

# BLAW 485

## Labor & Employment Law

**Fall 2021 – Section 13829**  
**Thursdays 4:00 p.m.- 6:45 p.m.**

**Instructor: Professor Nina Golden**

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**Phone:** 818/677-3437

**Office:** BB 3245

**Office Hours (on Zoom):**

Immediately following class

Mon. & Wed. by appointment

**Prerequisites:** BLAW 280 & BLAW 308

### Welcome!

This course may be unlike any of your previous courses, with increasingly complex content and new kinds of challenges in addition to being in an online environment. I am committed to helping all my students, so I hold as many office hours as students request. Come meet with me and together we can discuss the best strategies to help you succeed.

To get the most out of this course, it is critical that you attend all class sessions. I chose to make the class synchronous to have as many opportunities as possible to answer questions and clarify the material, so always feel free to ask questions.

### Course Description

Business Law 485 examines the development of labor law in the U.S. from the early common law to the current legislation. Existing federal statutes regulating labor unions and labor relations will be studied in detail. These statutes are studied as they are applied and interpreted by the federal courts and by the National Labor Relations Board. This course also examines topics in U.S. employment laws such as family leave, equal pay, wrongful discharge, employee defamation, privacy in the workplace, discrimination based on race, sex, national origin and religion, and other new developments.

### Course Overview

You will continue to improve your analytical reasoning and writing skills developed in Business Law 280 and 308, and ability to communicate that analysis, both orally and in writing.

You will read court decisions, prepare written answers to questions about those decisions, and answer hypothetical questions both in writing and in open class discussion. You are also encouraged to comment on and evaluate the law. Ethical issues related to class topics will also be discussed.

### Class Preparation

The assignments are listed below. On average, we will complete one assignment each week, but please be prepared to move on to a second assignment when necessary. If we begin but do not finish an assignment, prepare the next full assignment for the next class. Assignments include reading from the text, writing briefs of cases, and writing answers to problems, case questions, and syllabus questions.

### Textbook

LABOR AND EMPLOYMENT LAW, TEXT AND CASES, 16<sup>TH</sup> EDITION, Twomey & Greene, (*Please be aware that an older text will not match the assignment list.*) The textbook is available in hardcopy at the campus bookstore and elsewhere.

**ISBN: 9780314167491**

### Classroom Policies/Professionalism

You are expected to show respect for your classmates, your professor, and the university, and not to engage in disruptive behavior. Common courtesy is expected.

1. Cell phones should be silent (in case you are not on mute).
2. Staying focused during Zoom sessions can be challenging for some. You will get more out of the class if you do not text or use your laptops during lecture, unless accessing an e-book.
3. Student participation contributes greatly to the class environment. Think about how you would be most comfortable participating – speaking during class, answering a question in the chat, or submitting a question before class.
4. Do your best to sign in to Zoom on time, using your first and last name. If you are having internet issues, please send an email saying so.
5. Ask questions! Before, during, or after class – if you have a question, it is guaranteed that a number of your classmates would like to know the answer to the exact same question.

Handouts with instructions on how to brief a case, approach homework problems, and prepare for exams will be posted separately on Canvas.

**Class is more fun when you are prepared!** Please have your completed briefs of the cases and your answers to the problems and questions with you in class on the day for which they are assigned and until we have gone over them. Assigned briefs, problems, and questions must be submitted on Canvas **no later than 4:00 p.m.** on the day they are due in order for you to receive homework credit.

It is your responsibility to be prepared for every class. If you do miss class, you are responsible for the material covered on that day and should find out what you missed from another student. You will be notified in advance when it is your responsibility to answer questions in class, but you will have additional opportunities to earn participation points by being prepared even when you are not “on call.”

