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PLG-106 Wills, Trusts and Estates Syllabus and Course Guide

The Wills, Trusts and Estates course is a time-based course built into the Crestpoint learning management system. The course is divided into modules, each of which contains readings and/or video lessons. Each module also contains one or more assessments. Students should aim to complete one module per week and should not work too far ahead or fall too far behind.

All course assessments must be submitted by the course deadline. The deadline can be found by clicking on the Course Name, then Progress Report. Generally, the course deadline is approximately 4 weeks after the last day of the course.

If you are having trouble completing the course, the student is strongly encouraged to contact his or her academic advisor or [Academic Support](#).

Course Description:

This course will familiarize our students with a practical understanding of the laws of estate planning. Students will learn how the federal estate tax system works and what to consider when estate planning.

Topics include: federal estate and gift taxation; various estate planning techniques; proper use of trusts; life insurance as an estate planning tool; gifts; charitable transfers; intra-family business and property transfers; and planning for incapacity.

Students will learn the appropriate procedures relevant to drafting and interpreting will and trust documents and will become familiar with the initial planning and preparation necessary for a comprehensive estate plan. Also discussed are techniques for drafting estate planning documents, estate administration, probate practice, the closing of an estate, relevant gift tax laws, and the role of the probate courts in estate planning. Additionally, basic inheritance issues are explored.

Course Objectives:

Upon completion of this course, students will be able to:

- Delineate the rules of intestacy and apply those rules to a fact pattern.
- Describe the basic structure of the federal and state gift and estate tax systems.
- Draft various provisions in wills and explain their significance.
- Determine which beneficiaries are entitled to what assets, based on the provisions of a will.
- Explain the purpose and effect of testamentary credit shelter trusts, qualified terminable interests in property, qualified domestic trusts, and individual single beneficiary trusts.
- Apply various rules regarding will execution.
- Delineate the steps involved in the probate process.
- Explain the forms and functions of various types of trusts, both revocable and irrevocable, and irrevocable life insurance trusts.
- Distinguish between various types of charitable trusts and elucidate the benefits of each.
- Outline and apply the basic rules that govern trust administration, including the rights and responsibilities of the trustee.

Textbook:

All reading assignments refer to the Crestpoint courseware, Cases and/or statutes that are specifically mentioned in the syllabus are required reading. The texts of these cases and/or statutes may be accessed directly from the courseware. In addition to the assigned courseware and cases, students should familiarize themselves with the various legal documents listed for each lecture. These documents can be found on the Course Materials, under this course's materials, on the Crestpoint student website. Some, but not all, of these documents will be discussed in class. Reading assignments for each class should be completed prior to the class.

In addition to the courseware's electronic form, you may also view/print out a PDF version of the courseware that includes:

- 1) The courseware
- 2) All lecture slides

See the course materials page for the link.

Recommended Reading:

It is *highly* recommended that students obtain a copy of the following book:

Basic Trust Drafting, 2nd Edition by Stephen Haas and Jeremy Rovinsky. Published by Carolina Academic Press 2022.

ISBN: 978-1531012960

<https://cap-press.com/books/isbn/9781531012960/Basic-Trust-Drafting-Second-Edition>

<https://www.amazon.com/Basic-Trust-Drafting-Second-Stephen-ebook/dp/B07NF7JW1X/>

While this text is not required for this course, it will be very helpful, and it will be required for later courses in this area, such as Trust Drafting (PLG-405)

Weekly Interaction Requirement

To ensure that all students are involved, participating, and in compliance within the course, each student should complete one assessment each week. Students who do not fulfill the requirement within a given week will be sent reminder emails. Students who fail to interact in multiple weeks may be subject to academic and financial aid consequences, in accordance with Crestpoint's Satisfactory Academic Policy and other school policies.

Course Structure

After logging into your Crestpoint student account, locate your enrolled course by scrolling down and clicking on the course name. Your course will expand, and you will find eight modules, each corresponding to one week of the course. Lectures, slides, documents, assignments, discussions, and exams for each week are organized within the respective module.

Assessments

Assessments may be in the form of discussion questions, assignments, and/or exams.

Exams are graded on a scale of 0-100 and must be done in 2-4 hours, depending on the exam. The start exam page indicates the length of time for each exam. Discussions and assignments should be completed in accordance with the assignment instructions. Assignment information can be found at the end of the course syllabus.

