

## APPELLATE LITIGATION – 2 Credit Course

**ENSURE THAT YOU ARE REGISTERED IN THIS CLASS THIS SEMESTER.**

**SIGN-UP FOR THIS CLASS ON TWEN.**

1. YOU and I will have in class face to face meetings in the law school building.
2. Communications outside of class will occur via TWEN.
3. IF circumstances require our class to meet on-line we will meet on ZOOM.
4. ALWAYS OPEN TWEN EMAILS FROM ME FOR THE FOLLOWING REASONS:
  - a. If an emergency arises that causes a class to cancel or IF A CHANGE IS REQUIRED, I will ONLY notify you via email from the TWEN PAGE.
  - b. If class must be held on-line it will be done on ZOOM and I will ONLY send the ZOOM LINK TO EACH PERSON WHO HAS REGISTERED ON TWEN.
  - c. ALL ASSIGNMENTS WITH THEIR DUE DATES and TIMES ARE PUBLISHED ON THE READING/ASSIGNMENT DUE DATE SCHEDULE
    - i. I WILL DISTRIBUTE AN ASSIGNMENT INSTRUCTION SHEET FOR EACH ASSIGNMENT; Follow All Instructions To Receive Full Credit On Each Assignment.
    - ii. You **Must** Submit All Assignments In A TWEN DROPBOX.
    - iii. Some Assignments Are Submitted On TWEN By Name AND Some Assignments Are Submitted By Exam Number. *See the READING/ASSIGNMENT DUE DATE SCHEDULE.*
    - iv. I will use the TWEN date/time stamp for your submission to determine if you have timely submitted your assignment.
  - d. You will sign-up for required individual meetings on TWEN when instructed to do so.
5. The State of Texas does not permit me to require you to wear a mask in class or if you come to my office, but I strongly encourage you to do so.
6. I will wear a mask and socially distance myself at all times IN CLASS AND IN MY OFFICE.
7. HOWEVER, I WILL ONLY CONDUCT OFFICE HOURS ON ZOOM.
  - a. No appointment is necessary or permitted for Office Hours.
  - b. If you need to meet me during a time outside of Office Hours, please SPEAK WITH ME IN CLASS OR E-MAIL ON TWEN.

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

8. YOU WILL USE THE ZOOM PLATFORM TO COMPLETE YOUR FINAL ORAL ARGUMENT. I WILL SCHEDULE ORAL ARGUMENTS **APPROXIMATELY** TWO WEEKS BEFORE THE SEMESTER ENDS.

### The Texas Firearm Carry Act of 2021

The new Texas law applies to both *open carry* in a holster and *concealed carry*, where no part of the firearm is visible. Texas law is quite specific in that an openly carried handgun must be kept in a holster. According to Texas Penal Code § 46.02(a-5), it is illegal to carry a handgun and intentionally display it in plain view of another person in a public place, unless the handgun is partially or wholly visible (openly carried) and is carried in a holster.

#### TYPES OF CARRY

**Permitless carry:** Permitless carry means that a permit is not required to carry a concealed handgun.

**Open carry:** Open carry means carrying a gun in public, where other individuals besides the carrier can see it either partially or in full view.

**Concealed carry:** Concealed carry is the practice of carrying a concealed weapon on one's person in public. A concealed firearm can be carried on a person's body — typically in a holster — or off-body in a purse, backpack or other specialized concealment accessory or garment.

