

EMPLOYMENT DISCRIMINATION LAW
SPRING 2021
Professor Anderson

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Office Hours: Suspended due to pandemic but available by email and Zoom

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 selected 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

Sperino & Gonzalez, *Employment Discrimination: A Context and Practice Casebook* (3d ed. 2019);

Statutory Supplement 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 contextualize relevant legal rules and develop arguments and advice reasonable lawyers would make or give when advising clients and litigating claims;
- 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 three parts. First, after we complete Chapter 4 in the text, there will be a closed-book multiple choice exam that will be used to satisfy the bar assessment requirement. Students will need to demonstrate proficiency with the material in order to pass this exam. There will be an opportunity to retake the exam if necessary to reach the proficiency

level, but students will receive either the score from the first attempt at the exam, or a zero for failure to reach proficiency. To help prepare for this exam, I will weekly post a quiz on TWEN through which students can check their case reading comprehension and outline accuracy. The multiple choice exam will be worth 30 points.

Second, to meet the Writing Across the Curriculum requirement, there will be a short writing project at the end of Chapter 3. This will be graded pass/fail.

Third, there 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 three 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. After the first week, I will post the specific reading assignments on TWEN.

Class 1: Introduction to Coverage and Protected Classes

Text pp. 1-28. In class, we will talk about exercises 1.3, 2.1. On TWEN, in the Syllabus and Assignments section, you will find links to a video and a short news article to also prepare for this class. For exercise 1.3, write out your thoughts for each scenario whether you think it implicates anti-discrimination law, whether it should do so, and what practical advice you would give your client. For exercise 2.1, what motivation would you identify for the organization's actions? Should it matter if it is "good" or "bad?"

Class 2: Protected Classes, cont'd

Text pp. 29-45. For exercise 2.3, write out a checklist for drafting the policy: What are the options, what questions would you ask the employer?

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 submit an attendance verification form for each class meeting, which is how you will "sign" the attendance sheet. The link to the form is posted on TWEN along with the Zoom meeting link. No one shall submit the attendance form after the professor calls the class to order without permission of the professor. Please note that submitting a form on behalf of someone else is prohibited by the 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;

- Identified answers to the study questions included in the text or posted on TWEN;
- Prepared the tasks in the assigned exercises; and
- Are ready to engage in discussion about the assignment.

That is required of you to meet the course workload expectations.¹ 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 records 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 (physical or virtual) 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 as soon as possible. On-line students are required to keep their video on during the entire class unless I have given permission to turn it off. If I determine that your video has been turned off without permission, I will strike your attendance for that date.

Recording policy: Our class sessions will be recorded by the Law School; however, absent a DSS accommodation, those 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, but such absences will not be excused except for extraordinary circumstances, because the expectation is you will use your allowed absences for those types of commonly occurring reasons. You may be able to make-up absences for law school activity-related absences, such as clinic court appearances and moot court or trial team competition attendance, by submitting an additional assignment to be determined and then viewing the recording of the class that was missed. This must be arranged with me beforehand except in extraordinary circumstances. All other recording of the class is prohibited without my permission; violation of this policy will be

¹ The 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 two times a week and at least three hours preparing for each class (six hours total for two classes).

grounds for referral under the Honor Code.

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 Discrimination 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 using 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.

Syllabus Attachment

Spring 2021

MISSION STATEMENT FOR SOUTHERN ILLINOIS UNIVERSITY CARBONDALE

SIU embraces a unique tradition of access and opportunity, inclusive excellence, innovation in research and creativity, and outstanding teaching focused on nurturing student success. As a nationally ranked public research university and regional economic catalyst, we create and exchange knowledge to shape future leaders, improve our communities, and transform lives.

IMPORTANT DATES

Semester Classes Begin:	01/19/2021
Last day to add full-term course (without Dean's signature):	01/24/2021
Last day to withdraw from the University with a full refund:	01/29/2021
Last day to drop a full-term course for a credit/refund:	01/31/2021
Last day to drop a full-term course (W grade, no refund):	03/28/2021
Final examinations:	05/03-05/07/2021

Note: Please verify the above dates with the Registrar calendar and find more detailed information on deadlines at <http://registrar.siu.edu/calendars>. For add/drop dates that apply to shorter-than-full-term courses, please look at the Schedule of Classes search results at <http://registrar.siu.edu/schedclass/index.php>

SPRING SEMESTER HOLIDAYS

Spring Break - not offered this semester

DIVERSITY

Southern Illinois University Carbondale's goal is to provide a welcoming campus where all of our students, faculty and staff can study and work in a respectful, positive environment free from racism and intimidation. For more information visit: <http://diversity.siu.edu>

DISABILITY SUPPORT SERVICES

SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval please contact DSS immediately at (618) 453-5738 or <https://disabilityservices.siu.edu>. You may request accommodations at any time, but timely requests help to insure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty.

