

EMPLOYMENT DISCRIMINATION
Law 6549-15DF
UF Levin College of Law
Spring 2018
Syllabus – Part I

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Office Hours: Thursdays 3:00-6:00 pm
& by appointment (email me to arrange)

OVERVIEW

This course examines the major federal statutes that prohibit employment discrimination—Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act—and the various entities and mechanisms involved in their enforcement. We will cover the legal theories available for litigating federal employment discrimination claims and consider judicial, administrative, and legislative interpretations of the law. We will also examine the meanings of “equality” and the policy considerations behind antidiscrimination protections.

Course Objectives & Student Learning Outcomes

After completing this course, students should be able to:

1. Explain the protected classifications and provisions of Title VII of the Civil Rights Act of 1964, as amended by the Pregnancy Discrimination Act (Title VII);
2. Explain the major provisions of the Equal Pay Act (EPA), the Age Discrimination in Employment Act (ADEA), and the Americans with Disabilities Act (ADA);
3. Apply the main theories used to allege employment discrimination under these statutes: disparate treatment, disparate impact, retaliation, and harassment;
4. Describe the federal enforcement agencies, administrative exhaustion procedures, and remedies available under Title VII, the EPA, the ADEA, and the ADA;
5. Demonstrate an understanding of various theories of equality and how such theories relate to judicial, administrative, and legislative interpretations of antidiscrimination law; and
6. Provide basic advice to future clients on the federal employment discrimination laws covered: to employees on their rights under the laws and to employers on how to prevent discrimination and comply with the laws.

Required Course Materials & Workload

Students are required to sign up for the course TWEN page and are responsible for downloading course-related materials posted there when listed in an assignment or announced in class. The password for the course page is “employment.”

The required casebook for this course (denoted as “CB” below) is Ontiveros, Corrada, Selmi & Hart, *Employment Discrimination Law: Cases and Materials on Equality in the Workplace* (9th ed. 2016). Please note that, if you plan to take the final exam on ExamSoft, I suggest you obtain a hard copy rather than an electronic version of the casebook. Because you may bring your copy of the casebook into the final exam (see “Grades & Class Participation,” below), if you only have an electronic version of the casebook, you will be unable to access it on your computer while using ExamSoft.

Also required is a free Statutory Supplement (denoted as “SS” below), available for download on the course TWEN page.

For certain classes, I may assign additional short readings to complement the Casebook and Statutory Supplement (denoted as “Class Handout” below). All Class Handouts will be available on the course TWEN page, posted by Friday of the week preceding the relevant class.

You are expected to read and be prepared to discuss all of the assigned reading each class, including all of the “Notes” assigned; doctrinal information and questions we will discuss in class often appear in the “Notes” section of the casebook.

In accordance with Standard 310 of the American Bar Association’s (ABA) standards for law schools, students are expected to devote 2 hours of out-of-class preparation for every 1 credit hour of in-class instruction. Because this course has 3 credit hours of in-class instruction weekly, you should expect to spend approximately 6 hours outside of class reading, preparing, and reviewing the material for our 2 class meetings each week (3 hours of out-of-class preparation for each class meeting).

Grades & Class Participation

Regular attendance, preparation, and active participation in classroom discussion are required. Your course in the grade will be based on a final exam and class participation.

Participation will be factored into your grade, with excellent participation raising your final course grade by one-third of a letter grade where possible (e.g., from an A- to an A or a B to a B+). Excellent participation means offering a few thoughtful comments or questions in more than half of all classes, listening to and engaging with points raised by other students, and exercising judgment to foster others’ participation, too. Because the course must adhere to a mandatory mean grade, participation may also be used to differentiate among the course grades of students with equal final exam grades.

The final exam will be timed, during the regular exam period, and will be limited open book, for which you may use only: (1) your copy of the Casebook, Statutory Supplement, and Class Handout readings assigned, and (2) a class outline prepared in whole or substantial part by you. No other materials will be allowed. More information on the exam will be provided in class.

Attendance

Attendance is required and an essential part of the course. In accordance with ABA guidance on acceptable rates of classroom absences, you are allowed 5 absences from class total, for any reason (including for illness, medical appointments, job interviews, school activities, work tasks, family issues, and the like). For ease of administration and to respect your privacy, I do not make any differentiation between “excused” or “unexcused” absences; this means that there is no need to tell me why you will be or were absent from class, so long as you have 5 or fewer absences total.

Only observance of a University-recognized religious holiday does not count toward your 5 absences, so please do notify me in advance of such absences. Please also notify me should you have an emergency or a family or medical situation that will require missing more than 5 classes. More than 5 absences may negatively affect your final course grade.

Use of Laptops

Students are permitted to use laptops to take notes in class, however any other use of laptops during class is prohibited. Impermissible uses include, but are not limited to, using email or instant messaging programs or any use of the Web, even if you believe it pertains to class. Misuse of laptops during class may result in you losing the privilege of using a laptop in the classroom and may negatively affect the class participation portion of your grade.

Students are strongly encouraged to listen, participate in class discussion, process the material, and take notes accordingly, rather than to try to transcribe everything that is said in class.

