

GENETICS & THE LAW
Spring 2018
Syllabus and Course Policies

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I. Introduction

Welcome to Genetics & the Law! This semester, we will discuss a number of areas in which genetic technology intersects with the law. Specifically, the course will cover how genetic science relates to:

- (1) Patent Law
- (2) Privacy Law
- (3) Criminal Law
- (4) Public Health Law
- (5) Family Law
- (6) Antidiscrimination Law

I'm very excited to be your professor this term. As I want the class to be as engaging and as useful as possible, I encourage questions and welcome feedback. Please feel free to contact me with questions regarding the readings, your assignments, or just the course in general. I look forward to spending the semester with you!

II. Logistics

Required Text

LORI B. ANDREWS ET AL., GENETICS: ETHICS, LAW AND POLICY (4th ed. 2015) (abbreviated "CB" in reading assignments).¹

Class Hours

We will meet Mondays and Wednesdays, from 10:30-11:50 AM, in BLB-109.

Office Hours

I will hold office hours in my office on Wednesday from 12:00 PM to 2:00 PM and by appointment. You may also email me your questions.

¹ All additional reading assignments will be posted on Blackboard.

Course Policies

Accommodation:

If you have a disability and require an accommodation, I encourage you to contact the Center for Students with Disabilities and to forward the Center all required documentation if you've not done so already. I encourage you to speak to me as well. All students should let me know what I can do to maximize your learning potential, participation, and general access during this course. I want to make the course material accessible, and I want you to succeed as a student. If any aspects of the course or the assignments pose accessibility problems, we can discuss alternatives.

Attendance:

You are expected to attend all class sessions. Please see "Attendance and Preparedness" under the "Course Requirements" section. I will circulate a sign-in sheet every class. It is your responsibility to sign in. Falsifying attendance violates the Law Center's Honor Code and is, therefore, grounds for disciplinary action.

Seating Assignments:

After the first week of class, I will create a seating chart. You must sit in your assigned seat the remainder of the semester.

Course Website:

Please check Blackboard regularly for any updates related to our class. You can log on through the Access UH website (<https://accessuh.uh.edu/login.php>).

Learning Outcomes:

Over the course of the semester, students will: (1) familiarize themselves with the various areas of substantive law that intersect with genetic science; (2) engage in legal analysis and reasoning across those areas; (3) think critically about how new advances in genetic science will affect the law and identify the potential challenges those advances may create; (4) engage in creative problem-solving regarding how the law should best respond to those challenges.

III. Assessment Methods

This course has four key requirements: (1) preparing for and attending class sessions; (2) participating in ***at least two*** discussion panels; (3) ***three*** brief response papers (graded for completion); and (4) a take-home exam. Although your grade is based primarily on the take-home exam, failing to complete any of these four requirements will make you ineligible for an A in the course and could otherwise result in a further reduction in your grade.

- (1) **Attendance and Preparedness.** You are expected to arrive on time and prepared for all of our class sessions. Pursuant to the Law Center's policy, you must attend at least 80% of all class meetings; however, you should strive to attend 100%. In other words, you can miss no more than five classes. Missing more than five classes will result in your being dropped from the course.

- (2) **Class Participation.** To facilitate our class discussion, we will use discussion panels in lieu of an on-call system.² You must sign up for at least two discussion panels. You will sign up for your panels using an on-line tool called “Sign Up Genius.” Before our first class, you should receive an email invitation to sign up. The web address is: <http://www.signupgenius.com/go/10c0945a4a82ea5f58-discussion4>. Please let me know if you don’t have access. If you do not sign up for the required number of panels by **Friday, January 26**, I will randomly assign you to under-enrolled panels. On the days of your panels, you should have prepared extensively for class and should expect to be called on. I will email the class a list of the panel members and a series of four to six discussion questions the day before our class meeting. Members of the discussion panel will be my “go-to” people for that day; however, I reserve the right to call on any member of the class. Students with outstanding participation will be eligible for an upward adjustment of a partial letter grade (e.g., from a B to a B+, or from a B+ to an A-).
- (3) **Brief Responses.** You will write three brief responses of *one to two pages*, due at roughly five-week intervals throughout the semester. (Please consult the syllabus for specific dates.) Each response should relate to one of the topics discussed in the preceding five weeks of class. While you should indicate when you reference the ideas of others by including author names and source titles, you do not need to footnote or bluebook these papers. Please bring a hard copy of your response with you to class the day it is due. Failure to turn in one of the three brief responses will result in a reduction of a partial letter grade.³ I will not accept late work, so if you have to miss class, please make other arrangements for turning in your response to ensure you receive credit. The brief responses should build off the reading and/or class discussion. A good response will raise a new insight or point out a complication in the law that warrants further inquiry. As with class participation, students who write outstanding brief responses will be eligible for an upward adjustment of a partial letter grade.
- (4) **Take-Home Exam.** Finally, you will complete a take-home exam, distributed on our last day of class and due to the Law Library by **5:00 PM on Friday, May 4**. The exam will consist of a brief section of multiple choice and/or true-false-explain questions (or a combination of the two) and two brief essays. (Given the diversity of the subject matter we cover, I will give you five prompts from which to choose.) Please use your exam number and not your name. During the exam you may consult three things: (1) your casebook, (2) any additional course reading, and (3) your outline and notes. Please do not do outside research. Collaboration is strictly forbidden and will result in disciplinary action. More details regarding the exam format and content will be discussed as the exam date approaches.

