**Chapter 1 - An Introduction to Dynamic Business Law**

***chapter overview***

Chapter One lays the foundation for the textbook. Make sure you look on the publisher’s web site for information about how business law intersects with the six functional areas of business. The authors encourage students to “connect to the core,” and remember the ways in which law intersects with other areas of study, including corporate management, production and transportation, marketing, research and development, accounting and finance, and human resource management.

This manual supports the “connecting to the core” theme by giving ideas for assignments that encourage students to integrate their business law knowledge with knowledge they are acquiring from their other business classes. The manual also encourages professors to improve their teaching skills. Finally, the manual suggests teaching ideas for both beginning and experienced teachers.

***learning Objectives***

After reading this chapter, students will be able to answer the following questions:

1. What is business law?
2. How does business law relate to business education?
3. What are the purposes of law?
4. What are alternative ways to classify law?
5. What are the sources of law?
6. What are the various schools of jurisprudence?

# lecture notes with definitions

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| In the news… | **Teaching tip**: For each chapter, consider asking students to relate current news items to material from the chapter.In addition to ideas students come up with on their own, consider weaving in news stories provided by the McGraw-Hill. Stories are available via a McGraw-Hill DVD, and on the publisher’s web site.For Chapter One, McGraw-Hill offers the following stories:“Smoking Ban: Tobacco Tyrants: Gone Too Far? Many States Are Putting Stronger Restrictions on Where You Can Smoke”* Have states gone too far in banning smoking?
* Whose interests are state legislatures looking out for in banning smoking?

“College Officer Dealings With Lenders Scrutinized.”* Should regulators take a more careful look at college officers?
* Why created changes in the ways college officers interact with lenders?
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| What is business law? | **Business law** consists of the enforceable rules of conduct that govern commercial relationships. |
| How does business law relate to business education? | Business law applies to the six functional areas of business:* Corporate management
* Production and transportation
* Marketing
* Research and development
* Accounting and finance
* Human resource management
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| What are the purposes of law? | * Providing order
* Serving as an alternative to fighting
* Facilitating a sense that change is possible
* Encouraging social justice
* Guaranteeing personal freedoms
* Serving as a moral guide
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| What are alternative ways to classify law? | One way to classify law:**Private law** involves disputes between private individuals or groups.**Public law** involves disputes between private individuals or groups and their government.A second way to classify law:**Civil law** involves the rights and responsibilities involved in relationships between persons and between persons and their government.**Criminal law** involves incidents in which someone commits an act against the public as a unit.**Teaching tip**: Ask students to give an example of a fact situation that led to both criminal and civil lawsuits, e.g., the O.J. Simpson trials. |
| What are the sources of law? | Sources of business law are:1. Constitutions**Constitutional law** refers to the general limits and powers of governments as stated in their written constitutions.2. Statutes or legislative actions3. Cases**Case law** (or common law) is the collection of legal interpretations made by judges.**Stare decisis** means courts are relying on precedent.**Teaching tip**: The first time your students encounter an appellate case in the readings, show them what stare decisis looks like in the context of a real case.4. Administrative law**Administrative law** is the collection of rules and decisions made by administrative agencies.5. TreatiesA **treaty** is a binding agreement between two states or international organizations.6. Executive ordersAn **executive order** is a directive that comes from the president or state governor. |
| What are the various schools of jurisprudence? | Schools of jurisprudence are common guides to legal interpretation.* **Natural law**—certain ethical laws and principles are morally right and “above” the laws devised by humans.
* **Legal Positivism**—assumes the legitimate political authority deserves our obedience when it issues a rule.
* **Identification with the Vulnerable**—emphasis on fairness and looking out for those with the least power.
* **Historical School**/Tradition—emphasis on the use of stare decisis.
* **Legal Realism**—judges consider social and economic conditions.
* **Cost-benefit Analysis**—make calculations to maximize the ratio of benefits to costs.

**Teaching tip**: Consider using “The Case of the Speluncean Explorers (link below) to make the schools of jurisprudence come alive. |
| Global and Comparative Law  | At this point in the textbook, students should merely have an awareness that globalization has affected the scope of business law. Consequently, we highlight the definitions to the following key terms that will come up later in the book:* Trade, i.e. the exchange of goods or services, on a global scale has led to the creation of trade agreements that serve as de facto rules governing the global business environment.
* Comparative law—the field of law that studies and compares laws in different countries.
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| Appendix on Critical Thinking and Business Law | Critical thinking includes the application of evaluative standards to assess the quality or the reasoning being offered to support the conclusion. Critical thinkers will follow this pattern of careful thinking when they read an argument:1. Find the facts.2. Look for the issue.3. Identify the judge’s reasons and conclusion.4. Locate in the decision the rules of law that govern the judge’s reasoning.5. Apply critical thinking to the reasoning. Evaluate the reasoning.* Look for potential ambiguity.
* Consider the strength of analogies.
* Check the quality of the judge’s reasoning.
* Decide whether important information is missing.
* Consider the possibility of rival causes.
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***TEACHING SKILLS: BLOOM’S TAXONOMY SETS THE STAGE TO THINK ABOUT THE KINDS OF QUESTIONS TO ASK YOUR STUDENTS***

Benjamin Bloom, in his Taxonomy of Educational Objectives,[[1]](#footnote-1)\* developed a hierarchy of cognitive functions. His work sets the stage for teachers to understand why it is important to think carefully about the kinds of questions they ask in class.

