

## MEMORANDUM FOR STUDENTS ENROLLED IN CMGT 4335 Fall 2022

**CMGT 4335 - Construction Law and Ethics**

**Tues – Thur: 0800-9:20 RBS 1031**

### **Welcome to CMGT 4335:**

This course is an *introduction to basic contract and tort issues* that can arise in a project. We will be looking at the various types of contracts and the legal remedies available to parties that are “injured” in a construction project. We will be looking at the additional related CM legal topics including bidding, delays, mechanics liens, site conditions, warranties and the Uniform Commercial Code and seeing how these legal concepts relate to the construction industry.

Unlike most of your major courses to date, this course is clearly in the upper part of the T professional educational model. Almost all of your studies have been focused on the *bottom vertical leg* of the T: the technical engineering and construction *hard* skills, competence, knowledge, and practice of the art for things like material strengths, forces, moments, shear, columns, beams, estimating, takeoffs, plan reading, scheduling, EVM, etc. that you have gained from the in classroom lectures and the Dean LEGACY practice projects in courses like 3310, 3315, 4315, etc.

4335 is fully in the *top leg* of the T shaped model and is made up of the critical “soft skills” needed *to be* a professional engineering construction and technology leader in the critical areas of study such as leadership, business acumen, people management, construction and contract law, regulations, character, ethics, lifelong learning, professionalism, etc.

You will remember that part of the definition of a “profession” is that it cannot be automated. Many skills in the bottom of the T for CM engineering can in fact and are automated already. It is the top of the leg skills that cannot ever be automated which we study in 4335. These are metaphysical skills that no algorithm can solve.

The 4335 course objectives will focus on four of these “soft” skills required of a *practicing professional construction leader*.

### **Course Objectives:**

1. Look at and understand what “**Public Policy**” is; the impact it has on the engineering and construction professional; your role as a professional construction leader in the formulation and review of public policy for our profession.
2. We will focus on **TRUST** between the professional and society with TRUST being defined by the *correct professional Ethics* for the “practicing” of construction professional.
3. We will look at **Construction Law**, construction contracts, and legal obligations under the various construction contractual arrangements used in the CM industry.

4. We will examine and understand the UCC and its application and impact on the CM business.

We will meet *every Tuesday and Thursday in RBS 2019* from 8 to 9:20 in RBS 1031 -- IAW the course schedule (see Encl 1). There are 28 lessons this semester – these lessons are broken up into 4 distinct blocks of material. ***Each lesson will cover a lot of material*** with the lecture and in class time having a strong emphasis on APPLICATION of the material to real world problems. ***Staying current on the reading and any homework is critical –we make big jumps each class in knowledge and practice!***

- a. I will teach based on the schedule in Enclosure 1. If you will miss a scheduled class, you are still responsible for turning in any homework assigned for that day (send to me by email) and the material covered in class.
- b. I am in my office every day -- always feel free to come by to see me in my office – in order to maximize your time the BEST PRACTICE is to ***email me ahead of time*** to set up an appointment for when you would like to meet. My office hours are posted on my office door, RBS 1037.

COVID Update Info: *It is important to take the necessary precautions to ensure a healthy and successful year. UT Tyler continues to urge you to protect yourselves against the flu, COVID and any new threats that may be developing. Be diligent about preventive measures such as washing hands, covering sneezes/coughs, social distancing and vaccinations, which have proven to be successful in slowing the spread of viruses. Encourage those who don't feel well to stay home, and if they show symptoms, ask them to get tested for the flu or COVID. Self-isolation is important to reduce exposure ([CDC quarantine/isolation guidelines](#)). Please work with your faculty members to maintain coursework and please consult [existing campus resources](#) for support.*

### **1. Class Room Procedures:**

- a. Bring study notes, textbook, and note-taking material to every class. Class preparation is your individual responsibility.

***Note: I will pick a team at random at the start of class to discuss what the author covered in the reading homework so be ready and be prepared. These class reading updates are aprt of your final grade from the pop quiza and homework summary participation grade (20%) for your final grade!***

- b. ***NO ELECTROIC DEVICES*** are to be used in class– no exceptions –that means no cell phones, no computers, no ipads, etc – there is no material and tasks covered in this class that will require technology to accomplish them. ALL DEVICES are to be off and stowed away at start of class.

