

LABOR & EMPLOYMENT LAW (EMPL)

EMPL 4920 Advanced Employment Discrimination (2)

First passed in 1990, and later amended in 2008, the Americans with Disabilities Act (ADA) is the central piece of legislation advancing civil rights for persons with disabilities in the United States, on a national scale. In this course, we will learn about the major sections of the ADA (also known as "Titles"), and about the key concepts embodied in the legislation, and created through subsequent federal court cases. Our primary focus is the application of the ADA in private and public employment, although we will also more briefly review the application of the ADA in other spheres. Topics include, but are not limited to: definition of disability, definition of employer, prohibited acts, reasonable accommodation, qualified individuals, essential job functions, substance abuse, defenses to the charge of disability discrimination (including direct threat, undue hardship, and fundamental alteration), the Equal Employment Opportunity Commission, and interactive process.

EMPL 5000 Developing & Manage Workforce (2)

Human resources (HR) management can be defined as the effective use of human capital in an organization through the management of people-related activities. It involves leadership, values, workforce planning, recruitment and selection, training and compensation, and performance evaluation and management. HR also significantly influences the corporate culture and values/mission of the company. To thrive in a competitive business environment, organizations need more than just strategic plans in place. They need the right talent to implement those plans. Those who manage human resources—not just HR departments, but all managers—have a critical task in front of them. They have to identify, recruit and retain employees who have both the skill sets and determination to effectively implement strategic objectives in their individual departments, so the business plan succeeds as a whole. In this course, you'll learn to align workforce management with the overall strategic goals of the business and how to navigate the opportunities and pitfalls that can arise from that challenge. You'll also learn results-based strategies for finding, motivating and rewarding individual employees as well as successful work teams. With the skills developed through this course and through this master's program at Tulane, you can better position yourself to manage human resources responsibilities and find employees who will positively impact your company.

EMPL 5410 IP Issues in the Workplace (3)

Intellectual property issues arise in the employment context from the moment an employee is hired, whether a fulltime employee or an independent contractor. If employees create works—websites, inventions, newsletters, etc. within their job, additional issues will arise, both in terms of who owns the creations, but also what materials the employee is using to create those works. Copyrights, trademarks, trade secrets, patents, and right of publicity are implicated in the hiring and employing of both individuals and other companies. IP policies related to social media also are important to establish, both for the company in general, and individuals within the company, which should be communicated to employees in an effective way. Finally, situations come up where employees are using equipment at work to create afterhours creations, or are creating commercially viable creations at home. Human resources, in administering hiring documents both for employees and independent contractors should be aware of the legal issues that arise, as well as the policy behind the choices.

EMPL 5710 Intro to Labor Law Principles (3)

This course is designed to provide the students with a thorough understanding of the federal and state laws and regulations governing the relationship between the employer, employee and labor union. The material will be presented in a very practical way designed to focus on specific problems and issues that human resource professionals experience in dealing with organized and unorganized workforces and offer very specific and detailed instruction on the proper way to deal with these issues. The topics that will be examined include approaches toward a union organizing campaign, a union's request for voluntary recognition; creation of joint employer/employee advisory committees; the role of the NLRB and how to avoid and deal with unfair labor practice charges; proper and improper bases for discipline and discharge; lawful and unlawful responses to strikes, picketing, and sickouts; scope and approaches towards the duty to engage in collective bargaining with a union; methods of enforcing or modifying the terms of a collective bargaining agreement; impact of state right-to-work laws; union security agreements; and the use of arbitration and/or mediation as alternative methods of resolving contractual and statutory disputes.

EMPL 5800 Negotiating Skills (2)

Negotiation is a skill. This course sharpens those skills. It focuses on such matters as negotiation styles, emphasis on interests rather than positions, and psychological biases that hinder effective negotiations. Students will be instructed on the use of the negotiation tools and asked to complete negotiation exercises and then called upon to reflect on their experience. These exercises require the students to negotiate with each other. All of the students in the classroom sessions will discuss their experiences and receive input from the instructor.

