OVERVIEW: This course aims to introduce the student to the central laws, rule, and regulations governing employment and labor organization. Students will come away with a working knowledge of the employment and labor laws with which managers need to comply. But much more than that, this course is an exploration of the workplace issues that arise because of the hierarchical nature of organizations and the diversity (along lines of race, sex, religion, sexual orientation, etc.) of those within them and those who seek employment. The course will address questions, such as:

- What is work? How do we value it? What is the relationship between volunteer “work” and paid employment?

- Who is an employee? Are Uber drivers employees or independent contractors? Why does this matter?

- What are the rights of individuals at work?
  - Can employers mandate drug tests for their employees? Surveil their employees during their employees’ off hours?
  - Can employers require their employees to support particular political candidates, or can they prohibit certain kinds of speech at work?
  - Why should employees with kids get time off work (e.g., after giving birth) and other accommodations (e.g., more time to reach certain benchmarks) when others with meaningful, time-consuming projects receive no such accommodations?
  - To what extent must employers accommodate employees’ religious commitments? Must a clothing store that markets itself as all-American allow a Muslim woman to wear a hijab at work, when it deems that the hijab doesn’t fit its “brand”?

- What are the rights of individuals to employment? Beyond the traditional protected classes (race, sex, etc.), may an employer decline to hire someone because of their sexual orientation? Non-conforming sexual identity? Appearance? Why can’t men and overweight women get jobs at Hooters?

- When, if ever, may an employer undertake affirmative action?

- What are unions? who must join? is compelled membership unconstitutional?
At times the course will be heady, engaging with legal scholarship on, say, notions of equality. At other times the course will be raw and experiential. You will be tasked with challenging yourself in multiple ways, including ways that might (should!) take you beyond your comfort zone.

CLASS MEETS:  MONDAYS, 6:00-9:00 PM

CONTACT INFO:  642 Jon M. Huntsman Hall
                E-mail: sepin@upenn.edu

OFFICE HOURS:  By appointment

MATERIALS:  Course materials will be posted on Canvas throughout the semester. Readings are court opinions, laws and regulations, scholarly articles and articles from various media and outlines of particular topics in employment law for managers. Many of the readings listed on the Syllabus will not be assigned. There is no textbook for the course.

GRADING:

1. Participation and reading responses/news reports = 20%
2. Questions for our Third Circuit field trip = 5%
3. Book report =10%
4. Individual field trip and report = 10%
5. Judicial opinion = 25%
6. In-class oral argument = 15%
7. Serving as a Justice at oral argument = 5%

1. Participation, reading responses, and news prep: There are no tests in this class. It is nonetheless imperative that you complete the reading assignments carefully, and come to class prepared to discuss them. To provide additional incentives for you to do so, I will be cold-calling during the course of the semester. Your participation grade will be based on evidence of your preparation for class; the quality of the insights you bring to bear; and your ability to listen to and respond to the comments of your classmates.

For some class sessions (minimum of 6), you will submit three questions that the readings prompt. If there is more than one reading for that day, then you may provide no more than one question per reading. You should submit no more than three questions...
total. You should not answer these questions. Instead, the questions should raise issues that you think would make for good fodder for class discussion. You must submit your questions by 8 PM on the Sunday night before class session. Late assignments will receive a 0. Please email your questions directly to me – sepin@upenn.edu – AND upload them through our Canvas portal. You may omit to submit questions for one class session without penalty.

For some class sessions, you will also be asked to find a news item related to the topic for that day. You should come to class prepared to describe the news item and the questions it raises. Each of you will do this twice over the course of the semester, on dates I will assign. Please send me a copy of the news article by 8 PM on the Sunday night before class session. Late assignments will receive a 0. Please email the news article directly to me – sepin@upenn.edu. You are excused from submitting reading responses for dates on which you are assigned to prepare a news item for discussion.