² By allowing you to choose when you are on-call, you can select topics that are of particular interest to you, as well as the timing that best suits your needs. For example, those of you who do not like speaking in class might choose to schedule your discussion panels for earlier in the semester to get them out of the way. Please choose your panels carefully because once the panels are set, they cannot be changed.

³ The brief responses are graded for completion, not for substance. However, if you turn in a brief response on time that fails to qualify for the completion credit, I will give you the opportunity to revise it.

IV. Course Reading

These reading assignments are subject to change based on the pace of our discussion. I will announce any changes in class, over email, and on Blackboard.

I. Historical & Scientific Background of Genetics & Genomics

Week One—Introduction to Course Concepts

January 15

NO CLASS

January 17

SNOW DAY

Week Two—Introduction to Course Concepts

January 22

Syllabus

Introduction, CB pp. 1-17

Dialogue Between Parent and Daughter, Excerpt from BRUCE ACKERMAN,
SOCIAL JUSTICE IN THE LIBERAL STATE (1980)

Sandra Soo-Jinn Lee, *American DNA: The Politics of Potentiality in a Genomic Age*, 54 CURRENT ANTHROPOLOGY S77 (Supp. 2013)

Cracking Your Genetic Code (in class)

II. Genetics & Patent Law

Week Two (cont'd)—Introduction to Patent Law

January 24

Introduction to the Law of Gene Patents, CB pp. 129-49

Week Three—Should Genetic Information be Patentable?

January 29

Effect on Patients, CB pp. 158-78

January 31

Duke v. Madey

Rebecca S. Eisenberg, *Patents and the Progress of Science: Exclusive Rights and Experimental Use*, 56 UNIV. CHI. L. REV. 1017, 1017-21, 1066-86 (1989)

III. Genetics & Privacy Law

Week Four—Protecting Privacy

February 5

Genetic Privacy & Confidentiality, CB pp. 671-83, 689-92
Privacy Survey Data (1998)
Public Opinion (2007)
Gina Kolata, “*Devious Defecator*” *Case Tests Genetics Law*, N.Y. TIMES, May 29, 2015

February 7

Scientific and Historical Background, CB pp. 21-43
Guest Lecture: Christi Guerrini, Assistant Professor of Biomedical Ethics at Baylor College of Medicine

Week Five—Incidental Findings & Genetic Stalking

February 12

C.P. Schaaf et al., *Identification of Incestuous Parental Relationships by SNP-Based DNA Microarrays*, 377 THE LANCET 555 (2011)
Guest Lecture: Daryl Scott, Associate Professor of Molecular and Human Genetics at Baylor College of Medicine

February 14

Genetic Stalking, CB pp. 700-702, 704-708
Martin Smith, *Honey Trap Plot to Hire Beauty to Snatch a Lock of Hair from Harry*, MAIL ON SUNDAY, Dec. 15, 2002, at 3
Andres D’Alessandro & Chris Kraul, *Argentina Tries to Uncover ‘Dirty War’ Orphans*, L.A. TIMES, June 9, 2010
Sonia M. Suter, *From Sweaty Towels to Genetic Stats: Stalking Athletes for Their Genetic Information*, 6 RECENT PATENTS ON DNA & GENE SEQUENCING 189 (2012)
Elizabeth E. Joh, *DNA Theft: Recognizing the Crime of Nonconsensual Genetic Collection and Testing*, 91 BOSTON UNIV. L. REV. 665, 682-700 (2011)

****FIRST BRIEF RESPONSE DUE WEDNESDAY FEBRUARY 14, IN CLASS****

IV. Genetics & Criminal Law

Week Six—Collecting, Testing, & Storing DNA Evidence

February 19

Admissibility & Reliability of DNA Evidence, CB pp. 553-72
Andrew Pollack, *Building a Face, & a Case, on DNA*, N.Y. TIMES, Feb. 23, 2015

February 21

Obtaining DNA Samples, CB pp. 572-81
(cont'd on next page)

Brendan I. Koerner, *Your Relative's DNA Could Turn You into a Suspect*,
WIRED.COM, Oct. 13, 2015
Constitutionality of DNA Databanks, CB pp. 591-607

Week Seven—Forensic Genetic Research & Exculpatory DNA Evidence

February 26

Post-Conviction DNA Testing, CB pp. 581-91
Judge Says Texas Man Should Be Exonerated in Rape, SALON, July 25, 2014
60 Minutes: Evidence of Innocence (in class)

