

**EMPLOYMENT DISCRIMINATION LAW
UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW
SPRING 2024 SYLLABUS – LAW 6549 – 3 CREDITS**

Professor Stephanie Marchman

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Office Hours: Monday and Wednesday, 8:00 to 9:00 AM, HH-285B

Class Meeting Time: Monday and Wednesday, 9:00 to 10:25 AM

Location: HH-285B

Course Description

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, and 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 “discrimination” and “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 Reading Materials & ABA Out-of-Class Hours Requirements:

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the email connected to the page on a regular basis for any class announcements or adjustments.

The required casebook for this course (denoted as “CB” in assignments below) is Ontiveros, Corrada, Selmi, Porter & McCormick, *Employment Discrimination Law: Cases and Materials on Equality in the Workplace* (10th ed. 2021).

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.

For certain classes, I assign additional short readings to complement or update 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 and Questions” assigned; doctrinal information and questions we will discuss in class often appear in the “Notes and Questions” section of the casebook. While I have identified specific “Notes and Questions” I plan to discuss in class, “Notes and Questions” in other parts of the assigned reading may be discussed as well.

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.

Course Expectations and Grading Evaluation

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. More information on the exam will be provided in class.

Class Attendance Policy

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. Students are allowed 5 absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. The law school's policy on attendance can be found [here](#).

UF Law respects students' observance of major religious holidays. Accordingly, notwithstanding the foregoing attendance policy limiting the number of absences, reasonable alternative means will be provided to students to satisfy the attendance policy and accommodate religious obligations. Students should email Professor Marchman to request an accommodation.

Use of Laptops

Students are permitted to use laptops to take notes and participate in class activities during class, however any non-class 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. 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.

UF Levin College of Law Standard Syllabus Policies

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

Course Schedule of Topics and Assignments

The syllabus topics and reading assignments are provided below. The listed reading assignments may change during the course of the semester based on our pace and developments in the law. I also may supplement our topics and reading assignments with Class Handouts and guest speakers throughout the semester.

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.

Schedule of Class Topics and Assignments

1. Wednesday, January 17, 2024

Survey of Major Federal Laws; Enforcement Schemes (Administrative Exhaustion and Judicial Enforcement)

CB 3-36 (up to D.); Note and Question 1, page 29-30; Note and Question 4, page 31.

2. Monday, January 22, 2024

Coverage

CB 36-60 (up to E.); Note and Question 5, page 49; Note and Question 1, page 57-58.

SS: Title VII § 2000e (b), (f); § 2000e-2 (a); § 2000e-4 (g)

3. Wednesday, January 24, 2024

Remedies

CB 60-83; *Note: Insuring Against Employment Discrimination Claims*, page 81-83.

SS: § 2000e-5 (g)(1), (k); 42 U.S.C. § 1981a (a)(1), (b); Title VII § 2000e-2 (a)(1)

4. Monday, January 29, 2024

Disparate Treatment Claims: Foundations

CB 87-121 (up to 2.); Notes and Question 3.d., page 97-99; *Note: The Same-Actor Defense*, page 116-117.

5. Wednesday, January 31, 2024

Disparate Treatment: Mixed-Motive Cases and the “Cats Paw”

CB 121-128; Note and Question 2, page 129; CB 139-144; Note and Question 2, page 145-146.

SS: Title VII § 2000e-2 (m)

6. Monday, February 5, 2024

Disparate Treatment: Retaliation

CB 146-171; Notes and Questions 3 and 4, page 164-165.

SS: Title VII § 2000e-3 (a)

7. Wednesday, February 7, 2024

Disparate Treatment: Retaliation (cont’d)

CB 171-180; CB 185-190; Note and Question 2, page 191.

8. Monday, February 12, 2024

Disparate Treatment: Statistical Evidence and Pattern-or-Practice Cases, BFOQ

CB 192(D.)-202; Note and Question 5, page 208-210; CB 214-226.

9. Wednesday, February 14, 2024

Disparate Impact: Objective Criteria

CB 237-243; Note and Question 2, page 244; Note and Question 5, page 246; CB 253-259; Note and Question 2, page 259-260.

