

GEORGE MASON UNIVERSITY SCHOOL OF LAW  
Federal Sector Employment Law, Spring 2022  
Adjunct Professor Jeff Rosenblum

Contact Information:

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Class Information:

Wednesdays 6:05 – 8:05 p.m.  
Law 129 (24061)

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READING: No text. See individual classes for reading assignments.

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Class Topics and Reading Assignments (subject to change)

**Wednesday, January 19**     Introduction/Overview of the Civil Service System  
Employee Rights/Probationary Periods

5 U.S.C. Chapter 75, Subchapters 1 and 2

Board of Education v. Loudermill, 470 U.S. 532 (1985)

Van Wersch v. Department of Health and Human Services, 197 F.3d 1144 (Fed. Cir. 1999)

Roy v. Merit Systems Protection Board, 672 F.3d 1378 (Fed. Cir. 2012)

Gardner v. Department of Defense, 98 M.S.P.R. 215 (2005)

McClintock v. Veterans Administration, 6 M.S.P.R. 471 (1981)

Mitchell v. MSPB, 741 F.3d 81 (2014)

**Wednesday, January 26**     FORUMS and Employee Misconduct/Discipline

5 U.S.C. Chapter 75; 5 C.F.R. Part 752

Gartner v. Department of the Army, 104 M.S.P.R. 463 (2007)

McCauley v. Department of the Interior, 116 M.S.P.R. 484 (2011)

Stribling v. Department of Education, 2008 MSPB LEXIS 1384 (Mar. 4, 2008)

Ludlum v. Department of Justice, 278 F.3d 1280 (Fed. Cir. 2002)

Metz v. Department of the Treasury, 780 F.2d 1001 (Fed. Cir. 1986)

Miller v Department of the Interior, 19 M.S.P.R. 438 (2012)

Executive Order on Requiring Coronavirus Disease 2019 Vaccination for Federal Employees - <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-requiring-coronavirus-disease-2019-vaccination-for-federal-employees/>

Safer Federal Workforce Guidance on Mandatory Vaccinations - <https://www.saferfederalworkforce.gov/faq/vaccinations/>

**Wednesday, February 2**     Employee Misconduct/Discipline (continued)

Ward v. United States Postal Service, 634 F.3d 1274 (Fed. Cir. 2011)

Pickett v. Department of Agriculture, 116 M.S.P.R. 439 (2011)

Douglas v. Department of Veterans Administration, 5 M.S.P.R. 280 (1981)

Lachance v. Devall, 178 F.3d 1246 (Fed. Cir. 1999)

Woebecke v. Department of Homeland Security, 114 M.S.P.R. 100 (2010)

Doe v. Department of Justice, 565 F.3d 1575 (Fed. Cir. 2009)

Doe v. Department of Justice, 2012 MSPB LEXIS 7432 (2012)

Quillen v. Department of the Treasury, 96 M.S.P.R. 154 (2004)

Merritt v. Department of Justice, 6 M.S.P.R. 585 (1981)

Major v. Hampton, 413 F. Supp. 66 (E.D. La. 1976)

**Wednesday, February 9**     Labor Issues

Department of Labor v. AFGE, 38 F.L.R.A. 899 (1990)

Department of Veterans Affairs v. FLRA, 3 F.3d 1386 (10th Cir. 1993)

SSA and AFGE, 19 F.S.I.P. 019 (2019)

Dep't of Transportation and AFGE, 19 F.S.I.P. 043 (2019)

Executive Orders 13836, 13837, 13839; Executive Order on Protecting the Federal Workplace - <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/22/executive-order-protecting-the-federal-workforce/>

**Wednesday, February 16**    Employee Performance

5 C.F.R. Parts 430 and 432

Towne v. Department of the Air Force, 203 M.S.P.B. 81 (2013)

Gibbs v. Department of Defense, 2008 MSPB LEXIS 1584 (Mar. 21, 2008)

Wiley v. Department of Justice, 2008 MSPB LEXIS 6751 (Jan. 12, 2008)

Chaggaris v. General Services Administration, 49 M.S.P.R. 249 (1991)

