

**School of Management and Labor Relations**

**DEPARTMENT OF LABOR STUDIES & EMPLOYMENT RELATIONS**

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**EMPLOYMENT DISCRIMINATION LAW**

**Professor Vikrant Kishin Advani**

**Course Number: 37:575:316**

**FALL 2020 – Wednesdays 12 – 3 PM**

**Synchronous Remote Instruction**

**Email: vkadvani@smlr.rutgers.edu**

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**COURSE OBJECTIVES**

* To familiarize students with the structure of the federal and state court systems, and judicial legal process and reasoning;
* To study, in depth, the various state and federal laws and constitutions that protect workers from discrimination based on protected categories including race, color, sex, religion, national origin, age, disability, and sexual orientation;
* To introduce students to various forums and procedures for litigating employment discrimination claims.
* To introduce students to alternative dispute resolution mechanisms that were often utilized to resolve employment discrimination claims.

**SCHOOL AND DEPARTMENT LEARNING OBJECTIVES**

***Labor Studies and Employment Relations Department: The student will be able to:***

* Demonstrate an understanding of discrimination law as it intersects with the perspectives, theories and concepts in the field of labor and employment relations. (Goal 1).
* Apply those concepts, and substantive institutional knowledge, to understanding contemporary developments related to work. (Goal II).

***School of Management and Labor Relations: The student will be able to:***

* Demonstrate an understanding of relevant theories and apply them given the background context of a particular work situation. (Goal IV)
* Demonstrate an understanding of how to apply knowledge necessary for effective work performance. (Goal VI)

**COURSE REQUIREMENTS**

* This is an introductory undergraduate course in employment discrimination law. However, it emphasizes student participation and group discussion.  Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

**SYNCHRONOUS COURSE DESCRIPTION**

The core portion of our class will be conducted during live “virtual” Webex sessions, starting at 12:00 PM (eastern time), and will last approximately 3 hours, depending on the topic discussed that week. We will aim to end class at 3:00 PM every class – However, I reserve the right to end class early or late depending on our workload.

* Note: I plan to transition to Zoom once a few technical difficulties surrounding my account are resolved. Until then we will be using Webex. Therefore, while I mention Webex below, kindly understand that if possible, I will be using Zoom once my issues with the Help Desk are resolved.

We will be using Webex for the live virtual portion of our weekly class. Rutgers has a university- wide account with Webex and Zoom. **Make sure you have signed up for both Webex and Zoom with your RU account before the first class.** Contact the RU Help Desk (833-648-4357) if you need assistance or have questions on Webex or Zoom. If you anticipate having any connectivity issues (i.e. access to internet, etc.) please contact me and I will work with you to make sure you can access the key course content.

Although the above live classes will be conducted via Webex or Zoom, “physical, mental, and spiritual” attendance during the live classes is extremely important, since we will be reviewing many of the key concepts, and your class participation during these sessions is an important part of your overall grade. Also, you will be required to activate both your audio and video during these sessions, so it’s important that you have these technical capabilities before the first class. Communication with students is key for success – Therefore, activating your video and your audio for purposes of communicating during class is not negotiable.

Please understand that conducting classes via Webex or Zoom makes us extremely dependent on superior and/or at least competent internet and technology. Please ensure that your devices are internet and Webex/Zoom-video/audio ready, and that you have a back-up device in the event of product failure. I will ATTEMPT to coordinate recording of each class with Rutgers University so that it is available for review for a reasonable time for students who run into technological problems or have to miss class due to a legitimate reason such as illness. As stated below, your attendance is mandatory, and recordings are only available for those students who miss class for a legitimate reason.

**Course Requirements**

This is an upper level undergraduate course in employment discrimination law, and it heavily emphasizes student participation and group discussion. Students will be held responsible for reading and understanding all assigned materials, as well as participating fully in all class discussions.

**Grade Criterion**

Course grading is based on two examinations and class participation. The breakdown is as follows:

1. Exam 1: 40% of your overall final grade
2. Written Assignment: 25% of your overall grade
3. Exam 2: 20% of your overall final grade
4. Class Participation: 15% of your overall final grade

The specific format of the examinations will be discussed at the appropriate time but I generally give an in-class Multiple Choice, Fact Pattern and Definitions-styled Midterm and Final.

