1. **Course Materials**: The book for the course is D. Kelly Weisberg and Susan Freligh Appleton, *Modern Family Law: Cases and Materials* (1998). I have prepared additional materials, which are available in the Records Office or which can be downloaded; these are referred to on the syllabus as the “Cahn Supplement.” For those of you who would like to do additional reading on family law, I recommend *Family Matters* (Martha Minow ed. 1993), which is an interdisciplinary collection of materials, including fiction and law review articles, for basic backgrounds on family law, you may want to consult *Domestic Relations Law* by Homer Clark (West, 2d ed. 1988), which is the standard (although somewhat dated) treatise on family law; and *Family Law: Essential Terms and Concepts* by Randy Kandel (2000) or *Understanding Family Law* by John De Witt Gregory, Peter Swisher, and Sheryl Scheible (1993), which are guides to family law.

2. **Professor's Office Hours**: My e-mail address is ncahn@main.nlc.gwu.edu. My office hours will be on Wednesday from 12:50 p.m. - 2:30 p.m. in Old Main (1922 F Street, NW), Room 403. Please feel free to call me if you would like to schedule an appointment for another time. I can be reached at (202) 994-6025. I invite any student who wants to discuss further any issues that we have (or have not) discussed in class to speak with me after class or to set up another time to talk. You can also access information through your e-mail log-in system.

3. **Requirements for the course**:  
   a. **Class participation**: I expect everyone to prepare for class, to attend, and to participate regularly. Where there are problems in the casebook, please think carefully about your answers. I encourage each of you to view this class as a seminar and as an opportunity for you to discuss your thoughts on the readings. We will be focusing on the policy rationales underlying the cases, as well as on images of men, women, and the family.

   In order to stimulate class discussion, I plan to use a volunteer system. I will distribute a sign-up sheet each week for 10 volunteers for the following week. Everyone in the class must sign up for at least one week (so please don’t wait for the last week!); failure to do so will result in lowering your grade by one grade step. Students who recurrently miss class without excuse will not be permitted to take the final examination.

   Class participation can affect your grade positively or negatively; it can raise or lower your grade by one grade step (e.g., from B to B+).

   b. **Exam**: There will be a *take-home*, open book exam on Thursday, December 13. I will distribute additional instructions as the exam date approaches.
I. Private Family Choices: Constitutional Protection for the Family and Its Members
   A. Evolution of the Right to Privacy
      1. The Birth of Privacy
         a. Meanings of Privacy
         b. *Griswold v. Connecticut*
            *Eisenstadt v. Baird*
         c. Roots of Privacy
            *Meyer v. Nebraska*
            *Pierce v. Society of Sisters*
            *Troxel v. Granville*
   B. The Limits of Privacy
      1. Privacy versus Morality
         *Bowers v. Hardwick*
   C. When Privacy Rights Conflict
      1. Wives and Husbands
         *Planned Parenthood of Southeastern Pennsylvania v. Casey*
      2. Children and Parents
         *Hodgson v. Minnesota*

II. Getting Married
   A. Premarital Contracts
      *Simeone v. Simeone*
      *In re Marriage of Greenwald*
   B. Getting Married: Substantive and Procedural Regulations
      1. Constitutional Limits on State Regulation of Entry into Marriage
         *Loving v. Virginia*
         *Zablocki v. Redhail*
         *Turner v. Safley*
         *Wisconsin v. Oakley*
      2. State Regulation of Entry into the Marital Relationship
         170, 181-211; Supp. pp. 25-50
         a. Substantive Restrictions
            (i) Capacity to Marry
               (1) Same Sex
                  *Baker v. Vermont*
               (2) Incest
                  *State of Missouri ex rel. Miesner v. Geile*
                  Note: Void verses Voidable Distinction
               (3) Bigamy
                  *Potter v. Murray City*
                  Prosecution of Tom Green
III. Being Married: Regulation of the Intact Marriage 241
A. Introduction: The Changing Nature of Marriage 241-248
B. Roles and Responsibilities in Marriage 248-263, 285-293
   1. The Common Law View
   2. Marital Property Regimes
   3. Duty of Support
      *McGuire v. McGuire*
   4. Parenting
      a. Pregnancy Leave
      *Cleveland Board of Education v. LaFleur*

IV. Alternative Families 397
A. The Extended Family 408-416
   *Moore v. City of East Cleveland*
B. Cohabitation: Unmarried Couples 416-418, 423-445
   1. Introduction
   2. Unmarried Couples’ Rights Inter Se
      *Marvin v. Marvin*  
      *Hewitt v. Hewitt*
C. Parents’ and Children’s Rights in the Nonmarital Family 505-534
   1. Support Rights of Nonmarital Children
      *Clark v. Jeter*  
      *In re L. Pamela P. v. Frank S.*
   2. Limitations on Unmarried Parents’ Rights
      *Stanley v. Illinois*  
      *Michael H. v. Gerald D.*

V. Divorce 535
A. Introduction 535-541
   1. Divorce as a Historical Phenomenon
   2. Divorce as a Social Phenomenon
B. Fault-Based Grounds for Divorce 542-557
   1. Adultery
      *Lickle v. Lickle*
   2. Cruelty
      *Muhammad v. Muhammad*
   3. Desertion
Reid v. Reid

