serious ethical concerns.
<input type="checkbox"/> Cultural Diversity	
<input type="checkbox"/> Critical Thinking	Students will be expected to demonstrate their critical thinking regarding course materials during their in-class participation, writing and oral presentations.
<input type="checkbox"/> Rhetorical Effectiveness	Students will practice framing and delivering reasoned, persuasive arguments in their final papers and in-class oral presentations.
<input type="checkbox"/> Problem-solving	The course takes a problem-solving approach to learning by encouraging students to identify weaknesses in current incentive systems and imagine potential modifications and improvements.
<input type="checkbox"/> Library & Information Literacy	Students will learn to search, select and organize information from a variety of sources in researching for their final papers.

(A) STUDENT CONTACT PER WEEK (if not applicable write N/A)

- | | | |
|---|----------|---------|
| 1. Lecture: | 3 | (hours) |
| 2. Discussion Section: | _____ | (hours) |
| 3. Labs: | _____ | (hours) |
| 4. Experiential (service learning, internships, other): | _____ | (hours) |
| 5. Field Trips: | _____ | (hours) |

(A) TOTAL Student Contact Per Week **3** **(HOURS)**

(B) OUT-OF-CLASS HOURS PER WEEK (if not applicable write N/A)

- | | | |
|-------------------------------------|------------|---------|
| 1. General Review & Preparation: | 1 | (hours) |
| 2. Reading | 8 | (hours) |
| 3. Group Projects: | N/A | (hours) |
| 4. Preparation for Quizzes & Exams: | N/A | (hours) |
| 5. Information Literacy Exercises: | N/A | (hours) |
| 6. Written Assignments: | 1 | (hours) |
| 7. Research Activity: | 2 | (hours) |

(B) TOTAL Out-of-class time per week **12** **(HOURS)**

GRAND TOTAL (A) + (B) must equal at least 15 hours/week

15

(HOURS)

UNDERSTANDING INCENTIVES: HOW AND WHY THE LAW ENCOURAGES BEHAVIOR
LAW 98T

Syllabus and Reading List
Winter 2012

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UCLA School of Law 2012
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This course is designed to expose you to existing and potential approaches to incentivizing behavior through law and policy. The objective is to leave the course thinking critically about policy objectives, implementation, and unintended consequences.

We will begin by exploring the difference between “carrots” and “sticks” – terms used in the legal academic literature to describe incentives and deterrence mechanisms. This discussion will highlight several of the more common legal and policy methods for shaping behavior and decision-making. In order to understand the theories driving these approaches, we will review some of the traditional economic and behavioral assumptions underlying law, policy and economics.

We will then challenge these assumptions by reviewing the growing field of behavioral science. Throughout the remainder of the course, we will consider the extent to which existing policies reflect outdated understandings of decision-making.

After laying this conceptual foundation, we will study several areas of the law in more detail. For each area, we will review current law, discuss strength and weakness of the status quo, and consider potential alternatives.

Finally, a bit about myself. I am currently a student at UCLA Law. As an undergraduate, I studied, Economics, Public Policy and Education. In between college and law school, I worked as a Legal Analyst and Goldman, Sachs & Co. during the financial meltdown.

GRADING POLICY

25%	In Class Participation and Discussion
10%	750 Word Op-Ed Assignment and In-Class Presentation
15%	Three 1-page Response Papers for Classes of Your Choosing
50%	Final Paper (12-15 pages)

OP-ED ASSIGNMENT

It is important to develop your own ideas and understandings about the world, but at some point, this will be insufficient. You will want to share these insights with others. Unfortunately, other people tend to be very busy. Thus, it is important to practice the skill of clear, concise writing with a message. Policy focused Op-Ed pieces are an instructive example. Under severe space constraints, writers must communicate their point to a relatively broad audience. The Op-Ed assignment is your chance to struggle with doing just that.

Different newspapers have different word limits, but the New York Times' 750-word limit is about average. Thus, your Op-Ed must be no more than 750 words. You will be expected to present your piece to the class orally on the day it is due.

On the first day of class, I will provide a list of topics. Once you select a topic, I will provide you with one to two sources from which you will construct your arguments. Thus, you will not be expected to do your own research on the issue.

If you find them useful in understanding this assignment, feel free to take a look at some law and policy focused Op-Ed pieces online. Here is one example to get you started:

Mark Bittman, *Don't End Agricultural Subsidies, Fix Them*, N.Y. Times, available at <http://opinionator.blogs.nytimes.com/2011/03/01/dont-end-agricultural-subsidies-fix-them/?src=me&ref=homepage>.