Please see the Grading Policy under School Links for specific details regarding the grading of assessments.

Crestpoint Academic Advisor

Each Crestpoint student is assigned an academic advisor upon enrollment. Your academic advisor is a resource that can and should be drawn on if you need academic assistance. This includes advice on studying, help with assignments, general academic questions, etc. You should have received an email from your academic advisor upon enrollment. If you have not received such an email or do not know who your academic advisor is, please contact Anne Lewis at anne@crestpoint.edu.

Crestpoint Plagiarism Policy

All work done by Crestpoint students is expected to be their own work. In addition, Crestpoint students may not share their completed work, answer keys, or sample answers which they have obtained by any method with any other student. Students may NOT upload any sample answer (whether written by themselves or any other person) to any publicly available website or database.

Students are requested and encouraged to please review the [Academic Integrity and AI Use Policy](#). Students are responsible for complying with its terms.

Course Grades

Grades are issued on a classical A through F scale based on the grades scored on the assessments, per this syllabus.

Lesson Schedule

Module 1

Lecture 1

This class will begin with an overview of estate planning, including a discussion of the right to transfer property at death. Next, we will review what happens to a person's assets when he or she dies without a will. Specifically, we will cover how intestate succession rules determine who inherits what, giving consideration to how the state handles step-siblings, non-marital and adopted children and when the state is entitled to receive someone's assets. Further, we will examine specific protections against disinheritance by discussing certain safeguards available for spouses and children, contrasted with what circumstances make someone ineligible to inherit from an estate.

Courseware Reading

Chapter 1: Introduction to Estate Planning

- A. Overview of Estate Planning
- B. Intestate Succession Rules
- C. Protection against Disinheritance
- D. Qualifications on the Right to Inherit

Cases and Statutes:

N. Y. Estate Powers & Trust Law § 4-1.1

This New York statute provides a typical example of a rule of intestate succession. Notice how the statute differentiates between different levels of "consanguinity" and think about what policy considerations go into making such a determination.

UPC § 2-302

This UPC statute provides a rule for the protection of children not provided for in their parents' wills. Note, however, that this is a rule of construction of the parents' intent. The UPC and all states allow parents to disinherit their children if they so choose. This is as opposed to a spouse. The UPC and all states provide that a spouse cannot be disinherited (except by a pre-nuptial agreement) and is entitled to an "elective share" if not provided for in the will. Can you think of a good reason for the difference between the treatment of spouses and the treatment of children?

Lecture 2

This class will be devoted to certain elder law issues, such as planning for incapacity and Medicaid planning. We will discuss various important healthcare related documents, such as the healthcare proxy and living will. We will look at the role of these documents and the right of a person to refuse medical treatment and the difficulties that can arise when a person's intentions are unclear (such as in the famous Terri Schaivo case). In addition, we will discuss the power of attorney (including durable, non-durable and springing powers) that delegate the ability to make financial decisions to an agent.

Courseware Reading

Chapter 1: Introduction to Estate Planning
E. Planning for Incapacity

Cases and Statutes:

Cruzan v. Director, Missouri Department of Health

This landmark U.S. Supreme Court case held that a person has the right, under the constitutional right to privacy, to refuse medical treatment, even if that refusal will cause the person to die. Note that this does not mean that a person has the right to assisted suicide. We will use *Cruzan* as a starting point to discuss the considerations people should take into account when planning for incapacity. Also, we will look at the role of *Cruzan* in "living wills" and "healthcare proxies."

Complete Weekly Discussion 1

Module 2

Lecture 3

This class will consist of a Lexis tutorial/ assignment walkthrough. The instructor will use a research assignment from a past or current course to demonstrate the way an assignment should be researched and composed.

The instructor will walk the students through the various Lexis databases and explain to students how to most efficiently use the Lexis system to complete research assignments. Various general aspects of navigating Lexis, including Shepardizing, seeking and finding appropriate search databases, getting a document by citation, etc., may be explored.

The instructor will also discuss how to most effectively plan, outline, organize and draft research assignments. Model answers and/or past student submissions may be used to illustrate what a “4” assignment looks like and how to compose one.

