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## PROFESSOR DONNA YOUNG

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Classes: Monday, Tuesday, Thursday @ 11:00 to 11:50 in Rm. L211  
Legal Assistant: Sherri Meyer (Office: M-301 / Tel. 445-3335)

Office Visits: Office Hours: I encourage students to meet with me outside class hours to discuss relevant issues raised in and outside the classroom. I welcome drop-in visits and I am happy to schedule appointments - see me before or after class, or e-mail me.

### OVERVIEW/GOALS/OBJECTIVES

This course is designed to familiarize you with the matrix of legal protections available to employees and employers from the hiring process to the termination of the employment relationship. It encourages you to examine common law and statutory rights of the parties while considering policy implications of the employment law system. The substantive areas to be covered include hiring/firing, wages, hours, and benefits, conditions of employment, employment security, and occupational health and safety. Unlike labor law which can be roughly organized around one federal statute (National Labor Relations Act), employment law is found in hundreds of separate cases and statutes. The course will contribute to the acquisition of essential legal skills (legal synthesis, analysis, strategies and reasoning, statutory interpretation, advocacy, communication, professionalism and critical thinking) and values (professional responsibility) inherent in the study and practice of employment law.

### TEACHING METHODOLOGY

The classes will consist of questions and answers, individual and group discussion and exercises. I will call on each student in alphabetical order to lead classroom discussion, but each person, whether on-call or not, is expected to read the assigned materials and contribute to the class discussion. In addition to the basic readings, we will consider a variety of current legal events, as they unfold in the media and in the courts. I welcome students to introduce any relevant information which may enhance the course materials. I also encourage students to meet with me outside class hours to discuss relevant issues raised in or outside the classroom.

### ASSESSMENT

This is a three credit course with a 100% take-home final examination. There may be in-class or take-home written assignments.



## REQUIRED READING MATERIALS

CASEBOOK: Rothstein, Liebman, & Yuracko, Employment Law: Cases and Materials Concise Edition 8th ed. (Foundation Press, 2015)

## PARTICIPATION AND PROFESSIONAL CONDUCT

### Participation:

You are expected to attend class regularly (please refer to the attendance policy in the Albany Law School Student Handbook), arrive on time at the beginning of each class, and stay until class is over. You are expected to read the assignments prior to each class and be prepared to provide full, insightful answers to questions that you may be asked. Each student will be called on to lead discussion of assigned materials and to participate in classroom exercises. Class discussions are important. If you are unable to attend a class please try to notify me in advance. Participation in class should be professional and respectful.

### Use of Electronics:

Please refrain from instant messaging, e-mailing, surfing the Internet, playing games, writing papers, doing homework, etc. during class time. Do not display material on screen which may be distracting or offensive to your neighbor. Audio or video recording of the class is prohibited without my prior permission. Please turn off cell phones when you are in the classroom. For interesting arguments against using a laptop in class, please read:

“**Leave Your Laptops at the Door to My Classroom**” By Darren Rosenblum, JAN. 2, 2017, New York Times.

<https://www.nytimes.com/2017/01/02/opinion/leave-your-laptops-at-the-door-to-my-classroom.html>

“**Laptops Are Great. But Not During a Lecture or a Meeting**” By Susan Dynarski

<https://www.nytimes.com/2017/11/22/business/laptops-not-during-lecture-or-meeting.html? r=0>

## E-Mail Policy

E-mail will be the primary mode of communication outside the classroom. Please check it regularly. I encourage students to E-mail me outside class hours with any questions or comments about the class. Though E-mail correspondence is generally considered informal, please keep in mind that E-mail communication within the law school should conform to the standards of professional communication expected in legal practice - e.g. write in complete sentences, address the recipient by name and title (if necessary), sign your name at the end of the message, acknowledge receipt of E-mail messages addressed personally to you. I will answer each E-mail promptly. E-mail messages sent by me to the class should be opened and read as promptly as possible.



**SYLLABUS**

The following syllabus is intended as a guide. Page numbers refer to the Rothstein and Liebman *Employment Law* Casebook (and the Supplement). The assignments are set out according to the pages to be read prior to each class. There is flexibility in the schedule and therefore I expect that the amount of material covered in each class will vary depending on the subject matter, complexity of the material, depth of classroom discussion and other factors. Approximately 2-4 cases will be discussed per class. Please pace yourself and try to stay at least two to four cases ahead of class discussion.

**PART I: BACKGROUND**

**CHAPTER 1: Work and Law**

Introduction.....3-14

**CHAPTER 2: The Development of Employment Law**

Foundations of Employment Law.....15-31  
Sources of Modern Employment Law.....31-42

**PART II: ESTABLISHING THE EMPLOYMENT RELATIONSHIP**

**CHAPTER 3: The Hiring Process**

Introduction / The Labor Pool ..... 51-78  
Applications, Interviews, and References..... 79-99  
Truth Detecting/Psychological/Personality/Medical/Drug ..... 99-123  
Genetic Testing / Negligent Hiring

**CHAPTER 4: Discrimination**

Introduction / Race or Sex / Disparate Treatment ..... Skim125-132; 133-153  
Systemic Discrimination / Statistical Proof / Harassment ..... 153-173  
Because of Race/Sex/Caregiver Status ..... 173-193  
Disparate Impact ..... 193-221



**PART III: TERMS & CONDITIONS OF EMPLOYMENT**

**CHAPTER 5: Wages and Hours**

Federal and State Wage and Hour Regulation.....	293-323
Hours / Child Labor / Enforcement .....	323-337
What is a Job Worth? .....	337-355

**CHAPTER 7: Employee Liberty**

Introduction / Appearance / Dress .....	405-421
Privacy .....	421-433
Freedom of Expression .....	433-453
Bullying / Off-Work Activity / Political Activity .....	454- 470

**CHAPTER 8: Occupational Health and Safety**

Introduction / Jurisdiction.....	471- 489
Employer Duties .....	497-509
Defenses / Employee Rights .....	509-522

**CHAPTER 9: Disabling Injury and Illness**

Introduction to Workers Compensation / "Employee"/.....	523-539
"Course of Employment"	
Tort Actions / Against Employer/ Against Third Parties .....	549-559

**PART IV: TERMINATING THE EMPLOYMENT RELATIONSHIP**

**CHAPTER 10: Discharge**

Whistleblower Laws / Constitutional Protections / Montana Exception .....	563-582
Contractual Exceptions to At-Will .....	582-600
CGFFD.....	600-618
Public Policy.....	624-645
Rethinking Employment At Will .....	645-659