DISABILITIES & THE LAW
Summer Mini 2017
Syllabus and Course Policies

“If I want to go to vote or use the library, and these places are inaccessible, do I need a doctor or a lawyer?” – Simi Linton

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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
(4) International Legal 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).

Recommended Text
RUTH COLKER & ADAM A. MILANI, EVERYDAY LAW FOR INDIVIDUALS WITH DISABILITIES.¹

¹ The authors wrote this book as a practical guide for non-lawyers who might have legal claims. It is very straightforward and easy to read, so if you find yourself having difficulty with a particular area of the course, you might want to read the corresponding section in this book. I have put a copy on reserve in the Law Library.
Class Hours
We will meet M/T/W/Th, from 1:00-4:05 PM, in 209 BLB.

Office Hours
I will hold office hours in my office Thursday 4:05-5:30 PM and by appointment.

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 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:
I will post any readings not found in our course books on Blackboard. You can log on through the UH website (http://www.uh.edu/blackboard/). If you have difficulty accessing Blackboard, please contact IT immediately. The Student Support number is 713-743-1411.

III. Course Requirements

This course has three key requirements: (1) preparing for and attending class sessions (including turning in exercises when assigned); (2) participating in at least three 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 two full classes. Missing more than two 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. 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
three 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: http://www.signupgenius.com/go/10c0945a4a82ea5f58-discussion3. Please let me know if you don’t have access. If you do not sign up for the required number of panels by Friday, May 19, 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 eight to ten 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 and statutory supplement, (2) any printed additional 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.

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. Meaning of Disability & Constitutional Rights

May 15

What is a Disability? (CB, pp. 9-10)  
ADA Definition (Supplement, pp. 120-22)  
IDEA Definition (Supplement, p. 6)  
Lennard J. Davis, Constructing Normalcy, in THE DISABILITY STUDIES READER 1-12 (3d ed. 2010)  
Ani B. Satz, Overcoming Fragmentation in Disability & Health Law, 60 EMORY L.J. 277, 304-14 (2010)  
War on the Weak (in class)

BREAK

Buck v. Bell (CB, pp. 378-81)  
(readings continued on next page)
Introduction to Disability Rights (CB, pp. 1-8)

May 16
Equal Protection (CB, pp. 382-96)
Substantive Due Process (CB, pp. 396-406; 419-22 (skip note 4))

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

II. Disability and Employment

May 17
“Reasonable Accommodation” (Supplement, p. 124)
“Discrimination” (subsections a & b) (Supplement, pp. 125-26)
Reasonable Accommodation (CB, pp. 65-83)

BREAK
Definition of “Qualified Individual” (Supplement, p. 124)
Qualification Standards vs. Qualified Individual (CB, pp. 107-28)

May 18
Judicial Estoppel (CB, pp. 128-34)
“Illegal Use of Drugs and Alcohol” (Supplement, pp.130-32)
Drug & Alcohol Use (CB, pp. 134-40)

BREAK
“Defenses” (subsections a-c) (Supplement, pp.128-29)
Direct Threat (CB, pp. 140-59)

III. Disability and Government Services

May 22
“Definitions” (Supplement, p. 133)
“Alterations of Existing Facilities” (Supplement, p. 142)
Coverage (CB, pp. 185-205)
Remedies (CB, pp. 371-78)

BREAK
Basic Access/Content Distinction (CB, pp. 205-15)
May 23  
Basic Access/Content Distinction (cont’d) (CB, pp. 215-36)  
BREAK  
Applying the Distinction (CB, pp. 259-79)  

IV. Disability and Public Access  

May 24  
Coverage (CB, pp. 457-74)  
“Discrimination” (subsection a) (Supplement, pp. 157)  
*In-Class Exercise: Title III Accessibility Checklist*  
BREAK  
New & Modified Facilities (CB, pp. 474-95)  
“Facilities” (Supplement, pp. 161-62)  
Accessibility Requirements for Stadium Seating  

May 25  
“Readily Achievable” (Supplement, pp. 156-57)  
Existing Facilities (CB, pp. 495-501)  
“Discrimination” (subsection f(3)) (Supplement, pp. 93-94)  
Physical Accessibility Under FHA (CB, pp. 509-15)  
BREAK  
“Reasonable Modification” (subsection b(2)(A)(ii)) (Supplement, p. 159)  
Reasonable Modification (CB, pp. 515-29, 539-42)  

May 29  
NO CLASS (MEMORIAL DAY HOLIDAY)  

May 30  
Standing & Pleading Requirements (CB, pp. 564-83)  
BREAK  
Notice & Serial Litigation (CB, pp. 583-610)  
Ryan Huff, *Judge Reprimands Plaintiff Over ‘Hit and Run’ ADA Lawsuits*,  
TRIBUNE, Feb. 8, 2005 (optional)  

V. Disability and Education  

May 31  
IDEA Definition (Supplement, p. 6)  
IDEA (CB, pp. 52-63)  
(reading continued on next page)
“Free Appropriate Public Education” (Supplement, pp. 7-8)
Endrew F. v. Douglas County School District

BREAK

“Least Restrictive Environment” (Supplement, p. 17)
Least Restrictive Environment & Integration Presumption (CB, pp. 659-74)
“Related Services” (Supplement, p. 12)
Related Services (CB, pp. 674-84)

June 1

“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)

BREAK
Ellenberg v. New Mexico Military Institute
Fry ex rel. E.F. v Napoleon

Final Exam
June 3, 1:00-4:00 PM