SS: Title VII § 2000e-2 (a)(2), (h), (k); § 2000e (m)

10. Monday, February 19, 2024

Disparate Impact: Contemporary Doctrine

CB 261-293; Note and Question 6, page 276; Note and Question 2, page 293.

11. Wednesday, February 21, 2024

Equal Protection

CB 297-330

12. Monday, February 26, 2024

Review of Title VII Frameworks

CB 331-337

To be prepared for class discussion, please read the three Scenarios carefully and outline answers to the questions posed after each under Title VII only.

13. Wednesday, February 28, 2024

Discrimination Because of Sex: Meaning of “Because of Sex”

CB 341-356; Question and Note 2, page 356-357; Question and Note 5, page 358.

SS: Title VII § 2000e (k); § 2000e-2 (a)(1)

14. Monday, March 4, 2024

Discrimination Because of Sex: Wages and Sex-Based Dress, Grooming, and Appearance Requirements

CB 360-374; Note and Question 1, page 374; CB 378-391; Note and Question 2, page 391-392.

SS: Title VII § 2000e (k)

15. Wednesday, March 6, 2024

Discrimination Because of Pregnancy and Family Responsibilities: Pregnancy Discrimination Act, Pregnant Workers Fairness Act; PUMP for Nursing Mothers Act

CB 403-427 (up to D.)

SS: Pregnancy Discrimination Act; Pregnant Workers Fairness Act; PUMP for Nursing Mothers Act

UF Law Spring Break: March 11-15, 2024

16. Monday, March 18, 2024

Discrimination Because of Pregnancy and Family Responsibilities: Caregivers

CB 427-449; Note and Question 3, page 436; Note and Question 6, page 437; Note and Question 1, page 440-441.

17. Wednesday, March 20, 2024

Discrimination Because of Sexual Orientation, Gender Expression, and Gender Identity

CB 451-481; Notes and Questions 5 and 6, pages 477-479.

18. Monday, March 25, 2024

Harassment: Quid Pro Quo; Hostile Work Environment

CB 483-512; Notes and Questions 1, 2, and 3, pages 499-512.

19. Wednesday, March 27, 2024

Harassment: Employer Liability

CB 518-548 (up to 2.); Note and Question 1, page 529. Note and Question 5, pages 537-540.

20. Monday, April 1, 2024

Harassment Because of Race

CB 554-571; Notes and Questions 1 and 2, pages 564-565.

21. Wednesday, April 3, 2024

Discrimination because of Religion: Meaning of “Religion”; Religious Entity Exceptions;

Religious Accommodations

CB 573-609 (up to Note 4.g.); Question and Note 4.

SS: Title VII § 2000e (j), 2000e-1 (a), 2000e-2 (e)(2)

22. Monday, April 8, 2024

Discrimination Because of National Origin: Meaning of “National Origin”; Citizenship and Immigration Status

CB 631-660 (up to 2.); Question and Note 5, page 643; Question and Note 3, pages 653-654.

23. Wednesday, April 10, 2024

Discrimination Because of Age: Disparate Treatment; Separations, Waivers, RIFs; Disparate Impact

CB 685-697 (up to *Hazen Paper*); CB 720-742 (up to Note: *Applicants and Disparate Impact Cases*).

In class exercise: writing a waiver and general release.

SS: ADEA § 621, § 631 (a), § 630 (b), § 623 (a)-(f), § 626 (b); Title II of the OWBPA; 29 CFR § 1625.22

24. Monday, April 15, 2024

Discrimination Because of Disability: The Meaning of “Disability”; The Meaning of “Discrimination”

CB 747-783 (up to Note: *Reassignment to a Vacant Position*); Note and Question 5, pages 766-768; Note and Question 5, page 783.

SS: ADA § 12101, § 12112 (a)&(b)

25. Wednesday, April 17, 2024

Affirmative Action

CB 823-829 (up to C.); CB 838-853 (up to Note: *Affirmative Action and the Civil Rights Act of 1991*); CB 862-867 (up to Note: *Diversity and Title VII*); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 143 S. Ct. 2141, 216 L. Ed. 2d 857 (2023) [to be posted on Canvas]

26. Monday, April 22, 2024

Arbitration of Employment Discrimination Claims

CB 871-886; Note and Question 2, page 879; Note and Question 2, pages 885-886.