

**PLS 66 Course Outline as of Fall 2019****CATALOG INFORMATION**

Dept and Nbr: PLS 66

Title: WILL, TRUST &amp; ESTATE PLAN

Full Title: Wills, Trusts and Estate Planning

Last Reviewed: 5/14/2018

Units		Course Hours per Week		Nbr of Weeks	Course Hours Total	
Maximum	3.00	Lecture Scheduled	3.00	17.5	Lecture Scheduled	52.50
Minimum	3.00	Lab Scheduled	0	6	Lab Scheduled	0
		Contact DHR	0		Contact DHR	0
		Contact Total	3.00		Contact Total	52.50
		Non-contact DHR	0		Non-contact DHR	0

Total Out of Class Hours: 105.00

Total Student Learning Hours: 157.50

Title 5 Category: AA Degree Applicable

Grading: Grade Only

Repeatability: 00 - Two Repeats if Grade was D, F, NC, or NP

Also Listed As:

Formerly:

**Catalog Description:**

This course is designed to acquaint the paralegal with the formal requirements and legal principles involved in will, trust and estate law, including drafting techniques. In addition to lectures on the underlying legal theory, students gain experience in drafting and analyzing a broad range of succession and distribution documents.

**Prerequisites/Corequisites:**

Course completion or current enrollment of PLS 50 and PLS 51

**Recommended Preparation:****Limits on Enrollment:****Schedule of Classes Information:**

Description: This course is designed to acquaint the paralegal with the formal requirements and legal principles involved in will, trust and estate law, including drafting techniques. In addition to lectures on the underlying legal theory, students gain experience in drafting and analyzing a broad range of succession and distribution documents. (Grade Only)

Prerequisites/Corequisites: Course completion or current enrollment of PLS 50 and PLS 51

Recommended:  
Limits on Enrollment:  
Transfer Credit: CSU;  
Repeatability: Two Repeats if Grade was D, F, NC, or NP

## **ARTICULATION, MAJOR, and CERTIFICATION INFORMATION:**

<b>AS Degree:</b>	<b>Area</b>	Effective:	Inactive:
<b>CSU GE:</b>	<b>Transfer Area</b>	Effective:	Inactive:
<b>IGETC:</b>	<b>Transfer Area</b>	Effective:	Inactive:
<b>CSU Transfer:</b>	Transferable	Effective: Fall 2012	Inactive:
<b>UC Transfer:</b>		Effective:	Inactive:

**CID:**

**Certificate/Major Applicable:**

Major Applicable Course

## **COURSE CONTENT**

### **Student Learning Outcomes:**

At the conclusion of this course, the student should be able to:

1. Demonstrate and apply knowledge of the substantive law governing wills, trusts and estates.
2. Identify, locate, evaluate and apply relevant sources of law to the legal issues of wills, trusts and estate planning.
3. Demonstrate critical thinking skills in analysis and interpretation of data and text regarding testamentary documents and estate plans.
4. Determine validity of testamentary documents regarding the parties' intent and subject matter.

### **Objectives:**

At the conclusion of this course, the student should be able to:

1. Draft simple wills, trusts and estate plans.
2. Perform accurate analysis of existing wills, trusts and estate plans.
3. Recommend appropriate changes in language and terms and implement those changes accurately.
4. Apply appropriate ethical standards in trust administration.

### **Topics and Scope:**

#### **I. Introduction and Overview**

##### **A. Terminology**

1. Wills
2. Trusts
3. General terms

##### **B. Determination of Applicable Law**

1. Ownership and marital rights
2. Real versus personal property

## II. Descent and Distribution

- A. Reasons most individuals die intestate
- B. Historical development of descent and distribution
- C. Surviving Spouse
  - 1. Protection-real and personal property
  - 2. Community property jurisdictions
- D. Descendants
  - 1. Basic procedure for determining shares of descendants
  - 2. Per stirpes (right of representation)
  - 3. Per capita with each generation
  - 4. Per capita with representation
- E. Ancestors and collaterals

## III. Treatment of Certain Categories or Potential Heirs

- A. Posthumous or afterborn heirs
- B. Adopted individuals
  - 1. Inheritance rights of adopted children, adoptive parents, and biological parents
  - 2. Adult adoption
- C. Non-marital children
- D. Stepchildren
- E. Non-United States citizens
- F. Unworthy heirs
  - 1. Forfeiture
  - 2. Civil death
  - 3. Suicide
  - 4. Adultery
  - 5. Abuse
- G. Non-marital partners

## IV. Other Intestate Succession Issues

- A. Ancestral property
- B. Survival
- C. Disclaimers
- D. Equitable conversion
- E. Heir designation

