

**Legislation & Regulation 7188 J2**  
**OHJD (Online Hybrid JD) Fall 2024**  
**Mondays- 6:30 – 8:10 p.m. EST**

**Professor:** Cynthia Lewis (she/her)  
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**Teams Office hours:** Friday Coffee Hour – 11:00 a.m. – 12:00 p.m. EST  
Sunday Happy Hour – 5:00 – 6:00 p.m. EST  
And by appointment

**Description:** This course introduces you to legislation and regulation and the role each plays in the administrative state. You will learn to navigate modern U.S. government institutions and processes, with a particular emphasis on understanding the methods and scope of authority of the different branches and levels of government. Your study begins with legislation and includes: the legislative process; statutory text and purpose; theories of statutory interpretation; and canons of statutory construction. You will examine the constitutional framework defining the relationship between Congress, regulatory agencies, and the President. Your focus will move to the regulatory process including: the delegation of authority; the Administrative Procedure Act; notice and comment rulemaking; and other agency actions.

**Learning Outcomes:** Students who successfully complete this course will:

- Demonstrate knowledge of the separation of powers within the constitutional structure of the US legal system,
- Demonstrate knowledge the legislative and regulatory processes and the role of each in the regulatory state,
- Distinguish among the various theories of statutory interpretation and become proficient in identifying and applying canons of statutory construction, and
- Demonstrate knowledge of role and function of administrative agencies and how agency action is implemented and reviewed.

**Required Text:** Linda D. Jellum, *The Legislative Process, Statutory Interpretation, and Administrative Agencies*, 2<sup>nd</sup> edition, Carolina Academic Press, 2021.

Additional materials will be posted to the course Canvas page as needed.

**Additional Texts and Study Aids (not required):**

The West Academic Study Aids database has loads of material available in all subject areas. Please visit <https://libguides.vermontlaw.edu/databases> and look for West Study Aids. Use your VLGS login if prompted for a password.

Scalia and Garner, *Reading Law: The Interpretation of Legal Texts*.  
Thomson/West, 2012.

Jellum, Linda D., *Mastering Legislation, Regulation, and Statutory Interpretation*, Third edition, Carolina Academic Press, 2020.

**Current Events:** In addition to scheduled readings and discussions, students will identify and share important legislative, regulatory, and judicial updates from federal, state, and local government using the *Discussions* tab available on Canvas. This will give us a chance to apply what we learn to what we read in the news. Current events posts count toward your class participation grade.

**Agencies:** You will be assigned to monitor a federal agency and provide agency updates during the last third of the course.

**Expectations:** Students must be prepared for class, be prompt in attendance and be ready to participate with cameras on. Classes will include lecture, group work and discussion. I will call on non-volunteers as well as volunteers. Some questions and roles will be pre-assigned. Please respect your colleagues and your professor acknowledging the differing opinions of your colleagues and refraining from side discussions and other disruptions.

**Attendance:** Attendance is required and counts toward class participation. Students who are absent from twenty (20%) percent of the regularly scheduled classes or who fail to complete required hours for other work shall be automatically withdrawn from the course with a grade of F-Wd. Students are responsible for monitoring their own compliance with this policy. Please refer to the Vermont Law School Academic Regulations II(A)(1) in the *VLGS 2024-2025 Student Handbook* for details.

**Grading:** Grades will be based on class professionalism and preparation (20%), timed midterm (20%), and the closed-book final exam (60%.)

Class professionalism and preparation will be based on the following components:

1. Attendance – required – see above.
2. Classroom discussion – meaningful.
3. Professionalism – Upholding VLGS Oath and Better Community Statement
4. Group work and presentations

