

**RARITAN VALLEY COMMUNITY COLLEGE
ACADEMIC COURSE OUTLINE**

**PRIVACY LAW
LEGL-129**

I. Basic Course Information

- A. Course Number and Title: LEGL-129 Privacy Law
- B. New or Modified Course: New
- C. Date of Proposal: Fall 2018
- D. Effective Term: Spring 2019
- E. Sponsoring Department: Business & Public Service
- F. Semester Credit Hours: 3
- G. Weekly Contact Hours: Lecture: 3
Laboratory: 0
Out of class student work per week: 6
- H. Prerequisites/Corequisites: None
- I. Laboratory Fees: None
- J. Name/Email of Coordinator: Maria M. DeFilippis, Esq.
Maria.DeFilippis@raritanval.edu
Department Chair: Anne Marie Anderson
AnneMarie.Anderson@raritanval.edu
Divisional Dean: Terence Lynn
Terence.Lynn@raritanval.edu

II. Catalog Description

This course will introduce students to the fundamentals of privacy and data protection laws. Students will develop an understanding of the different legal approaches used by international, federal and state governments in the regulation, collection and use of personal data. Practical application of privacy law in areas such as Human Resources, Contract Review, Intellectual Property, Regulatory Compliance and Marketing will be included, as well as an analysis of

how current legal restrictions impact the workplace, the role of a paralegal in that workplace, and the delivery of legal services to clients..

III. Statement of Course Need

- A. This course addresses the need for relevant electives for students enrolled in the Paralegal AAS Degree or the Paralegal Studies Certificate. It arose from discussions with students and graduates of the program, as well as the program's Advisory Committee. Privacy – what it means in the digital world, how it is or should be regulated, and how it interacts with the security needs of nations and societies -- is clearly a most contemporary issue. From WikiLeaks to Facebook Trolls, from the United Nations to the United States, laws are being proposed/passed in this area that directly affect the way a law firm operates – from the use and collection of information within the firm to how to advise clients on their products, services and business practices. Among other issues, this course will address how data can be collected, how it can be shared, how it can be used, how it can be secured and how long it can be kept.
- B. This course has no lab component.
- C. This course generally transfers to any school with a paralegal studies or law related four-year degree, which includes Montclair, Thomas Edison, St. Elizabeth College and Rutgers School of Business and Labor in New Jersey. It will also transfer to any institution, two or four year, which offers an ABA approved paralegal program of study.

IV. Place of Course in College Curriculum

- A. This course is a free elective.
- B. This course meets the requirements for an elective in the Paralegal Studies AAS Degree and Certificate.
- C. To see course transferability: a) for New Jersey schools, go to the NJ Transfer website, www.njtransfer.org; b) for all other colleges and universities, go to the individual websites.

V. Outline of Course Content

- A. Privacy Principles – this Introduction will give students the background needed to analyze the privacy laws and regulations.
 - 1. What does privacy mean
 - 2. Terminology – privacy, data protection, personal information
 - 3. Fair Information Practice Principles
 - 4. Lifecycle of Information – collection, use, disclosure, storage and destruction
 - 5. What is the difference between privacy and security

- B. Legal Models for regulating data around the world – paralegals who work for law firms with clients who have business outside the US or who work for corporations, will need to understand how privacy is regulated outside the US. Also, the EU has led the development of laws and many countries are following its lead.
1. Global
 2. European Union-omnibus data protection law with extra-territorial scope
 3. China
 4. Latin America
 5. Africa
 6. United States – this will be a major part of the course. Paralegals need to know the many different ways privacy issues arise both in law firm governance and in providing services to clients.
 - a. Overview of privacy in US law – Constitution, common law and eventually statutes.
 - b. 4th Amendment - reasonable expectation of privacy and its impact on use of evidence gathered using new technology (e.g. drones, cell tower data, cameras, geo-location)
 - c. Federal statutes: (Paralegals will understand how the federal laws dictate how personal information can be collected and used. Can impact collecting information for HR purposes; marketing campaigns – use of mailing lists and customer lists; sale of apps and creation of websites
 - i. Fair Credit Reporting Act – rules for use of credit reports by hiring employers; rules for collection and use of consumer data by credit reporting agencies
 - ii. Bank Secrecy Act – if client is a bank, need to understand the recordkeeping and privacy rules
 - iii. Cable Communications Act
 - iv. Video Privacy Protection Act
 - v. Electronic Communication Privacy Act
 - vi. Telephone Consumer Protection Act
 - vii. Driver's Privacy Protection Act
 - viii. HIPPA
 - ix. FERPA
 - x. Children's Online Privacy Protection Act
 - xi. Gramm-Leach-Bliley – financial institution privacy rules
 - xii. Fair and Accurate Credit Transactions Act
 - xiii. CAN-SPAM
 - d. Role of FTC - common law of privacy
 - e. State statutes – they primarily address breach notification however, what constitutes a breach and when customer

notices must be given varies considerably by state. Paralegals must be able to analyze the state law and understand if breach occurred and if notice required. This is a very likely paralegal role; paralegals are used extensively in reviewing state laws and breached data to determine if customer notice is required. An assignment will be to analyze a hypothetical breach and apply several state laws. Newer state laws are creating consumer privacy rights in lieu of federal legislation. The recently enacted California Consumer Privacy law will be included – this is an omnibus consumer rights bill that will have impact on businesses outside California. States also have laws on use of SSN and driver's licenses.