Office Hours

Office hours are Thursdays from 3:00-6:00 pm and by appointment. My office is Room 310 on the third floor of Holland Hall. Should you be unable to meet during these hours, please do not hesitate to email me to set up an appointment—I am very happy to meet as needed outside of set office hours.

Syllabus

The syllabus will be distributed in two parts to allow for flexibility in course pace and coverage. The first part contains reading assignments for weeks 1-5 of class, followed by a list of topics for possible coverage in the remainder of the course. The second part of the syllabus covering weeks 6-14 will be posted on the class TWEN page and distributed in class during week 5. In addition, reading assignments may be subject to change.

Please keep up with the reading as assigned; if we do not get through everything in a given class, we will pick up where we left off the next day, with the goal of completing each week's material by the end of the week. You are responsible for both reviewing anything we did not get to in the prior class and completing the material as listed on the syllabus for each class.

Other General Information

Policy related to make-up exams or other work

The law school policy on delay in taking exams is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#12>.

Statement related to accommodations for students with disabilities

Students requesting accommodation for disabilities must first register with the UF Disability Resources Center, <https://drc.dso.ufl.edu/>. The Center will provide documentation to the student, who must then provide this documentation to the Law School Office of Student Affairs when requesting accommodation.

Information on UF Law grading policies

The complete law school grading policy is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. Students receive grade points on the following scale:

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.00	B-	2.67	D+	1.33
A-	3.67	C+	2.33	D (Poor)	1.00
B+	3.33	C (Satisfactory)	2.00	D-	0.67
B (Good)	3.00	C-	1.67	E (Failure)	0.00

Student course evaluations

Students can provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are usually open during the last 3 weeks of the semester, but students will receive notice of the specific times when they are open. Summary results of these assessments are available at <https://evaluations.ufl.edu/results/>.

Compliance with UF Honor Code

Academic honesty and integrity are fundamental values of the UF Law School community. Students are expected to understand and comply with the UF Student Honor Code, available at <https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>, and the Law School's application of it, information available at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>.

SCHEDULE OF CLASS TOPICS AND ASSIGNMENTS

Week 1

1. Wednesday, January 10, 2018

Overview of laws; Theories of equality; Administrative exhaustion; Enforcement
CB 3-9, 11-16 (up to “Note”); 19(“Notes”)-27 (up to *Ledbetter*); 37(n.4)-39

2. Thursday, January 11, 2018

Enforcement cont’d; Coverage; Remedies
CB 40-42 (up to D.); 57(3.)-60 (up to “Note”); 68(E.)-87
SS: Title VII § 2000e (b), (f); § 2000e-2 (a); § 2000e-4 (a), (g); § 2000e-5 (g)(1), (k); 42 U.S.C. § 1981a (a)(1), (b) [link on our TWEN page]

Week 2

3. Wednesday, January 17, 2018

The meaning of “race” and “color”; Disparate treatment: Introduction
CB 42(D.)-52 (up to 2.); 128 (“Note” [last paragraph])-133 (up to 2.); 95-103 (through n.2)
Class Handout: Excerpt from EEOC Compliance Manual [link on TWEN]
SS: Title VII § 2000e-2 (a)(1)

4. Thursday, January 18, 2018

Disparate treatment: Disparate treatment claims
CB 103(n.3)-124; 126(“Note”)-128

Week 3

5. Wednesday, January 24, 2018

Disparate treatment: Mixed motives
CB 133(2.)-154 (through n.5)
SS: Title VII § 2000e-2 (m); § 2000e-5 (g)(2)(B); § 2000e (m)

6. Thursday, January 25, 2018

Disparate treatment: Retaliation
CB 161(C.)-162; 168(3.)-182 (up to c.); 186(4.)-190
SS: Title VII § 2000e-3 (a)

Week 4

7. Wednesday, January 31, 2018

Disparate treatment: Retaliation

191-196 (through n.1); 198("Although")-200 (through n.2); 182(c.)-186 (up to 4.); 200(5.)-207 (up to D.)

8. Thursday, February 1, 2018

Disparate treatment: Statistical evidence and pattern-or-practice cases

CB 207(D.)-221 (through n.3); 224(n.5)-228 (up to *Wal-Mart*)

SS: Title VII § 2000e-6 (a), (c), (e)

Week 5

9. Wednesday, February 7, 2018

Disparate treatment: Class certification; implicit bias

CB 228(*Wal-Mart*)-244; 434(F.)-439

Class Handout: Materials on implicit bias [link on TWEN]

10. Thursday, February 8, 2018

Disparate impact: Introduction; Theory of disparate impact

CB 245-268 (through n.1)

SS: Title VII § 2000e-2 (a)(2), (h)

Possible topics to be covered in Weeks 6-14

Discrimination because of sex, pregnancy, and family responsibilities

Sex-based wage discrimination

Discrimination because of sexual orientation and gender identity

Harassment

Discrimination because of religion

Discrimination because of national origin

Discrimination because of age

Discrimination because of disability

Affirmative action