

**Course Outline---Public Law
Washington Semester Program
The American University
Washington, D.C.**

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Objectives:

The main objective of this seminar is for you to develop a comprehensive understanding of the institutions through which the U.S. Government makes policy choices through law on behalf of the American people. We will attempt to examine some of those choices by:

- Expanding your knowledge of the structures, rules and processes of the major policy making and interpretive institutions of the U.S. Government.
- Expanding your knowledge of the interrelationship of those institutions.
- Expanding your knowledge of the non-governmental influences on public law and policy.
- Examining several major areas of public law and their effect on the American people and the institutions which created them.

Structure:

The course will be divided into two major sections— I) we will examine the institutions, both governmental and non governmental, which comprise the public law making system and II) we will examine some major areas of public law, some of which have generated great controversy.

Part I will deal with the innumerable parts of the public law making system--the legislative role of Congress, the Executive branch's role in policy formulation, the usually overlooked but crucial administrative agency rule-making and regulation promulgation processes, the role of non governmental groups and, of course, the judicial review function of the courts. Part II will focus on a wide range of substantive areas of public law, which in some measure will be based on your communications to me about your interests. The areas we will consider will be influenced by current events, the availability of guest speakers, the overall importance of the topics, and, frankly, serendipity. If an important speaker becomes available and hearing from him or her would be a great learning experience, I will take advantage of that opportunity.

The success of your experience in this program will be up to you. Education is one of the few things for which people are willing to accept less than they pay for. I urge you to work hard to get the maximum out of this academic endeavor and everything which you encounter while in Washington. I have a term for this—"squeeze it". Always get the most out of any opportunity.

Course requirements:

[These are not too hard to guess!]

1. You must come to class **without fail and be on time. There will be no unexcused absences.** No student may leave early without checking with me first before class. Leaving early or coming late is disrespectful to me, your classmates and to our guest speakers.
2. You must do the assigned readings and be prepared to discuss them for each class **without fail.**
3. You must participate in all discussions whether we have a guest lecturer, a class debate, a mock markup or any other exercise **without fail.**
4. You must turn in required papers **on time without fail**—each paper must be submitted on the due date both in hard copy and a Word 2003 version sent to me electronically. All papers must have page numbers on them. [If you use Word 2007, make sure you convert it to Word 2003 before you send it.]

Papers are due by 5:00 pm on the due date. Failure to meet deadlines will have a negative effect on your grade.

You are all urged to use the services of the Writing Center on main campus and the Writing Lab on the Tenley Campus, especially at the beginning of the semester to ensure your writing is analytical, cogent and clear. If you do avail yourself of their services they will give you a certificate to submit to me and you will get extra credit for that paper. It is a serious mistake not to avail yourself of this free service. Whenever you write something it is always helpful to get an extra set of eyes to look it over. Make sure you schedule your appointments well in advance so you can both ensure you get an appointment and so you will have plenty of time to incorporate any suggestions into your papers.

I am inserting material from the Writing Center for your information:

From the AU WRITING CENTER

American University's **Writing Center** -- in 228 Battelle-Tompkins- is sponsored by CAS and the Department of Literature for the benefit of the entire AU community.

- The Center offers **free, individual consultations** on writing issues at any stage of the writing process to both undergraduates and graduate students. All coaching sessions start on the hour, last about 45 minutes, and can be arranged by calling our desk at 885-2991.
- Our approach is *collaborative*: **students coaching students** rather than "fixing" papers. In a 45-minute session, writing consultants won't try to cover every possible writing issue, but they can help students

address their assignments, understand the conventions of academic writing, and learn how to revise and edit their own work. In other words, we approach our work as coaching, rather than "cleaning up"!

- We encourage students to set up **regular appointments** to talk about their work. Students may schedule up to two sessions a week. We like to meet with students throughout their writing process to discourage the last-minute "fix it" attitude—we don't just proofread or copyedit papers.
- The Center's writing consultants are mostly **graduate students** in the Department of Literature, with a few selected undergraduate interns. They undergo a rigorous, 10-hour training program and continued professional development as part of their commitment to the Writing Center.

