

**Legislation & Regulation**  
**Summer 2018**

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**Office hours:** By appointment with Cynthia.

**Description:** This course provides an introduction 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 Administrative Procedure Act; notice and comment rulemaking; and other agency actions. Finally, your study concludes 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 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.
- Demonstrate knowledge of 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*, Carolina Academic Press, 2016.

Additional materials will be posted to TWEN as needed.

**Recommended Texts:**

Should you wish to consult additional materials, the following titles are on Course Reserve and available from the Library Information Desk:

- Scalia and Garner, *Reading Law: The Interpretation of Legal Texts*. Thomson/West, 2012.
- Jellum, Linda D., *Mastering Statutory Interpretation*, 2<sup>nd</sup> edition. Carolina Academic Press, 2013.
- Andersen, William R., *Mastering Administrative Law*. Carolina Academic Press, 2010.

**Current Events:**

In addition to scheduled readings and discussions, students will identify and share important legislative and regulatory updates from Washington D.C. and state and local government. Students will also be assigned a federal agency to monitor. Current events provide endless opportunity to further understand the regulatory state.

**Expectations:**

Students must be prepared for class, be prompt in attendance and be ready to participate. Classes will include lecture, group work and discussion. I will call on non-volunteers as well as volunteers. Please respect your colleagues and your professor acknowledging the differing opinions of your colleagues and refraining from side discussions and other disruptions. Class meets for two hours. We'll take a short break at the midpoint.

**Attendance:**

Attendance is required and counts toward class participation. If you must be absent, please let me know in advance. Letting me know in advance does not automatically create an "excused" absence. Please refer to the Vermont Law School Academic Regulations II(A)(1) on pg. 24 of the *VLS 2017 – 2018 Student Handbook* for details.

**Grading:**

Grades will be based on class performance (20%,) in class midterm (20%) and on the final exam (60%).

Class performance will be based on the following components:

1. Attendance – required – see above.
2. Classroom discussion – meaningful.
3. Group work and presentations..

**Class Website:**

<http://lawschool.westlaw.com>

-select TWEN

-select Legislation & Regulation (Summer 2018) Lewis

**Class Schedule:**

See the attached List of Readings and Discussion.  
*(Subject to change).*

	CLASS	Date	Topic	Reading Assignment	Prepare
<input type="checkbox"/>	1	30-May	Introduction	Jellum, Chapter 1, pg. 3 - 17; Chapter 3, pg. 51 - 70, pg. 80-81	Vehicles in the Park Hypothetical and Questions, pg.14 - 17; Problem 3, pg. 80 - 81.
<input type="checkbox"/>	2	1-Jun	Sources and Theories of Interpretation: Textualism, Intentionalism, Purposivism	Jellum, Chapter 4, pg. 83 - 93, 101 - 104, 111 - 130, <i>Church of the Holy Trinity v. U.S.</i> (available on TWEN)	Points for Discussion 1 - 7, 11, pg. 126 - 127, 129 - 130
<input type="checkbox"/>	3	4-Jun	Intrinsic: Ordinary and Technical Meaning	Jellum, Chapter 5, pg. 149 - 178.	Problem 5, pg. 178 - 180
<input type="checkbox"/>	4	6-Jun	Intrinsic: Beyond Ordinary Meaning	Jellum, Chapter 6, pg. 181 - 205; pg. 210 - 223	
<input type="checkbox"/>	5	11-Jun	Intrinsic: Linguistic Canons	Jellum, Chapter 8, pg. 263 - 268; 295 - 302.	Points for Discussion, 1 - 5, pg. 268; Points of Discussion 1 - 7, pg. 301 - 302
<input type="checkbox"/>	6	13-Jun	Intrinsic: More Linguistic Canons	Jellum, Chapter 8, pg. 269 - 295; 302 - 306	Problem 8, pg. 306
<input type="checkbox"/>	7	18-Jun	Intrinsic: Parts of an Act	Jellum, Chapter 9, pg. 309 - 334	
<input type="checkbox"/>	8	20-Jun	Extrinsic: Harmonizing Statutes	Jellum, Chapter 10, pg. 373 - 393	Problem 10A, pg. 393 - 395
<input type="checkbox"/>	9	25-Jun	Extrinsic: Legislative History and Purpose	Jellum, Chapter 11, pg. 409 - 420; pg. 451 - 463	Problem 12, pg. 463 - 465
<input type="checkbox"/>	10	27-Jun	<b>In Class Midterm</b>	<b>In Class Midterm</b>	<b>In Class Midterm</b>
<input type="checkbox"/>	<b>Break</b>	<b>July 2 - 6</b>	<b>Rest</b>	<b>Relax</b>	<b>Rejuvenate</b>
<input type="checkbox"/>	11	9-Jul	Policy: Constitutional Avoidance & Rule of Lenity & Clear Statement Rules	Jellum, Chapter 14, pg. 497 - 512; pg. 521 - 540	Problem 14
<input type="checkbox"/>	12	11-Jul	Separation of Powers	Jellum, Chapter 2, pg. 19 - 47	
<input type="checkbox"/>	13	16-Jul	Agencies	Jellum, Chapter 16, pg. 561 - 583; Vermont Yankee?; Administrative Procedure Act (available on TWEN)	Problem 16, pg. 592

<input type="checkbox"/>	14	18-Jul	Legislative Control of Agencies	Jellum, Chapter 17, pg. 593 - 604	
<input type="checkbox"/>	15	23-Jul	Executive Control of Agencies	Jellum, Chapter 17, pg. 604 - 632	Spotlight on Immigration - Memos & Executive Orders - Material available on TWEN
<input type="checkbox"/>	16	25-Jul	Judicial Review of Agency Interpretation of Statutes	Jellum, Chapter 18, pg. 633 - 649	Problem 18A, pg. 648 - 649
<input type="checkbox"/>	17	30-Jul	Post <i>Chevron</i>	Jellum, Chapter 19, pg. 661 - 678, pg. 690 - 697	Problem 19 B, pg. 688 - 690
<input type="checkbox"/>	18	1-Aug	Review	Jellum, Chapter 20, pg. 707 - 710	Problem 20, pg. 714 - 718