

Gender, Sexuality & the Law
Spring 2011
Professor Ann Tweedy
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I. ABOUT THIS COURSE

This course will examine how sex, gender, and sexuality are understood in our society and will look at how these classifications impact a person's legal and social status. Students will study a combination of theory, particularly feminist theory, and blackletter law. In addition to looking at the evolution of the notion of sex discrimination and the emerging discrimination protections for LGBT persons, we'll look at the construction of sexuality, gender, and sex in society and examine how those constructions impact the law, paying particular attention to those who may fall through the cracks of current definitions.

II. MEETING TIME AND PLACE

Tuesdays and Thursdays: 1:00-2:15, Room 100.

III. OFFICE HOURS

TBA

V. COURSE REQUIREMENTS

The main two requirements for the class are a final paper (worth 75% of your grade) and a presentation based on your research for the paper. The presentation and class participation combined will be worth 25% of your grade. The paper should be approximately 25 pages and will be due at the end of the exam period. There will be a deadline for selection of a paper topic towards the middle of the semester, and I ask that you make an appointment to discuss the proposed topic with me before the deadline.

I may also assign informal written exercises during the course of the class. These will count as part of class participation.

Additionally, I will ask students to take turns bringing in discussion questions based on the readings for each class. These questions will help guide us toward meaningful class discussion and will ensure that all students have a stake in the content of discussions.

IV. CLASS PARTICIPATION AND ATTENDANCE

Class participation is particularly important in a class of this size and regular class participation is expected. Participation in, and facilitation of, class discussion, thorough preparation, punctuality, and attendance all count as part of class participation, as does completion of any class exercises. Additionally, disruptions such as unrelated laptop use, frequent lateness or absence, or talking in class negatively impact assessments of class participation.

If you have special circumstances that affect your participation, please let me know so that we can arrange for special accommodations.

You are required to abide by the Law School's attendance policy and cannot miss more than four classes.

V. TEXTS

- (1) Eskridge and Hunter, *SEXUALITY, GENDER, & THE LAW* (3d ed., Foundation Press 2011)
- (2) Martha Chamallas, *INTRODUCTION TO FEMINIST LEGAL THEORY* (2d ed., Aspen 2003)
- (3) Other articles as indicated in the Syllabus

VI. TWEN

A TWEN page will be set up for this course. You will receive the password on the first day of class.

VII. ASSIGNMENTS

The first few assignments are below. Other topics we will cover include: Feminist Theory in the '90s and Beyond; Sexual Orientation Discrimination; Discrimination Based on Transgenderism, Post-*Lawrence* Regulation of Sexual Conduct; Marriage Equality; Sexual Harassment; Polyamory; and Bisexuality.

Class #1: Introduction

Chamallas, pp. 1-22

Patricia A. Cain, *Litigating for Lesbian & Gay Rights: A Legal History*, 79 VA. L. REV. 1551 (1993), pp. 1151-1589 (available on HeinOnline)

Class #2: Pre-Lawrence Approaches to, and Significance of, Sodomy Laws

Patricia A. Cain, *Litigating for Lesbian & Gay Rights: A Legal History*, 79 VA. L. REV. 1551 (1993), pp.1589-1641

Eskridge and Hunter, pp. 30-53 (skip Problem 1-2 on pages 32-33)

Class #3: The Equality Stage of Feminist Theory and Early Sex-Based Equal Protection Cases

Chamallas, pp. 23-38

Eskridge and Hunter, pp. 66-77

David Cole, *Strategies of Difference: Litigating for Women's Rights in a Man's World*, 2 L & INEQ. 33 (1984), pp. 53-65 (available on HeinOnline)

Class #4: The Difference Stage of Feminist Theory and Pregnancy Discrimination

Chamallas, pp. 39-62; 65-72

Eskridge and Hunter, pp. 607-622