

“Examining Federal Civil Rights Law & Policy”

The Program: In Spring 2010, Duke University School of Law will offer a civil rights program component within the Duke in D.C. program and will place 6-8 upper class law students in externship placements in Washington, D.C. with a civil rights emphasis. Externship placements will be within the Civil Rights Division of the U.S. Department of Justice, and other civil rights offices organizations in the federal and non-profit sectors in Washington, D.C.

In addition to their externship placements, students will enroll in a course, “Examining Federal Civil Rights Law & Policy.” The course will be taught in Washington, D.C. by Margaret Hu, Special Policy Counsel in the Civil Rights Division, who will also be the Duke supervisor of the externship component of the program. The students will also write a research paper.

Externships: Externship placements for students will run for roughly the spring academic semester. Individual externship start and end dates will be arranged with each placement. Normally, placements will involve forty hours of work per week for twelve weeks, but these numbers could also vary by placement, and will be arranged by agreement among the externship office, the extern, and the Duke supervisors.

Each placement will designate some individual as the office externship supervisor, who will be generally responsible for the supervision of the extern and for providing a brief evaluation at the end of the semester.

Externs will be assigned substantive work appropriate to their experience. From an educational perspective, one function of the externship placements will be to provide the externs with exposure to the law enforcement and policy making process so that their extern experiences could be integrated into the classroom-based learning in the course that will be taught in parallel with the placements. Consequently, students can reflect on their hands-on experience with each other and in the context of studying civil rights issues in general in the class context.

The majority of externship placements will ideally be in the Civil Rights Division of the U.S. Department of Justice or another civil rights office in the federal sector. Alternatively, a student might present an externship possibility to the program coordinators for approval, with approval evaluated based on whether the substance of the externship can add meaningfully to classroom dialogue which is to be informed by all the students’ experiences.

Course: The course will examine the effectiveness of current federal civil rights laws and policies, and will explore how history, social movements, and political environment influence and shape the civil rights legal schema and the boundaries of federal civil rights enforcement. The course will include a broad survey of the current framework of federal civil rights protections and the federal agencies tasked with enforcing these protections. The course will focus on significant features of the federal civil rights policy making process, concentrating on executive branch coordination, particularly between the White House, and the various components of the U.S. Department of

Justice, including the Office of the Assistant Attorney General, Civil Rights Division; Office of Legislative Affairs; and Solicitor General's Office. Finally, the course will emphasize challenges in the enforcement of civil rights statutes, regulations, and executive orders, and the tension between the executive, judicial, and legislative branches in the interpretation and development of civil rights law. Each week, guest lecturers from various federal civil rights offices and non-profit civil rights organizations will be invited to speak on topics ranging from the role of the Supreme Court in civil rights development; historical trends in civil rights law and the future of civil rights enforcement; theories of discrimination and current justifications for the expansion of civil rights protections; and the role of non-government stakeholders and community-based organizations in shaping federal civil rights laws and policies. Two-hour course meetings will take place once a week.

Writing Requirement: Students will be responsible for a 2 to 4 credit paper, on a topic to be arranged with the Duke supervisor. Coordinating the topic of the extern's research paper with the placement would be desirable, but not a requirement of the program. Students would also be required to file bi-weekly reports on externship progress, highlights, and concerns, in accordance with the law school's standing rules on externships.

Credit: The externship portion of the program would carry 9 credit hours, assuming a 12-week, forty-hour a week commitment. The course would carry 2 credit hours, and the paper would carry from 2 to 4 credits. Please consult Rule 3-25 A-15 for a complete description of the likely externship requirements.

Application Process: If student interest is sufficient to justify the program, applications should be submitted by September 25, 2009 via email to Margaret Hu (Margaret.Hu@usdoj.gov) and Prof. Jeff Powell (Powell@law.duke.edu). An application requires submission of the following materials:

1. Resume;
2. Transcript;
3. Statement of your reasons for interest in the externship program, together with a description, if known, of your professional plans upon completion of law school;
4. Statement indicating whether you have completed the school's ethics requirement; and
5. If you wish to explore a placement opportunity on your own initiative, a statement describing what that opportunity is. (The Duke supervisor will follow up with you to discuss the appropriateness of the placement in light of the overall goals of the program.)

Steps After the Application: The Duke supervisor will schedule meetings with individual applicants to discuss specific externship opportunities and the procedures for placing students in specific placements.

