The law has not always been friendly to people with disabilities – quite the opposite. It was once legal to force “feeble-minded” people to be involuntarily institutionalized and sterilized. In addition, many American cities used to have “ugly laws,” making it illegal for a person who was “…diseased, maimed or mutilated or in any way deformed…to expose him or herself to public view.”

As society has evolved, so has the law. The *Americans with Disabilities Act* and other landmark legislation have done much to provide equality and a level playing field for this ever-expanding population. But there is still a large gap between the legal requirements and reality. This course will therefore focus on two (often competing) themes:

- The statutes, regulations and caselaw, and
- How it works in the real world.

To that end, we will have traditional class discussion and reading assignments but will also draw heavily on our own experiences: Professor Russon worked for the Oregon Bureau of Labor & Industries for 30 years, investigating civil rights cases and conducting seminars throughout Oregon on employment law. Professor Hunt has litigated many cases involving employment rights, the most notable being a seminal Supreme Court case (*Albertson’s, Inc. v. Kirkingburg*) that is in our textbook.

We are committed to bringing the “real world” into the classroom as much as possible, and to that end we will bring in attorneys who work with disability laws **on a regular**
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basis. We will also conduct “moot court” exercises in class, with students playing the roles of plaintiff and defense attorneys in assigned cases.

Course Requirements

Midterm
There will be an in-class, closed-book midterm on October 13. This midterm will cover all the material up through October 6.

Paper
You are also required to submit a written paper on an area or areas of disability law. The paper must be between 15 – 18 pages in length (double-spaced, 12” font, one-inch margins on all sides). Please include footnotes in your page count.

The paper is due by 5 pm on November 10. Please submit two copies - an online Word document and a hard copy. You are also required to present your paper to the class and answer questions about your focus, your research, any thoughts about legal trends, etc. The last two classes (November 10 and 17) will be devoted mostly to these in-class presentations. You are welcome to present a written outline to accompany your presentation, but we will not have time for anything more complex (like a PowerPoint presentation). We recommend that your outline not be any longer than two pages.

Although we are happy to brainstorm with you and help you develop your research strategy, you will make the decision about your paper topic. We will cover several fascinating areas of disability law in this course, and our experience is that students don’t have a problem figuring out a topic…the challenge is often whittling the subject down to a manageable level.
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The only limitation is that if you choose to write about disability in employment, please limit your focus to some area where there is an existing conflict among the courts or in some other legal arena. (For example, one of the best papers we’ve read involved conflicts in the circuits about whether employers were required to give leave time as a reasonable accommodation). We are limiting the range of topics in employment because we will spend a lot of time on this subject during the first half of class, and you will get a more complete perspective if you focus on something different for your paper.

Many students choose to create one or more hypothetical situations to write about, while others prefer to just write a generic article about a topic or topics. In the past, students have written about accessible transportation, going to court, participating in public programs, getting medical treatment, dealing with zoning and going to college. We suggest that you look for something that genuinely interests you, and we are sure you will not have any trouble finding it.

Everyone must have at least two Zoom meetings with us during the semester. The purpose is to answer questions you may have about the class, as well as discuss and help develop your paper topic. The first of these meetings must take place before October 7, 2021. Professor Russon’s office hours are from 2 pm to 5 pm on Wednesdays, and we anticipate that the easiest thing will be to schedule your meetings at that time. If that doesn’t work, however, we’ll be happy to figure out another time to meet. Feel free to start scheduling your meetings as soon as you like.

A word about type ohs: We our vary a wear that we were knot hired two teach you grammar and spelling. Are dilemma, however, is that if we ignore these issues on yore papers, we are knot giving you a realistic view of how yore righting might bee scene in the future, bye others who are far more consequential too your career than are selves. Sew wee will give you feedback on your miss takes, and pleas remember that many of the most embarrassing air oars cannot bee detected bye Spellcheck!
Slides, Links and Logistics

Our textbook is *Disability Law: Cases, Materials, Problems, 6th Edition*, by Laura Rothstein and Ann C. McGinley. Every class will include PowerPoint slides, and we are providing the links to those slides in a separate Word document: “Slides and Handouts for Disability Law, Fall 2021.” That document will be sent to you in a separate email. You will see that it includes some links to articles that summarize the law in a very straightforward and practical way, as well as others that discuss some of our cases in the popular press. These links are not required reading and are offered because they are interesting, and some may also serve as study guides.

Our guest speakers will bring their own slides and handouts. You are not responsible for any of the specific material in their handouts (although of course, much of what they will discuss is also in the book and in class).

Because we are adjunct professors, we cannot spend as much time on campus as we would like. But we will try to make up for that by using our (and your) time as productively as possible. In that spirit, we encourage you to arrange meetings with us to discuss…anything.

As indicated above, Professor Russon’s office hours are from 2 to 5 pm on Wednesday. She is happy to arrange meetings at different times, however, upon request (503-206-1830, hrusson@willamette.edu).

Professor Hunt is a full-time attorney in Portland and his schedule is such that he cannot guarantee regular office hours. But he is also available to meet by appointment and you can contact him at 503-248-0504 and shunt@busseandhunt.com.
Your grade will be based on the midterm (30%), paper (60%) and class participation (10%). Speaking of class participation, we prefer quality over quantity. Enough said?

