

LEGISLATION & REGULATION
SUMMER 2023
SYLLABUS

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Course Overview:

This course provides an introduction to legislation and regulation and the role each plays in our government and legal systems. You will learn to navigate modern U.S. government institutions and processes, with a particular emphasis on understanding the role and scope of authority of the different branches and levels of government. The first part of the course will examine the constitutional framework defining the relationship between Congress, regulatory agencies, and the President. The course will then focus on legislation and, in particular, methods of judicial decision making related to legislation. This includes study of legislative process, statutory text and purpose, theories of statutory interpretation, and canons of statutory construction. The end of the course will focus on the regulatory process, including the delegation of authority, the Administrative Procedure Act, notice and comment rulemaking, and other agency actions. Finally, the course will conclude with an examination of judicial review of agency action and how agencies interpret statutes.

Learning Outcomes:

Students who successfully complete this course will:

- Demonstrate knowledge of the separation of powers within the constitutional structure of the U.S. legal system,
- Demonstrate knowledge of the legislative and regulatory processes and the role of each in the federal government's operation,
- Distinguish among the various theories of statutory interpretation and become proficient in identifying and applying canons of statutory construction, and
- Demonstrate knowledge of the role and function of administrative agencies and how agency action is impacted by legislative action, executive action, and judicial review.

Required Text:

Linda D. Jellum, *The Legislative Process, Statutory Interpretation, and Administrative Agencies* (2d ed. 2022).

Additional materials will be posted on Canvas.

Expectations:

Students must arrive for class on time and be prepared to participate in class discussions. Classes will include lectures, group work, and discussions. I will call on students who volunteer and students who do not volunteer. Please respect your colleagues by demonstrating respect for differences of opinion and refraining from side discussions and other disruptions. Class meets for two hours. We will take a short break in the middle of each class.

Attendance is required and counts toward class participation. If you must be absent, please let me know in advance or, if advance notice isn't possible, as soon as you can after missing class.

Grading:

- In class midterm: 20%
- Final exam: 60%
- Class participation: 20%

Class participation includes attendance, quality (not quantity) of contribution to class discussions, and group work.

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COURSE SCHEDULE

| WEEK | DATE | CLASS TOPIC | READING ASSIGNMENT | OTHER ASSIGNMENT |
|------|---------|---|--|--|
| 1 | May 30 | Course Overview; introduction to government structure and legislative process | Jellum Chapter 1, pgs. 3-29; Chapter 2, pgs. 31-77 | Prepare to discuss vehicle in the park hypothetical at the end of Chapter 1 and Problem 2C at the end of Chapter 2 |
| | June 1 | Separation of Powers | U.S. Constitution (on Canvas); Jellum Chapter 3, pgs. 79-118 | |
| 2 | June 6 | Canons Based on Intrinsic Sources: Plain & Technical Meaning | Jellum Chapter 4, pgs. 121-156 | Prepare to discuss Problem 4A |
| | June 8 | Intrinsic Sources continued: Punctuation & Grammar | Jellum Chapter 5, pgs. 159-190 | Prepare to discuss Problems 5B and 5C |
| 3 | June 13 | Theories of Interpretation | Jellum Chapter 6, pgs. 191-228 | |
| | June 15 | Theories of Interpretation continued | Jellum Chapter 6, pgs. 228-254 | |
| 4 | June 20 | Back to Intrinsic Sources: Choosing among or avoiding ordinary meaning | Jellum Chapter 7, pgs. 269-282, pgs. 287-317 | |
| | June 22 | Linguistic Canons | Jellum Chapter 8, pgs. 319-346 | |

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| 5 | June 27 | Linguistic Canons and Review | Jellum Chapter 8, pgs. 367-381 | |
| | June 29 | Midterm | | |
| 6 | July 3-7 | Summer Break | | |
| 7 | July 11 | Canons Based on Intrinsic Sources: The Components Canons Based on Extrinsic Sources: Harmonizing Statutes | Jellum Chapter 9, pgs. 385-410, 413-425 Jellum Chapter 10, pgs. 451-454, 461-462, note 8 on 467-468, 474-492 | |
| | July 13 | Extrinsic Sources cont.: Legislative History & Purpose | Jellum Chapter 11, pgs. 495-497, 499-505, 520-532, 539-546; Jellum Chapter 12, pgs. 551-552, 554-565 | |
| 8 | July 18 | Extrinsic Sources cont.: Constitutional and Prudential considerations | Jellum Chapter 14, pgs. 609-625, 640-641; 650-652 | |
| | July 20 | Introduction to Agencies; Delegation & Nondelegation | Jellum Chapter 16, pgs. 691-718; Jellum Chapter 17, pgs. 719-736 | Prepare to discuss Problem 16 |
| 9 | July 25 | Delegation & Nondelegation continued; Oversight of Agencies | Jellum Chapter 17, pgs. 743-751; Jellum Chapter 18, pgs. 753-767, 769-771, 773-778 | |

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| | July 27 | Judicial Review of Agency Decisions | Jellum Chapter 19, pgs. 787-836 | |
| 10 | August 1 | Limitations on Chevron's Applicability | Jellum Chapter 20, pgs. 839-870, 873-874 | |
| | August 3 | Review | <i>West Virginia v. EPA</i> (on Canvas); Jellum Chapter 22, pgs. 903-931 | Prepare to discuss Problem 22A |