ONE-PAGE RESPONSE PAPERS

Three times during the course, you must email me a one-page response paper. Each response paper should engage with or more of the "Response Paper Prompts" provided on the syllabus for the week. You may choose any three weeks to submit your papers, taking into consideration any areas of special interest or other scheduling demands. Response papers are due to me by 9:00pm the evening before class meets.

12-15 PAGE FINAL PAPER

Each student must submit a 12-15 page final paper. Papers may expand on an area covered in the course, or apply principles from the course to a new area entirely. You must submit your proposal for my approval during Week 4. We will then meet to discuss proposals during the following two weeks. Final drafts will be due at the end of the term, but you will be expected to give an oral presentation of your paper during one of the last two weeks of class.

WEEK 1: CARROTS V. STICKS

Response Paper Prompts: What is a carrot? What is a stick? What, if anything, is the difference between the two? When might one be more effective than the other? When does protection from a stick become a carrot?

Required Reading:

Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez, 130 S. Ct. 2971, 2978, 177 L. Ed. 2d 838 (2010)

Lauren E. Glesby, *Fitting the Bill: Proposed Regulatory and Non-Regulatory Approaches to Advancing Green Building Technologies*, 21 FORDHAM ENVTL L. REV. 637 (2010)

Jeane A. Thomas, Ryan C. Tisch, *Carrots & Sticks: In Defense of A Differentiated Approach to Bundled Discounts & Tying*, 11 SEDONA CONF. J. 161 (2010)

Robert B. Ahdieh, *The Visible Hand: Coordination Functions of the Regulatory State*, 95 MINN. L. REV. 578, 579 (2010)

WEEK 2: ECONOMICS, BEHAVIORAL SCIENCE AND THE LAW

Response Paper Prompts: What does it mean to be rational? Do you believe that individuals act rationally? Some of the time? All of the time? What are the limits of rationality? Why might the concept still be useful? Why might it be dangerous?

Required Reading:

Christine Jolls et. al., *A Behavioral Approach to Law and Economics*, 50 Stan. L. Rev. 1471 (1998)

Richard A. Posner, *Rational Choice, Behavioral Economics, and the Law*, 50 Stan. L. Rev. 1551 (1998)

Russel B. Korobkin & Thomas S. Ulen, *Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics*, 88 Cal. L. Rev. 1051 (2000)

Michael P. Vandenbergh et. al., *Regulation in the Behavioral Era*, 95 MINN. L. REV. 715, 725-26 (2011)

Abrahamson v. Bd. of Educ. of Wappingers Cent. Sch. Dist., 01 CIV. 10859 (CM), 2002 WL 1354711 (S.D.N.Y. June 21, 2002)

WEEK 3: THE TAX EXPENDITURE BUDGET

Response Paper Prompts: How can the tax system encourage behavior? Who decides what behavior should be encouraged through the tax system? Is it better to use tax breaks or direct subsidies to achieve a goal? How might politics impact the choice between a tax cut and a spending increase? Which tax policy do you find most troubling? If you could create a new tax break, what would it be for?

Required Reading:

J. Clifton Fleming, Jr. & Robert J. Peroni, *Can Tax Expenditure Analysis Be Divorced from A Normative Tax Base?: A Critique of the "New Paradigm" and Its Denouement*, 30 Va. Tax Rev. 135, 179 (2010)

David A. Weisbach & Jacob Nussim, *The Integration of Tax and Spending Programs*, 113 Yale L.J. 955, 958 (2004)

Dennis J. Ventry, Jr., *The Accidental Deduction: A History and Critique of the Tax Subsidy for Mortgage Interest*, Law & Contemp. Probs., Winter 2010.

Miranda Perry Fleischer, *Theorizing the Charitable Tax Subsidies: The Role of Distributive Justice*, 87 Wash. U.L. Rev. 505, 509 (2010)

William P. Kratzke, *Tax Subsidies, Third-Party-Payments, and Cross-Subsidization: America's Distorted Health Care Markets*, 40 U. Mem. L. Rev. 279, 286 (2009)

James M. Puckett, *Rethinking Tax Priorities: Marriage Neutrality, Children, and Contemporary Families*, 78 U. Cin. L. Rev. 1409, 1411 (2010)

WEEK 4: PATENT LAW

Response Paper Prompts: What exactly is a patent? What does a patent holder get? What does the government get in return? Why do we have a patent system? What should you be able to patent? How would you like to see the patent system changed?