EMPL 6000 Social Media Issues in Wkplace (3)

This course will look at legal issues arising out of social media, branding and advertising in the workplace. This includes the use of social media platforms by companies, the relationship between social media and employees, fan and gripe sites, and other issues arising from the use of social media. The course will examine key issues arising in the protection of a company's name, reputation and goodwill. This portion builds off of the introductory materials in the IP survey to think through practical and policy questions that arise within the workplace and, in particular, what HR may encounter. The course will also look at the National Labor Board, social media and hiring practices. The course covers social networking as well, including email, and monitoring computer and internet activities. The course looks at First Amendment issues related to social media, both by employees as well as the public. The course also looks at the issue of the right to be forgotten and the impact of this concept with regard to employees and former employees. The course explores questions of advertising, including puffery, verifiable facts, surveys, advertisements for employees, contests and other issues that arise within the workplace.

EMPL 6050 Sex & Gender Issues in Work (3)

This course will build on the employment discrimination course by delving into the particularities of human resources law as it relates to sex discrimination. The course will combine in-depth lectures and examinations of contemporary current events in this area with practical exercises and projects designed to prepare HR professionals for the complexities that may emerge for their employers under sex discrimination law. The course will cover pregnancy discrimination and accommodations in the workplace, personal appearance policies, sexual harassment, transgender persons in the workplace, and affirmative action/diversity in hiring. Each substantive module will be accompanied by a graded project designed to prepare students to aid in employer compliance and ensure positive employee relations. Pre-requisite: employment discrimination law.

EMPL 6100 Investigat Employee Complaints (2)

This course combines substantive law and practical exercises that students will discuss and work through during classroom sessions. The course will provide an overview of what the law requires when responding to employee complaints, what actions to take (or not take) and the various methods of alternative dispute resolution that may be necessary to resolve the matter. Students will apply knowledge gained from the lecture presentations and readings to analyze hypothetical situations involving employee complaints. These hypothetical scenarios will be built upon each week, giving students the opportunity to guide fictional companies all the way through the investigative process, including EEOC investigations, mediation and arbitration. Heavy emphasis will be placed on studying and understanding the arbitration process in particular.

EMPL 6400 Legal Analysis I (2)

Legal Analysis I is taught by Professor Jennifer Cooper. This foundational course introduces students to sources and functions of law in our society relating to labor and employment law. The course begins with an overview of the American legal system and sources of law and introduces students to statutory interpretation and plain language analysis. In Legal Analysis I, students will learn to read and interpret statutory law and regulations, read and brief cases, and develop basic legal writing and analysis skills. Students will also learn to find and research legal information through multiple short research assignments focusing on labor and employment law issues. Through multiple short writing assignments such as a case brief, an IRAC essay analyzing a statutory issue, and an e-memo interpreting statutory & regulatory law relating to a labor and employment law topic, students learn to apply statutes and regulations to analyze legal issues relating to labor and employment law.

EMPL 6401 Legal Analysis II (2)

This course builds on Legal Analysis I to introduce students to the relationship between enacted & administrative law and common law. The course continues instruction on legal research methods in finding and analyzing cases and common law. Students learn to read and synthesize multiple cases and learn analogical and policy-based reasoning. Through multiple short writing assignments, such as an e-memo analyzing a statutory issue with caselaw and a client letter, students learn to apply statutes, regulations, administrative materials, and caselaw to analyze complex legal issues relating to labor and employment law.

EMPL 6410 Introduction to Contract Law and Working with Contracts (2)

This course is intended to equip the non-legal business professional with skills to understand and work with written, negotiated business agreements. We will discuss fundamental principles and sources of contract law, but we will approach all aspects of the course from the practical perspective of transactional lawyers and business professionals who must work collaboratively to negotiate, draft, implement, and manage written business contracts. Students will learn how to translate business deal terms into contract provisions that achieve appropriate legal consequences and manage risk. Students will analyze different types of negotiated business agreements and provisions (with a focus on employment-related contracts) and learn contemporary commercial drafting techniques to manage risk, minimize ambiguity, and solve problems through effective drafting.

Prerequisite(s): EMPL 6400 and 6401.

EMPL 6460 Employment Law (2)

This course will provide students with an understanding of the legal underpinnings of the employer-employee relationship, including the employment-at-will doctrine which is the default setting for the relationship. The course will discuss the limits of the employment-at-will doctrine as well as common legal claims brought in the employment context. It will also explore issues such as privacy expectations of employees and the enforceability of covenants not to compete as well as laws impacting employee compensation and leave.