## Texas Permitless Carry Law Prohibitions

**Permitless Carry is Prohibited by certain persons and in specific locations posted with Texas Penal Code § 30.05 or § 46.03 signs. One of those excluded locations is:**

- **On the premises of an institution of higher education, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of an institution of higher education;**

## Concealed Handgun Policy

If you have a concealed firearm the State of Texas has passed legislation permitting you to carry a concealed firearm on campus, subject to the rules and regulations of Texas Southern University's Campus Carry Policy. Under TSU's Campus Carry Policy, *I can elect to designate my office as a gun-free zone. I Elected To Make My Office A GUN FREE ZONE.*

Pursuant to Section 30.06, Penal Code (trespass by a holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), *may not enter this property with a concealed handgun.*

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For a complete list of the gun-free zones on this campus and the rules governing campus carry at our institution, please visit the Texas Southern University website at <https://www.tsu.edu>

*Be Advised that entering a gun-free zone on campus with a firearm, including inside my office, could not only lead to criminal prosecution, but also suspension or expulsion from scho*

<b>PROFESSOR'S NAME</b>	<b>Marguerite L. Butler</b>
<b>OFFICE TELEPHONE</b>	713-313-1010 OFFICE
<b>EMAIL</b>	EMAIL ME FROM THE TWEN PAGE
<b>OFFICE LOCATION</b>	Room 243
<b>OFFICE HOURS</b>	CLASS WILL DETERMINE DATES AND TIMES DURING THE FIRST WEEK OF CLASS AND By Appointment
<b>Class Meeting Days and Hours</b>	Tuesday and Thursday room 211 4:00 pm – 4:50 pm
<b>Course Category</b>	2d year required course graded on the 2L curve
<b>CLASS ATTENDANCE</b>	<ul style="list-style-type: none"> <li>a. Class attendance is mandatory.</li> <li>b. During the semester you are entitled to 3 absences in this class.</li> <li>c. Refer to <b>The Student Rules of Matriculation</b> to confirm the rule.</li> <li>d. Read the student rules of matriculation to determine when your grade is subjects to reduction based on attendance.</li> <li>e. Attendance is taken daily.</li> <li>f. <i>Timely attendance is also required. If you are tardy three times you will receive one absence.</i></li> <li>g. <i>You will sign an attendance sheet in each class</i></li> <li>h. <b><i>Class attendance penalties will start during the week of August 23, 2021.</i></b></li> </ul>
<b>ON-LINE PLATFORMS USED IN THIS CLASS:</b>	<ol style="list-style-type: none"> <li>1. REGULARLY SCHEDULED CLASSES MEET in the TMSL classroom or ON zoom as a back-up.</li> <li>2. <b>OFFICE HOURS</b> MEET ON <b>ZOOM</b>; I WILL EMAIL THE ZOOM LINK ON TWEN.</li> <li>3. <b>COMMUNICATIONS: YOU MUST SUBMIT ALL ASSIGNMENTS ON TWEN.</b></li> <li>4. FINAL ORAL ARGUMENTS WILL TAKE PLACE ON ZOOM.</li> </ol>
<b>I WILL ONLY ACCEPT ASSIGNMENTS ON TWEN.</b>	<ol style="list-style-type: none"> <li>1. I WILL ONLY CHECK THE TWEN DROP BOX TO GRADE ASSIGNMENTS.</li> <li>2. IF FOR ANY REASON THE DROPBOX DOES NOT OPEN <b>YOU MUST</b> EMAIL YOUR ASSIGNMENT to receive a date and time stamp.</li> </ol>

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

	<p>3. <b>HOWEVER, AFTER THE DROP BOX PROBLEM HAS BEEN CORRECTED. YOU WILL BE REQUIRED, BY A DATE CERTAIN ANNOUNCED IN CLASS AND CONFIRMED ON TWEN, TO SUBMIT THE ASSIGNMENT ON TWEN</b></p> <p>4. I WILL ONLY GRADE ASSIGNMENTS THAT HAVE BEEN SUBMITTED ON TWEN.</p> <p>5. I WILL NOT SEARCH THE EMAIL FOR YOUR ASSIGNMENT WHEN I BEGIN TO GRADE</p>
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## COURSE BOOKS & MATERIALS