Externship Placements: Students interested in participating in the Duke in D.C. civil rights program component should explore which Section of the Civil Rights Division, or other civil rights office in the federal or non-profit sector would be the most ideal externship placement. Please contact Margaret Hu at Margaret.Hu@usdoj.gov to discuss potential placement opportunities. Below is a summary of the Civil Rights Division and each Section of the Division, excerpted from the Civil Rights Division website at <http://www.usdoj.gov/crt>:

Civil Rights Division, U.S. Department of Justice

The Civil Rights Division of the Department of Justice was established in 1957. The Division is the program institution within the federal government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin.

APPELLATE SECTION

The Appellate Section has primary responsibility for handling civil rights cases in the Federal courts of appeals and, in cooperation with the Solicitor General, in the United States Supreme Court. The Section also provides legal counsel to other components of the Department of Justice regarding civil rights law and appellate litigation. A significant portion of the Section's work involves participation as *amicus curiae* (friend of the court) in cases that have the potential for affecting Division enforcement responsibilities. In this capacity, the Section closely monitors federal court cases to which the United States is not a party. In many of these cases, especially those concerned with developing or problematic areas of civil rights law, the Section uses the federal government's authority to file an *amicus curiae* brief to register the government's position.

COMPLAINT ADJUDICATION OFFICE

The Complaint Adjudication Office issues final decisions for the Department of Justice on administrative employment complaints filed by employees of the Department or unsuccessful applicants. Complaints may be filed under Title VII, the Age Discrimination Act, the Equal Pay Act, Section 501 of the Rehabilitation Act (covering discrimination on the basis of disability), or under Department regulations prohibiting discrimination based on sexual orientation or parental status. Complaints are filed first with the component for which the employee works, and investigated by the equal employment staff of that component. Following the investigation, if a case is not settled, the employee can ask for a hearing with an Equal Employment Opportunity Commission Administrative Judge. The case file is ultimately sent to the Complaint Adjudication Office for a final decision for the Department of Justice.

COORDINATION AND REVIEW SECTION

The Civil Rights Division's Coordination and Review Section operates a comprehensive, government-wide program of technical and legal assistance, training, interagency coordination, and regulatory, policy and program review, to ensure that federal agencies consistently and effectively enforce various landmark civil rights statutes and related Executive Orders that prohibit discrimination in federally assisted programs and in the federal government's own programs and activities. The Section also plays a central role in assisting persons with limited English proficiency ("LEP"). The Section has taken significant steps to implement Executive Order 13166, which requires all federal funding agencies to develop guidance documents for their recipients on how to provide access for LEP persons as required by Title VI of the Civil Rights Act of 1964 and its implementing regulations. The Executive Order also requires all 85+ federal agencies to prepare a plan to improve access to their own federally conducted programs and activities by eligible LEP persons.

CRIMINAL SECTION

The trial attorneys of the Criminal Section prosecute violations of several federal criminal civil rights statutes, including the following types of crimes: Official Misconduct by Law Enforcement; Interference with Federally Protected Activities (e.g., Acts or threats of violence motivated by racial, ethnic and religious animus that interfere with federally protected activities, such as enjoying rights to housing, employment, voting, and government programs); Interference with Exercise of Religious Beliefs and Destruction of Religious Property (e.g., Violent conduct targeting religious houses of worship, usually involving the arson of churches, synagogues, or mosques); Human Trafficking Peonage and Involuntary Servitude (e.g., Includes forced labor of aliens and U.S. citizens in brothels, factories, farms, or domestic service); and Interference with Access to Reproductive Health Care.

DISABILITY RIGHTS SECTION

The Disability Rights Section protects the rights of persons with disabilities under Titles I, II, and III of the Americans with Disabilities Act ("ADA"). The ADA prohibits discrimination on the basis of disability in over seven million places of public accommodation, including all hotels, restaurants, retail stores, theaters, health care facilities, convention centers, parks, and places of recreation (Title III), in all activities of over 80,000 state and local governments (Title II), and in all employment practices of state and local government employers with 15 or more employees (Title I). The ADA also establishes architectural accessibility requirements for new construction and alterations of buildings and facilities covered under Title II and Title III, which generally include all nonresidential buildings and facilities.

