

EMPLOYMENT LAW

Spring 2021

Course No. 37-575-315-01

Thursdays 6:40 p.m. to 9:30 p.m.

Professor Joyce M. Klein

Phone: (732) 775-5677

Office Hours Available Upon Request

E-mail: Joyce.Klein@Rutgers.edu

OBJECTIVES: Analysis of major issues in employment law, including laws protecting employees from discrimination, as well as wage and hour laws and laws covering employee privacy, workers' compensation, unemployment insurance, immigration and safety and health.

This course will help students to understand the basic framework of employment law in the United States and to develop the ability to think critically and to read, analyze and evaluate legal statutes and decisions. Students will learn to identify, understand, and explain conflicting views on legal and policy arguments.

Specifically, the learning objectives for this course include: (1) learning to make an argument about an employment law matter using contemporary and/or historical evidence; (2) learning to apply legal precedent to current issues in the workplace; (3) working productively in teams, in social networks, and on an individual basis (4) communicating effectively at a level and in modes appropriate to an entry level professional; and (5) demonstrating an ability to interact with and influence others in a professional manner and effectively presenting ideas and recommendations.

TEXT: Labor and Employment Law: Text and Cases (16th Ed.) by David P. Twomey & Stephanie Greene ("Twomey"). (Do not use an earlier edition).

Supplemental Readings are available on CANVAS and/or will be distributed throughout the semester. Additional readings may be added during the course of the semester as the law evolves.

REMOTE INSTRUCTION: All classes will be held synchronously via Zoom. I expect that all students will attend via Zoom and, if possible, will keep their video monitors on during class. If necessary, any student with internet connectivity problems can use the phone number provided to call in to the class and participate as fully as possible. All students will be muted to minimize distraction and feedback, but will be permitted and expected to turn mute off and on to participate in class. Exercises and small group discussions will be conducted in breakout rooms most weeks. If it proves necessary, class may be recorded, but small group sessions will not be recorded. Students may record their own small group sessions.

ATTENDANCE AND GRADING POLICIES: Students are expected to attend all classes and to actively participate in all exercises and discussions both in the larger class and in small groups. **20%** of the final grade will be based upon attendance and participation. Participation includes contribution to discussions in class and full participation in classroom exercises.

Attendance will be taken for each class. Students leaving during the class period will not be given credit for attendance unless permission is received in advance. I expect that all reading assigned for each class will be completed **BEFORE** class. Any student who must miss a class for illness or other emergency is expected to contact me via e-mail or telephone prior to class explaining the reason for the absence. Any student with an illness or absence due to the Covid 19 pandemic should contact me, before class if possible, in the event that special consideration regarding attendance is sought.

Students are NOT permitted to record, videotape, or photograph any classroom lecture except those in breakout rooms, absent prior express consent and authorization by the Instructor.

ASSIGNMENTS AND EXAMINATIONS: Student will complete two short assignments, the first is due on **February 18**, the second is due on **April 1**. Each assignment will account for 10% of the final grade.

Students will complete a midterm examination on **March 4** which will account for **30%** of the final grade.

Students will complete a final midterm examination on **April 29** which will account for **30%** of the final grade.

All assignments and exams will be open book. The two mid-semester assignments will be posted in Canvas as assignments. The midterm and final midterm will both be comprised of a quiz portion in Canvas as well as an essay portion.

ACADEMIC INTEGRITY: 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

POLICY ON DISABILITIES: 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>.

LEARNING CENTER: Rutgers is committed to your success, and offers free academic services to all students. The Learning Centers provide tutoring, study groups, and review sessions for your courses. They also host workshops and provide individual academic coaching to help you further develop your study strategies and self-management skills. To learn more about how the LCs can help you succeed, visit rlc.rutgers.edu.