Required Reading:

United States Constitution, Article I, Section 8, Clause 8

PATENT ACT OF 1952, Codified at 35 U.S.C. §§101 et. seq. (selected sections)

Bilski v. Kappos, 130 S. Ct. 3218 (2010)

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398 (2007)

Editorial, *Patently Ridiculous*, N.Y. TIMES, Mar. 22, 2006, at A24

Peter Lee, *Patent Law and the Two Cultures*, 120 Yale L.J. 2 (2010)

WEEK 5: PATENT LAW REFORM PROPOSALS

Response Paper Prompts: What are some of the main criticisms of the current patent system? What could we change? What are the costs of a change? The benefits? How realistic are these proposals for change? Do you have a favorite proposal? Do any of the proposals strike you as undesirable or problematic?

Required Reading:

Jay P. Kesan, *Carrots and Sticks to Create A Better Patent System*, 17 Berkeley Tech. L.J. 763, 768 (2002)

Douglas Gary Lichtman, *Pricing Prozac: Why the Government Should Subsidize the Purchase of Patented Pharmaceuticals*, 11 Harv. J.L. & Tech. 123 (1997)

Michael Abramowicz, *Perfecting Patent Prizes*, 56 Vand. L. Rev. 115, 116 (2003)

Ian Ayres & Gideon Parchomovsky, *Tradable Patent Rights*, 60 Stan. L. Rev. 863 (2007)

Michael Abramowicz, *The Uneasy Case for Patent Races over Auctions*, 60 Stan. L. Rev. 803 (2007)

Ian Ayres & Paul Klemperer, *Limiting Patentees' Market Power Without Reducing Innovation Incentives: The Perverse Benefits of Uncertainty and Non-Injunctive Remedies*, 97 MICH. L. REV. 985, 987 (1999)

WEEK 6: COPYRIGHT LAW

Response Paper Prompts: What exactly is a copyright? What does a copyright holder get? What does the government get in return? Why do we have a copyright system? What should you be able to copyright? How would you like to see the copyright system changed?

Required Reading:

United States Constitution, Article I, Section 8, Clause 8

Copyright Act OF 1976, Codified at 17 U.S.C. §§101 et. seq. (selected sections)

Joseph P. Bauer, *Copyright and the First Amendment: Comrades, Combatants, or Uneasy Allies?*, 67 WASH. & LEE L. REV. 831 (2010)

Jamie Lund, *Copyright Genericide*, 42 CREIGHTON L. REV. 131 (2009)

Olufunmilayo B. Arewa, *The Freedom to Copy: Copyright, Creation, and Context*, 41 U.C. DAVIS L. REV. 477, 478 (2007)

Douglas Lichtman, William Landes, *Indirect Liability for Copyright Infringement: An Economic Perspective*, 16 HARV. J.L. & TECH. 395 (2003)

Gary Pulsinelli, *Harry Potter and the (Re)order of the Artists: Are We Muggles or Goblins?*, 87 OR. L. REV. 1101 (2008)

Week 7: Education

Response Paper Prompts: Who do we need to encourage in the education context? What do we need to encourage them to do? How do we know if we have succeeded? What are some of the historic obstacles to incentive systems in this area? How are those obstacles being challenged?

Required Reading:

James E. Ryan, *The Perverse Incentives of the No Child Left Behind Act*, 79 N.Y.U. L. REV. 932 (2004)

Marc Pilotin, *Finding A Common Yardstick: Implementing A National Student Assessment and School Accountability Plan Through State-Federal Collaboration*, 98 CAL. L. REV. 545, 548 (2010)

Sandy Kress et. al., *When Performance Matters: The Past, Present, and Future of Consequential Accountability in Public Education*, 48 Harv. J. on Legis. 185, 185-86 (2011)

U.S. Department of Education, *Race to the Top Program: Executive Summary* (Nov. 2009), available at <http://www2.ed.gov/programs/racetothetop/index.html>

Henley v. Cleveland Bd. of Educ., 1:10CV 431, 2010 WL 918132 (N.D. Ohio Mar. 10, 2010)

Okla. Stat. Ann. tit. 70, § 6-101.17 (West)

Olatunde C.A. Johnson, *Stimulus and Civil Rights*, 111 COLUM. L. REV. 154, 181 (2011)

Elizabeth A. Siemer, *Bored Out of Their Minds: The Detrimental Effects of No Child Left Behind on Gifted Children*, 30 WASH. U. J.L. & POL'Y 539 (2009)

WEEK 8: CLEAN ENERGY

Response Paper Prompts: Who do we need to encourage in the clean energy context? What do we need to encourage them to do? How do we know if we have succeeded? If we can't help everyone, how do we choose who to assist?