### TEXTBOOKS:

#### 1. Required:

**Legal Writing: Examples and Explanations 3d ed. (2011) OR most recent eds**

**Pollman and Stinson**

**Wolters Kluwer Law & Business**

ISBN 9781454891222

**Plain English for Lawyers 6<sup>th</sup> Ed. (2019) OR most recent edition**

Richard Wydick

Carolina Academic Press

ISBN 978 1 5310 0700 3

**Just Briefs (2013) OR most recent edition**

**Oates et al**

Wolters Kluwer Law & Business

ISBN-13: 978-1454805540

ISBN-10: 1454805544

**The Uniform System of Citations (Bluebook) 20th ed. OR most recent edition**

Harvard Law Review

ISBN10: 600014329X

ISBN13: 9786000143299

#### 2. Recommended Resources:

**Texas Rules of Form, *most recent edition.***

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

*University of Texas Law Review. Access to; have available from last year's writing class.*

**The Winning Brief: 100 Tips for Persuasive Briefing in Trial and Appellate Courts**

**Bryan Garner**

**Oxford University Press**

ISBN 0-19-517075-X

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

## COURSE DESCRIPTION & OBJECTIVE

### DESCRIPTION:

#### **Appellate Litigation Is A Required Second Year Legal WRITING Course**

THIS COURSE Is Designed To **IMPROVE AND DEVELOP** The Writing Skills That You Learned In Lawyering Process I And II, Which You Took During Your First Year And That You Will Need to Do Well At The Bar And In The Practice of Law.

During The Semester, You Will Receive A Grade For Four Major Projects And for Professionalism Day. You Will Also Have Several Ungraded Assignments And CALI Lessons; These Assignments Are Designed To Help You Improve Your Grade On The Four Major Projects. You Will Start The Semester By (1) Organizing An Open Research Memo That Will Culminate With (2) A Draft Brief, (3) A Final Brief And (4) the Final Oral Argument Before The United States Supreme Court.

You Will Use And Improve Upon The Legal Methods, Case Analysis, Problem Analysis, Statutory Analysis And Legal Research Skills That You Learned During The First Year. All Written Assignments And The Final Oral Argument Are Based On A Document Labeled “The Record”. I Will Deliver “The Record” To You via TWEN during the Third Class Week, which you must download and markup during up during the semester. Once You Receive “The Record”, You **Must Read It Once Each Day During The Semester** Since It Is The Basis For Each Major Project.

The Last Major Project For The Semester Is The Final Oral Argument. During The Appellate Argument Each Student Must Persuade Three Appellate Judges, Based On The Relevant Law Researched And Key Facts Determined By The Research And Facts Found In “The Record”, That Your Client Should Prevail On Appeal. I Will Assign Each Student A Partner not earlier than two weeks before the argument. The Zoom platform will host All Oral Arguments. The Judges Will Give an oral Evaluation to each student Immediately After The Argument concludes. However, I Will Assess The Grade For Each Student. The Oral Argument Grade Is Based On A Rubric That Each Student Will Receive Closer To The Oral Argument. A Rubric Is Used For Each Written And Oral Assignment So That Each Student’s Grade is Based On The Same Criteria.

Your Professional Dress Is Very Important And I Will Judged It Twice During The Semester: Once On Professionalism Day And Once During The Final Oral Argument That You Present At The End Of The Semester. On Professionalism Day a guest speaker will make an in-class presentation; each student will dress in the appropriate appellate argument attire based on the professional dress criteria established by the Career Services Office, with a few modifications that we will discuss in class.

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**OBJECTIVES:**

***This course has three primary objectives.***

1. First, to improve the legal analysis skills of students. By the end of the course, students should be able to demonstrate written and oral legal analysis skills such as the capacity to pay careful attention to legal rules and key facts to explain how legal authorities apply to a RECORD that is used for all assignments during the semester using the IRAC and/or CRRAPC methods of legal analysis, to recognize and use legal terminology, and to use case law and principles to analyze new fact patterns.
2. Second, to review and improve upon the legal writing skills that you developed in your first year writing course. These skills include but are not limited to writing a legal memoranda and conducting legal research. This course adds two additional skills which include writing a legal brief and participating in an oral argument before a panel of three or more judges at the end of the semester.
3. To teach and implement the basic tenets of professional civility. Merriam Webster Dictionary Definition: Characteristics of a state of civilization and *civilized society; especially* characterized by taste, refinement, or restraint. Marked by well-organized laws and rules about how people behave with each other.