The Center's 45-minute coaching sessions start on the hour from 11 a.m. to 8 p.m. Monday through Thursday, 11 a.m. to 4 p.m. on Friday, and Sunday afternoon, 3 to 6 p.m.

Students should call 885- 2991 for an appointment or more information.

Visit our website at <http://www.american.edu/cas/lit/writingcenter.cfm>

5. The purpose of my reading and commenting on your papers is to help you elevate your writing and not for me to spend time correcting grammar, spelling and syntax and other errors. A quick electronic spell check is not sufficient. The automatic spell/grammar check programs in your computers make lots of mistakes. Leave Bill Gates and Steve Jobs out of it! Proofread your work from the bottom up out loud, and then get someone who is not familiar with the subject to proofread it for you. Disable your spell and grammar check. It is a great way to improve your proofreading skills. Each paper submitted should be free of any spelling and grammatical errors and should demonstrate the proper usage of language.

6. You **must** attend at least three "observations" of public hearings in person--one Congressional hearing (Senate or House), one judicial argument before a Federal Court (trial or appellate), the District of Columbia Court of Appeals or the U.S. Supreme Court, and one Federal agency rule-making hearing **without fail** and write a paper on that session. Clear your choices with me beforehand.

These are known as "observational days" and I will designate them ahead of time so you have the opportunity to find a hearing on a subject that interests you or, even better, about which you know very little and would like to learn. Find out something both about the process and the subject matter, especially if the topic is new to you. Read Congressional web sites, court opinions and briefs, and talk to people at hearings who are knowledgeable. Anything you can learn in advance or as the hearing progresses will help you understand the substance and the process. Make sure you know who is who and what they want.

The guidelines for observationals are spelled out below. Observationals are a crucial part of your getting to see public law being made. Each Congressional Committee, regulatory agency, and Court has its schedule on its web site. Find something interesting and educational to attend but one which will give you enough to write a

paper on based on one day's proceedings. Make sure it is not on a subject so esoteric it is very difficult to understand i.e. pesticide with complex chemical names. However, try to get out of your comfort zone.

Hearings related to your internship do not count for observational paper writing purposes but may be very educational and you should always attend them when you can. Check every day in the *Congressional Record* and other publications for hearings or seminars of interest, especially ones which might be relevant to your internship. Check with your internship supervisor for permission to attend a hearing and then write a memo explaining what happened. Squeeze every opportunity to get as much as possible out of your time in Washington.

7. You **must** successfully complete the midterm and final exams.

Failure to comply with all these requirements will result in grade penalties.

Reading Material:

Prior to Arriving in Washington: Each of you should have read the U.S. Constitution slowly and carefully. I recommend you get an indexed copy of the Constitution. It easier to use than just the text. Always bring this to class with you. **There will be a quiz on the Constitution the day the class meets for the first time on January 11, 2010.**

Be ready!

Read *The Elements of Style* by Strunk and White before coming to Washington! It is the authoritative source on the use of language. Also read *Plain English for Lawyers* by Wydick. Both are inexpensive paperbacks which will prove to be invaluable resources when writing papers. The quality of your papers will be a major factor in your grades for both the course and the internship. Use every possible resource to make them the very best you can—the writing centers, these two books, and good proof reading.

Further required reading material will be assigned during the semester and will come from several different sources. Since the law often changes, sometimes rapidly, some of the readings will be contemporary. Often they will provide observations or comments on the evolution of the statutes and case law we are studying and frequently they will be recent court opinions. Students will be required to read the following types of material:

1. Supreme Court opinions and briefs
2. U.S. Circuit Court of Appeals opinions and briefs
3. Commentary or testimony on the issues before the courts legislatures and the agencies
4. Subsequent writings both official and private concerning the actions of the Public
Law making apparatus, including the specific language of the law, and how it is interpreted
5. Congressional reports and debates on the issues
6. Background reading about each guest speaker—frequently from their web pages.

Reading material will be given to you in one of three ways—

A) Handouts

B) Materials which I will put in the Course Documents section of the

AU Blackboard and

C) Web sites

Each of the **mandatory** readings is assigned to prepare you to understand and participate in the appropriate class. They will vary in length and type. Make sure you read everything assigned very carefully. Skimming through may lead you to miss an important point. A crucial footnote in the Teri Schaivo decision was the lynchpin upon which the decision was based.