EMPL 6500 Employee Medical Leaves (2)

An employee comes to you with a doctor's note asking for time off from work. Sounds simple, right? Not really. That request could be covered by the Family and Medical Leave Act, the Americans with Disabilities Act, your state's workers' compensation law, your policies, and more. In this class you will learn how to navigate the often-overlapping legal requirements for medical leave and reinstatement issues. You will also learn how to discuss and document key decisions about the leave in a way that minimizes the risk of litigation.

EMPL 6510 Administrative Law (2)

The course explores the history, present status and nature of administrative agencies. The main emphasis is placed on administrative procedure, contrasting it with the judicial process, as well as constitutional limits on administrative action and the due process rights of persons who are adversely affected by agency action. Topics covered will include delegation of powers, the law of judicial review of agency actions, and procedural requirements of administrative rule-making and adjudication.

EMPL 6600 Privacy in the Workplace (2)

Privacy is a dynamic issue of concern in essentially every modern workplace. However, there is no comprehensive statute governing workplace privacy. Existing laws usually address (or marginally relate to) one discreet area of privacy law. Because privacy law is decentralized by nature, you must understand its general framework to properly address privacy questions that arise in the workplace. You must also be familiar with, or at least capable of referencing, a wide array of federal, state and local privacy laws. This course will cover both the general framework of privacy law and the most notable statutes addressing workplace privacy. The course begins with an overview of the origins and legal sources of privacy law. The course then covers specific areas of workplace privacy, including medical inquiries; background and misconduct investigations; monitoring and surveillance; honesty, psychological, drug and alcohol testing; medical and personnel records; off-duty conduct; employer information; and privacy tort claims. As to each topic, you will gain an understanding of governing legal standards and best practices through reading materials, examples, and when appropriate, checklists and sample policies.

EMPL 6910 Intro to Employment Discrimination (3)

This course is designed to provide students with a thorough understanding of all of the legal rules and concepts created by federal and state laws prohibiting discrimination on the bases of race, sex, age, disability, religion, sexual orientation, and national origin in a very practical way. The materials will be presented in a manner dedicated to enhancing the ability of present or future human resource professionals to deal with specific problems that continually arise in the workplace. Instruction will be directed towards providing advice on how to deal with and avoid problems in areas including racial and sexual harassment, religious accommodation, pregnancy and family leave, LBGT concerns, handling EEOC investigations, drafting personnel manuals, avoiding retaliation claims, mandatory and voluntary retirement, disability-based accommodation, and drug testing.

EMPL 6920 Introduction to Employee Benefits Law (2)

In this course we will examine the legal regulation of employee benefits with a focus on health care benefits, retirement benefits, employee stock options, and other employee welfare benefits. In addition to providing information about the legal operation of various types of employee benefits, we will also examine what such plans require in terms of fiduciaries and how these plans are to be regulated in the event of bankruptcy. The bulk of our engagement will be with the federal law. Throughout the course we will engage with the current legal and political frameworks, as well as legislative developments in this field and discuss where things are headed.

Prerequisite(s): EMPL 5710 and 6910.

EMPL 6990 Capstone Course (3)

This course is designed to build upon the doctrinal and practical and strategic knowledge and skills students have acquired during their first five semesters. Students will be assigned to groups of three or four so that they can gain experience in team building, group dynamics, and collegial decision-making. Each team will be required to negotiate a collective bargaining agreement with the course instructor who will provide the basic underlying materials and will represent the interests of the fictional labor union. Once that agreement has been executed, each student will be responsible for drafting each of the four additional projects: (a) a grievance and arbitration policy and procedure; (b) a personnel policy; (c) a sexual harassment policy and enforcement mechanism; (d) a drug testing policy and enforcement mechanism.

EMPL 9000 Immersion Weekend (0)

Students will need to attend at least one Immersion Weekend during their time in the program. These sessions are held every summer, so students can plan to attend during either their first or second year in the program, but the experience of prior students indicates that the session is most beneficial to those who attend in their first year. It is both an academic and networking opportunity for students to meet their classmates, professors, and other professionals working in the area of labor and employment law. The occasion will include a keynote speaker, lectures and workshops from industry experts, and a variety of social activities.