CLASS TOPICS AND ASSIGNED READINGS:

January 21	Introduction The Courts and Administrative Agencies How to read a case Case reading exercise Employment at Will
January 28	Employment at Will; Exceptions to Employment at Will; Contract Theories Understanding the Federal Courts, pages 3-12 Twomey 627-638 (In Chapter 16)
	<u>CANVAS:</u> <u>Adams v. Uno's Restaurant</u>
February 4	Exceptions to Employment at Will Tort and Contract Theories continued; Whistleblower Protection (SOX, Dodd-Frank, CEPA) Twomey 638-644 (In Chapter 16)
	<u>CANVAS:</u> <u>Hernandez v. Montville Board of Education</u>

February 11 Scope of Employment; Non-Compete Agreements; Negligent Hiring & Retention; Criminal Records

Assignment 1 Posted

Twomey pp. 645-659 (In Chapter 16)

CANVAS:

Carter v. Reynolds, 175 N.J. 402 (2003)

To Compete Better, States are Trying to Curb Non-Compete Pacts, Steve Lohn, New York Times (June 28, 2016)

Noncompete Pacts, Under Siege, Find Haven in Idaho, New York Times (July 14, 2017)

States Must Act to Protect Workers from Exploitative Non-Compete and No Poach Agreements, Karla Walter, Center for American Progress, April 2, 2019

February 18 Employee Privacy/Drug Testing/Defamation
Assignment 1 Due

Twomey 663-669; 671-678; 683-695 (In Chapter 17)

Employers Can Require Workers to Get Covid-19 Vaccine, U.S. Says, New York Times (December 18, 2020)

February 25 Employee Privacy/Electronic Privacy/Defamation/GINA

Twomey 678-683; 695-707 (In Chapter 17)

CANVAS:

Should Companies Monitor Their Employees' Social Media?, Wall Street Journal (October 22, 2014)

NJ Social Media Employment Law

Employee Privacy in the U.S. is at Stake as Corporate Surveillance Technology Monitors Workers' Every Move, CNBC, April 15 2019

March 4 **MIDTERM**

March 11 Discrimination Laws
(Race/Color)

Twomey 429-443; 445-454 (In Chapter 12)

March 18 **SPRING BREAK**

March 25 Discrimination Laws continued
Religion/Sex/Sexual Harassment/Age

Twomey 454-485; 490-492; 556-570 (In Chapters 12 & 14)

Assignment 2 Posted

April 1 Disability/USEERA

Twomey 579-603; 619-623 (In Chapter 15)

Assignment 2 Due

CANVAS:

U.S. Department of Labor VETS USERRA Fact Sheet 3
A Non-Technical Resource Guide to USERRA

April 8 Workers Compensation; FMLA, Paid Sick Leave

Twomey 603-619 (In Chapter 15)

CANVAS:

N.J.S.A. 34:15.1-3

Sager v. O.A. Peterson Construction Co.

The Demolition of Workers' Compensation (ProPublica) (03/04/15)

U.S. Labor Department: States are Failing Injured Workers
(ProPublica) (10/5/16)

U.S. Dept of Labor Fact Sheet #28 – the Family and Medical Leave Act

New Jersey Paid Sick Leave Act

Nearly All New Jersey Workers Will Be Entitled to Paid
Sick Leave Very Soon, NJ.Com (10/2/18)

Lawmakers Move to Improve Paid Family Leave Program in New
Jersey, NJ Spotlight, (02/11/19)

Murphy to Sign Bill Expanding N.J.'s Paid Family Leave Program,
NJ.Com (02/19/19)

April 15 Unemployment Insurance/Wage & Hour Laws

Twomey 713-726; 730-735 (In Chapter 18)

CANVAS:

Employment Law In A Nutshell, Fair Labor Standards Act
New York State Just Dealt Another Blow to Uber's Business Model,
(Quartz) (June 13, 2017)
U.S. Department of Labor Fact Sheets #17B, C, D & E
NJ's Minimum Wages Rises to \$10 Today in First Step Toward \$15,
Colleen O'Dea, NJ Spotlight, July 1, 2019
Raising the Federal Minimum Wage to \$15 by 2025 Would Lift Wages
for Over 33 Million Workers, David Cooper, Economic Policy Institute,
July 17, 2019

April 22 Occupational Safety & Health
Twomey 393-423 (In Chapter 11)

April 29 **FINAL MIDTERM**