Required Reading:

Gerard Marata et al, *Renewable Energy Incentives in the United States and Spain: Different Paths – Same Destination?*, 28 NO. 4 J. ENERGY & NAT. RESOURCES L. 481 (Nov. 2010)

Jamie E. France, *A Proposed Solar Access Law for the State of Texas*, 89 TEX. L. REV. 187 (2010)

Bethany C. Sullivan, *Changing Winds: Reconfiguring the Legal Framework for Renewable-Energy Development in Indian Country*, 52 ARIZ. L. REV. 823 (2010)

Matthew L. Wald, *Inspector Faults Energy Department Over Loan Program*, N.Y. TIMES, March 7, 2011

Erica Schroeder, *Turning Offshore Wind on*, 98 CAL. L. REV. 1631 (2010)

Roberta F. Mann, *Back to the Future: Recommendations and Predictions for Greener Tax Policy*, 88 OR. L. REV. 355, 357 (2009)

WEEKS 9 & 10: STUDENT PRESENTATIONS

During the final two weeks of class, each of you will give an oral presentation on your final paper topic. You will be expected to take and answer questions from myself and other students in the course. Time permitting, you may also be asked to facilitate a short discussion on the topic. Thus, you should come prepared with some questions for the group.



New Course Proposal

Law Undergraduate 98T Understanding Incentives: How and Why Law Encourages Behavior

Course Number Law Undergraduate 98T

Title Understanding Incentives: How and Why Law Encourages Behavior

Short Title LAW & INCENTIVES

Units Fixed: 5

Grading Basis Letter grade only

Instructional Format Seminar - 3 hours per week

TIE Code SEMT - Seminar (Topical) [T]

GE Requirement Yes

Major or Minor Requirement No

Requisites Satisfaction of entry-level Writing requirement. Freshmen and sophomores preferred.

Course Description Seminar, three hours. Enforced requisite: satisfaction of Entry-Level Writing requirement. Freshmen/sophomores preferred. Exploration of use of incentives in law to encourage wide range of behaviors. Topics include tax, patent, copyright, education, agricultural subsidies, and clean energy programs. Comparison of policy objectives, implementation, unintended consequences, and alternatives. Letter grading.

Justification Part of the series of seminars offered through the Collegium of University Teaching Fellows.

Syllabus File [Law 98T syllabus.pdf](#) was previously uploaded. You may view the file by clicking on the file name.

Supplemental Information Professor Doug Lichtman is the faculty mentor for this seminar.

Grading Structure
25% In Class Participation and Discussion
10% 750 Word Op-Ed Assignment and In-Class Presentation
15% Three 1-page Response Papers
50% Final Paper (12-15 pages)

Effective Date Winter 2012

Discontinue Date Summer 1 2012

<u>Instructor</u>	Name	Title
	Karen Lorang	Teaching Fellow

Quarters Taught Fall Winter Spring Summer

Department Law

<u>Contact</u>	Name	E-mail
	CATHERINE GENTILE	cgentile@oid.ucla.edu

Routing Help

ROUTING STATUS

Role: Registrar's Office

Status: Processing Completed

Role: Registrar's Publications Office - Hennig, Leann Jean (lhennig@registrar.ucla.edu) - 56704

Status: Added to SRS on 6/20/2011 11:20:51 AM

Changes: Title, Description

Comments: Edited course description into official version; corrected title.

Role: Registrar's Scheduling Office - Bartholomew, Janet Gosser (jbartholomew@registrar.ucla.edu) - 51441

Status: Added to SRS on 6/14/2011 2:18:45 PM

Changes: Subject Area, Short Title

Comments: Changed from LAW to UG-LAW.
Added a short title, from Cathie Gentile.

Role: FEC School Coordinator - Soh, Michael Young (msoh@college.ucla.edu) - 65282

Status: Returned for Additional Info on 5/25/2011 10:42:19 AM

Changes: No Changes Made

Comments: Routing to Registrar's Office

Role: FEC Chair or Designee - McClendon, Muriel C (mcclendo@history.ucla.edu) - 53918

Status: Approved on 5/25/2011 8:22:31 AM

Changes: No Changes Made

Comments: No Comments

Role: L&S FEC Coordinator - Soh, Michael Young (msoh@college.ucla.edu) - 65282

Status: Returned for Additional Info on 5/18/2011 4:54:19 PM

Changes: No Changes Made

Comments: Routing to Vice Chair Muriel McClendon for FEC approval

Role: CUTF Coordinator - Gentile, Catherine (cgentile@oid.ucla.edu) - 68998

Status: Approved on 5/11/2011 3:07:46 PM

Changes: No Changes Made

Comments: on behalf of Professor Kathleen Komar, chair, CUTF Faculty Advisory Committee

Role: Initiator/Submitter - Gentile, Catherine (cgentile@oid.ucla.edu) - 68998

Status: Submitted on 5/11/2011 3:06:29 PM

Comments: Initiated a New Course Proposal

[Back to Course List](#)

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