**For example:**

: polite, reasonable, and respectful

: pleasant and comfortable

**This class will create a list of a minimum of 10 rules that will determine the expectation of behavior in and outside of the classroom.**

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**GRADING**

ASSESSMENT TOOLS	% OF TOTAL GRADE
Memoranda (1)	20%
RD Appellate Brief (1)	50%
Appellate Brief (1)	50%
Professionalism Day (1)	10%
Oral Argument (1)	20%
Grand Total	100%

**CRITERIA FOR EACH GRADING CATEGORY:**

You must follow the written instructions for each assignment. I will distribute the instructions in class/on TWEN at the start of each assignment.

	<i>Percentage of Final Grade</i>
<b>1. Memorandum Max 120+ points</b>	<b>20%</b>
a. Rough Draft <i>Project 1 on 1 issue</i>	<b>40 pts</b>
b. Review RD 3 DAYS before next assignment IS DUE	<b>20 pts</b>
<b>2. Brief Max points 260+ points</b>	<b>50%</b>
a. Brief Rough Draft (RD) <i>Project 2</i>	<b>40 pts</b>
b. Review RD minimum of <i>14 days before final brief is due</i>	<b>20 pts</b>
c. Final BRIEF <i>Project 3 on issue one &amp; two</i>	<b>100 pts</b>
d. Research Notebook	<b>100 pts</b>
<b>3. Professionalism Day Max 100 points</b>	<b>10%</b>
a. Professional Dress	<b>60 pts</b>
b. Essay	<b>40 pts</b>
<b>4. Final Oral Argument Project 4 Max 270 points</b>	<b>20%</b>
a. in-class activities	<b>20 pts</b>
b. final argument	<b>100 pts</b>
c. Moot Court Notebook	<b>100 pts</b>
d. Professional Dress	<b>50 pts</b>
<b>Grand Total</b>	<b>100%</b>

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**EXTRA CREDIT**

1. **Extra Credit/Penalty points - no more than 10 points in the semester.**
2. **Extra credit points all of the above tabulations are totaled. SEE BELOW**
3. Penalty points **are subtracted from assignment.**
4. **It is possible** that I will assign **all, some or none** of the extra credit points;
  - a. If class attendance points are assigned, they will be assigned based on the extra credit points allocation;
  - b. **At my discretion, two extra credit points may be given for exceptional class preparation and participation;**
  - c. However when assigned;
    1. the assignment will be available for ALL students and
    2. **MUST** be submitted or done on or before the due date.
  - d. **NO INDIVIDUAL OR LATE EXTRA CREDIT ASSIGNMENTS WILL BE ACCEPTED;**
  - e. Examples of extra credit are attendance at seminars, exceptional class participation etc., etc., etc.;
  - f. Each extra credit assignment is worth one or two points;
  - g. **YOU CAN ALSO LOSE POINTS** e.g.: unprepared for class, late to class, excessive absences. **Max. 10 points;**
  - h. If penalty points are assessed,
    - i. Two points are deducted for each incident. There is **no maximum deduction.**
    - ii. **This rule does not apply to late papers, plagiarism and other egregious problems and errors such as these. It is possible to receive a zero on the assignment for these reasons.**

**PENALTIES FOR LATE ASSIGNMENTS:**

- A. The written memo, brief and oral argument assignments are each based on a 100 point scale.
- B. If these you submit these Assignment after the assigned due date and time (**or by written revision announced on TWEN**) I will deduct points from that assignment as follows:
  1. You must turn each assignment in on time.
  2. I will **ONLY** accept late assignments under the following circumstances:
  3. **ALL graded late assignments receive a 20% point deduction for each twenty-four hour period that the assignment is late. You will sign-in these assignments with my administrative assistant, Misty Bishop, at the appointed due date and time.**
  4. A 24 hour period for late assignments begins after the assigned due date and time AND for every 24 hour period thereafter for a maximum of 4 days.
  5. **On Day five** you will receive a zero for the assignment.
  6. **After Day Five** You cannot submit any assignment for my review.
- C. Assignments Not Submitted in the place and manner indicated in the instructions (or by written revision announced on TWEN) are also late.