C. Privacy/Data Collection Issues

1. Technology –this section will apply the knowledge of the laws discussed above to the use of technology. Law firms and clients will use these technologies in products and services and paralegals will need to know how to interpret the law when they are being proposed for use.
 - a. Design of apps, websites and devices – privacy by design
 - b. Geo-location
 - c. Cookies and behavioral tracking
 - d. Web scraping
 - e. Cloud storage and processing
 - f. Cross Device tracking
 - g. Big Data
 - h. Internet of Things
2. Social Issues –Technology is driving the need for changing the law. Wills need to address deceased's digital life. IoT creates a digital trail of one's life – e.g. when a house is sold, what happens to the data collected by the connected devices; real estate agreements will have to address the issue.
 - a. Social Media
 - b. Digital Afterlife
 - c. Internet of Things (IoT)
 - d. Personal freedoms and government access to your data
3. Professional ethics – lawyers and paralegals must be competent in the use of technology so that client confidentiality is not breached. Review the Code of Ethics and some disciplinary decisions where law firms have been hacked and lawyers did not understand how technology was collecting data, where it was stored and who had access to it.

D. Managing Data in the Law Office or Corporate Legal Environment-this will be a practical application of the legal principles and laws. These are practical steps to comply with the privacy laws.

1. Data inventories
2. Data mapping and data classification
3. Privacy Notices-this will be an assignment. Given a set of facts about a business or law firm, they will draft a Privacy Notice.
4. Service Providers-a review of the contractual terms that are needed to comply with privacy law when sharing data with a third party.
5. Data Retention
6. Marketing-the collection and use of consumer data is a primary focus in privacy today. All clients and law firms will want to have a website and market their services and products. There are strict federal and state laws regulations how this can be done. An assignment will be to identify the privacy legal issues associated with the development of a product (e.g. an app), its sale on a website and its marketing campaign.
7. Mergers and Acquisitions –this will be an assignment. What due diligence is needed for a hypothetical acquisition
8. Contract Clauses-overlaps with Service Providers; can delete.
9. Trade Issues – data localization and international data transfers

E. Interest Groups –since privacy is a fast evolving area, it is important to understand the different viewpoints. States are expected to be active enacting privacy legislation.

1. Law Enforcement/National Security
2. Journalists
3. Employers and employees – workplace privacy
4. Electronic Privacy Information Center (EPIC)
5. Center for Digital Democracy
6. Future of Privacy
7. Electronic Frontier Foundation
8. Digital Advertising Alliance

VI. General Education and Course Learning Outcomes

A. General Education Learning Outcomes:

At completion, students will be able to:

1. Develop the ability to communicate effectively, clearly and logically, using both verbal and written skills, in the researching, drafting and presentation of privacy law issues. (GE-NJ1)

2. Utilize technology and computer-based legal research tools in creation of legal documents. (GE-NJ4)
3. Analyze and evaluate ethical problems in privacy law matters. (GE-NJ ER*)
4. Locate data and documents, evaluate and use research data for presentations and research projects. (GE-NJ IL)

*Embedded Critical Thinking

B. Course Learning Outcomes:

Upon completion of this course, students will be able to:

1. Understand the legal principles governing the collection and use of personal data;
2. Analyze the difference between privacy principles and security issues; be able to identify a breach and apply state breach laws;
3. Apply basic privacy principles (notice, choice, limited purpose, data minimization, access to data, security and retention) to the law office and to client matters;
4. Compare and contrast the different legal models for regulating personal data across international, US federal and US state governments, and their impact on the practice of law;
5. Create and draft an internal privacy notice for a law firm and one for a client's business from fact scenarios;
6. Create and draft contract provisions relating to privacy, security and indemnification from fact scenarios;
7. Apply learned principles to conduct due diligence in a Merger & Acquisition scenario;
8. Evaluate privacy issues before, during and after employment, including monitoring of employee electronic communications and use of employer technology for personal uses;
9. Analyze privacy issues from scenarios associated with use of new legal technology, a new HR management system, a new client website, or a client marketing campaign.

C. Assessment Instruments

Given the outcomes described above, the following assessment methods may be used:

1. case studies
2. individual student and/or group oral presentations
3. legal research assignments
4. document preparation based on client fact patterns

VII. Grade Determinants

- A. drafts of legal documents and contract terms
- B. research papers
- C. examinations
- D. presentations

Given the goals and outcomes described above, the primary formats, modes, and methods for teaching and learning that may be used in the course include:

- A. lecture/discussion
- B. small-group work
- C. computer-assisted instruction
- D. guest speakers
- E. student oral presentations
- F. student collaboration
- G. independent study

VIII. Texts and Materials

This course is designed to utilize open education resources and makes extensive use of internet materials and readings. As such, no specific textbook is required. Materials may include:

- A. statutes, international law, agency regulations and other primary legal sources
- B. articles and journals
- C. web sources
- D. other computer-based sources

(Please Note: The course outline is intended only as a guide to course content and resources. Do not purchase textbooks or materials based on this outline. The RVCC Bookstore is the sole resource for the most up-to-date information about textbooks.)

IX. Resources

Students will need internet access and may need to use library databases and other resources in their classwork.