

EMPLOYMENT DISCRIMINATION
Law 6549-65SB (25012)
UF Levin College of Law
Spring 2020
Syllabus – Part I

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Office Hours: Wednesdays 12:00-2:00 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 login to the course Canvas site and are responsible for downloading course-related materials posted there when listed in an assignment or announced in class.

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). Students must also download the free Statutory Supplement (denoted as “SS” below), posted at the “Statutory Supplement” link on the course Canvas site. Only selected statutory sections from this supplement will be assigned, as indicated in the relevant class reading assignments below.

Please note that, if you plan to take the final exam on ExamSoft, you should get a hard copy rather than an electronic version of the casebook. Because you may bring your 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.

For certain classes, I assign additional short readings to complement the casebook, (denoted as “Class Handout” below). All Class Handouts will be available on the course Canvas site, 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 each week, you should expect to spend at least 6 hours outside of class reading and preparing for our class meetings each week.

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. Students who miss more than 25% of scheduled classes may be prohibited from sitting for the final examination and unable to pass the course.

As a matter of professionalism, you are expected to be on time for class—meaning seated and ready to begin when class starts. Arriving late is disruptive not only to me, but to your fellow students. After 2 late arrivals, each additional late arrival will be counted as a class absence.

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, visiting social media sites, 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 the 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 Wednesdays from 12:00-2:00 pm and by appointment. My office is Room 310 on the third floor of Holland Hall. If you are unable to meet during these hours, please do not hesitate to email me to set up an appointment. I am happy to meet as needed at other times.

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 1-4 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 5-13 will be posted on the class Canvas site and distributed in class during week 4. 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/>. Once registered, students will receive an accommodation letter, which the student must then present to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting an accommodation. Students with disabilities should follow this procedure as early as possible in the semester to ensure that you can be accommodated promptly.

Information on UF Law grading policies

The law school grading policy is available at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. Students receive grade points according to 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 are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email you receive from GatorEvals in your Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-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. Tuesday, January 14, 2020

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. Wednesday, January 15, 2020

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 Canvas]

Week 2

3. Tuesday, January 21, 2020

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: Excerpts on the meaning of “race” [link on Canvas]
SS: Title VII § 2000e-2 (a)(1)

4. Wednesday, January 22, 2020

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

Week 3

5. Tuesday, January 28, 2020

Disparate treatment: Mixed motives
CB 133(2.)-154 (through n.6)
SS: Title VII § 2000e-2 (m); § 2000e-5 (g)(2)(B); § 2000e (m)
Class Handout: Excerpts on mixed motives under Title VII [link on Canvas]

6. Wednesday, January 29, 2020

Disparate treatment: Retaliation
CB 161(C.)-168; 186(4.)-200 (up to 5.); 169-179 (up to notes)
SS: Title VII § 2000e-3 (a)

Week 4

7. Tuesday, February 4, 2020

Disparate treatment: Retaliation (cont'd)

CB Review 169-179; Read 179(n.1)-186 (up to 4.); 200(5.)-207 (up to D.)

Class Handout: Excerpts on causation and retaliation [link on Canvas]

8. Wednesday, February 5, 2020

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

CB 207(D.)-228 (up to *Wal-Mart*)

SS: Title VII § 2000e-6 (a), (c), (e)

Possible topics to be covered in Weeks 5-13

Disparate impact

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