Lecture 4

This class will begin our discussion of wealth transfer taxes. Initially, we will discuss the different types of taxes an estate might be subject to, namely gift, estate and generation-skipping transfer taxes. This class will be devoted towards discussing the federal gift and estate tax systems and how those systems impact one another. Next, we will take an in-depth view of gift taxes and how they operate. We will also begin our discussion of estate taxes and how they are assessed.

Courseware Reading:

Chapter 2: Federal Wealth Transfer Taxes

- A. Introduction to Gift, Estate and Generation-Skipping Transfer Taxes
- B. Gift Tax
- C. Estate tax

Cases and Statutes:

I.R.C. § 2523. Gift to spouse

I.R.C. § 2522. Charitable and similar gifts

These statutes deal with the federal gift tax exemptions and deductions. These are critical because many estate planning techniques are based upon taking advantage of the marital and charitable deductions to the gift and estate tax.

Documents for Review:

- Federal Gift Tax Return: see <https://www.irs.gov/forms-pubs/about-form-709>

Complete Weekly Discussion 2

Module 3

Lecture 5

This class will be devoted to discussing the estate tax and its ramifications. We will cover which assets are included in the decedent’s estate and discuss how estate tax liability is determined. In addition, we will discuss the various estate tax exemptions that exist and various techniques that can be used to minimize estate tax liability. We will also discuss the role of the Generation Skipping Transfer Tax (GST Tax) in estate planning. Included in this discussion will be a review of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and how it affects estate taxes.

Courseware Reading:

Chapter 2: Federal Wealth Transfer Taxes

- C. Estate Tax
- D. The Gross Estate
- E. Generation-Skipping Transfer (GST) Tax
- F. Disclaimers
- G. Impact of the American Taxpayer Relief Act ("ATRA")

Cases and Statutes

I.R.C. § 2033

This statute deals with the gross estate and describes how to determine what the value of the gross estate is for estate tax purposes.

I.R.C. § 2056

This statute discussed the all-important marital deduction. Most of the testamentary trusts and estate tax planning provisions that we will discuss are based on the marital deduction, including: the credit shelter trust, the QTIP and the QDOT.

Documents for Review:

- Qualified Domestic Trust Provision (QDOT)
- Marital Trust Provision (QTIP)
- Will with Credit Shelter Trust

Lecture 6

This class will be devoted to discussing the preparation and filing of federal and state estate tax returns. We will look at the returns and the schedules, and we will discuss how to calculate the rate of estate tax due on the federal and state level.

Documents for Review:

- Federal Estate Tax Return
- State Estate Tax Return

Complete Weekly Discussion 3

Module 4

Lecture 7

In this class we will begin our discussion of wills. Initially, we will give an overview of wills, including the binding nature of the instrument and consider how different types of property, such as personal and real

property, are disposed of by will. In contrast, we will itemize which items of property are not disposed of by a will. Next, we will provide coverage of the statutory requirements for executing a valid written will, including testamentary capacity, signature requirements, the role of witnesses and how fraud, undue influence and mistakes could impact the validity of a will.

Courseware Reading:

Chapter 3: Execution, Validity and Components of Wills

- A. Historical Overview of Wills
- B. Items Not Disposed of by a Will (Non-probate Property)
- C. Statutory Requirements for a Valid Written Will

Cases and Statutes:

Matter of Totten

This case established the “in trust for” bank account, often referred to as the “Totten” trust, after this case. This fully revocable bank account is not really a trust at all. Thus, remember that the term “Totten Trust” is somewhat misleading. Nevertheless, these remain a popular tool for avoiding probate for gifts given at one’s death.

Cal. Prob. Code § 6110

This is an example of a statute that lays out the signature and witness requirements for a will. This is a provision that is fairly representative of nationwide standards, as this rule does not vary much from state to state.

In re Proley’s Estate

In this famous Pennsylvania Supreme Court case, the Court set out to determine what constitutes a signature. That may seem like an insignificant detail, but in reality, the Court is determining how you go about determining testator intent to make a will. Specifically, think about this question when reading the case: if it’s obvious that the testator wanted to go through with the will, but messed up certain procedural requirements, should the will be enforced anyway? What policy reasons go into each side of the argument?