## Reading Homework in Class (for participation points) and Submitting Through Canvas (for homework points)

Each week and on a rotating basis, students will be assigned to an “on-call” group. That group will be responsible for reading answers to the homework in class. Students not in the on-call group may volunteer to read their answers for participation points. You will receive a participation point simply for reading your homework, regardless of whether or not you answered the question correctly. However, if you are unprepared or absent, this will affect your grade. **To make sure you get the information you need, please bring the homework assignment to class until we have reviewed it.**

Homework is due on Canvas no later than the beginning of class on the day it is due. **Do not submit assignments in person or via email** unless requested to do so. Do not wait until the last minute to turn in an assignment only to be frustrated by a technical difficulty. You will receive points for completing the homework – the assignments will not be graded. However, in order to receive credit, your answers must be more than a couple of sentences long. Answers to problems should be at least a paragraph long. You must show a good faith effort to answer all homework thoroughly. Students must submit their own work. Identical answers will trigger plagiarism penalties.

## Assessments

Regular concept reviews consisting of multiple choice and/or short answer questions will be used to help prepare you for the labor law paper and the employment law midterms.

## Labor Law/Movie Analysis

After viewing the movie *Norma Rae*, you will be asked to apply concepts discussed in class to analyze the movie. You will provide examples of specific issues raised in the movie and your analysis of them. Additional scenarios will be included so that you may demonstrate your knowledge of labor law. Further instructions and a grading rubric will be posted on Canvas.

**DUE: submit on Canvas by Thursday, October 7<sup>th</sup> at 4PM**

## Plagiarism

**Plagiarism and cheating will not be tolerated** on homework or exams. Any student found to have either submitted work not his/her own (this includes another student’s work, information from an uncredited, on-line source, or the textbook) or cheated on an exam will be given an “F” on the assignment/exam, potentially in the class, and may be referred to the Office of Student Affairs for further discipline. You are responsible for following the academic regulations of the University and the standards of academic honesty applicable to all students.

<https://catalog.csun.edu/policies/academic-dishonesty/>

## Grading

Grades are based on a 100-point scale, and plus/minus grading will be used. **NO LATE PAPERS WILL BE ACCEPTED AND NO MAKE-UP EXAMS WILL BE GIVEN.**

The grade allocation is as follows:

<b>Attendance &amp; Participation</b>	10%
<b>Assessments</b>	20%
<b>Homework</b>	10%
<b>Labor Law/Movie Analysis</b>	30%
<b>1<sup>st</sup> employment exam</b>	15%
<b>2<sup>nd</sup> employment exam</b>	15%

The grade reached after averaging the factors listed in bold above will be the minimum grade you can receive in the course. At the professor's sole discretion, your course grade may be raised based on class participation and improvement.

## Attendance

Sign in to Zoom on time and make sure you are identified by your first and last name. Extra points will be awarded to those students with perfect attendance records. Being late, absent, or unprepared when called on will have a negative impact when calculating your final grade.

## Exams

Exams will be comprised of essay questions which require you to analyze factual situations, identify legal issues and apply the law in determining the outcome of hypothetical cases.

## Communication

I am generally accessible via email; please allow 24 hours for a response and be aware that I do not check email from Friday evening to Saturday night.

When sending an email, please treat it like a business communication and address me appropriately, indicate which class you are in, and sign your email.

## Legal Advice

**Faculty members may not provide legal advice or legal services to students.** If you need legal advice or information regarding the law, resources can be found on the Department of Business Law web page at <http://www.csun.edu/blaw/student-resources>

## Questions

**If you have any questions about the material contained in this syllabus, please contact Professor Golden.**

Your continued enrollment in the course indicates your agreement to the policies contained in this syllabus. Any changes made to this syllabus will be announced in class and on Canvas.

## Mission Statement

The mission of the Department of Business Law is to equip students with the academic knowledge, problem solving, analytical and professional skills in the areas of business law, business ethics, and real estate necessary to achieve their personal and professional goals.

## CSUN with A Heart

If you are facing challenges related to food insecurity, housing insecurity/homelessness, mental health, access to technology, eldercare/childcare, or healthcare, you can find guidance, help, and resources from **CSUN with A HEART** (<https://www.csun.edu/heart>).