**Mandatory Textbook: this course uses three texts:**

*Public Policy 6<sup>th</sup> Edition from Kraft: ISBN 9781544351599*

*Common Sense Construction LAW from Smith and Currie, Wiley: ISBN 978-1-118-85810-3*

*Engineering Ethics by Charles Fleddermann from E Source: ISBN 13:978-0-13-214521-3*

## 2. Final Grade Weighting Scale:

<u>Course Points</u>	<u>Grade Scale</u>
Hour Exams (4 at 100 each)	(50 %)
Pop Quizzes/ TEAM Class Reading Summary	(10%)
Project Support DEAN LEGACY (1of 3)	(20%)
Professional Public Policy Project	<u>(20 %)</u>
	<i>100%</i>

*Team Selection for one of three possible DEAN Legacy projects:*

*New C of E welding shed  
New C of E Event Tent Tie Down Project  
Tiny House 3365 Build Project*

**Note: If you get less than 70% as your final combined grade you will fail the course.**

Remember **you need a C or better** in a core major class to move on to the next course or to graduate.

**Note:** Your final grades **are only A, B, C, D, F** -- We DO NOT “up” a grade if you are close to a B or an A! Your final average IS your **final weighted average** and is a result of the weighted grade and not the raw total average shown in Canvas.

**You will always know where you stand for your grade in Canvas. I will return all graded exercise to you quickly – keep track of them – I will also post grades in Canvas so can see what your raw unweighted cumulative grade looks like. If you do not agree with a posted grade see me ASAP –right after they are posted. Some key rules:**

- 1. DO NOT bring a disputed grade to me if that grade has been posted for more than 14 days.**
- 2. DO NOT wait till the last week of the course to talk about how to improve or salvage a poor grade. This is a cumulative grade process – not a single event.**

**Note: There is no way to ADD to your grade once an exercise is graded –the cumulative grade is the FINAL grade – there are NO adjustments made at end of course**

## 3. Exams:

**a.** The dates for Exams are included in the course schedule. Official reasons for missing an exam include official University participation, family emergency or other unforeseen EMERGENCY circumstance. Regardless of the reason you are required to notify the instructor **prior to the exam** and as early as feasible. **IF you are not present at the start of the exam you will receive a 0 – there are no late starters for an exam –the class room is closed once an exam starts!**

**b.** All the Exams **closed book**.

**c.** There are **NO hallway/bathroom/stress breaks** allowed during exams.

- d. ***There are NO electronic device allowed in an exam. Your exam will be collected and your exam grade will be a zero AND your case will be submitted to the University for final judicisation of the cheating situation OR IF for any reason you walk out of the classroom without handing in your exam.***

***Homework is an assessment of your ability to self-learn and study the material.*** As a construction engineer you have an on-going responsibility to the profession to continually learn and stay current on professional best practices and lessons learned. The lecture model you are most familiar with is not how real world professionals learn. They stay current thru professional seminars, associations, self-study and self learning. Your 4335 homework has been set up to start this practice and is a measurement of your ability to learn key principles on your own. It is a vital skill to master. You cannot rely on the lecture and classroom material covered to learn all the critical material that will be on the quizzes and exams. ***You should be able to read and understand the material BEFORE you come to class.***

***Note:*** Just like the real jobs that many of you have -- ***We expect you to be on time and ready when class starts. IF you come late without prior permission:***

1. ***you will not be allowed into the class and interrupt the project underway for that day.***
2. You must see me after the end of class and explain why you were late. You will get a ZERO for that class and exercise if you do not have a valid excuse for your tardiness.
3. An excuse for being late would be death in family, validated urgent medical emergency validated by a doctor note, or some validated significant act of God like a car accident.
4. Anything due for that class that is not turned in by start of class is late. It is possible in extenuating circumstances to have A “COORDINATED LATE” submission that can occur when you contact me in advance. (That means 24 hours in advance except for real emergencies).

8. ***Students Rights and Responsibilities.*** To know and understand the policies that affect your rights and responsibilities as a student at UT Tyler, please follow this link:  
<http://www.uttyler.edu/wellness/StudentRightsandResponsibilities.html>

9. ***Grade Replacement/Forgiveness.*** If you are repeating this course for a grade replacement, you must file an intent to receive grade forgiveness with the registrar by the 12th day of class. Failure to do so will result in both the original and repeated grade being used to calculate your overall grade point average. Undergraduates will receive grade forgiveness (grade replacement) for only three course repeats; graduates, for two course repeats during his/her career at UT Tyler.

