Course Description: In American Indian Law, you will learn about the legal relationship between American Indian nations and the United States, including implications for states and individual citizens. American Indian tribes have a legal status that is unique both within our legal system and throughout the world. The United States Supreme Court has affirmed that Tribes are sovereign nations with rights to self-governance. And yet the Court has also acquiesced in the unilateral Congressional abrogation of aspects of that sovereign status. In addition, the Supreme Court itself has also engaged in extensive common law decision-making regarding the scope of tribal sovereignty. The resulting complex legal framework affects not only tribes and individual tribal members, but non-Indians as well. To understand the complexities of the present, it is necessary to have some understanding of the historical situation that brought us here. The course will therefore begin with historical materials, followed by an overview of federal Indian policy periods, and then will proceed to examine the legal framework chronologically at first, and then by subject matter.

Class Participation/Present and Prepared Policy: Class participation will count for up to ten percent of your final grade. I will have a sign-in sheet at the front of the room for every class. If you circle your name, you are indicating that you have done the reading, thought about the questions, and are ready to contribute to class discussion. If you circle your name (and therefore are prepared and ready to participate) for 80% or more of our regularly scheduled classes (approximately 22 or more classes), you will automatically receive half of the possible participation points. If you come to class unprepared and not circle your name, but if you are unprepared or absent for more than 20% (approximately six) of our regularly scheduled classes, you will be ineligible for any class participation points. Likewise, if you circle your name and I call on you and you are not prepared (i.e., you tried to bluff), you will not be eligible for any class participation points. Because this policy allows for you to miss or be unprepared for up to 20% of our regularly scheduled classes, there is no such thing as an “excused” absence over and above that 20%. In other words, the policy is designed to allow you to miss up to 20% of our regularly scheduled classes for any number of compelling reasons and yet still be able to get the maximum possible participation points, so there is no room in it for allowing absences above that 20%. Please consider this when planning travel schedules, clinic work, etc.

Papers and Exam: There will be an optional writing assignment midway through the semester. If your grade on the writing assignment is higher than your grade on the final examination, it will count for one third of the final grade. The final examination will be open book, but it is ideal to study for it as if it is a closed book exam.

Reading Assignments: All assignments are in ANDERSON, BERGER, FRICKEY & KRAKOFF, AMERICAN INDIAN LAW: CASES AND COMMENTARY, 2nd Edition 2010. Please do the first reading assignment for the first day of class on Tuesday, August 24.

Introduction and Early Influences on U.S. Indian Policy

1. Overview and Demographics, Colonial Influences and Early Practices, pp. 1-28
Origins of Federal Indian law

2. Revolutionary Era, Constitutional Framing, and Johnson v. M’Intosh, pp. 28-44


Fluctuating Federal Policies


7. The IRA Period, Termination, Self-Determination, pp. 130-166

Federal Power in Indian Affairs


Status and Boundaries: Definitions of Tribes, Indian Country, Indian Land Claims, and Criminal Jurisdiction


13. Reservation Diminishment, Solem v. Bartlett; Hagen v. Utah; Dependent Indian Communities, Alaska v. Venetie, 276-298

14. Land Claims, Oneida II, and Criminal Jurisdiction in Indian Country, pp. 298-321

Tribal Sovereignty


**State-Tribal Struggles Over Jurisdiction**


**Tribal Jurisdiction Over Nonmembers**


**Last Class: Looking Back and Looking Forward**

26. Advocacy and the Judicial Role, pp. 623-628; Perspectives on American Indian Law, pp. 945-951

**Disability Accommodation:** If you qualify for accommodations because of a disability, please submit to me a letter from Disability Services in a timely manner so that your needs be addressed. Disability Services
Religious Accommodation: Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. In this class, please let me know in advance of any such conflicts and I will work with the Dean’s office to accommodate them. See full details at http://www.colorado.edu/policies/fac_relig.html