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| **The Objective** | **Sample questions** |
| **Knowledge**Lowest level of learning and is mostly memory. The student recognizes and recalls information. | * What is business law?
* What are the four elements of a negligence claim?
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| **Comprehension**Lowest level of understanding. The student paraphrases or explains something. | * What is your understanding of the concept of *stare decisis*?
* What does your textbook mean by deontology?
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| **Application**Student demonstrates her understanding of abstract rules, principles, or generalizations by using them to solve life-like problems. | * How would a natural law thinker respond to this particular fact pattern?
* Use a particular case rule to determine whether the plaintiff will be successful in her claim.
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| **Analysis** Student breaks down a communication to discover the hidden structure as well as assumptions. | * Provide the reasoning for the following statement: All contracts do not need to be in writing to be enforceable.
* Break down a particular judge’s opinion to understand the assumptions the judge is making.
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| **Synthesis**Student creatively combines elements and parts to form a whole new structure. | * Explain how two particular schools of jurisprudence are related.
* Make a connection between duress and insanity.
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| **Evaluation**Highest level of learning. Student makes a critical judgment about the value of the communication. | * Identify and explain a reasoning flaw in the judge’s argument.
* Evaluate the following statement: Arbitration and mediation are better forms of dispute resolution than litigation.
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***teaching ideas***

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| Connecting to the Core | * Consider asking students to keep a “Connecting to the Core” journal. Throughout the semester, students can relate concepts they are learning in their business law class to material they are learning in their other business courses.
* Ask students to take one particular area of law (Use Exhibit 1-1 as the basis for topic choices) and write a paper that explains intersections between a particular area of law and at least one functional area of business. For example, a student could choose consumer law and write a paper that links a specific consumer law issue to content from their marketing class.
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| Teaching Basics | Explore web sites that offer information about teaching at the college level.Harvard has a great center. Their center links you to other centers. If you are a new teacher, make sure you look at this site’s sample syllabi.<http://bokcenter.fas.harvard.edu/icb/icb.do>This syllabus tutorial at the University of Minnesota is great—it provides sample language you can use.<http://www1.umn.edu/ohr/teachlearn/> |
| Advanced Teaching | Use the Case of the Speluncean Explorers to explore the schools of jurisprudence. This hypothetical case explores the dilemma a trapped team of five spelunkers faces when they have to decide whether to eat one of their party in a quest to survive. Once rescued, the case considers whether the surviving spelunkers are guilty of murder.You can get a copy of the case of the Speluncean Explorers through this web site:<http://en.wikipedia.org/wiki/The_Case_of_the_Speluncean_Explorers>Once you get a sense of the case itself, explore further to see what kinds of questions you can ask in class.<http://www.earlham.edu/~peters/writing/cse.htm#assignments> |

***A BEST PRACTICES TEACHING TIP***

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| **Peer-to-peer teaching.** | This teaching technique can help students engage more fully with new concepts that are referenced in this textbook. Wilbert J. McKeachie states that there are two favorable outcomes from having students play the role of a teacher: 1.) Peer-to-peer teaching can stimulate additional learning by the student who is teaching, since teaching will require greater preparation for class.2.) Peer teaching facilitates the learning of those being taught by hearing information from an individual other than the regular teacher. McKeachie notes that it is essential that faculty members supervise the student-led teaching session, as this method of teaching may not be useful if students do not take the task seriously. A substantial amount of education research supports the value of this teaching practice. In a legal education article, J.B. Biggs alludes to peer-to-peer teaching as among the most effective teaching strategies for engaging student learning: “The best answer to the question, 'What is the most effective method of teaching?", is that it depends on the goal, the student, the content, and the teacher. But the next best answer is, "Students teaching other students." There is a wealth of evidence that peer teaching is extremely effective for a wide range of goals, content, and students of different levels and personalities” (144).To read more about peer-to-peer teaching, see Wilbert J. McKeachie’s “Teaching Tips: A Guidebook for the Beginning College Teacher” or J.B. Biggs’ “Teaching for Better Learning.” References: Wilbert J. McKeachie, Teaching Tips: A Guidebook for the Beginning College Teacher, 7th ed., 1978.J.B. Biggs, Teaching for Better Learning, 2 *Legal Educ. Rev*. 133 (1990-1991). |

1. \* BENJAMIN BLOOM, TAXONOMY OF EDUCATIONAL OBJECTIVES: THE CLASSIFICATION OF EDUCATIONAL GOALS (1954). [↑](#footnote-ref-1)