Failure to do the readings carefully robs you of the educational opportunity to get the most out of each seminar. It also detracts from your ability to participate in class discussions knowledgeably. Careful reading will enhance your ability to understand what the speakers have said and help you formulate your questions. If you expect to maximize your learning experience you must be up to date on the topics we will discuss. While I do not expect the readings will be extensive, i.e. no long book chapters, they will be intensive. You should also keep up with the national press such as the *Washington Post* and at least one other newspaper, perhaps your hometown paper, to get a different view. [Yes, sometimes there is a different view.]

Attendance at class and seminars:

Check the Blackboard every night and every morning in case there is a change in schedule or other information which you might need to prepare for class. Due to the nature of this course with its heavy reliance on guest speakers, plans will change. The schedule I will send out by email at the end of each week will be “Cast in Jell-O and written in pencil.” Be prepared to go with the flow.

Attendance at all seminars is **mandatory**. Each seminar is distinctive and will provide unique information and interactions to the Washington Semester student which is probably unavailable in a traditional learning environment. It will be a matchless experience to spend time with a Washington policy-maker with an opportunity to discuss a particular issue. It is also an opportunity for you to ask them questions. I will expect you to be prepared with at least two questions for each speaker which you have thought about previously. This is the real reason you came to Washington! As I regularly say “squeeze it.” However, questions designed to show off how much you know or which are intended to embarrass a speaker are not acceptable and will have a negative effect on your grade.

Listen especially carefully to each speaker, especially those with whom you do not agree. It will either help you strengthen your own thinking about an issue and prepare you to discuss it with even more thoughtful consideration, or it might give you new information with which to challenge your thinking and perhaps even modify your view. Either way you will have benefited from the experience—but only if you listen thoughtfully and think about what the speaker has said with an open mind. Sometimes people who are not dynamic speakers say the most interesting and thought provoking things. Remember you have two ears and one mouth for a reason.

In case we have to change rooms or times at the last minute each student will have every other student's cell number. In order to assist you in getting around the city efficiently and not being tardy, I suggest you get both a Metro map and a Washington D.C. map. Leave campus an hour before a meeting if the meeting is downtown.

Papers:

As mentioned, you will be required to write a paper on each of your observation sessions [requirements are discussed below]. Each of your papers will be on time, well written and clearly organized.

Observation papers

You will be required to observe at least 3 hearings during the semester—a judicial hearing, argument, or part of a trial; a regulatory or rule making hearing; and a Congressional hearing. You are required to then write a paper on each hearing. Each paper should be professional enough so you would be comfortable submitting it as a writing sample when applying to graduate or law school or as a memo to a superior about what you saw and learned. Take your time writing these papers. I can easily tell the difference between a carefully written paper and one which is thrown together at the last minute. These papers are an important part of both your learning experience and your grade. There is no specific length requirement. Do not pad them with unnecessary verbiage, but do not fail to include all the requirements noted below.

One of the most important things I hope you will take from this course is improvement in your ability to professionally express yourself both orally and in writing. Your papers about your observational sessions should contain enough clear information for the reader who was not there to obtain a full understanding about what occurred. Papers must be based on your **actual attendance** at the hearing. Any paper about a hearing which the student did not actually attend and is based solely on information gathered by electronic means will not be graded and the student will receive an "F" for failure to meet all of the requirements for the paper. Each paper must be accompanied by a photograph taken at or just before the hearing which includes the hearing room and the student.

When selecting a Congressional hearing, (House or Senate) it is probably better to go to a Subcommittee hearing because they are usually more active and informal than a Full Committee hearing. We will be discussing the difference between a markup and a hearing so you will understand why a markup is not a good forum for an observational.

It is very important you find an administrative hearing to go to. This course will spend a good bit of time looking into the rule making process. Congress passes about 300 bills per session and the agencies promulgate over 8,000 rules and regulations during that time. It will be very educational for you to see that process in action. While it is a little more difficult to find a hearing that is accessible by Metro, go on line and try to find one. Check the web sites of some of the agencies, EPA, FCC, and FTC for their hearing schedules. There are scores of hearings every year. Find something interesting and attend. Check with me to see if it qualifies as a real hearing or is just a public forum.