Lecture 8

We will start this class by continuing our discussion of the process of ensuring that a Will is valid. Special consideration will be given to the attorney-draftsman as beneficiary or fiduciary and how to safeguard the will once it is completed. The next area for discussion will be the components of wills, namely integration, incorporation by reference, the doctrine of independent significance and testamentary gifts to trust. Lastly, we will finish with an examination of contracts to make wills, which are formed primarily between spouses.

Courseware Reading:

Chapter 3: Execution, Validity and Components of Wills

- D. Other Types of Wills
- E. Components of Wills

F. Contracts to Make Wills

Documents for Review:

- Sample Will

Complete Weekly Discussion 4

Complete Assignment 1

The Final Exam can be taken at this point

Module 5

Lecture 9

In this class we will continue our discussion of wills, focusing on their construction (interpretation). First, we will discuss when extrinsic evidence may be introduced to explain ambiguities. Also, we will cover conditional wills and explain the various types of testamentary bequests, which can be specific, demonstrative, general or part of the residual estate. Next, we will tackle what happens when an asset listed in the will no longer exists (ademption) and when there are insufficient assets to cover all the expenses and/or bequests (abatement).

Courseware Reading:

Chapter 4: Construction of Wills

- A. Admissibility of Extrinsic Evidence
- B. Conditional Wills
- C. Types of Testamentary Bequests
- D. Ademption and Abatement

Cases and Statutes:

In Re Barry's Estate

In this case, the Oklahoma Supreme Court dealt with the question of whether the normal rules of ademption apply to something in the testator's that is destroyed but was insured. Normally, when a gift no longer exists in the testator's property, the gift "adeems." What about, though, if there is insurance money on that item that is coming to the testator's estate? Does the beneficiary get the insurance money or does the gift adeem? When reading this case, think about what a testator generally would intend when giving a specific bequest. In light of that, does the court's decisions necessarily abide by this intent?

Lecture 10

We will start this class with a discussion of the lapse and anti-lapse statutes that cover what happens when a beneficiary is no longer around to receive a bequest. Additionally, beneficiary designations change for various reasons, so we will explore class gifts, pretermitted children, intentional omission and how changes in marital status affect who may inherit. Lastly, we will cover the numerous ways to revoke a will, revive it via republication and modify it using codicils.

Courseware Reading:

Chapter 4: Construction of Wills

- E. Lapse and Anti-Lapse Statutes
- F. Changes in Beneficiaries
- G. Revocation
- H. Republication and Codicils

Cases and Statutes:

N.Y. Est. Powers & Trusts Law § 3-3.3

Although they are quite complex, the anti-lapse statutes provide an important exception to the normal rule that if the beneficiary to a will dies before the testator, his or her gift “lapses.” This is based on the idea that a testator does not mind if a gift earmarked for a sibling goes to a niece or nephew instead. What do you think of this assumption? Does it represent the way people generally think in real life?

Documents for Review:

- Will with Credit Shelter Trust

Complete Weekly Discussion 5

Module 6

Lecture 11

This class will focus on the process of probating a will, including review of what happens if there is a will contest. We will start with a discussion of which court has jurisdiction over administering an estate and the required time period for closing the estate. Next, we will discuss the Uniform Probate Code, which has been adopted by some jurisdictions, to be coupled with states’ statutory requirements. Specifically, in discussing the probate process, we will study the role of the personal representative, from appointment to a discussion of his or her authority, responsibilities and liabilities. Next, we will scrutinize the steps involved in managing the decedent’s estate, including inventory and appraisal, collection and preservation of assets, sale of property, dealing with creditors’ claims and final distribution of the decedent’s assets. Lastly, for decedents with smaller estates, we will examine informal administration procedures.

Courseware Reading:

Chapter 5: Estate Administration

- A. Probate and Uniform Probate Code
- B. Will Contests
- C. Personal Representatives
- D. Management of the Estate
- E. Creditors' Claims
- F. Distribution and Informal Administration

Cases and Statutes:

In re Honigman's Will

This case with a strange and interesting fact pattern, decided by New York's highest court, deals with the question of what constitutes insane enough to be considered incapable of executing a valid will. Are insane delusions enough to render a testator incompetent? After reading this case, I guess it depends just how insane the delusions are.

Core v. Core's Administrators

This case is important because it presents a look at what constitutes fraud and/or undue influence. We will look at this case and others in our analysis of just how much influence one may have on a testator while still producing a valid will.