**Attendance Criterion**

**Vigorous Attendance & Class Participation Policy:** As of Fall 2020, I am requiring each student to **vigorously** participate at least once in every class, Zoom or otherwise. This means that you must attend every class in a timely manner. Zoom allows me the capability to lock out classes after a grace period. Due to hacking and other privacy concerns, I plan to lock out our classes 10 minutes into class – Therefore, please make sure you are in the Zoom meeting no later than 12:10 PM. I will start the Zoom session at 12:00 PM. If you are inexcusably late to a Zoom session, I reserve the right to refuse you entry and/or give you partial credit for attendance.

Unexcused absences are not encouraged. If you have two (2) unexcused absences, you will be docked a full grade (ex. B instead of an A). If you have three (3) unexcused absences, you will receive a failing grade for Class Participation. If you have four (4) or more unexcused absences, you will receive a failing grade for the class.

**Also, you will not only be required to timely attend every class but you will be required to participate at least once in every class by engaging in substantive discussion about the discussed topic.** It need not be scholarly and/or profound – However, it will require you to know your assigned materials.

Although I will be actively monitoring class attendance and participation, I will not be prompting you to participate – This is an upper level undergraduate level class and your class participation grade, which accounts for 15% of your overall grade, should be motivation enough. Also, just to be clear, “I don’t understand Concept X” does not qualify as substantive discussion.

**Leniency Policy:** Finally, the COVID pandemic and resulting health concerns are causing havoc in our personal and professional lives. If you have any personal/health-related reasons for skipping class, kindly advise me immediately so I can excuse your absence and arrange for you to view recorded lectures and/or request a student to provide you with notes. You will find me sympathetic and reasonable. However, if you fail to or refuse to communicate with me in a timely manner regarding your health/personal issues, I will not be as accommodating after the fact. The key is communication. Kindly communicate so I can be reasonable in accommodating you.

**Electronic Device Criterion**

There are no electronic devices allowed in class other than to facilitate your learning. This includes computers, cell phones, laptops, or tablets. You are not to check social media, email and/or text during our class. Although I prefer you take notes by pen/pencil, electronic note taking is allowed.

* I reserve the right to penalize any student (including removal, expulsion with a failing grade) who refuses to comply with this simple request for mutual respect.
* Textbooks will need to be purchased; If electronic copies of textbooks are purchased or rented, they can be viewed on your electronic device.
* You are NOT authorized to record the lectures on your own end – I ask that you respect my privacy as I respect yours – Willful Failure to comply with this policy will be heavily penalized. To restate – you do not have permission to record me and/or my images and/or my lectures, and I reserve **all** rights permitted under law to prosecute any such violations.

**Student Conduct Policy**

The conduct of all students is governed by the Rutgers University Academic Integrity Policy: *http://academicintegrity.rutgers.edu/files/documents/AI\_Policy\_9\_01\_2011.pdf*

**Please be so advised.**

**Student Accommodation Policy**

Rutgers University welcomes students with disabilities into all of the University's educational programs. In order to receive consideration for reasonable accommodations, a student with a disability must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation:

<https://ods.rutgers.edu/students/documentation-guidelines>

If the documentation supports your request for reasonable accommodations, your campus’s disability services office will provide you with a Letter of Accommodations. Please share this letter with your instructors and discuss the accommodations with them as early in your courses as possible. To begin this process, please complete the Registration form on the ODS web site at:

<https://ods.rutgers.edu/students/registration-form>

**COURSE MATERIALS**

**Textbook**: *Understanding Employment Discrimination*, Thomas Haggard, 2nd Edition, ISBN # 978-1-4224-7358-0. This textbook can be purchased online by searching for the ISBN#. Please buy this textbook as soon as possible so that we can hit the ground running. It is not expensive and there are download links – please do not procrastinate in getting this textbook. Here is an amazon link: <https://www.amazon.com/Understanding-Employment-Discrimination-Thomas-Haggard/dp/1422473589>

No, you cannot purchase the first edition. Please buy the second edition. This is not negotiable.

In addition, course reading materials are found in the Canvas Resources section. I reserve the right to supplement, substitute, and/or modify the listed reading selections as I see fit.

**WRITTEN ASSIGNMENT**

Your written assignment is to write a paper of 10-12 pages maximum (double-spaced) analyzing the recent developments in legal protections offered for employees’ sexual orientation under Title VII.  Your analysis will be based on research that should include a minimum of three scholarly and/or law review articles.  Be sure to use proper citations.  While I will not be penalizing minute citation errors, I will check for plagiarism and I expect you know the Rutgers policy against plagiarism.

The Final Paper is due on 11:00 AM on December 2, 2020 and is worth 25% of your overall final grade.  There are no exceptions or alternatives to completing this written assignment on timely basis. If you fail to submit this assignment in a timely manner, you will be subject to grade reduction and/or a failing grade in this assignment.