The Court calendars for the Supreme Court [which may be difficult to get into for a full argument], and the U.S. Court of Appeals are available on line, and the U.S District Court Clerk's Office is a wealth of information about

what is going on at the trial level. You don't have to attend a full trial which could take days, but a non jury trial may have motions to be debated, and that can be very interesting. The same is true of the D.C. Superior Court.

Attempt to find a hearing on a subject matter which interests you but which you have not previously studied in depth. The more interest you have in the hearing, the better job you will do writing about it. Do some background reading on the subject of the hearing so you will get more out of it.

An observation which is related to your internship, your evening class or your research paper does not qualify for an "observational". However, if you have the chance to go to one of these, by all means, go! While it won't count towards your grade it is another opportunity to "squeeze" the most out of your time here.

Since I will be reading (and grading) your papers, you have to remember I may not be familiar with the subject matter of the case or hearing. Make your writing understandable to someone who may not be conversant with the particular issues involved.

Your papers must include the following:

- What kind of hearing is it—legislative, judicial or administrative
- Who are the officials conducting the hearing and who are the witnesses and who do they represent?
- What is the issue(s)?
- Was there substantial controversy?
- Who wants what from the agency court or Congressional Committee?
- How well did the advocates do?
- Did the judge[s], hearing examiner or Members of Congress do a good job?
- Which side was most persuasive?
- What were your impressions of the process—was it fair and truly open?
- What did you learn?

Not only do I want the facts, I want your opinions, your analysis and any insights about the process or yourself which resulted from the experience. Some schools do not permit students to write in the first person. Most of the papers for this class and the internship by nature must be written in the first person.

Make sure your papers are clear and cogent. Look over your notes and then think before you write them. Then review them for substantive clarity and to ensure you eliminate spelling, grammatical, and semantic errors. There is nothing better to enhance the level of your writing than to read it again later and edit it. One of our goals in this class is to elevate your speaking and writing skills. If you take the time to do this your papers will be much better. I want to read them for content and to help you write about issues in a more convincing and informative way. I want you to leave Washington as a more effective writer and advocate. A series of quotations which have been taken from the opening statements and the witnesses' statements involves no thinking on your part and no analysis and is not sufficient for this purpose.

In the course documents section of the Blackboard there are a couple of excellent observational papers written by former students. Look them over. They will be instructive to you in preparing your papers. See the course documents for information on how to find a regulatory, Congressional, or judicial hearing. Plan ahead to verify the hearing will be held as scheduled—call the office to confirm. You should make sure you see one of each type of hearing—regulatory, Congressional, and judicial. All three of your papers must contain all the elements outlined above.

Examinations:

There will be a mid-term exam and a final. The questions for each exam will be drawn from matters covered by the readings, class lectures and exercises and guest lectures. Be prepared to integrate all of them into your exam answers.

Professionalism:

You will be treated as professionals and you will act like professionals. As the semester progresses, our mutual goal in both your written work and your oral presentations is to accomplish an elevated level of professionalism. Every time you express yourself whether orally or in writing, I will push you to elevate the quality of your language. Inappropriate use of words such as “like” “awesome” “amazing” and “totally” is discouraged and will be pointed out to you. Do not use colloquial language in papers or in class. Putting quotation marks around words does not make them appropriate for an academic paper. Also prohibited are text message shortcuts or other language inappropriate for an academic setting.

You will dress appropriately for each session. On campus sessions may have a more relaxed atmosphere, but not if we are having a guest speaker. A student in shorts and a T shirt will not make our speakers feel they are in the presence of a serious student. First impressions do make a difference. After the guest speaker finishes you may decide you would like to talk to the speaker after class or ask a question in class because he or she is an expert on a subject which might be of interest to you. If you have a chance to meet that person (which I will always try to arrange if you let me know ahead of time) and you do not look and speak professionally you will have squandered a golden opportunity.