### Canvas

Please check Canvas regularly – it will keep you updated on important information, such as due dates and assignment grades.

### Canvas Student Guide:

<https://community.canvaslms.com/docs/DOC-10701>

### No recording class; No screenshots

You may not audio or video record the class, nor take any screenshots during class sessions.

### Disability Resources and Educational Services

If you have a disability and need accommodations, please register with the Disability Resources and Educational Services (DRES) office or the National Center on Deafness (NCOD). The DRES office is located in Bayramian Hall, room 110 and can be reached at 818/677-2684. NCOD is located on Bertrand Street in Jeanne Chisholm Hall and can be reached at 818/677-2611. If you would like to discuss your need for accommodations with me, please contact me to set up an appointment.

### Klotz Student Health Center

Klotz Student Health Center offers health services at little to no cost. The Center is located on campus off of Bertrand Street, near Chaperral Hall and parking structure G3, and can be reached at 818/677-3666.

### University Counseling Services

University Counseling Services offers a variety of short-term counseling services, including crisis intervention and psychiatric consultation. UCS is located at Bayramian Hall 520, and can be reached at 818/677-2366.

## Course Topics and Assignments

**Homework:** We will be covering approximately one assignment per week. To allow for some flexibility in how much time is spent on each topic, the assignments are numbered rather than dated. If we are close to completing an assignment, move on to the next one for the following class.

**Briefs, Questions, and Problems:** Please have your written answers to the briefs, problems (P), and case questions (CQ) listed for each assignment during class until we have gone over them. For the problems, answer the questions posed in the syllabus. If none are noted, answer the questions posed in the book. Additional reading may be assigned from on-line sources.

Assignment	Homework
<b>1(a)</b>	LABOR LAW Chapter 4: The National Labor Relations Act <u>Read:</u> Section 4:1 – 4:9; 4:13 – 4:16 p. 59 – 99; p. 108 – 132 <u>Brief:</u> <i>NLRB v. Town &amp; Country Electric, Inc.</i> p. 85 <u>CQ:</u> #1, #2 p. 87
<b>1(b)</b>	<u>Brief:</u> <i>NLRB v. Gissel</i> p. 123 (include the answer to CQ #3 in your brief) <u>CQ:</u> <i>NLRB v. E.A. Sween Co.</i> #1, #2 p. 128 <u>Problems:</u> #4 p. 142 #8 p. 143 ( <i>Analyze each of the employer’s actions and determine if any NLRA violations occurred.</i> ) #13 p. 145
<b>2</b>	Chapter 5: Employer Unfair Labor Practices <u>Read:</u> Section 5:1 – 5:5; 5:7; 5:10 p. 149 – 176; p. 180 – 182; p. 185 – 201  <u>Brief:</u> <i>NLRB v. J. Weingarten, Inc.</i> p. 158 <u>CQ:</u> <i>NLRB v. J. Weingarten, Inc.</i> #1, #2, #3 p. 161 <i>IBM Corp.</i> #1, #2 p. 162 <i>Electromation, Inc.</i> #2, #3 p. 168 <i>NLRB v. Brown</i> #3, #4 p. 176 <i>NLRB v. Great Dane Trailer, Inc.</i> #1, #2, #3 p. 182  <u>Problems:</u> #5 p. 212 <i>When analyzing the case step by step, explain which tests the Board should apply at each step, and whether or not there’s been Section 8(a)(3) and (1) violations.</i> #11 p. 214 <i>1. When examining each of the employer’s actions, discuss whether or not the employer committed an unfair labor practice and if so, which one;</i> <i>2. What kind of case, using which test, should the General Counsel bring on behalf of Denaple.</i> #16 p. 218
<b>3</b>	Chapter 6: Regulation of Union Activities <u>Read:</u> Section 6:1 – 6:5 p. 221 – 249 <u>CQ:</u> <i>Thornhill v. Alabama</i> #1, #3, #4 p. 232 <i>Carnegie-Illinois Steel Corp. v. United Steelworkers of America</i> #1 – 5 p. 235 <i>Lechmere, Inc. v. NLRB</i> #1, #2, #3 p. 244 <u>Brief:</u> <i>NVE Constructors, Inc. v. NLRB</i> p. 249 <u>Problems:</u> #1, #7, #9 p. 269 – 270 #12 p. 271 <i>1. What does the Board have to decide in order to conclude whether or not the union’s picketing is lawful?</i> <i>2. Explain the factors the Board would examine in order to do so.</i> <i>Be prepared to discuss #17 in class – do not submit on Canvas</i>