2. Third Circuit Court of Appeals Field Trip: I am hoping that we can attend oral argument at the Third Circuit, to hear an employment law case being argued. More information about the trip itself to follow. Each of you (whether you can attend or not), will be charged with submitting three questions based on the Petitioners’ and Respondents’ briefs for one of the cases we will be hearing. Your questions should be ones you would ask if you were one of the Judges hearing the case. Again, you should not answer these questions. (If the field trip does not work out, I will nonetheless identify an important employment law case being heard this term for which you will read the briefs and articulate questions for the parties.) You must submit your questions via email by 8 PM on the night before the case will be heard. Late assignments will receive a 0.

3. Book report: We will be discussing Ann-Marie Slaughter’s Unfinished Business on [date TBD]. By 8 AM the day before, you must submit a “book report.” The book report should identify a key issue described in the book, summarize one research article and two popular press articles related to that issue, and then articulate and defend a policy recommendation for addressing that claim. The articles should support Slaughter’s claim that the issue she identifies is real and they should add further detail – by revealing that the issue is keenly felt by real people, or it is more widespread, or more pronounced, or more profound than even the book reveals. The policy recommendation should be something that can be codified in a law or legal regulation OR in a workplace rule. You should describe how the recommendation would work, identifying in particular how it would address the problem. The report should be no longer than three double-spaced pages using 12-point Times New Roman Font and 1-inch margins all around. You should come to class prepared to discuss the issue you chose and your recommendation. (You don’t need to develop a presentation; just expect that I will call on you.)
4. **Individual Field Trip:** A good part of this course will deal with disparities in success along lines of established protected characteristics (gender, race, sexual orientation, etc.) and less well-recognized characteristics (appearance, weight, etc.). Many of us belong to groups that have shielded us from the experience of being “other” – an experience that those who are socially or economically disfavored may be made to live every day. To give you a sense of “otherness,” I am going to have you immerse yourself in an experience in which you are an “outsider.” Examples include: a white student going to a Black church; a woman dressing as a man for a day; etc. You must have your experience pre-approved by me. We will devote a part of a class session to having you propose your field trip one-on-one with me. Once you’ve completed the experience, you will submit a two-page single-spaced write-up describing the experience and the reactions it conjured in you and others: What did you do? Why was this an experience in otherness? How did others react to you? How did this make you feel? Did you do anything – change your behavior, say something – in light of others’ reactions? What did you learn from your experience? Your write-up can address each of these questions individually but you might find it more freeing just to write something up in a narrative (or journal entry) style and that would be fine too. If you choose something more free-flowing, please do nonetheless try to touch on each of the questions above.

5. **Judicial opinion** – you will write a judicial opinion for Bostock v. Georgia, a case involving a gay man who claims that he was fired because of his sexual orientation. The legal question in the case is whether Title VII of the Civil Rights Act, which prohibits employment discrimination “on the basis of sex” extends to employment discrimination on the basis of sexual orientation. You may choose to decide the case for either side. Your opinion should rely on the Court of Appeals opinion below, the Petitioner’s main brief and reply brief and the Respondent’s brief, as well as the briefs of at least two amici on the side you choose. You are responsible for reading whatever caselaw you cite (a diligent judge would never rely on the parties’ presentation of a case) and you are free* to consult other literature – law review scholarship, blog posts, etc. (*Those of you taking the course as 808 are required to consult and cite law review scholarship supporting your side.) Your opinion should be in the range of 5 single-spaced pages. More information on this assignment will be distributed during our second class session. Your opinion **must be submitted via email to me by 11:59 PM on March 18. Late assignments will receive a 0.**

6. **In-class oral arguments:** We will hold oral arguments on Bostock v. Georgia during our last two class sessions and, if necessary, on the date assigned for our final exam (TBD). You will be assigned to a side, and must come prepared to defend that side. Details about the format of the oral arguments to follow.
7.  **Serving as a Justice for an Oral Argument:** You will be assigned to serve as a Supreme Court Justice for one set of our oral arguments in Bostock v. Georgia. You will be given class-generated material to prepare you for the case. In your role as a Justice, you will ask questions of the parties. At the end of oral argument, you will cast a vote in favor of the petitioner or respondent.

Class calendar with list of topics and readings to follow.