EDUCATIONAL OPPORTUNITIES SECTION

The Educational Opportunities Section enforces federal statutes which prohibit discrimination in public elementary and secondary schools and public colleges and universities. The Section's enforcement responsibilities include: Title IV of the Civil Rights Act of 1964; Equal Educational Opportunities Act of 1974, which prohibits school officials from denying students equal educational opportunities (including students who may face language barriers) on account of race, color, or national origin; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which require that public school officials provide handicapped and disabled students appropriate educational opportunities, upon receiving a proper referral from the U.S. Department of Education, Office for Civil Rights ("OCR"); Title VI of the Civil Rights Act of 1964, which prohibits public school districts that receive federal funds from discriminating on the basis of race or national origin in a program or activity, upon receiving a proper referral from OCR; and Title IX of the Education Amendments of 1972, which prohibits school districts that receive federal funds from discriminating on the basis of gender, upon receiving a proper referral from OCR.

EMPLOYMENT LITIGATION SECTION

The Employment Litigation Section enforces against state and local government employers the provisions of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and other federal laws prohibiting employment practices that discriminate on grounds of race, sex, religion, and national origin. The Section also enforces against state and local government employers and private employers the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), which prohibits employers from discriminating or retaliating against an employee or applicant for employment because of such person's past, current, or future military obligation.

HOUSING AND CIVIL ENFORCEMENT SECTION

The Housing and Civil Enforcement Section enforces the Fair Housing Act, which prohibits discrimination in all types of housing transactions; the Equal Credit Opportunity Act, which prohibits discrimination in lending; Title II of the Civil Rights Act of 1964, which prohibits discrimination in places of public accommodation, such as hotels, restaurants and certain places of entertainment; the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), which prohibits, in part, land use regulations that impose substantial burdens on religious exercise; and Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities; and the Servicemembers' Civil Relief Act, which provides civil protections in areas such as housing, credit, and tax for military personnel while they are on active duty.

OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION RELATED UNFAIR EMPLOYMENT PRACTICES

The Office of Special Counsel for Immigration Related Unfair Employment Practices ("OSC") enforces the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. Section 1324b, which prohibits citizenship status and national origin discrimination in employment, unfair documentary practices when employers verify the employment eligibility of employees, and retaliation. Congress created OSC primarily to address discrimination against individuals who allegedly look or sound "foreign" or who are not U.S. citizens. The work of OSC can be divided into three major areas: (1) protecting U.S. citizens and legal immigrants from employment discrimination based upon national origin and citizenship or immigration status, unfair documentary practices during the employment eligibility verification process, and retaliation, (2) preventing unlawful

discrimination through outreach, and (3) providing advice and counsel on policy issues affecting the civil rights of U.S. citizens and immigrants.

SPECIAL LITIGATION SECTION

The Special Litigation Section enforces federal civil rights statutes in four major areas: (1) conditions of institutional confinement; (2) law enforcement misconduct; (3) access to reproductive health facilities and places of religious worship; and (4) protection of institutionalized persons' religious exercise rights. The Special Litigation Section protects the constitutional and federal statutory rights of persons confined in certain institutions owned or operated by state and local governments. These institutions include facilities for individuals who are mentally ill or developmentally disabled, nursing homes, juvenile correctional facilities, and adult jails and prisons. The Section's authority to do this work is derived from the Civil Rights of Institutional Persons Act of 1980 ("CRIPA"), 42 U.S.C. § 1997, which gives the Attorney General the authority to investigate institutional conditions and file suit against state and local governments to protect the basic rights of the nation's most vulnerable persons. Section investigations typically focus on myriad issues depending on the type of institution and the nature of alleged unconstitutional conditions. Issues include, for example, abuse, medical and mental health care, security, adequacy of treatment and training, and education. The Section also is responsible for enforcing Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities on the basis of race, religion, or national origin.

VOTING SECTION

The Voting Section is responsible for enforcement of the Voting Rights Act of 1965, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, the Help America Vote Act of 2002, and other statutory provisions designed to safeguard the right to vote of citizens, including racial and language minorities, disabled and illiterate persons, and overseas citizens and military personnel. To carry out its mission, the Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgements of the right to vote, and also defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General.

ADMINISTRATIVE MANAGEMENT SECTION

The Freedom of Information Privacy Act staff ensures that the Division complies with all aspects of the Freedom of Information and Privacy Acts which may require, for example, the periodic publication of various notices within the *Federal Register* under both statutes, as well as the processing of records in response to FOI/PA requests from the public. The Branch provides procedural guidance to citizens and legal counsel to other sections of the Civil Rights Division regarding FOI/PA requests and the proper handling of privileged materials. The FOI/PA Branch also coordinates and represents the Division's interests in FOI/PA litigation and in the administrative appeals of request