



FALL 2025 COURSE SYLLABUS

Course Number: 210-001
Course Title: Discrimination in Employment
Credit Hours: 2
Grading Mode: Letter grade
Meeting Time(s): THUR. 1:50-3:50P
Meeting Mode: ON CAMPUS
Exam Time(s): DEC. 6, NOON
Exam Mode: ON CAMPUS
Prerequisite(s): N/A
Corequisite(s): N/A
Instructor(s):
Neal Mollen

Contact Info:

nmollen@gmu.edu | I have no set “office hours,” and no office, but within reason, I am available for, and encourage, your questions by email or, with a prior appointment, by phone.

Reading(s) & Supplement(s):

The assigned text for this class is Estreicher, Harper, and Fasman, *Cases and Materials on Employment Discrimination and Employment Law, The Field As Practiced*, 6th ed (ISBN: 978-1-64708-219-2). *Please note that this Sixth Edition is new*; although there is substantial overlap between this and the previous edition, the assignments given below are all keyed to the Sixth Edition. *Also, please be aware that there are several other employment related casebooks by the same authors, with slightly different titles.* This one combines both employment law *and* discrimination law in the title. Please make certain that your book is the correct one.

Course Overview

Our plan for the semester will be to examine federal (and to a limited degree, state and local) statutory schemes that prohibit discrimination in employment decision-making.

Course Learning Outcomes

By semester’s end, students should be able to:

- Identify the different theories of recovery commonly used in discrimination cases (e.g., disparate impact, disparate treatment, hostile environment), understand the normative standards applicable to each, and determine which is most likely to be applicable in varying factual scenarios;
- Assess a set of facts and separate those that are relevant from those that are not, making it

possible to judge the likelihood a plaintiff or defendant might have of succeeding in ensuing litigation;

- Gauge the range of relief to which a prevailing plaintiff might be entitled; and
- Evaluate possible harm-avoidance or harm-mitigation steps an employer that might employ to prevent litigation altogether or to minimize the exposure if litigation proves unavoidable.

Grading Policies

Student grades will be based on a final exam. Note, however, that final grades may be *subject to a discretionary class participation adjustment in either direction*. Class attendance and participation are not optional; they are mandatory. Exemplary in-class performance, however, or persistent dereliction in class preparedness and participation, might warrant grading adjustments.

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Participation & Preparation:

I cannot overemphasize the importance of, and my expectation for, active, thoughtful participation by class members in our discussions. For the class to be a success, it is essential that every student arrive at every class having read and carefully considered the assigned material. Although class members are always encouraged to participate in the discussion voluntarily—and I will routinely ask for volunteers—you *should expect to be called on without prior warning*.

I understand that unavoidable circumstances might prevent you from participating in our discussion on rare occasions. If circumstances will prevent you from being prepared for a given class, please tell me before we begin. I have no desire to embarrass you by calling on you when you are unprepared.

Use of Technology & AI:

Strict Use Policy: The use of generative AI tools is not permitted for any coursework in this course. Unauthorized use will be treated as a violation of academic standards.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's *written* exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student’s computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If

the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e -book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

Unless I specifically indicate otherwise during class, all material in the assigned reading will be considered “fair game” for exam purposes, even if we do not discuss it in class. If you have questions about this assigned material that are not otherwise answered during our class discussions, *please ask me about it*, either during the relevant class, by email, or during our semester-ending review session. I welcome and in fact encourage your questions, before, during or after class.

In addition to this assigned text, I have identified a few additional cases and other materials you will need to read prior to designated classes. Any adjustments to this schedule will be announced in class and by email. Finally, in this field, one must anticipate the possibility of “breaking news” from the courts, agencies, or (occasionally) Congress; we will discuss these events as time allows.

With those caveats, the required reading for each class will be as follows:

Week 1:

Date: 8/21

Topic (s): Disparate Treatment

Assignment(s): 42 U.S.C. § 2000e-2(a); 42 U.S.C. §1981(a) (NB: *not* 42 U.S.C. §1981a, although of course you can read that too if you like); Estreicher 107-09; 116-140; 496-499; *Muldrow v. St. Louis*, 601 U.S. 346 (2024); *Ames v. Ohio Dep’t of Youth Servs.*, 87 F.4th 822 (6th Cir. 2023), *cert. granted*, 145 S. Ct. 118 (2024).

Week 2:

Date: 8/28

Topic (s): Disparate Treatment *cont’d*; Systemic Disparate Treatment

Assignment(s): Estreicher 145-182.

Week 3:

Date: 9/4

Topic (s): Disparate Impact

Assignment(s): 42 U.S.C. § 2000e-2(k); Estreicher 197-232.

Week 4:

Date: 9/12

Topic (s): Disparate Impact *cont’d*

Assignment(s): Estreicher 232-243, 251-267; *U.S. Equal Emp. Opportunity Comm’n v. Stan Koch & Sons Trucking, Inc.*, 557 F. Supp. 3d 884 (D. Minn. 2021).

Week 5:

Date: 9/19

Topic (s): Affirmative Action and DEI, whatever that may be

Assignment(s): Estreicher 269-294; 296-322.

Week 6:

Date: 9/26

Topic (s): Sex Discrimination

Assignment(s): Estreicher 329-370.

Week 7:

Date: 10/3

Topic (s): Harassment

Assignment(s): Estreicher 370-403; *Moon v. Oklahoma Dep't of Corr.*, No. 23-6091, 2024 WL 1696791 (10th Cir. Apr. 19, 2024); *Pennsylvania State Police v. Suders*, 542 U.S. 129 (2004).

Week 8:

Date: 10/17

Topic (s): Sexual Orientation and Gender Identity; Sex Bias and Compensation

Assignment(s): Estreicher 374-380, 441-458; 411-428; *Lange v. Houston Cnty., Georgia*, 101 F.4th 793 (11th Cir.), *reh'g en banc granted, opinion vacated*, 110 F.4th 1254 (11th Cir. 2024).

Week 9:

Date: 10/24

Topic (s): Age Discrimination

Assignment(s): Estreicher 465-487, 500-524.

Week 10:

Date: 10/31

Topic (s): Discrimination and the Duty to Accommodate

Assignment(s): Estreicher 531-577, 601-606; *Groff v. DeJoy*, 600 U.S. 447 (2023).

Week 11:

Date: 11/6

Topic (s): Retaliation

Assignment(s): Estreicher 627-656; *Thompson v. N. Am. Stainless, LP*, 562 U.S. 170 (2011); *Gogel v. Kia Motors Mfg. of Georgia, Inc.*, 967 F.3d 1121 (11th Cir. 2020) (*en banc*).

Week 12:

Date: 11/13

Topic (s): Procedural Issues and Timeliness

Assignment(s): Estreicher 949-991; *Pacheco v. Mineta*, 448 F.3d 783 (5th Cir. 2006); *Delaware State Coll. v. Ricks*, 449 U.S. 250 (1980).

Week 13:

Date: 11/20

Topic (s): Remedies and Arbitration; Review

Assignment(s): Estreicher 1006-1025; *Franks v. Bowman Transp. Co.*, 424 U.S. 747 (1976); *Ford Motor Co. v. E.E.O.C.*, 458 U.S. 219 (1982).

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703 -380-1434 or Counseling and Psychological Services (CAPS) at 703 -993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703 -993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-991-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[Student Conduct](#)

[University Life](#)