Documents for Review:

- California Probate Petition
- Disclaimer of Interest in a Trust
- Probate Petition
- Release and Discharge of Fiduciary

Lecture 12

This class will begin our discussion of trusts. We will look at trusts as an estate planning tool and a tool for various other elder law objectives. Specifically, we will start with a review of the elements necessary to create a trust, highlighting intent, the concept of trust property, the parties to the trust and typical terms used. We will survey the various methods for creating trusts, but we will focus primarily on the inter-vivos ("living") trust and its role in estate planning, both as a means for avoiding probate and as a means for minimizing estate taxes.

Courseware Reading:

Chapter 6: Private Trust Creation, Modification and Termination

- A. Elements and Limits on Creation and Duration of Interests
- B. Prohibited Trust Purposes
- C. Methods of Trust Creation
- D. Contract Law Considerations

Cases and Statutes:

In re Dorrance's Will

This case, involving the heirs to the Campbell's Soup fortune, dealt with the issue of whether two of more states could collect inheritance tax from the same person. When reading this case, think about this: Is there something fundamentally unfair about Pennsylvania and New Jersey both getting bits at this large apple, or did the court convince you that it was justified?

Documents for Review:

- Sample Revocable Trust
- Family Trust
- Simple Irrevocable Trust

Complete Weekly Discussion 6

Module 7

Lecture 13

Tonight, we will continue our discussion of trusts. We will consider how trusts and wills work together in carrying out a testator's wishes. We will look at various forms of testamentary trusts (trusts created by wills) and the purposes that they serve. In addition, we will discuss will provisions that "pour over" assets into trusts created during the settlor's lifetime. Finally, we will discuss the revocation, alteration and modification of all types of trusts.

Courseware Reading:

- Chapter 6: Private Trust Creation, Modification and Termination
- E. Trusts and the Statute of Wills—Creation of Testamentary Trusts
 - F. Types of Trusts
 - G. Power to Revoke, Modify or Terminate Trusts

Cases and Statutes:

Internal Revenue Code § 2042

This statute describes how life insurance proceeds are affected by the gift tax. This is the basis for the important Irrevocable Life Insurance Trust that is used as an estate planning tool. We will discuss the "ILIT," its form and function.

Documents for Review:

- Irrevocable Life Insurance Trust
- Annual Demand Power Provision ("Crummey Provision")
- Annual Withdrawal Power Notification

- Supplemental Needs Trust

Lecture 14

This class will continue our discussion of trusts, focusing instead on charitable trusts. We will begin with a discussion of the underlying principle behind a charitable trust, public benefit, and explore the different types of permissible charitable purposes, such as relief of poverty, education, religion and health. Next, we will delve into the limitations on charitable trusts, discussing mortmain acts and the applicability of the rule against perpetuities. In addition, we will examine how to modify a trust via the Cy Pres Doctrine. We will end with a discussion of various charitable trusts, such as charitable lead, remainder and annuity trusts and unitrusts.

Courseware Reading:

Chapter 7: Charitable Trusts

- A. Public Benefit
- B. Charitable Purpose
- C. Limitations on Charitable Trusts
- D. Modification of Charitable Trusts—The Cy Pres Doctrine
- E. Order of Beneficiaries
- F. Payment Method

Cases and Statutes:

In re Estate of Breeden

The case deals with the question of whether a trust that supports a political cause can be considered a charitable trust. Given the tax advantages of such trusts and the amount of political activism that goes on in the U.S., this is a critical question. The California court certainly analyzes the issue in a skillful manner. Do you agree with its conclusion, or should politics not be synonymous with charity?

Internal Revenue Code § 664

This is a long and complex statute, but it describes the important “charitable remainder trust” that is used so often as a method for giving charity but retaining the benefit of the money during one’s lifetime. There’s no need to read every word of the whole statute (don’t even try); but skimming it will help you get an idea as to how the remainder trust operates.

Complete Assignment 2

Module 8

Lecture 15

This final class will focus on how to administer a trust once it has been created. Specifically, we will start with an examination of which jurisdiction has authority over the administration of the trust. Next, we will examine the appointment and qualification of a trustee as fiduciary and then move on to talk about the

responsibilities and authority of a trustee who is charged with maintaining the trust. Furthermore, we will look at the specific functions undertaken by the trustee, including his or her duties, powers, compensation and potential liabilities.

