

**Seminar in Gender, Sexuality & the Law
Spring 2014**

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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

Thursdays: 2:30-4:40, Room 4

III. OFFICE HOURS

TBA

No appointment is needed to stop in during regular office hours. If you can't make the regularly scheduled office hours, please make an appointment to see me by emailing, calling, or scheduling one in person.

V. COURSE REQUIREMENTS

Course Requirements include submission of your paper topic, a research paper of approximately 25 pages (both a draft version and a final version are required and the paper should be a minimum of 23 pages and a maximum of 30 pages), posting a discussion question on TWEN relating to the reading every other week for classes 2-8, and regular class participation and attendance.

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 and participation in the Writing Workshop. Posting of Discussion Questions every other week is also part of class participation. 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 two classes.

V. DISCUSSION QUESTIONS

To facilitate fruitful discussion in class and to include as many students' voices in the class as possible, I'm asking that you post on TWEN one discussion question about the reading every other class for classes 2 through 8. This question should be about some part of the reading that you find interesting and about which you would like to hear others' thoughts. I'll let you know after the first class whether you should post your questions for odd or even numbered classes. There will be a Discussion Question Forum on TWEN, and I'll post something like "Class 2 Discussion Questions" as a forum topic for each class. You can then post your question as a reply. Discussion are due by **10 am** the day of class. Posting your discussion questions counts toward class participation.

VI. GRADE BREAKDOWN

30% of your grade will be based on class participation and your presentation.

10% will be based on the Full Draft.

60% will be based on your Final Draft.

VII. TEXTS

- (1) Eskridge and Hunter, *SEXUALITY, GENDER, & THE LAW* (3d ed., Foundation Press 2011)
- (2) Martha Chamallas, *INTRODUCTION TO FEMINIST LEGAL THEORY* (3d ed., Aspen 2013)
- (3) Other articles as indicated in the Syllabus

VIII. TWEN

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

IX. ASSIGNMENTS

The first few assignments are listed below. **Other topics** we will cover include: Sexuality at Work; Gender Atypicality; Discrimination Based on Transgenderism; and Sexual Harassment.

Class 9 will be a Writing Workshop. Classes 10-13 will consist of student presentations and related discussion. The reading assignments on those days will be the drafts of the students who are presenting, and you should be prepared to offer comments on every draft.

_____A paragraph describing your paper topic is due by the beginning of class on **February 8**. The full draft is due **March 28 at 5 pm**. Full drafts should be complete or near complete, grammatically sound, organized drafts of at least 18 pages. The final draft is due Saturday **May 10 at 5 pm**.

Class #1: (a) Introduction & (b) Pre-Lawrence Approaches to, and Significance of, Sodomy Laws

Chamallas, pp. 1-32;

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

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

Class #2: (a) The Equality Stage of Feminist Theory & Sex-Based Equal Protection Cases, & (b) The Difference Stage of Feminist Theory and Pregnancy Discrimination

Chamallas, pp. 33-89;

Eskridge and Hunter, pp. 607-622; 66-90;

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 #3: (a) Equal Protection & Sexual Orientation Discrimination & (b) *Lawrence v. Texas I*

Eskridge & Hunter, pp. 90-121, 197-221;

David W. Austin, *Public International Law: Sexual Orientation and Gender Identity*, 47 INT'L L. 469 (2013) (please download from Westlaw or Lexis).

Class #4: (a) *Lawrence v. Texas II* & (b) Marriage Rights

Eskridge & Hunter, pp. 221-244, 311-330, 365-376;

U.S. v. Windsor, 133 S. Ct. 2675 (2013) (download from Westlaw or Lexis).

Class #5: Bisexuality

Kenji Yoshino, *The Epistemic Contract of Bisexual Erasure*, 52 STAN. L. REV. 353, 353-434, 458-461 (2000) (please download from Westlaw or Lexis);

Elizabeth Glazer, *Sexual Reorientation*, 100 GEO. L.J. 997 (2012);

San Francisco Human Rights Commission LGBT Advisory Committee, *Bisexual Invisibility: Impacts and Recommendations*, pp. 1-19 (to be available on TWEN);

Brent Chamberlain, "Bisexual People in the Workplace: Practical Advice for Employers" (Stonewall UK) (to be available on TWEN).