## V. Wills

- A. Legal capacity
- B. Testamentary capacity
  - 1. Elements
  - 2. Temporal nature
  - 3. Aging process
  - 4. Questionable capacity
  - 5. Demonstrating lack of capacity
  - 6. Testamentary intent
- C. Formalities
  - 1. Attested wills
  - 2. Holographic wills
  - 3. Nuncupative wills
  - 4. Soldier's and seamen's wills
  - 5. Statutory wills
- D. Changing circumstance after will execution
  - 1. Property-real and personal
  - 2. Persons
    - a. Age

- b. Mental condition
- c. Marriage
- d. Divorce
- e. Death of beneficiary

E. Will revocation

- 1. By operation of law
- 2. By physical act
- 3. By subsequent writing
- 4. Presumptions
- 5. Revival
- 6. Conditional revocation

F. Will interpretation and construction

- 1. Ambiguity, integration and incorporation by reference
- 2. Pour over provisions
- 3. Class gifts

G. Will contests

- 1. Satisfaction of requirements
- 2. Insane delusions
- 3. Undue influence
- 4. Duress, mistake, and fraud
- 5. Remedies
- 6. Preventing will contests
- 7. Other will issues

VI. Estate Administration

- A. Application
- B. Notification and filing
- C. Appointment of representatives
- D. Collection of assets
- E. Protection of property from creditors
- F. Reports and accountings
- G. Distribution and closing estate

VII. Nonprobate Transfers

- A. Reasons for use
  - 1. Non-estate planning benefits
  - 2. Minimize taxes
  - 3. Isolate from contest
  - 4. Retain flexibility
  - 5. Increase understandability
- B. Inter Vivos transfers
  - 1. Outright gifts
  - 2. Gifts in trust
  - 3. Transfers of future interests
  - 4. Powers of appointment
  - 5. Transfers to minors
- C. Co-ownership of property
- D. Multiple party accounts
- E. Contracts

VIII. Trusts

- A. Introduction to trusts
  - 1. Overview
  - 2. Terminology
  - 3. Purpose and uses of trusts

- 4. Warning about Inter Vivos Trust overpromotion
- B. Trust creation
  - 1. Intent
  - 2. Methods of trust creation
  - 3. The settlor
  - 4. Statute of frauds
  - 5. Trust purposes
  - 6. Trust property
  - 7. The trustee
  - 8. The beneficiary
  - 9. Charitable trusts
- C. Trust administration
  - 1. Overview
  - 2. Trust investments and standard of care
  - 3. Trustee powers
  - 4. Trust distributions
  - 5. Duty of loyalty
  - 6. Liability of trustee to third parties
  - 7. Allocation of receipts and expenses
  - 8. Accountings and compensation
  - 9. Trust termination
- D. Trust enforcement
  - 1. Procedural matters
  - 2. Remedies against the trustee
  - 3. Remedies involving trust property
  - 4. Remedies against the beneficiary
  - 5. Causes of action against third parties
  - 6. Barring of remedies
- IX. Other Estate Planning Concerns
  - A. Wealth transfer taxation
    - 1. Federal gift and estate tax
    - 2. Marital deduction and bypass planning
    - 3. Charitable deduction
    - 4. Generation-skipping transfer tax
    - 5. State wealth transfer taxation
  - B. Disability and death planning
    - 1. Property management
    - 2. Health care
    - 3. The death event
  - C. Malpractice and professional responsibility
    - 1. Professional negligence
    - 2. Ethical concerns
    - 3. Ethical obligations of legal assistants
    - 4. Appropriate tasks for legal assistants

**Assignment:**

- 1. Read textbook and outside sources of approximately 40 pages per week
- 2. Weekly homework assignments based on lecture and readings
- 3. Analysis of fact patterns
- 4. Participate in weekly group discussions
- 5. Terminology assignments

6. Portfolio of 8-10 estate planning documents
7. Quizzes (3 - 5), midterm, and final exam

### Methods of Evaluation/Basis of Grade:

**Writing:** Assessment tools that demonstrate writing skills and/or require students to select, organize and explain ideas in writing.

Analysis of fact patterns

Writing  
10 - 20%

**Problem Solving:** Assessment tools, other than exams, that demonstrate competence in computational or non-computational problem solving skills.

Homework assignments, group work

Problem solving  
20 - 30%

**Skill Demonstrations:** All skill-based and physical demonstrations used for assessment purposes including skill performance exams.

Portfolio

Skill Demonstrations  
30 - 40%

**Exams:** All forms of formal testing, other than skill performance exams.

Quizzes, midterm, and final exam

Exams  
10 - 20%

**Other:** Includes any assessment tools that do not logically fit into the above categories.

Attendance and participation

Other Category  
5 - 10%

### Representative Textbooks and Materials:

Wills, Trusts and Estates for Legal Assistants. 5th ed. Beyer, Gerry and Hanft, John. Aspen Publishers. 2015

Instructor prepared materials