4	<p><u>Watch:</u> Norma Rae</p>
5	<p style="text-align: center;"><b>Chapter 7: Legality of Strikes</b></p> <p><u>Read:</u> Section 7:1 – 7:6 p. 275 – 294  <u>Brief:</u> <i>Spurlino Materials, LLC v. NLRB</i> p. 277  <u>CQ:</u> <i>TWA v. IFFA</i> #2, #3, #4 p. 287  <i>Ohio Power Co. v. NLRB</i> #1, #2, p. 290  <i>Standard Concrete Products, Inc. v. Teamsters Local 952</i> #1, #2 p. 294</p> <p><u>Problems:</u>  #1 &amp; #2 p. 302 – 303  #4 p. 303  <i>Explain whether or not the strikers are entitled to immediate reinstatement.</i>  #12 p. 306  <i>Analyze each of the hospital's actions and explain, using the relevant tests, who gets which job. Hint: pay attention to the order of events.</i></p>
<p><b>Labor Law/Movie Analysis Paper</b>  <i>Tentative due date: October 7th</i></p>	
6	<p style="text-align: center;"><b>EMPLOYMENT LAW</b>  Chapter 12: Discrimination Laws</p> <p><u>Read:</u> Section 12:1 – 12:5 p. 429 – 461  <u>Brief:</u> <i>Griggs v. Duke Power Co.</i> p. 448  <u>CQ:</u> <i>U.S. v. Villages of Elmwood Park and Melrose Park</i> #1, #3 p. 453  <i>Feldstein v. Christian Science Monitor</i> #1, #2 p. 460</p> <p><u>Problems:</u>  #5 p. 505  <i>What part of Title VII should be applied in this case and how? What factors should the court consider when deciding the case?</i>  #7 p. 505  <i>Which protected class might have a case against the restaurant? Explain why.</i></p>
7	<p><u>Read:</u> Section 12:6 – 12:7 p. 461 – 486  <u>Brief:</u> <i>Burlington Industries, Inc. v. Ellerth</i> p. 481  <i>Hively v. Ivy Tech Community College of Indiana</i> p. 468  <u>CQ:</u> <i>Oncale v. Sundowner Offshore Services, Inc.</i> #2, #3p. 479  <i>Burlington Industries, Inc. v. Ellerth</i> #1, #2, #3 p. 484</p> <p><u>Problems:</u>  #9 p. 506  #12 p. 507  <i>How should the Vinson decision impact the waitresses' case against the restaurant? How would it help the restaurant's case if the restaurant had a policy of immediately removing offensive customers? Explain who would likely win the case – the waitresses or the restaurant.</i>  <i>Could the restaurant successfully use the BFOQ defense, arguing that the restaurant's purpose is as much to sell sex as it is to sell food? What would the likely outcome be of the case the male applicants brought against the restaurant and why?</i></p>
8	<p><u>Read:</u> Section 12:8 – 12:11 p. 486 – 503  <u>Brief:</u> <i>UAW v. Johnson Controls</i> p. 495</p> <p><u>CQ:</u> <i>Fragrante v. City and County of Honolulu</i> #1 p. 487</p> <p><u>Problems:</u>  #3 p. 504</p> <p>#6 p. 505</p>