We hope you will enjoy this class as much as we will enjoy teaching it. Feel free to contact us if you have any questions.

Class Objectives and Learning Outcomes. The objectives of the class are for students to gain a working knowledge of federal disability law, primarily the Americans with Disabilities Act and the Rehabilitation Act of 1973, principally through study of major Supreme Court cases and federal circuit court cases. Another primary purpose is for students to be exposed to and gain an understanding of the realities of practicing disability law. To this end, several practicing attorneys are brought in as guest speakers.
CLASS SCHEDULE AND READING ASSIGNMENTS

August 25, 2021
General Introduction; the Disability Rights Movement

- *The People and their Stories* (3 – 6)
- *Chapter Goals* (6 – 8)
- *How Many People Have Disabilities?* (8 – 10)
- *The Laws and How they Developed* (10 – 14)
- **Alexander v. Choate** (14 – 21)
- *How the Americans with Disabilities Act and the Rehabilitation Act of 1973 came into being* (22 – 23)
- *The Americans with Disabilities Amendments Act of 2008 (ADAAA)* (26 -28)
- *Finally, please read or listen to the link below, which provides a treasure trove of information about the disability rights movement throughout our nation’s history. Don’t worry about reading the embedded hyperlinks, although you may find some of them fascinating.*

‘Nothing About Us Without Us’ 16 Moments in the Fight for Disability Rights - The New York Times
What is a Disability and What Laws Apply to People with Disabilities??

- Introduction; City of Cleburne v. Cleburne Living Center and notes (29 - 39)
- Defining Disability: (SKIM 40 – 48)
- The Three-Pronged Definition of Disability, Note and Questions (48 – 62)

The Ever-Evolving Definition of “Disability:” Developing a Structure and Vocabulary to Analyze Disability in Employment

Exemptions, Special Situations (62 – 68)

First Supreme Court Cases to Discuss the concepts of “Otherwise qualified” and Reasonable Accommodation

- Southeastern Community College v. Davis (69 – 70)
- School Board of Nassau County v. Arline and Notes (73 – 75, 170 as it applies to Arline)

Title I of the ADA: Employment

- Key Concepts (77 – 80)
- Hypothetical Problem 3.1 (91 – 92)
• Maddox v. University of Tennessee and notes (93 – 100)

Medical inquiries of applicants and employees (101 – 120)
  • Stutts v. Freeman
  • Leonel v. American Airlines
  • Conroy v. New York State Dept. of Correctional Services

September 15, 2021
What Actions Constitute Disability Discrimination?

• Prohibited Actions; EEOC v. AIC Security Invests. Inc. (123 – 131)
• Hypothetical Problem 3.3 and Notes, Burden of Proof (131 – 134)
• Tyndall v. NE Education Centers (141 – 144)
• Humphrey v. Memorial Hospitals Association (149 – 154)
• Johnston v. Morrison (156 – 158)

September 22, 2021
Reasonable Accommodation and Undue Hardship

• Kathleen Borkowski v. Valley Central School District (183 – 190)
• Van Zande v. Wisconsin Dept. of Administration (191 – 194)
• Direct Threat: Mauro v. Borgess Medical Center (163 – 169)

Chevron, Inc. v. Echazabal (175)
September 29, 2021
Disability Discrimination in Practical Terms

• Lyons v. Legal Aid Society and notes 199 – 203
• Huber v. Wal-Mart Stores, Inc. 211 – 215
• Humphrey v. Memorial Hospital Association and note 215 – 218

October 6, 2021
Relationship of ADA to Workers’ Compensation and Leave Laws

Benefits, Leaves, and other Requirements (229 – 238)

October 13, 2021
Midterm
October 20, 2021
Title III: Discrimination and Public Accommodation in Private Industries Serving the Public

- Introduction and Overview (247 – 252)
- PGA Tour, Inc. v. Casey Martin 260 – 267)
- Anderson v. Little League Baseball (and notes) (274 – 277)
- Breece v. Alliance Tractor-Trailer Training (278 – 81)

October 27, 2021
Title II: Discrimination and Public Accommodations in State and Local Government

- Introduction and Overview; Nondiscrimination (345 – 351)
- Accessibility Requirements, Kinney v. Yerusalim (301 – 307)
- Criminal Justice System, Pennsylvania Department of Corrections v. Yeskey (397 – 400)
November 3, 2021
Additional Issues with Public Accommodations; Transportation Requirements

- **Crowder v. Kitigawa** (356 – 360)
- **Architectural Barriers, Tyler v. City of Manhattan** 362 – 369
- **Professional Licensing & Notes** (373 – 378)
- **Applicants v. The Texas State Board of Law Examiners** (378 – 382)
- **Disability-related problems in transportation, generally** 385 – 391

November 10, 2021
Disability Discrimination in Housing; Paper Presentations

- **Shapiro v. Cadman Towers** (620 – 629)
- **Crossroad Apartments Association v. LeBoo** (631 – 633)

November 17, 2021
Day 2 of Paper Presentations