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

1. **I Will Neither ACCEPT nor EVALUATE an assignment that is not submitted at the place or in the manner indicated in the assignment instructions (or by written revision announced on TWEN).**
2. **An improperly submitted assignment is late if not correctly submitted by the designated due date and time.**

#### TOP TEN APPELLATE LITIGATION COMPETENCIES –

Every Student, After Completing This Course, Is Expected To Have the Ability To

1. Write a professional memorandum of law. *Accomplished by writing a draft memorandum, reviewing the draft with me before submitting the final memorandum and writing a final memorandum.*
2. Write a professional Appellate Brief. *Accomplished by writing a draft brief, reviewing the draft brief with me before submitting the final brief and writing the final brief.*
3. Present a competent oral argument in a moot court environment based on the memo and brief problem researched and written during the semester. *Accomplished with in class exercises and make a final appellate oral argument before three judges.*
4. Distinguish between federal and state court hierarchy and authority; *Accomplished by distinguishing between state and federal cases and statutory provisions when doing the research for the memorandum and brief.*
5. Apply Bluebook rules for correct citations in their legal Memo and Appellate Brief. *Accomplished by completing CALI exercises, using these rules when writing the drafts and final drafts for the legal memorandum and appellate brief and reviewing bluebook rules not addressed in the CALI lessons, in class, and during student/professor conferences.*
6. Improve legal research skills, using both paper and electronic research sources for
  - a. all primary and secondary authorities,
  - b. rules of statutory interpretation and
  - c. standard of review

*Accomplished with lectures on these points and additional presentations by Lexis or Westlaw for on-line legal research*

7. Learn a competent research process where the student demonstrates that they have done their own work.

*Accomplished with class instruction on how to keep*

**FOLLOW THE READING ASSIGNMENT/DUE DATE SCHEDULE**

- a. a legal research notebook that will be turned in after the oral argument at the end of the semester that includes all of the research used in all of the semester assignments and*
  - b. a research log for time spent on all semester assignments that is turned in every 15 days during the semester.*
8. Know the requirements for professional dress and to dress accordingly on the class professional day and for oral argument.  
*Accomplished by discussing the requirements in class and requiring students to dress professionally on the class professional day and for the final oral argument.*
9. Understand the purpose and requirements of the Standard of Review AND apply those standards to the issues presented in an appellate brief. *Accomplished by requiring students to research and write about the standard of review and lecturing on the topic.*
10. Understand and learn the rules of court for writing briefs and making oral arguments. *Accomplished by requiring students to research the rules of court for writing briefs and making oral arguments and discussing these rules along with a discussion about local court rules and the local class rules for writing a brief and completing the oral argument.*

## ACADEMIC INTEGRITY

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code.

## TITLE IX SEXUAL MISCONDUCT AND NONDISCRIMINATION POLICY:

The Texas Southern University Sexual Misconduct and Nondiscrimination Policy is compliant with federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX. Texas Southern University's non-discrimination

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policies can be found at: <http://hr.tsu.edu/wp-content/uploads/2015/02/Sexual-Harassment-Title-IX.1.pdf>

#### DISABILITY POLICY:

If you are a student with a documented disability who requires an academic accommodation, please contact the Asst. Dean for Student Development in the Office of Student Affairs, Room 223B Dean's Suite, 2d floor, Law School Building.