10. ***State-Mandated Course Drop Policy.*** Texas law prohibits a student who began college for the first time in Fall 2007 or thereafter from dropping more than six courses during their entire undergraduate career. This includes courses dropped at another 2-year or 4-year Texas public college or university. For purposes of this rule, a dropped course is any course that is dropped after the 12th day of class (See Schedule of Classes for the specific date). Exceptions to the 6-drop rule include, but are not limited to, the following: totally withdrawing from the university; being administratively dropped from a course; dropping a course for a personal emergency; dropping a course for documented change of work schedule; or dropping a course for active duty service with the U.S. armed forces or Texas National Guard. Petitions for exemptions must be submitted to the Registrar's Office and must be accompanied by documentation of the extenuating circumstance. Please contact the Registrar's Office if you have any questions.

11. ***Disability Services.*** In accordance with federal law, a student requesting accommodation must provide documentation of his/her disability to the Disability Support Services counselor. If you have a disability,

including a learning disability, for which you request an accommodation, please contact Ida MacDonald in the Disability Support Services office in UC 282, or call (903) 566-7079. **You MUST contact me for accommodation needs.** I will not contact you first.

12. Student Absence due to Religious Observance. Students who anticipate being absent from class due to a religious observance are requested to inform the instructor in advance for an excused absence and late submission of work.

13. Student Absence for University-Sponsored Events and Activities. If you intend to be absent for a university-sponsored event or activity, you and the event sponsor request must notify me at least two weeks prior to the date of the planned absence.

14. Social Security and FERPA Statement. It is the policy of The University of Texas at Tyler to protect the confidential nature of social security numbers. The University has changed its computer programming so that all students have an identification number. The electronic transmission of grades (e.g., via e-mail) risks violation of the Family Educational Rights and Privacy Act; grades will not be transmitted electronically.

15. Emergency Exits and Evacuation. Everyone is required to exit the building when a fire alarm goes off. Follow your instructor’s directions regarding the appropriate exit. If you require assistance during an evacuation, inform your instructor in the first week of class. Do Not re-enter the building unless given permission by University Police, Fire department, or Fire Prevention Services.

Encls 1 Joe Boylan CMGT 4335  
Attachment 1

**Initial Course Schedule** *(Subject to change as needed throughout the semester)*

Date	Materials Covered	Assigned Reading	PS/Project Assignments
8/23	Course Syllabus and Objectives Project Expectations <i>Assign Project and Teams</i>	See CANVAS	-What is PP?
8/25	PP/Trust/ Professional Ethics	Canvas	
8/30	Texas Professional Practice <i>PP LAW</i> (the Who, What, How, Enforcement)	Texas Engineering Law	Canvas LAW
9/1	Project #1 – Develop a generic Code of Ethics for CM profession		NO CLASS
9/6	“		<i>Team Presentation/Exam</i>
9/8	CM Process, CM Business Model, and the Legal Context of a Contract for Construction	Ch 1	

9/13	Interpreting a Contract	CH 2	
9/15	Contracting Methods	CH 3	
9/20	P3 & Competing for a Contract	CH 4 & 7	Canvas Slides – NO LECTURE
9/22	Exam #1		Canvas
9/27	<u>The UCC and CM contracts</u>	CH 8	
9/29	Authority and Responsibility of a Design Professional	CH 9	
10/4	Subcontract Admin and Dispute Avoidance	CH 10	
10/6	Contract Changes	CH 11	
10/11	Differing Site Conditions	CH 12	
10/13	Schedules, Delays, and Accelerations	CH 13	EVMS paper
10/18	EXAM #2		
10/20	Inspections, Acceptance, Warranties, and Commissioning	CH 14	Quality Paper
10/25	Limiting Risks and Avoiding Disputes	CH 15	
10/27	Payment Bonds	CH 16	
11/1	Performance Bonds and Terminations	CH 17	
11/3	Exam #3		
11/8	Proving Costs and Damages	CH 18	
11/10	Environmental and Safety Concerns	CH 19	
11/15	Construction Insurance	CH 20	
11/17	Labor and Employment Issues	CH 21	
11/21 to 11/25	Fall Break		
11/29	Federal Gov Contracting --Overview	CH 24	
12/1	Test #4 & Course Wrap Up and Survey	Canvas for Survey	