**CLASS SCHEDULE:**

**CLASS 1**: **9/2/20**

Course Overview – discussion of syllabus and resources.

A Discussion of Federal & State Court Systems & Employment Discrimination Overview

**READINGS**:

Chapter 1: Overview of Employment Discrimination, Pg. 3-10.

**CLASS 2: 9/9/20**

Constitutional Restrictions to Employment Discrimination

**READINGS**

Chapter 2: Constitutional Prohibitions to Employment Discrimination, Pg. 11-28.

**Discussions of the following case/s by the instructor with class**

*Saint Francis College v. Al-Khazraji,*

[*https://www.law.cornell.edu/supremecourt/text/481/604*](https://www.law.cornell.edu/supremecourt/text/481/604)

*Patterson v. McLean Credit Union,*

*<https://www.law.cornell.edu/supremecourt/text/491/164>*

*Robinson v. City of Pittsburgh,*

[*https://www.law.cornell.edu/supremecourt/text/491/164*](https://www.law.cornell.edu/supremecourt/text/491/164)

**CLASS 3**: **9/16/20**

Title VII of the Civil Rights Act of 1964, Theories

**READINGS**

Chapter 4: The Civil Rights Act – An Overview, Pg. 39-56.

Chapter 5: Individual Disparate Treatment, Pg. 57-89

**Discussions of the following case/s by the instructor with class**

*St. Mary v. Hicks,*

[*https://www.law.cornell.edu/supct/html/92-602.ZO.html*](https://www.law.cornell.edu/supct/html/92-602.ZO.html)

*Price Waterhouse v. Hopkins, <https://www.law.cornell.edu/supremecourt/text/490/228>*

*Desert Palace v. Costa,*

[*https://www.law.cornell.edu/supct/html/02-679.ZS.html*](https://www.law.cornell.edu/supct/html/02-679.ZS.html)

**CLASS 4**: **9/23/20**

Title VII, Theories Continued

**READINGS:**

Chapter 6: Systemic Disparate Treatment, Pg. 91-94

Chapter 7: Disparate Impact, Pg. 95-111

**CLASS 5**: **9/30/20**

Title VII, Race and Sex Discrimination & Harassment

**READINGS:**

Chapter 8: Special Problems w/ Race Discrimination, Pg. 113-116

Chapter 9: Special Problems w/ Sex Discrimination, Pg. 117-137

**Discussions of the following case/s by the instructor with class**

*Jespersen v. Harrah’s Operating Co., Inc., <https://casetext.com/case/jespersen-v-harrahs-operating-co-inc-3>*

*Meritor Savings Bank v. Vinson,*

[*https://www.law.cornell.edu/supremecourt/text/477/57*](https://www.law.cornell.edu/supremecourt/text/477/57)

*Lehmann v. Toys R Us,*

*<https://www.law.cornell.edu/women-and-justice/resource/lehmann_v_toys_r_us>*

**CLASS 6: 10/7/20**

**IN CLASS EXAM 1 – CLOSED BOOK/NOTES, COVERING CLASSES 1-6**

**CLASS 7: 10/14/20**

**CLASS WILL GET TIME OFF THIS WEEK TO DO RESEARCH FOR WRITTEN ASSIGNMENT WHICH IS DUE ON 12/2/20 AT 11:00 AM. THE WRITTEN ASSIGNMENT IS 25% OF YOUR OVERALL GRADE. PLEASE DO NOT PROCRASTINATE!!**

**CLASS 8**: **10/21/20**

Title VII, National Origin & Religious Discrimination

**READINGS:**

Chapter 10: Special Problems w/ Nat’l. Origin Disc., Pg. 139-142

Chapter 11: Special Problems w/ Religious Discrim., Pg. 143-158

**Discussions of the following case/s by the instructor with class**

*Chaney v. Plainfield Healthcare Center,*

*<https://caselaw.findlaw.com/us-7th-circuit/1532314.html>*

*EEOC v. Sephora USA, LLC.,*

[*https://casetext.com/case/eeoc-v-sephora-usa*](https://casetext.com/case/eeoc-v-sephora-usa)

*Espinoza v. Farah Mfg. Co.,*

[*https://casetext.com/case/espinoza-v-farah-mfg-co*](https://casetext.com/case/espinoza-v-farah-mfg-co)

*TWA v. Hardison,*

[*https://caselaw.findlaw.com/us-supreme-court/432/63.html*](https://caselaw.findlaw.com/us-supreme-court/432/63.html)

