

Legislation and Regulation
Law 6209 – Section 15 (Brandeis)
Spring 2025

SYLLABUS

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Office Hours: Tuesdays and Thursdays, 10:30 - 11:30 a.m. Students are always welcome during my office hours.

Class Schedule: Tuesdays and Thursdays, 2:45 - 4:10 p.m. Classes will begin promptly at the appointed time.

Required Texts: Peter J. Smith, *Legislation and Regulation: A Contemporary Approach* (West 2d ed. 2023)
Peter J. Smith, *2024 Supplement to Legislation and Regulation* (available on Canvas)
Supplementary Materials (available on Canvas and my website)

You should bring your casebook to class every day. I frequently refer to material in the casebook by page number. These references are easier to follow if you have your casebook with you.

Assignments: A list of reading assignments is attached. You should read each assignment before the class in which the assigned material is discussed, think carefully about the reading, and be prepared to participate in class discussion. The assignment numbers correspond roughly to class periods, but the precise assignment for each class will be announced during the previous class or by email. If at the end of any class we have made substantial progress on the materials so far assigned and no announcement is made, read the next assignment. For the first class, read assignments 0 and 1 (that's "1", not "I").

Requirements: The requirements for all students are to read the assignments in a timely fashion, attend class, participate in class discussion, and take the final exam. Grades will be based primarily on the final exam, with class participation also considered. I may raise or lower a student's grade half a step (e.g., from B+ to A- or B) based on class participation.

Class Participation: Students will be called on at random during class within the context of a system that will give everyone one day a week off from being called on. Volunteer participation is also encouraged.

- Civility:** Please participate in class civilly and respectfully. The study of law involves many controversial issues on which people have widely varying opinions. Students of differing legal, political, and ideological views should all feel welcome to participate in our class discussions. Students are free to disagree with me or with other students and to express that disagreement in class but should always do so in a civil and respectful manner.
- Communication:** I frequently send important messages relating to the course to students by email. This will likely occur before the first day of class. Students are responsible for checking their official GW email account (the one with an address ending in @law.gwu.edu) daily throughout the term.
- Examination:** The exam will be open book. The exam may contain a mixture of essay and multiple choice questions. Further details will be provided before the exam.
- Students are encouraged to use computers to type their exam answers. Students who choose to handwrite their exam answers are cautioned that words that are not readily legible may be disregarded. Students who require an exception to this rule for a legitimate reason (e.g., disability) should discuss the matter with the University's Office of Disability Support Services (see below) and/or the Law School's Dean of Students Office well in advance of the exam. Please do not discuss this issue with me directly as doing so could interfere with the anonymity of the exam process.
- Names & Pronouns:** I generally use first names when calling on students. I will invite students to let me know the name by which they wish to be called in advance of the first class. Students who wish to inform me of their pronouns may do so at the same time. If a student submits no preferred name, I will use the student's official, registered first name.
- Disabilities:** Students who may need an accommodation based on the potential impact of a disability should contact the Office of Disability Support Services (DSS) at 202-994-8250 (Rome Hall, Suite 102), to establish eligibility. Once a student is registered and deemed eligible for accommodation, the student should contact the Dean of Students Office at 202-994-8320 to coordinate reasonable accommodations (e.g., note-taking assistance, adaptive technologies, etc.).
- Learning Outcomes:** A student who completes this course should have knowledge and understanding of methods of interpreting statutes and regulations and should have a basic understanding of the administrative state.
- Taping of classes:** All classes will be taped. The tapes will be posted and available for all students.

Attendance: Even though all classes are taped, attendance is mandatory. Watching the tape of a class does not excuse failure to attend class. Students who are persistently and excessively absent will not receive a positive class participation adjustment and may receive a negative class participation adjustment or a grade of No Credit. Occasional, isolated absences do not directly affect a student's grade, and students need not seek permission for such absences.

Students must sit in their assigned seats when present in in-person classes. Students who fail to sit in their assigned seats may be deemed absent.

Devices: Students must make sure that their cell phones, computers, and any other devices they may have do not make any noise that could interrupt the class. The "vibrate" setting is permitted. Computers that make noise on start-up should not be started once class has begun. Students whose devices violate this rule may be asked to leave the classroom.

The use of devices in class to take notes is permitted. Students should bear in mind that some studies suggest that taking notes by hand promotes better learning, although other studies have called these results into question. *See Susan Dynarski, Laptops Are Great. But Not During a Lecture or a Meeting, N.Y. Times, Nov. 22, 2017. But see Don't Ditch the Laptop Just Yet: Replication Finds No Immediate Advantage to Writing Notes by Hand, available at www.psychologicalscience.org/observer/writing-notes.* Devices may also be used to access course materials.

The use of devices during class for purposes other than taking notes or accessing course materials, such as playing games, surfing the Internet, or reading or sending messages, is distracting to other students and is therefore prohibited. Students who use devices during class are on their honor to comply with this rule.

The use of electronic means to transmit answers to students being asked questions during class is prohibited. Violation of this rule constitutes academic dishonesty.

Distancing: The COVID pandemic called attention to the role of proximity in spreading illness. If you ever need to tell me that you are sick (regardless of what you are sick with), please do not walk up close to me to tell me. Email me or tell me from 6 feet away.

READING ASSIGNMENTS -- Part 1

The initial list of reading assignments follows. Further reading assignments will be distributed as the term progresses.

Abbreviations used below:

S	Peter J. Smith, <i>Legislation and Regulation: A Contemporary Approach</i> (West 2d ed. 2023)
Supp.	Peter J. Smith, <i>2024 Supplement to Legislation and Regulation</i>
SM	Supplementary Materials

0. *Read this syllabus*, particularly the initial information that precedes the reading assignments. The syllabus contains course rules and requirements and other important information that students are responsible for knowing. Failure to comply with the course rules and requirements stated in the syllabus may result in grade penalties or a grade of No Credit.

I. Introduction

1. SM 1-6
S 1-5
2. S 5-15

II. The Legislative Process

3. S 15-26 (1st ¶)
4. S 26-56

III. Statutory Interpretation

The Touchstones of Interpretation

5. S 57-78

Statutory Purpose and the Legal Process

6. S 78-102
7. S 103-127

The Letter and the Spirit of the Law

- 8. S 127-147
- 9. S 147-168
SM 7-9
S 168-179

Absurdity and Scrivener's Errors

- 10. S 181-197

Ordinary, Colloquial, or Technical Meaning

- 11. S 198-217

Canons of Construction

- 12. S 218-240
- 13. S 241-255
- 14. S 255-262
- 15. S 262-283

Legislative History

- 16. S 285-293, 307-318
Review S 185-196 (*Green v. Bock Laundry Machine Co.*)