February 28

*Guest Lecture: Roger Kahn, Crime Laboratory Director, Harris County Institute
of Forensic Sciences*

V. Genetics & Public Health Law

Week Eight—Introduction to Public Health Genetics & Newborn Screening

March 5

Public Health Genetics, CB pp. 445-50
ALISON STEWART ET AL., GENETICS, HEALTH CARE, AND PUBLIC POLICY: AN
INTRODUCTION TO PUBLIC HEALTH GENETICS 1-9 (2007)
Jane L. Halliday et al., *Genetics and Public Health—Evolution or Revolution?*, 58
J. EPIDEMIOLOGY & COMM. HEALTH 894 (2004)

March 7

Newborn Screening, CB pp. 451-79
DNA Data from Newborn Samples Stored, Sold to Third Parties (in class)

****SECOND BRIEF RESPONSE DUE WEDNESDAY MARCH 7, IN CLASS****

Week Nine—Spring Break

March 12

NO CLASS

March 14

NO CLASS

VI. Genetics & Family Law

Week Ten—Issues in Paternity

March 19

Determining Paternity, CB pp. 515-33
TEX. FAM. CODE § 161.005
(cont'd on next page)

Mistaken Paternity Hits Southeast Texas (in class)
New Law Gives Men Chance to Fight Mistaken Paternity (in class)

March 21

Unanticipated Misattributed Paternity, CB pp. 347-48, n. 3
KAREN H. ROTHENBERG & LYNN WEIN BUSH, *THE DRAMA OF DNA* 77-79 (2014)
Marissa Palmor & Autumn Fiester, *Incidental Findings of Nonparentage: A Case for Universal Nondisclosure*, 134 PEDIATRICS 163 (2014)

Week Eleven—Adoption & Sperm Donation

March 26

Adoption, CB pp. 536-46
Cesnik v. Edgewood Baptist Church
In Re Valerie W. v. Greg W.

March 28

Reproductive Technology, CB pp. 248-60
Sperm Donor Profile
Pacific Reproductive Services Catalog
California Cryobank Catalog
Sperm Donor: 74 Kids & More (in class)

Week Twelve—Assisted Reproduction

April 2

Assisted Reproduction, CB pp. 260-72
In Re Marriage of Buzzanca
K.M. v. E.G.

April 4

NO CLASS

Week Thirteen— Genetic Citizenship

April 9

Immigration, CB pp. 533-36
Jonathan Pearlman, *Biological Parents Are ‘Morally Responsible’ for Abandoned Baby, Say Australian Officials*, THE TELEGRAPH, Aug. 3, 2014
Anna Christiansen, *Abandoned Baby Tests International Laws of Citizenship and Parenthood*, PBS NEWSHOUR, Aug. 4, 2014
Andrew Tillet, *Surrogacy Risks Grow as Nations Get Tough*, THE WEST AUSTRALIAN, Oct. 19, 2015
Michael Sullivan, *A Thai Surrogacy Case, With A 6-Month-Old Girl Caught In The Middle*, NPR, July, 21, 2015 (in class)

VII. Genetics & Antidiscrimination Law

Week Thirteen—History & Theory of Genetic Information Discrimination

April 11

Eugenics, CB pp. 43-70
Matthew Burns, *Hundreds of Eugenics Victims Lose Initial Compensation Bid*,
WRAL.COM, Aug. 8, 2014
David Carlson et al., *Devaluing People with Disabilities*, NAT'L DISABILITY RTS
NETWORK REPORT 42 (2012)
War on the Weak (in class)

April 13 (Friday Make-Up, TUII 240)

Genetic Difference, CB pp. 702-704
Introduction to Genetic Discrimination, CB pp. 764-68
James C. Wilson, *Disability and the Human Genome*, in THE DISABILITY STUDIES
READER 52-62 (3d ed. 2010)
Jessica L. Roberts, *The Genetic Information Nondiscrimination Act as an
Antidiscrimination Statute*, 86 NOTRE DAME L. REV. 597, 623-34 (2011)

Week Fourteen—Discrimination in Health Insurance & Employment

April 16

Discrimination Handouts
Health Insurance, CB pp. 711-35

April 18

Employment, CB pp. 769-92
Jessica L. Roberts, *The Genetic Information Nondiscrimination Act as an
Antidiscrimination Statute*, 86 NOTRE DAME L. REV. 597, 634-41 (2011)

****THIRD BRIEF RESPONSE DUE WEDNESDAY APRIL 18 IN CLASS****

VIII. Review of Course Concepts

Week Fifteen—Exam Review, Gattaca, & Take-Home Exam Distribution

April 23

Exam Review
Sample Exam

April 25

Gattaca (1997) (in class)
Take-Home Exam Distributed

****TAKE-HOME EXAM DUE TO LIBRARY FRIDAY, MAY 4, AT 5:00 PM****