Legislation & Regulation 7188 J1
OHJD (Online Hybrid JD) Fall 2024
Tuesdays- 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,* 2nd 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/2661

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 **Tuesdays 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	8/27	**Course Overview, Legislative Process**	Jellum, pg. 1-29; 31-54; 69-77.	Prepare "No Vehicles in the Park" hypothetical, pg.24-29.
2	**Friday 9/6 Residency 9:45 - 11:00 a.m.**	**Separation of Powers** *INS v. Chadha*	Jellum, pg. 79-103	Both Cohorts meet simultaneously.
3	**Saturday 9/7 Residency 9:15 - 10:30 a.m.**	**Separation of Powers Statutory Interpretation** *King v. Burwell*	Jellum, pg. 103-118	Both Cohorts meet simultaneously.
	9/10	**No Class**		
4	9/17	**Canons – Intrinsic Plain Meaning** *Smith v. United States, Watson v. United States Muscarello v. United States,* **Canons – Intrinsic Technical Meaning** *Nix v. Hedden, St. Clair v. Commonwealth, O'Connor v. Oakhurst Dairy*	Jellum, pg. 121-145; 148-156; 159-166.	Prepare Problem 4A, pg. 145-148

5	9/24	**Theories of Statutory Interpretation:** **Textualism and Purposivism** *State ex rel. Kalal v. Circuit Court of Dane County,* *State v. Courchesne* **Theories of Statutory Interpretation: Intentionalism** *United Steelworkers v. Weber*	Jellum, pg. 191 – 207, 209 – 228; 228-253.	Prepare Problem 6B, pg. 249 - 253
6	10/1	**Canons – Intrinsic** *Mayor of Lansing v. Michigan PSC, Regina v. Ojibway,* *United States v. Marshall, Public Citizen v. DOJ, Green v. Bock Laundry, United States v. Locke*	Jellum, pg. 269 – 284, 287-297, 300-311, 313-318.	
7	10/8	**Canons – Intrinsic** **Latin Day!** *Yates v. United States* **Review**	Jellum, pg. 319 – 328, 336 – 338, 346 – 349, 358 – 365, 367 –368, 374 - 375	
		60-minute Midterm	Available 24 hours beginning 9:00 am EST Friday, October 11, 2024.	
	10/15	**No Class – Fall Recess**		

8	10/22	**Canons - Extrinsic Harmonizing Statutes, Federal Preemption** *Williams v. Kentucky, Morton v. Mancari, Pulkkinen v, Pulkkinen* **Canons – Extrinsic Legislative History**	Jellum, pg. 451 – 458, 461-481, 495-496, 499-505, 520-533.	Prepare Problem 10B, pg. 469-474.
9	10/29	**Canons – Extrinsic Legislative Purpose** *Heydon's Case; Ohio Division of Wildlife v. Clifton; Church of the Holy Trinity v. United States* **Canons – Policy Based Constitutional Avoidance, Rule of Lenity,** *NLRB v. Catholic Bishop of Chicago; McNair v. State* (both) **Clear Statement Rules** *Florida Dept. of Revenue v. Piccadilly Cafeterias, Burch v. Secretary HHS*	Jellum, pg. 551 – 566, 609-627, 640 - 658	Prepare Problem 12A, pg. 561.
10	11/5	**Introduction to Agencies: Rulemaking** *Franklin v. Mass* **Introduction to Agencies: Adjudication**	Jellum, pg. 691-696, 699-718	Agency Assignments Prepare Problem 16, pg. 714-718
11	11/12	Delegation and Nondelegation *Gundy v. United States*	Jellum, pg. 719 - 739	

12	11/19	**Agencies: Legislative Oversight** *TVA v. Hill* **Agencies: Executive Oversight** *EO 12866*	Jellum, pg. 753 - 784	
13	11/26	**Agencies: Judicial Review of Agency Decisions** *Skidmore v. Swift* *Chevron v. NRDC*	Jellum, pg. 787 - 811 ,	
		Happy Thanksgiving		
14	12/3	**Post *Chevron*** *Loper Bright Enterprises v. Raimondo* **Review**	Jellum, Supplement Available on Canvas Jellum, pg. 903 - 921	Discuss Problem 22A
	TBD	**Final Exam**		