Kadlec v. Department of the Army, 49 M.S.P.R. 534 (1991)

**Wednesday, February 23**    Federal Sector EEO Process/Discrimination

29 C.F.R. Part 1614

Ikossi v. Department of Navy, 516 F.3d 1037 (D.C. Cir. 2008)

Boyer v. Department of Transportation, 2004 EEOPUB LEXIS 4721 (Aug. 24, 2004)

Ansari v. Department of the Treasury, 2007 EEOPUB LEXIS 2261 (June 15, 2007)

Heffernan v. Department of Health and Human Services, EEOPUB LEXIS 208 (Jan. 24, 2007)

Shelton v. Department of Health and Human Services, 105 M.S.P.R. 450 (2007)

Couch v. Department of Energy, 2013 EEOPUB LEXIS 2613 (Aug. 13, 2013)

Wingate v. United States Postal Service, 2012 M.S.P.B. 113 (Sep. 27, 2012)

Article - The Role of Agency Counsel in Federal Sector EEO Investigations (to be provided)

Annalee D. v. GSA, EEOC Appeal No. 0120170991 (Nov. 27, 2019)

**Wednesday, March 2**        Federal Sector EEO Process/Discrimination (continued)

**Wednesday, March 9**        Reasonable Accommodation/Disability Discrimination

Requesting Reasonable Accommodations under the Americans with Disabilities Act, United States Attorneys' Bulletin, May 2007 (to be provided)

Americans with Disabilities Act Amendments Act of 2008

Mesa v. United States Postal Service, 2006 EEOPUB LEXIS 2103 (May 16, 2006)

Unterburger v. United States Postal Service, 2000 EEOPUB LEXIS 228 (Feb. 1, 2000)

Taylor v. Department. of Commerce, 1997 EEOPUB LEXIS 2184 (June 20, 1997)

**Wednesday, March 16**      **NO CLASS – SPRING BREAK**

**Wednesday, March 23**      Whistleblower Protection Act

Whistleblower Protection Enhancement Act

Special Counsel v. Sims, 102 M.S.P.R. 288 (2006)

Chambers v. Department of the Interior, 116 M.S.P.R. 17 (2011)

Whitmore v. Department of Labor, 680 F.3d 1353 (Fed. Cir. 2012)

Cassidy v. Department of Justice, 118 M.S.P.R. 74 (2012)

Cassidy v. Department of Justice, 120 M.S.P.R. 52 (2012)

Carvalho v. Department of Justice, 2016 MSPB LEXIS 2013 (Apr. 4, 2016)

Flynn v. SEC, 877 F.3d 200 (4th Cir. 2014)

**Wednesday, March 30**      Discipline and First Amendment Issues

Gonzalez v. Department of Homeland Security, 114 M.S.P.R. 318 (2010)

Kaplan v. Conyers, 733 F.3d 1148 (2013)

Pickering v. Board of Education, 391 U.S. 563 (1968)

Mings v. Department of Justice, 813 F.2d 384 (Fed. Cir. 1987)

Jackson v. Small Business Association, 40 M.S.P.R. 137 (1989)

**Wednesday, April 6**      Government Ethics

MATERIALS TBA

**Wednesday, April 13**      Catch-up

**Wednesday, April 20**      Wrap-up/Final Quiz

## **Information Required by GMU Law School:**

**OFFICE HOURS/AVAILABILITY TO STUDENTS OUTSIDE CLASS MEETING TIMES:** Please arrange by email.

### **LEARNING OUTCOMES:**

By the end of the course students should have acquired/be able to:

- Be familiar with the rules governing federal employment law
- Know the different venues where federal employees can challenge employment-related actions
- Understand federal employee rights in relation to their employment

### **BASIS OF EVALUATION & ASSESSMENTS**

- Grades will be based on class participation, a final quiz and a final paper.

**ATTENDANCE:** Regular and punctual attendance are required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should a student anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), please immediately contact the Assistant Dean, Student Academic Affairs.

- Attendance will be monitored by roll call being taken during certain classes.

**CLASS RECORDINGS PROHIBITED:** Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me.