MILITARY COMMUNITY

There are complexities of being a member of the military community and also a student, and military and veteran related developments can complicate academic life. If you are a member of the military community and in need of accommodations please visit Veterans Services at <http://veterans.siu.edu/>

STUDENT MULTICULTURAL RESOURCE CENTER

The Student Multicultural Resource Center serves as a catalyst for inclusion, diversity and innovation. As the Center continues its work, we are here to ensure that you think, grow and succeed. We encourage you to stop by the Center, located in the Student Services Building Room 140, to see the resources available and discover ways you can get involved on the campus. Visit us at <https://smrc.siu.edu/>

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: Call (618) 453-2461, email siucares@siu.edu, or <http://salukicare.siu.edu/>

SAFETY AWARENESS FACTS AND EDUCATION

Title IX makes it clear that violence and harassment based on sex and gender is a Civil Rights offense subject to the same kinds of accountability and the same kinds of support applied to offenses against other protected categories such as race, national origin, etc. If you or someone you know has been harassed or assaulted, you can find the appropriate resources here:

<http://safe.siu.edu>

MORRIS LIBRARY HOURS: <http://libguides.lib.siu.edu/hours>

ADVISEMENT: <http://advisement.siu.edu/>

SIU ONLINE: <https://online.siu.edu/>

COVID-19

As a condition of on-campus enrollment, all SIUC students are required to engage in safe behaviors to avoid the spread of COVID-19, including the requirement that all students wear a mask in campus buildings, including classrooms, laboratories, and studios when others are present, regardless of social distancing. Students are expected to follow physical or social distancing guidelines by keeping at least 6 feet from others, and practicing good hand hygiene. Failure to comply with this policy may result in dismissal from the current class session. If the student refuses to leave the classroom after being dismissed, the student may be referred to the Office of Student Rights and Responsibilities. SIUC will follow federal, state and county public health recommendations and mandates in all decisions relating to university operation. Students should regularly review the link for the [SIUC COVID-19 response](#).

Masks for residential students will be furnished upon move-in to their residence hall rooms. Off-campus students can pick up a mask at the Student Center ID Office, the Student Services Building main desk, the check-in desk at the Student Health Center, the equipment desk at the Student Recreation Center, the Dean of Students Office and at the circulation desk of Morris Library. Students will need to show their student IDs to claim their masks. A limited number of masks will be available in the academic deans' offices. All questions can be directed to the Dean of Students Office. Email: deanofstudents@siu.edu Phone #: (618) 453-2461

WITHDRAWAL POLICY ~ Undergraduate only

Students who officially register for a session must officially withdraw from that registration in a timely manner to avoid being charged as well as receiving a failing grade for those classes. An official withdrawal must be initiated by the student, or on behalf of the student through the academic unit, and be processed by the Registrar's office. For the proper procedures to follow when dropping courses and when withdrawing from SIU visit: <http://registrar.siu.edu/students/withdrawal.php>

SIU's EARLY WARNING INTERVENTION PROGRAM (EWIP)

Students enrolled in courses participating in SIU's Early Warning Intervention Program might be contacted by University staff during a semester. More information can be found at the Core Curriculum's Overview webpage: <http://corecurriculum.siu.edu/program-overview/>

EMERGENCY PROCEDURES

We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts visit: <http://emergency.siu.edu/>

CATALOGS

catalog.siu.edu

gradcatalog.siu.edu

Graduate policies often vary from Undergraduate policies. To view the applicable policies for graduate students, please refer to the graduate catalog .

CENTER FOR LEARNING AND SUPPORT SERVICES

Tutoring : <http://tutoring.siu.edu/>

Math Labs <http://math.siu.edu/courses/course-help.php>

WRITING CENTER

<http://write.siu.edu/>

PLAGIARISM

See the Student Conduct Code <http://srr.siu.edu/student-conduct-code/>

INCOMPLETE POLICY~ Undergraduate only

<http://registrar.siu.edu/grades/incomplete.php>

REPEAT POLICY

<http://registrar.siu.edu/students/repeatclasses.php>