

Statutory Interpretation and Regulation Syllabus

Professor Dru Stevenson

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Office Hours (office location TBA): 45 minutes before and after each class session – appointments preferred (use email)

Main Text: John F. Manning & Matthew C. Stephenson, *Legislation & Regulation* (3rd ed., Foundation Press)

Recommended Supplement: Drury D. Stevenson, *Law-in-a-Flash: Administrative Law* (2nd ed.) (Flashcards, very useful in preparing for the exam)

Examination & Grading: There will be one three-hour final exam in the course, which will include multiple-choice questions and may include short-answer questions. Grade adjustments for class participation and attendance will be within the law school's policy in the student handbook.

Note: Class sessions will normally cover 2-3 of the enumerated topics below, with some exceptions when more time is devoted to special topics. The final exam will be mostly, if not entirely, multiple-choice.

Part I: The Legislative Power and the Interpretation of Statutes

- 1: Introduction to Legislation and Statutory Interpretation pp. 2-26 (*Tennessee Valley Authority v. Hill*)
- 2: Letter of the Law versus the Spirit of the Law: The Classic Approach pp. 26-44 (*Riggs v. Palmer*, *Church of Holy Trinity v. United States*)
- 3: The New Textualism pp. 44-60 (*West Virginia Univ. Hosps. v. Casey*)
- 4: Textually-Constrained Purposivism pp. 60-72 (*General Dynamics Land Sys. v. Cline*)
- 5: Judicial Correction of Legislative Mistakes: Absurdity pp. 77-93 (*Kirby*; *Public Citizen*)
- 6: Judicial Correction of Legislative Mistakes, cont'd: Scrivener's Error pp. 93-101 (*United States v. Locke*)
- 7: What is "the Text"? pp. 101-127 (*Nix v. Hedden*, *Moskal v. United States*, *Smith v. United States*)
- 8: Legislative History: Post-New Deal pp. 127-147 (*Train v. Colorado Public Interest Research Group*)
- 9: Legislative History: The New Textualism pp. 147-163 (*Blanchard v. Bergeron*, *Continental Can Co. v. Chicago Truck Drivers, Helpers and Warehouse Workers Union*)
- 10: The New Synthesis pp. 163-185 (*Exxon Mobil Corp. v. Allapattah Services, Inc.*, *Corning Glass Works v. Brennan*)
- 11: What Is Interpretation? pp. 185-199 (*United States v. Marshall*)
- 12: Semantic Canons pp. 202-215 (*McBoyle v. United States*, *Silvers v. Sony Pictures*)
- 13: Semantic Canons, cont'd pp. 232-237 (*People v. Smith*)
- 14: Substantive Canons – Federalism pp. 267-284 (*Gregory v. Ashcroft*)
- 15: Substantive Canons – Lenity pp. 303-313 (*United States v. Bass*)

Part II: Constitutional Structure and the Regulatory State

- 16: Introduction to the Modern Administrative State pp. 332-355
- 17: The Nondelegation Doctrine pp. 358-377 (*A.L.A. Schechter Poultry Corp. v. United States*)
- 18: The Nondelegation Doctrine, cont'd pp. 385-403 (*Whitman v. American Trucking Ass'ns, Inc.*)
- 19: Congressional Control of Agency Lawmaking pp. 406-422 (*INS v. Chadha*)
- 20: The Nondelegation Doctrine, cont'd pp. 418-443 (*Industrial Union Dep't, AFL-CIO v. API* (the *Benzene* case))
- 21: Introduction to the Removal Question pp. 435-452 (*Myers v. United States*)
- 22: The Rise of the Independent Agency pp. 452-466 (*Humphrey's Executor v. United States*)
- 23: Congressional Removal Power? pp. 466-476 (*Bowsher v. Synar*)
- 24: Appointment & Removal: The Modern Doctrine pp. 477-498 (*Morrison v. Olson*)
- 25: The Next Word on Removal pp. 499-510 (*Free Enterprise Fund v. PCAOB*)

Part III: The Regulatory Process

- 26: Introduction to the Administrative Procedure Act pp. 542-563 (*U.S. v. Florida East Coast Railway*)
- 27: Intro to Administrative Law continued
- 28: Informal Rulemaking pp. 563-584 (*United States v. Nova Scotia Food Products Corp.*)
- 29: The Choice Between Rulemaking and Adjudication pp. 598-627 (*SEC v. Chenery Corp.*, *Bell Aerospace cases*)
- 30: Lawmaking Through Agency Guidelines and Manuals? pp. 627-658 (*Pacific Gas & Electric*; *Hector v. USDA*); Questions of Policy - The “Hard Look” Doctrine pp. 668-689 (*Ethyl Corp. v. EPA*)
- 31: Informal Rulemaking, cont’d pp. 689-703 (*Vermont Yankee Nuclear Power Corp. v. NRDC*); The “Hard Look” Doctrine, cont’d pp. 703-727 (*Motor Vehicle Manufacturers’ Ass’n v. State Farm Mut. Auto. Ins.*); Judicial Review and Questions of Law pp. 753-776 (*Chevron USA v. NRDC*)
- 32: *Chevron* Step 1: The Effects of Textualism pp. 776-791 (*MCI v. AT&T*)
- 33: *Chevron* Step 1: The Role of the Nondelegation Doctrine pp. 803-822 (*Brown & Williamson Tobacco*)