Courseware Reading:

Chapter 8: Trust Administration

- A. Jurisdiction over Administration
- B. Appointment and Qualification of Trustee as Fiduciary
- C. General Responsibilities and Authority of Trustees
- D. Powers of the Trustee
- E. Duties of the Trustee
- F. Trustee's Compensation and Right of Indemnity
- G. Liabilities

Cases and Statutes:

Perfect Union Lodge No. 10 v. Interfirst Bank

This case deals with two important issues regarding trust law. First, the court deals with the issue of grantor's intent. How can a court determine whether an ambiguous will provision intends to create a trust or to make an outright gift? We will analyze this issue when it comes to a will provision and when it comes to other types of property transfers. In addition, the court deals with the jurisdictional issue of when probate courts may hear matters relating to trust assets and when those issues must be left to the regular civil court system.

Allard v. Pacific National Bank

Covered mainly in Business Law, the subject of the "fiduciary duty" is important to trusts as well. This case discusses the fiduciary duties owed by a trustee to the trust beneficiaries. How careful does the trustee have to be to uphold this duty? Must the trustee keep the beneficiaries informed of the trust's status at all times? How diligent does the trustee have to be in making sure that the trust makes only sound financial deals? These are some of the important questions this case discusses.

The Final Exam can be taken at this point

Course Assignments

Assignment 1:

In a startling turn of events that had crime fighters everywhere disappointed, Superman gave up his crime fighting career and moved to Lansing, Michigan, to start mass-producing red capes. Superman did this for many years.

When he was 70 years old, he married Lois Lane who was 35 years old. They lived happily for a few years. When Superman was 77, he was still in good health, but his memory did begin to weaken, and he sometimes found himself unaware of his surroundings.

A few weeks after the onset of these symptoms, Lois took him to a lawyer's office. During a meeting with Riddler, the lawyer, Lois convinced Superman to re-do his will. Under his old will, all of Superman's money was to go to local crime-fighting organizations. Lois convinced Superman to change his will to give all his money and property to Lois.

At first, Superman was reluctant to change his will, but Lois pressed and pressed. At one point, she threatened to leave him unless he changed his will. She also told Superman that he had promised to change his will to include her. Although Superman had no recollection of saying that, he figured that it was just his faulty memory, and he believed what Lois had told him. In fact, Lois was lying and Superman had never made any such promise. Nevertheless, Superman caved and changed his will to suit Lois's wishes.

Two years later, Superman died of a heart attack brought on by too much stress when he was younger. Lois moved for the will to be admitted to probate. The organizational beneficiaries of Superman's first will appeared in court to argue that the second will should be invalidated because Lois exerted undue and unfair influence over Superman in the process of re-doing the will.

Please write an essay explaining who will win under Michigan law. Please make sure to include appropriate citations to case law.

An IRAC-style essay is appropriate for this assignment.

Assignment 2:

Katie Hershey and her brother Sam Hershey, ages 27 and 25 respectively, both residents of Harrisburg, are annoyed. They are beneficiaries of "THE MILTON S. HERSHEY FAMILY TRUST" that was established by Milton Hershey, their father, for their benefit and was funded with \$250,000. The trust is to be used for the benefit of Katie's and Sam's education and basic maintenance until they each reach the age of 35. At that age, each will receive half of the remaining trust money.

The reason that Katie and Sam are annoyed is the manner in which the trust is being handled. Uncle Eric, who is the trustee, has done very little about making the money productive. When the trust was first funded, Uncle Eric put the money in a CD that earns 2.25% per year. Since then, Eric has not touched the money. He figures that if he puts it in stocks or mutual funds, the trust money could be decreased or lost, and he'd rather just sit tight. Katie and Sam, on the other hand, want the money to be invested in stocks or mutual funds so that it can increase, especially in light of the low interest rate that the CD is earning. Therefore, Katie and Sam want Uncle Eric removed as trustee of the trust.

They come to you and ask if, under Pennsylvania law, they are likely to be successful in petitioning the court to remove Uncle Eric as trustee and installing someone who will be a little more aggressive with their trust money. Can you please help Katie and Sam?

An IRAC-style essay is appropriate for this assignment.