I. Introduction

Welcome to Disabilities and the Law! This semester, we will explore the rights and protections allocated to people with disabilities in both public and private life. Specifically, the course will cover:

(1) The Social Meaning of “Disability”
(2) Constitutional Protections for People with Disabilities
(3) Federal Statutory Protections for People with Disabilities

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 Texts**

SAMUEL BAGENSTOS, DISABILITY RIGHTS LAW: CASES AND MATERIALS (2d ed. 2013) ("CB" in reading assignments).

**Class Hours**

We will meet Tuesdays and Thursdays, from 2:30-3:50 PM, in 3 BLB.

**Office Hours**

I will hold office hours in my office on Thursday from 12:00 PM to 1:00 PM and by appointment. You may also email me your questions.
**Course Policies**

*Accommodation and Psychological Services:*

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.

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html.

*Attendance:*

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

*Course Website:*

All non-casebook reading appears on Blackboard. I will also post supplemental materials and reviews. 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 various areas of federal disability law; (2) engage in legal analysis and reasoning across those areas; (3) think critically the possible need for reform.

**III. Assessment Methods**

This course has three key requirements: (1) preparing for and attending class sessions (including turning in exercises when assigned); (2) participating in at least four discussion panels; and (3) completing a three-hour exam.

(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 (Discussion Panels).** To facilitate our class discussion, we will
use discussion panels in lieu of an on-call system. You must sign up for at least **four** discussion panels. You will sign up for your panels using an on-line tool called “Sign Up Genius.” Before the first week of class, you should receive an email invitation to sign up. The web address is: https://www.signupgenius.com/go/10c0945a4a82ea5f58-discussion6. 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 25**, 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) **Exam.** Finally, you will complete a three-hour exam, which will consist of a combination of issue-spotting and policy questions. During the exam you may consult three things: (1) your casebook, (2) any printed course reading and materials (including PowerPoint reviews), and (3) your course notes. More details regarding the exam format and content will be discussed as the exam date approaches.

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1 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.
IV. Course Reading

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

I. Introduction to Course Concepts

**Week One—Theoretical & Historical Contexts**

**January 15**
  - *War on the Weak* (in class)

**January 17**
- *Buck v. Bell* (CB, pp. 378-81)
- Introduction to Disability Rights (CB, pp. 1-8)

**Week Two—Defining Disability**

**January 22**
- What is a Disability? (CB, pp. 9-10)
- ADA Definition
- IDEA Definition
- ADAAA (CB, pp. 33-43)
- IDEA (CB, pp. 52-63)

**January 24**
- *Guest Lecture: Lex Frieden, Professor at UT Health Science Center, Director of Independent Living Research Utilization & Southwest ADA Center, Disability Rights Advocate & Activist*

**Week Three—Constitutional Foundations**

**January 29**
- Equal Protection (CB, pp. 382-96)

**January 31**
- Substantive Due Process (CB, pp. 396-406; 419-22 (skip note 4))
II. Disability and Employment

Week Four—Reasonable Accommodation & Qualified Individual

February 5
Reasonable Accommodation
Discrimination
Reasonable Accommodation (CB, pp. 65-83)

February 7
Qualified Individual
Qualification Standards vs. Qualified Individual (CB, pp. 107-28)

Week Five—Qualified Individual (cont’d) & Defenses

February 12
Judicial Estoppel (CB, pp. 128-34)
Illegal Use of Drugs and Alcohol
Drug & Alcohol Use (CB, pp. 134-40)

February 14
Defenses (subsections a-c)
Direct Threat (CB, pp. 140-59)

III. Disability and Government Services

Week Six—Statutory Overview & Introduction to the Access/Content Distinction

February 19
Definitions
Alterations of Existing Facilities
Coverage (CB, pp. 185-205)
Remedies (CB, pp. 371-78)

February 21
Basic Access/Content Distinction (CB, pp. 205-15)

Week Seven—Access/Content Distinction (cont’d)

February 26
Basic Access/Content Distinction (cont’d) (CB, pp. 215-36)

February 28
Applying the Distinction (CB, pp. 259-79)
IV. Disability and Public Access

Week Eight—Introduction to Title III & the Fair Housing Act
March 5
Coverage (CB, pp. 457-74)
Discrimination (subsection a)

*In-Class Exercise: Title III Accessibility Checklist*

March 7
New & Modified Facilities (CB, pp. 474-95)
Accessibility Requirements
Facilities

Week Nine—Spring Break
March 12
NO CLASS

March 14
NO CLASS

Week Ten—Physical Accessibility (cont’d) & Reasonable Modification
March 19
Readily Achievable
Existing Facilities (CB, pp. 495-501)
Discrimination (subsection f(3))
Physical Accessibility Under FHA (CB, pp. 509-15)

March 21
Reasonable Modification (subsection b(2)(A)(ii))
Reasonable Modification (CB, pp. 515-29, 539-42)

March 22 (Friday Make-Up)

*Guest Lecture: Lex Frieden, Professor at UT Health Science Center, Director of Independent Living Research Utilization & Southwest ADA Center, Disability Rights Advocate & Activist*

Week Eleven—Procedural Requirements & Serial Litigation
March 26
Standing & Pleading Requirements (CB, pp. 564-83)

March 28
Notice & Serial Litigation (CB, pp. 583-610)
V. Disability and Education

Week Twelve—FAPE Requirement
April 2
Free Appropriate Public Education
FAPE (CB, pp. 639-59)

April 4
Endrew F. v. Douglas County School District

Week Thirteen—LRE & Related Services
April 9
Least Restrictive Environment
Least Restrictive Environment & Integration Presumption (CB, pp. 659-74)
Related Services
Related Services (CB, pp. 674-84)

April 11
NO CLASS

Week Fourteen—Procedural Requirements
April 16
NO CLASS

April 18
“Individualized Family Service Plan and the Individualized Education Program,”
in *EVERYDAY LAW FOR INDIVIDUALS WITH DISABILITIES* 49-55 (2006)
Procedures & Remedies (CB, pp. 740-60)

Week Fifteen—Obtaining Relief
April 23
Ellenberg v. New Mexico Military Institute
Fry ex rel. E.F. v Napoleon

April 25
Exam Review

Final Exam
May 2, 2:00-5:00 PM