Welcome! This course covers the major federal statutes that prohibit employment discrimination. By the end of the course, you should be familiar with the substance and structure of these statutes, the dominant Supreme Court and some lower court cases interpreting them, and the procedural issues that arise in addressing discrimination claims. We will not just read cases, however; we will also look at the stories of the individuals involved in some of the most significant cases. We will additionally consider the broader legal and societal themes that arise in any discussion of judicial enforcement of civil rights.

REQUIRED TEXTS


Statutory Materials posted on TWEN

LEARNING OBJECTIVES

- To learn the major theories of discrimination law, including disparate treatment, disparate impact, retaliation, accommodation, and sexual harassment;
- To understand the similarities and differences in how employment discrimination law applies to different categories of discrimination, including but not limited to race, sex, religion, and age;
- To identify and apply significant policy arguments that influence courts in employment discrimination decision-making;
- To understand the role of statutory and regulatory law in employment discrimination doctrine; and
- To apply employment discrimination doctrine to new fact contexts and produce written analysis of complex employment discrimination claims and issues.

METHOD OF EVALUATION

This course will be evaluated in two parts. First, there will be a series of short quizzes given at the start of class. These quizzes will be up to five questions in length and will be based on the reading assignment and study questions that accompany each reading assignment. You are expected to prepare all of the study questions in order to meet the workload expectations for the
course,¹ but I will designate certain of them as quiz questions. If you correctly answer 80% of the total quiz questions given over the course of the semester, you will receive five points added to your raw point total for the semester. The dates of the quizzes will not be announced in advance. If you miss a quiz due to an absence, there will be a short window of time for you to make it up, ordinarily prior to the next class session. It will be your responsibility to be in timely contact with me about any missed quizzes.

Second, there will be three graded assignments. The first will be a short collaborative drafting exercise, graded pass/fail. This will take place about the third week of classes. The second will be the required bar assessment, which will consist of 5 multiple choice questions and an essay question, worth 25 points in total. This will take place when we finish Chapter 3, approximately the end of September. The third assignment will be a take-home exam distributed on the first day of the exam period and due no later than the last day of that period. The final exam will be worth 60 points.

All written requirements must be successfully completed on a timely basis in order to receive credit for the course. More information on each will be provided in class.

READING ASSIGNMENTS

Listed on the next page are the assignments I anticipate for the first two classes, and then a list of topics we will cover in rough order. After the first week, I will post the specific reading assignments on TWEN along with study questions.

Abbreviations: T=the main casebook (Avery, et al.); EDS=Employment Discrimination Stories

Class 1: Introduction to Theory and Coverage
On your own: Overview podcast covering T 11-26 (through note (b)), and 40-42; Powerpoint slides posted on TWEN.

In class, we’ll cover T 3-11, 42-60. There are two videos linked in the Study Questions on TWEN, and a short news article.

Class 2: Disparate treatment claims
T 95-110 n. 4; EDS Ch. 1; Burdine excerpt attached to Study Questions

¹The workload expectations for the course are based on ABA Standard 310(b)(1) for a three credit hour class. Under those standards, “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” You should expect to spend 75 minutes in class twice a week and three hours preparing for that class.
Additional topics in rough order:
- Pretext; mixed motives
- Evidentiary issues in Disparate Treatment Litigation
- Retaliation claims
- Statistical Evidence/Pattern and Practice Claims
- Disparate Impact Theory
- Sex-based Discrimination, including Pregnancy Discrimination
- Family Responsibilities Discrimination
- Sexual Orientation Discrimination
- Harassment
- Religious Discrimination
- Disability Discrimination
- Age Discrimination
- National Origin Discrimination

ATTENDANCE AND CLASS RECORDING POLICY:

Attendance will be kept and administered according the SIU School of Law Academic Regulations, as amended through the current semester. **Students may miss or note out a maximum of six (6) total class meetings.** Each student is required to sign an attendance sheet for each class meeting. The attendance sheet will be circulated at the beginning of class and then collected. No one shall sign the attendance sheet once it is collected by the professor. Please note that signing someone else’s name to an attendance sheet or signing the sheet after it has been collected will be considered Honor Code violations and treated accordingly. Also please note that attendance includes preparation. Do not sign the sheet if you are not prepared.

I define “prepared” to mean you have carefully read the materials to be discussed in class (including the study questions posted on TWEN) and are ready to engage in discussion about them. Of course, you may not be able to answer every question you are asked, but you will be expected to be able to make a reasonable effort. You may read ahead, but be aware that I consider the response, “I read it but I don’t really remember it” to be the equivalent of not having prepared it at all. If you read ahead, you should review the materials shortly before class to refresh yourself on them. **Signing the attendance sheet is your representation that you are prepared. I will strike your attendance credit if I determine you are not sufficiently prepared for class.**

It will be your responsibility to keep track of your absences; you will not receive reminders concerning the number of absences you have incurred, nor should you expect my assistant to remind you of your attendance record. Attendance sheets will be kept until the end of the semester that you may consult for purposes of verifying any discrepancy in your absence record.

**Once class has started, you are expected to remain in the classroom unless there is an emergency or you have been granted an accommodation through the Associate Dean’s office.** Having to use the restroom is not an emergency unless you are ill. Leaving class in-session without permission will be counted as an absence and may result in denial of re-entry
into the classroom for the rest of the class session. If you need accommodation of this policy, you should consult the disability services policy at the end of this syllabus.

**Recording policy:** Our class sessions may be recorded; however, any recordings will be made available with my permission only. I will grant permission to view a recording in only limited circumstances, such as a job interview or the flu. Such absences will not be excused, however, except for extraordinary circumstances, as the expectation is you will use your allowed absences for those types of commonly occurring reasons. I do grant excused absences for school related matters such as court appearances for clinic students and competitions for moot court and trial students.

**COMPUTER AND CELL PHONE POLICY**

Notebook and tablet computers are permitted in class for note-taking purposes, to look up the text of cases, statutes and materials relevant to what is being discussed in class, to look at material posted on the Employment Law TWEN pages, and when you are explicitly instructed that you may use them for a class activity. You may **not** use your computer or tablet for any other activity, including but not limited to surfing the web, social networking, checking or sending email, reading or sending instant or text messages, playing games, or computer apps unconnected to classroom activity. **If I determine that any student is using a computer for an impermissible purpose during class, I will mark that student absent for that class session.** Repeated violations will result in computer privileges being suspended for the remainder of the semester, including the exam.

Cell phones should be shut off and placed away where they cannot be seen (absent prior approval). They may not be used for any purpose that would not be permissible if done on a computer. You may be asked to check your phone at the podium if you violate this rule.

If you have any questions about what is permissible and what is not, ask in advance and do not assume.
Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/ Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.