**CLASS 9**: **10/28/20**

The Rehabilitation Act of 1973 and the ADA

**READINGS:**

Chapter 30: Overview, Pg. 301-303

Chapter 31: The Protected Disabled Class, Pg. 305-318

Chapter 32: Prohibited Conduct under ADA, Pg. 319-328

Chapter 33: Proof & Defenses under ADA, Pg. 329-332

**Discussions of the following case/s by the instructor – no readings necessary**

*Arline v. School Board,*

[*https://caselaw.findlaw.com/us-supreme-court/480/273.html*](https://caselaw.findlaw.com/us-supreme-court/480/273.html)

*Chevron v. Echazabal,*

[*https://www.law.cornell.edu/supct/html/00-1406.ZS.html*](https://www.law.cornell.edu/supct/html/00-1406.ZS.html)

*Viscik v. Fowler Equipment Co.,*

[*https://caselaw.findlaw.com/nj-supreme-court/1204544.html*](https://caselaw.findlaw.com/nj-supreme-court/1204544.html)

**CLASS 10**: **11/4/20**

The Age Discrimination in Employment Act

**READINGS:**

Chapter 19: Coverage & Jurisdiction, Pg. 227-229

Chapter 20: Types of Violations & Their Proof, Pg. 231-242

**Discussions of the following case/s by the instructor with class**

*O’Connor v. Consolidated Coin Caterers Corp.,*

[*https://caselaw.findlaw.com/us-supreme-court/517/308.html*](https://caselaw.findlaw.com/us-supreme-court/517/308.html)

**CLASS 11**: **11/11/20**

Title VII Procedure, EEOC & Mandatory Arbitration of Claims

**READINGS:**

Chapter 15: Title VII Procedure – An Overview, Pg. 81-184

Chapter 16: Filing & Processing Charges, Pg. 185-198

Chapter 17: Litigation, Pg 199-209

Chapter 18: Remedies, Pg. 211-223.

**Discussions of the following case/s by the instructor with class**

*Rodriguez v. Raymours Furniture Co., Inc.,*

*<https://caselaw.findlaw.com/nj-superior-court-appellate-division/1670192.html>*

*14 Penn Plaza LLC v. Pyett ,*

[*https://www.law.cornell.edu/supct/html/07-581.ZS.html*](https://www.law.cornell.edu/supct/html/07-581.ZS.html)

**CLASS 12**: **11/18/20**

The Equal Pay Act & Executive Order 112461

**READINGS:**

Chapter 25: Introduction to Equal Pay Act, Pg. 271-274

Chapter 26: Elements of the claim, Pg. 275-280

Chapter 27: Defenses: Pg. 281-286

Chapter 28: Enforcement of the Equal Pay Act, Pg. 287-290.

Chapter 29: Executive Order 112461, Pg. 293-298

**Discussions of the following case/s by the instructor with class**

*Ledbetter v. Goodyear,*

[*https://www.law.cornell.edu/supct/html/05-1074.ZS.html*](https://www.law.cornell.edu/supct/html/05-1074.ZS.html)

*The Lily Ledbetter Act*

[*https://www.scotusblog.com/2009/01/court-overturns-court-on-job-bias/*](https://www.scotusblog.com/2009/01/court-overturns-court-on-job-bias/)

**CLASS 13**: **12/2/20 WRITTEN ASSIGNMENT DUE ON CANVAS AT 11 AM–**

**FAILURE TO TURN IN ASSIGNMENT WILL RESULT IN GRADE REDUCTION AND/OR A FAILING GRADE.**

Sections 1981, 1983 and 1985

NJLAD

**READINGS:**

Chapter 22: Section 1981, Pg. 249-253

Chapter 23: Section1983, Pg. 255-264

Chapter 24: Section 1985, Pg. 265-268

**Discussions of the following case/s and statute by the instructor with class**

*NJLAD, Read NJSA 10-5-12(a) through (e) only.*

[*https://law.justia.com/codes/new-jersey/2016/title-10/section-10-5-12/*](https://law.justia.com/codes/new-jersey/2016/title-10/section-10-5-12/)

*Dothard v. Rawlinson*

[*https://www.law.cornell.edu/supremecourt/text/433/321*](https://www.law.cornell.edu/supremecourt/text/433/321)

*El v. Southeastern PA Transit*

[*https://caselaw.findlaw.com/us-3rd-circuit/1002859.html*](https://caselaw.findlaw.com/us-3rd-circuit/1002859.html)

**CLASS 14: 12/9/20**

**IN CLASS EXAM 2 – CLOSED BOOK/NOTES, COVERING CLASSES 8-13**