9	<p style="text-align: center;">Chapter 13: Procedures and Remedies</p> <p><u>Read:</u> Section 13:1 &amp; 13:3 p. 511– 516; p. 518 – 521  <u>CQ:</u> <i>Desert Palace Inc. v. Costa</i> #1, #2 p. 514  <u>Problems:</u>  #5, #6 p. 543</p>
<p><b>Employment Exam 1</b>  <i>Tentatively scheduled for November 4th</i></p>	
10	<p style="text-align: center;">Chapter 14: Pay Equity; Age Discrimination</p> <p><u>Read:</u> Section 14:1; 14:3 –14:5 p. 545 – 552; p. 556 – 574  <i>Corning Glass Works v. Brennan</i> #1, #2, #3 p. 552  <i>Smith v. City of Jackson, Mississippi</i> #1, #3 p. 564  <i>Oubre v. Entergy Operations, Inc.</i> #1, #2 p. 574  <u>Problems:</u>  #4, #5 p. 575</p>
11	<p style="text-align: center;">Chapter 17: Employee Privacy Topics I</p> <p><u>Read:</u> Section 17:1; 17:3 – 17:5 p. 663 – 665; p. 671 – 683  <u>CQ:</u> <i>Sanders v. American Broadcasting Cos., Inc.</i> #2, #3 p. 676  <i>Cramer v. Consolidated Freightways, Inc.</i> #1, #2 p. 678  <i>Deal v. Spears</i> #3 p. 683  <u>Problems:</u>  #8 p. 710  <i>Did the doctors violate Pettus’s privacy? Did the company have the right to insist that he attend rehab.?</i>  #9 p. 710  <i>Does Smyth have an invasion of privacy case – explain why or why not? Would he be entitled to reinstatement and back pay?</i></p>
12	<p style="text-align: center;">Chapter 17: Employee Privacy Topics II</p> <p><u>Read:</u> Section 17:6 – 17:9 p. 683 – 705  <u>CQ:</u> <i>Anderson v. Philadelphia</i> #1, #3 p. 701  <i>Gibson v. Overnight Transportation Co.</i> #1, #2 p. 704  <u>Problems:</u>  #2 p. 707  <i>Is the testing unconstitutional? If the testing violates state law, what should the union do, and where could the union challenge the testing (arbitration, NLRB, courts)? What impact would it have if the dispute arises under a CBA that requires arbitration?</i>  #6 p. 709  <i>Explain each side’s arguments and determine who should win the case.</i></p>
13	<p style="text-align: center;"><i>Chapter 15: Disability Discrimination Laws (time permitting)</i></p> <p><u>Read:</u> Section 15:1 – 15:3; 15:6 p. 579 – 603; p. 613 – 619  <u>CQ:</u> <i>School Board of Nassau County, Florida v. Arline</i> #2, #3 p. 586  <i>U.S. Airways, Inc. v. Barnett</i> #1, #2 p. 599  <i>Huber v. Wal-Mart Stores, Inc.</i> p. 599 Answer the following questions:  1. Did the plaintiff make a prima facie case?  2. What did each side argue?  3. How did other circuits interpret the reassignment language under the ADA?  4. What was the court’s conclusion, and why?  <u>Problems:</u>  #7, #11 p. 625 – 626</p>
14	<p style="text-align: center;"><i>Chapter 18: Wage and Hour Law (time permitting)</i></p> <p><u>Read:</u> Section 18:1 and 18:3 p. 713 – 726; p. 730 – 734  <u>CQ:</u> <i>Benjamin v. B &amp; H Education Inc.</i> #1, #3 p. 721  <i>Dinges v. Sacred Heart St. Mary’s Hospitals Inc.</i> #1, #3 p. 726  <i>McClain v. Board of Review, Dept. of Labor</i> #1, #2 p. 734  <u>Problem:</u>  #3 p. 741</p>
<p><b>Employment Exam 2</b>  <i>Thursday, December 16, 5:30 p.m. – 7:30 p.m.</i></p>	