#### ACCOMODATIONS, ATTENDANCE & PROFESSIONALISM

<b>1. GENERALLY</b>	
<b>a. Special Accommodations</b>	Please see the Texas Southern University Thurgood Marshall School of Law Accommodations policy located at this link: <a href="http://www.tsulaw.edu/academics/18SuAccommodationsInformationweb.pdf">//www.tsulaw.edu/academics/18SuAccommodationsInformationweb.pdf</a>
<b>b. FINAL EXAM /FINAL ASSIGNMENT</b>	THERE IS NO <b>FINAL EXAM</b> IN THIS CLASS. HOWEVER, YOU WILL SUBMIT YOUR BRIEF FOR YOUR <b>FINAL ASSESSMENT</b> . <b>THE BRIEF</b> CULMINATES ALL THAT YOU WILL LEARN DURING THE SEMESTER.
<b>2. Class Attendance</b>	Please see the Texas Southern University Thurgood Marshall School of Law Accommodations policy located at this link: <a href="http://www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf">//www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf</a>
<b>a. Attendance Taken</b>	Daily/ you must sign-
<b>b. Tardiness</b>	Please see the Texas Southern University Thurgood Marshall School of Law Accommodations policy located at this link: <a href="http://www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf">//www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf</a>
<b>c. Allowable number</b>	Please see the Texas Southern University Thurgood Marshall School of Law Accommodations policy located at this link: <a href="http://www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf">//www.tsulaw.edu/academics/student_affairs/2018-2019_Rules_and_Regulations.pdf</a>
<b>3. Class Etiquette</b>	
<b>a. Cell phones</b>	I ask you for directed and committed concentration during the classroom component. Please do not use cell phones in class. This includes, but is not limited to, MP3ing, texting, talking; videotaping; U-tubing; tweeting face booking, internet searching, etc.
<b>b. Tablets/Smart Phones/</b>	If these tools are not used for direct class support then please respect and set a professional example by not using these items in class.

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<b>c. MP3</b>	
<b>d. Professional Decorum</b>	The classroom and the courtroom are sacred in that they are the places where positive change is defined, discussed, effectuated and shared with the world. Please act in a manner that brings dignity to you, your family and the legal profession. As for Dress, if you would not wear it to court or work in a legal setting, do not wear it to class.
<b>e. Yielding the floor</b>	As in the courtroom or a professional work environment, if a colleague, professor, judicial officer or speaker is engaged in presentation or inquiry, please yield the "floor" until you can intervene without disruption.
<b>f. Dismissal</b>	Please do not prepare to leave class until class is dismissed unless you have told me in advance that you need prior to the dismissal of class
<b>4. PROFESSIONALISM</b>	<b>IS EXPECTED AND REQUIRED INSIDE AND OUTSIDE OF CLASS , AT ALL TIMES AND WITH ALL PEOPLE.</b>
<b>5. Class Preparation</b>	
<b>a. Student Responsibility</b>	To prepare to participate in each class session
<b>b. Textbook</b>	Bring your research notebook to class daily. It should include the research you have done for each assignment and the final work product for that assignment.

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**THURGOOD MARSHALL SCHOOL OF LAW  
TEXAS SOUTHERN UNIVERSITY  
ACADEMIC CALENDAR**

**FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)**

Orientation	Monday-Friday	August 9-13, 2021
First Day of Class	Monday	August 16, 2021
Last Day to ADD/DROP	Wednesday	August 18, 2021
Labor Day (NO CLASSES)	Monday	September 6, 2021
Purge of all unpaid course selections	Wednesday	September 15, 2021
Mid Term Examinations	Mon – Fri	October 11-15, 2021
Last Day to Drop a Class	Friday	November 5, 2021
Last Day of Classes	Tuesday	November 23, 2021
First Year Professors' Grades due	Tuesday	November 23, 2021
Reading Period	Wed	November 24, 2021
Thanksgiving Holiday	Thurs – Fri	November 25-26, 2021
Reading Period	Sat- Sun	November 27-28, 2021
Final Examinations	Monday - Friday	Nov. 29-Dec. 10. 2021
Commencement Exercises	Saturday	December 11, 2021

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