C. Fault-Based Defenses
   1. Recrimination
      Parker v. Parker
   2. Condonation
      Haymes v. Haymes

D. No-Fault Divorce
   1. Divorce Reform
   2. Legal Problems Raised by No-Fault Divorce
      a. What Is No Fault?
         In re Marriage of McKim
         Nieters v. Nieters
         Bennington v. Bennington
      b. What Role for Fault?
         Twyman v. Twyman
   3. Assessment of the No-Fault “Revolution”
      a. Divorce Reform in the United States
      b. Divorce Reform: The Comparative Law Perspective

E. Access to Divorce
   1. Economic Obstacles
      Boddie v. Connecticut

F. The Role of Counsel
   1. Emotional Aspects of Divorce
   2. Conflicts of Interest

G. Divorce Jurisdiction
   1. Over the Plaintiff and Defendant
      In re Marriage of Kimura
   2. Durational Residency Requirements
      Sosna v. Iowa
   3. Domestic Relations Exception to Diversity Jurisdiction
      Ankenbrandt v. Ankenbrandt

VI. Financial Consequences of Dissolution
   A. Introduction: The Demise of Fault?
   B. Property Distribution: From Title Theory to Contribution

   Ferguson v. Ferguson
   Uniform Marriage and Divorce Act §307
   American Law Institute, Principles of the Law of Family
   Dissolution: Analysis and Recommendations §4.18

   C. Spousal Support: Theories of Need, Self-Sufficiency, and Beyond

   Orr v. Orr
Uniform Marriage and Divorce Act §308
American Law Institute, Principles of the Law of Family Dissolution: Analysis and Recommendations §5.05
a. Pensions and Employee Benefits
   Cohen v. Cohen
b. Investments in a Spouse’s Future Success:
   Degrees, Earning Capacity, and Goodwill
   In re Marriage of Roberts
c. Taxation
   (i) Spousal Support
   (ii) Transfers of Property to Spouse
   (iii) Child Support
   (iv) Other Tax Considerations

1. Imposing Support Obligations: From Discretion to Guidelines
   Mehra v. Mehra
   Cassano v. Cassano
2. Postmajority Support
   Curtis v. Kline
3. Modification of Child Support
   a. Remarriage and New Families
      Feltman v. Feltman
   b. Employment Changes
      Antonelli v. Antonelli

E. Enforcement 755-784
1. Traditional Remedies: Contempt
   Hicks ex rel. Feiock v. Feiock
2. New Approaches: From Private to Public Responsibility
   a. Background
   b. Modern Remedies
      (i) Income Withholding
      (ii) Tax Refund Interceptions, Automatic Seizures, and Administrative Procedures
      (iii) License and Passport Suspension
   c. Evaluation: “Small Change?”
3. The Challenge of Multistate Cases
   a. Jurisdictional Limitations
      Kulko v. Superior Court
      Lozinski v. Lozinski
   b. Rethinking Jurisdiction and Enforcement: UIFSA
      Deltoro v. McMullen

F. Separation Agreements 787-797
1. The Policy of Favoring Settlement
   Uniform Marriage and Divorce Act §306
2. Incorporation, Modification, and Enforcement
   States v. States
3. The Bargaining Process

VII. Child Custody

A. Introduction: Effects of Parental Divorce
   799
   B. Parental Disputes Concerning Child Custody
      800-801, Supp. pp. 113-115

1. Standards for Selecting the Custodial Parent: What Should Be the Standard?
   a. Presumptions?
      (i) Tender Years Presumption
          Devine v. Devine
      (ii) Primary Caretaker Presumption
          Shearer v. Shearer
   b. Best Interests of the Child?
      (i) Introduction
          Uniform Marriage and Divorce Act §402
      (ii) Constitutional Factors
          (1) Race
              Palmore v. Sidoti
          (2) Religion
              Abbo v. Briskin
      (iii) Fitness
          (1) Sexual Orientation
              Tucker v. Tucker
          (2) Careers
              Rowe v. Franklin
          (3) Domestic Violence
              Dschaak v. Dschaak
              Note: Physical Disability
   c. Joint Custody: Presumption, Preference, or Option?
      Bell v. Bell

2. Standards Governing the Noncustodial Parent
   Visitation
   a. Restrictions on Visitation
      Hanke v. Hanke
   b. Denial of Visitation
      Turner v. Turner

3. Standards Governing Parent versus Non-Parent Disputes
   Painter v. Bannister
   Alison D. v. Virginia M.

4. The Role of Special Participants
   a. The Child’s Preference
      McMillen v. McMillen
   b. Representation for the Child
      Leary v. Leary

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c. Role of Experts
   \textit{In re Rebecca B.}

5. Modification
   a. Standard
      \textit{In re Marriage of Rosenfeld}
   b. Relocation
      \textit{Tropea v. Tropea}

6. Jurisdiction and Enforcement
   \textit{Schwartz v. Schwartz}
   \textit{California v. Superior Court (Smolin)}
   \textit{In re Mendel}

C. What Process Should Govern Custody Disputes? 934-949
   1. The Adversary System versus Mediation Process
      \textit{McLaughlin v. Supreme Court}
   2. Coin Flipping