The attitude a student exhibits in classes, seminars and other class-related interactions will have a substantial affect on his or her class participation grade. Negative body language, wrapping up your papers before the end of class, making sarcastic or side comments to a classmate is disrespectful and will not be tolerated. Remember class discussions are about exchanging ideas. They are not to be shouting matches like some Sunday morning talk shows. There will be no jumping in. You will speak only when recognized by me or a guest speaker. You can learn by listening. Use the discussions to sharpen and question your own thinking about issues, not as an opportunity to put down another point of view. Think while someone else is speaking and listen—do not just be waiting for your turn to speak.

Over the years, my students have always been punctual, respectful, and inquisitive with serious questions for our speakers. It is my intention to make sure this class will continue that tradition. When addressing a guest speaker,

giving your name and school in a slow and understandable manner before you ask your question is courteous. It helps the speakers connect with you. They may even be alumni of your school. When a judge addresses the group, it is appropriate to stand when they enter the room. These criteria may be different from the practices at your home school, but you all came to Washington for a different experience! Be professional, be inquisitive and “squeeze” every ounce of learning you can from this semester.

No electronic devices shall be on during any class except for hearing aids and cardiac pacemakers. You will give the class your full attention. There will be no ringing cell phones, checking email, or text messaging of any kind, EVER! I reserve the right to remove any such device from your custody and return it at a later time to be determined by me.

Grades:

Your grade will be made up of the following components:

Your papers		30%
Midterm exam		25%
Class participation	20%	
Final Exam		25%

Goals: The more you invest in your semester here the more you receive from it. My goals for you are that when you leave Washington you will think more analytically, speak more professionally, write more cogently, and be more informed about public law and the law making process.

READ THIS FROM THE ADMINISTRATION CAREFULLY

American University Academic Integrity Code

American University’s policy is as follows:

Standards of academic conduct are set forth in the University Academic Integrity Code which is provided in your registration packet. By participating in this program, you have acknowledged your awareness of the Academic Integrity Code, and you are obliged to become familiar with your rights and responsibilities as defined by the Code. Violations of the Academic Integrity Code will be taken seriously, and disciplinary actions will ensue should such violation occur.

EMERGENCY PREPAREDNESS

In the event of a declared pandemic (influenza or other communicable disease), American University will implement a plan for meeting the needs of all members of the university community. Should the university be required to close for a period of time, we are committed to ensuring that all aspects of our educational programs will be delivered to our students. These may include altering and extending the duration of the traditional term schedule to complete essential instruction in the traditional format and/or use of distance instructional methods. All faculty members will design alternative means of completing classes. Specific strategies will vary from class to class, depending on the format of the course and the timing of the emergency. Faculty will communicate class-specific information to students via AU e-mail and Blackboard, while

students must inform their faculty immediately of any absence due to illness. Students are responsible for checking their AU e-mail regularly and keeping themselves informed of emergencies. In the event of a declared pandemic or other emergency, students should refer to the AU Web site (www.prepared.american.edu) and the AU information line at (202) 885-1100 for general university-wide information. AND contact their faculty and/or respective dean's office for course and school/ college-specific information.

Wrap-up

OK, enough of the formal requirements. Welcome to Washington where there is a lot happening, a great deal of which will interest you since it is an election year. We will be looking at the new Public Laws which President Obama and the entire Public Law-making process propound. This is not a course in American Politics—we have other sections which teach that at WSP. This course will focus on Public Law and how it has been and is made.

Please come in to talk to me if you need help or are interested in discussing anything which has come up in class sessions or with our guest speakers. If you want to discuss your possible plans for graduate or law school I am pleased to do so. I want you to have the greatest learning experience of your life both within and outside of the WSP.

I am here to help you learn and enjoy your time and I want to assist you in every way to have a full and worthwhile learning experience while you are here. The more you invest in your semester here the more you receive from it.

This is not a program for those who do not want to work hard, nor is it a program for those who don't enjoy a good laugh every once in a while. The schedule can be demanding but the rewards extraordinary.

Do not forget you are in one of the greatest cities in the world. Experience it—go to museums, go to concerts, check out Georgetown, learn from WSP students in other programs. Have a great learning experience which will include the formal WSP events and so much more.

You will hear me say “squeeze it” frequently. That means make the most of every opportunity which presents itself while you are here, whether it is seeing a special museum, meeting an important policy maker or just having a good conversation with a new friend. Get the very most you can out of every situation. Learn to “squeeze it”.