**Class Website:** <https://vermontlaw.instructure.com/courses/2662>

**Class Schedule:** See the attached List of Readings and Discussion.

*(Subject to minor changes.)*

*(Last updated 8/19/2024 – cl)*

## Class Calendar – Readings and Discussion

Class meets virtually on Teams on **Mondays from 6:30 p.m.– 8:10 p.m. EST.**

Residential Week – September 5 – 8, 2024, Burlington, Vermont

Class	Date	Class Topic	Reading Assignment	Other
1	8/26	<b>Course Overview, Legislative Process</b>	Jellum, pg. 1-29; 31-54; 69-77.	Prepare “No Vehicles in the Park” hypothetical, pg.24- 29.
2	<b>Friday 9/6 Residency 9:45 - 11:00 a.m.</b>	<b>Separation of Powers</b> <i>INS v. Chadha</i>	Jellum, pg. 79-103	Both Cohorts meet simultaneously.
3	<b>Saturday 9/7 Residency 9:15 - 10:30 a.m.</b>	<b>Separation of Powers Statutory Interpretation</b> <i>King v. Burwell</i>	Jellum, pg. 103-118	Both Cohorts meet simultaneously.
	9/9	<b>No Class</b>		
4	9/16	<b>Canons – Intrinsic Plain Meaning</b> <i>Smith v. United States,</i> <i>Watson v. United States</i> <i>Muscarello v. United States,</i> <b>Canons – Intrinsic Technical Meaning</b> <i>Nix v. Hedden,</i> <i>St. Clair v.</i> <i>Commonwealth,</i> <i>O’Connor v. Oakhurst Dairy</i>	Jellum, pg. 121-145; 148-156; 159-166.	Prepare Problem 4A, pg. 145-148

5	9/23	<p><b>Theories of Statutory Interpretation:</b></p> <p><b>Textualism and Purposivism</b></p> <p><i>State ex rel. Kalal v. Circuit Court of Dane County,</i></p> <p><i>State v. Courchesne</i></p> <p><b>Theories of Statutory Interpretation:</b></p> <p><b>Intentionalism</b></p> <p><i>United Steelworkers v. Weber</i></p>	Jellum, pg. 191 – 207, 209 – 228; 228-253.	Prepare Problem 6B, pg. 249 - 253
6	9/30	<p><b>Canons – Intrinsic</b></p> <p><i>Mayor of Lansing v. Michigan PSC, Regina v. Ojibway,</i></p> <p><i>United States v. Marshall, Public Citizen v. DOJ, Green v. Bock Laundry, United States v. Locke</i></p>	Jellum, pg. 269 – 284, 287-297, 300-311, 313-318.	
7	10/7	<p><b>Canons – Intrinsic</b></p> <p><b>Latin Day!</b></p> <p><i>Yates v. United States</i></p> <p><b>Review</b></p>	Jellum, pg. 319 – 328, 336 – 338, 346 – 349, 358 – 365, 367 –368, 374 - 375	
		<b>60-minute Midterm</b>	Available 24 hours beginning 9:00 am EST Friday, October 11, 2024.	
	10/14	<b>No Class – Fall Recess</b>		

8	10/21	<p><b>Canons - Extrinsic Harmonizing Statutes, Federal Preemption</b>  <i>Williams v. Kentucky, Morton v. Mancari, Pulkkinen v, Pulkkinen</i></p> <p><b>Canons – Extrinsic Legislative History</b></p>	Jellum, pg. 451 – 458, 461-481, 495-496, 499-505, 520-533.	Prepare Problem 10B, pg. 469-474.
9	10/28	<p><b>Canons – Extrinsic Legislative Purpose</b>  <i>Heydon’s Case; Ohio Division of Wildlife v. Clifton; Church of the Holy Trinity v. United States</i></p> <p><b>Canons – Policy Based Constitutional Avoidance, Rule of Lenity, NLRB v. Catholic Bishop of Chicago; McNair v. State (both)</b></p> <p><b>Clear Statement Rules</b>  <i>Florida Dept. of Revenue v. Piccadilly Cafeterias, Burch v. Secretary HHS</i></p>	Jellum, pg. 551 – 566, 609-627, 640 - 658	Prepare Problem 12A, pg. 561.
10	11/4	<p><b>Introduction to Agencies: Rulemaking</b>  <i>Franklin v. Mass</i></p> <p><b>Introduction to Agencies: Adjudication</b></p>	Jellum, pg. 691-696, 699-718	Agency Assignments Prepare Problem 16, pg. 714-718
11	11/11	<p>Delegation and Nondelegation  <i>Gundy v. United States</i></p>	Jellum, pg. 719 - 739	

12	11/18	<b>Agencies: Legislative Oversight</b> <i>TVA v. Hill</i> <b>Agencies: Executive Oversight</b> <i>EO 12866</i>	Jellum, pg. 753 - 784	
13	11/25	<b>Agencies: Judicial Review of Agency Decisions</b> <i>Skidmore v. Swift</i> <i>Chevron v. NRDC</i>	Jellum, pg. 787 - 811	
		<b>Happy Thanksgiving</b>		
14	12/2	<b>Post <i>Chevron</i></b> <i>Loper Bright Enterprises v. Raimondo</i> <b>Review</b>	Jellum, Supplement Available on Canvas  Jellum, pg. 903 - 921	Discuss Problem 22A
	TBD	<b>Final Exam</b>		