

STATUTORY INTERPRETATION AND REGULATION SPRING 2026 LAW 5378 SECTIONS 12940, 12174

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Office Hours: Noon – 1:00 p.m., Monday and Wednesday, and by appointment.

COURSE DESCRIPTION AND REQUIREMENTS

Course Description: This course introduces students to the role of statutes and administrative regulation in the practice of law today. The course covers, as its primary subject, the interpretation of statutes and regulations. This element includes the close reading of one or more complex statutes. The course also covers, as a second element, basic aspects of administrative law: in particular, how agencies implement and enforce statutes and regulations. The course may also include other elements, such as legislative process or regulatory policy.

Warning: This class will deal with controversial theories and authors. I do not ask that you adopt or support any theory described. I do, however, ask that you correctly understand those theories. The beginning point of criticizing anything is complex understanding of what you are criticizing.

Chatham House Rule. “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” This also means that you may not post online or otherwise share recordings, screenshots, classmates’ remarks, or any other class content.

Recording of Class. Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may only use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Required Reading:

There is no casebook required or this course. Links to reading material are provided below. Any material listed as “Handout” will be emailed to your UH account.

Course Assessments:

Grades will be determined based upon the following percentages:

- a. *Participation (10%).* Participation should be regular and of good quality. Participation will include, but should not be limited to, answering questions when called upon to do so. Participation will be discussed in greater detail during the first-class session.

- b. *Final Exam (90%).* You will have a comprehensive final exam consisting of one or two questions. The exam will be a 3-hour in class open-book exam. The final exam will be discussed in greater detail during the first-class session.

READING ASSIGNMENTS

Note: I reserve the right to add, delete, or otherwise modify assignments. Please note that, for most assignments, links are provided to the materials. Assignments designated as *Handout* will be emailed to you.

Regulatory Regimes and Their Alternatives

1. Overview of Modern Legislation and Regulation - *Handout*
2. Justifications for Regulation
 - OMB Circular A-4 (pages 14-21 only) - *Handout*
3. Alternatives to Regulation
 - [MacPherson v. Buick](#)
 - [Rotche v. Buick](#)
 - [Grimshaw v. Ford Motor Company](#)

Rules of the Regulatory Game

4. The [Administrative Procedure Act](#)
 - APA Sections 551, 553-557, and 701-706
5. Limitations on Rulemaking
 - [Vermont Yankee](#)
 - [NRDC v. EPA](#)
 - [U.S. v. Nova Scotia Food Products](#)
6. Problems with Rulemaking and Alternatives
 - [General Electric v. EPA](#)
 - [C&W Fish Co. Inc. v. Fox](#)
 - [Independent Tankers v. Dole](#)
7. Presidential Control of Agency Action
 - OIRA -- [Executive Order 12866](#)
 - [Portland Audubon v. Endangered Species](#)

Limitation of Congressional Control

 - [FTC v. Pillsbury](#)
8. Adjudication Problems
 - PATCO v. FLRA (excerpt)-*Handout*
 - [NLRB v. Bell Aerospace](#)
 - [Epilepsy Foundations v. NLRB](#)
9. Judicial Review of Agency Action

- [Citizens to Preserve Overton Park v. Volpe](#)
 - [Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co.](#)
10. Judicial Review of Agency Statutory Interpretation
- [Chevron v. NRDC](#)
 - [Skidmore v. Swift](#)
 - [MCI v. AT&T](#)
 - [FDA v. Brown & Williamson](#)
11. The New World/Post Chevron
- [SEC v. Jarkesy](#)
 - [Loper Bright v. Raimondo](#)
 - [Corner Post v. FED](#)

Judicial Interpretation of Statutes

12. Classics and Ordinary v. Technical Meaning
- [Church of the Holy Trinity v. United States](#)
 - [Nix v. Hedden](#)
 - [Barber v. Gonzales](#)
 - [Muscarello v. United States](#)
11. Textual Canons
- [Babbitt v. Sweet Home Chapter of Communities for a Great Oregon](#)
 - [King v. Burwell](#)
12. Rule of Lenity/Constitutional Avoidance
- [United States v. Santos](#)
 - [United States v. Davis](#)
13. Clear Statement Rule
- [Gregory v. Ashcroft](#)
14. Changed Circumstances
- [Bob Jones University v. United States](#)
 - [Leegin Creative Leather Products v. PSKS](#)
15. Non-Delegation Doctrine
- [Whitman v. American Trucking](#)
 - Gundy v. United States (excerpt)-*Handout*

MANDATORY AND RECOMMENDED SYLLABUS LANGUAGE

The University of Houston or other regulators require the following language. To the extent that the University changes any language after this syllabus was drafted and required to be submitted, the University's new language governs and not that contained in the syllabus. Should this syllabus fail to include mandatory syllabus language the University requires, that language still applies to the course even if it is not expressly provided in this syllabus. **As the University requires my syllabus many months in advance of the course commencing yet frequently mandates updates days before the semester commences, you should check the posted online syllabus for such changes at the beginning of the semester and continually throughout.**

ABA Mandatory Syllabus Language

Learning Outcomes: Through and as a result of this course, students will: (1) demonstrate understanding of the tools of statutory interpretation (see course title); (2) demonstrate understanding of basic issues of administrative law and regulation (see course title) (3) understand judicial review of administrative agencies (implied in course title but see course description) and (4) understand the economic implications of market regulation by stakeholders (e.g., this section of the syllabus).

UNIVERSITY OF HOUSTON SYLLABUS LANGUAGE: 2025

Mental Health and Wellness Resources

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

UH Email

Please check and use your CougarNet email for communications related to this course. Faculty use the CougarNet email to respond to course-related inquiries such as grade queries or progress reports for reasons of FERPA. To access your CougarNet email, login to your Microsoft 365 account with your CougarNet credentials. Visit University Information Technology (UIT) for instructions on how to connect your CougarNet e-mail on a mobile device.

Webcams

Should this course be offered with a remote component (it is *not* currently), access to a webcam is required for students participating remotely in this course. Webcams must be turned on absent consent of instructor for extenuating circumstances (e.g., illness).

Security Escorts and Cougar Ride

UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called “Cougar Ride” that provides rides to and from all on-campus shuttle stops, as well as the MD

Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

Syllabus Changes

Please note that the instructor may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible via e-mail.

Honor Code

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

AI Generated Text

The software technology known as artificial intelligence has recently expanded its capability to generate text and other work product (AI Generated Work Product). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text and other work product in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Work Product, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for material one might generate themselves. AI Generated Work Product can include computer code or programs as well as human language content and materials.

Your continuing enrollment in this course obligates you to not knowingly prompt, generate, or use any AI Generated Work Product in relation to any activity or assessment in this course. This applies to AI Generated Work Product from yourself or others. This obligation includes that your assessment materials in the course be without any contribution from AI Generated Work Product. This obligation specifically extends to not plagiarize any writing required of you for assessment in the course: AI Generated Work Product will be treated as from another/others in applying the plagiarism policy to this course. The term “assessment” means any material generated for this course that is submitted to the instructor or presented in a class session, regardless of whether it is graded content or not. Assessments include mid-terms and final exams. AI Generated Work Product may not be used in the development or drafting of any assessments created by you in a non-proctored environment, such as a “take-home” final examination.

Law Center Attendance Policy

As noted in the student handbook, [link](#) (page 5), the Law Center has a minimum 80% attendance policy for students. The ABA standards say that the Law Center must have a policy. The 80%

threshold is that policy. Student nonadherence will be notified to the Office of Student Affairs (OSA).

A Note on Freedom of Speech and Academic Freedom

[Texas Senate Bill 17](#), the recent law that bars diversity, equity, and inclusion programs at public colleges and universities in Texas, does not in any way affect content, instruction or discussion in a course at public colleges and universities in Texas. Academic freedom for teaching and class discussion have not been altered by Texas law. Students and faculty alike continue to enjoy robust legal and Constitutional protections for speech in and out of the classroom. See [Texas Education Code § 51.3525](#).