Law 151 is a survey of domestic and international aviation law. Students receive an introduction into all major aspects of aviation law, with emphasis placed on government regulation of airlines, airports, and airline personnel. Students gain a basic understanding of the structure and forms of Federal and international aviation law. This 3-credit course will also expose students to the basics of administrative law, certain constitutional law provisions, antitrust law, and environmental law. The class will examine current aviation industry controversies such as –

**Economic regulation:** The merger of US Airways-American is under review by the Department of Justice. How should the Department rule?

What is the proper U.S. government response to inadequate commercial air service, including protracted tarmac delays? Has DOT regulated enough, or too much? Do States have any role?

Should international aviation be further deregulated beyond the provisions of the 2008 and 2010 US-EU air transport agreements?

Does law or DOT policy favor low cost or new entrant carriers over the interests of network airlines? Should it do so?

**Safety and efficiency:** Is the law adequate to address the problems of airport congestion and delay? Can airports address these problems?

How does and should the U.S. government fund the Next Generation Air Traffic System?

Is the FAA’s inspection, oversight, regulatory and enforcement programs in need of improvement?

Should criminal charges result from airline accidents caused by negligence of airline personnel or government regulators?

**Environmental law:** How should airline emissions be treated under climate change initiatives? Is the EU’s ETS in violation of international law?

How far may a local government go to mitigate environmental impacts of aircraft noise or to address other local interests?

**Security:** What is the proper balance between national security interests and the freedom to travel without harassment and inconvenience? What is the right to travel?

The casebook is *Aviation Law -- Cases and Materials* (Carolina Academic Press 2006), co-authored by Mr. Walden. Other materials will be available over The West Education Network (TWEN). Grades will be based on a written exam at the end of the term. Substantive and regular class participation will earn a student a half-grade improvement.
Mr. Walden is of counsel with Patton Boggs LLP. He served as Chief Counsel of the Federal Aviation Administration, 1988-90, and from 1983-1993 held senior positions in the U.S. Justice Department, the White House, and Interstate Commerce Commission.
Sources of Aviation Law (Chapters 1 & 3) (weeks 1-2)
- History and structure of U.S. regulation of domestic and international aviation (FAA, DOT, NTSB, TSA)
- DOT statutory authorities and DOT certification of air carriers & regulatory overview
- International aviation law (Chicago Convention; the Freedoms; bilaterals; ICAO; “Open Skies;” cabotage; foreign ownership; right of establishment; the US-EU agreements)

Airlines and Passengers: antitrust, competition, civil rights (Chapters 3, 4, & 6) (weeks 3-4)
- Competition and the antitrust laws: barriers to entry and anticompetitive conditions
- Antitrust laws and anticompetitive conduct
- DOJ and DOT authority over mergers, acquisitions, and code-share agreements
- Consumer protection – unfair and deceptive practices & unfair methods of competition
- Anti-discrimination protections for passengers: section 40127 and Air Carrier Access Act

Airlines and Passengers: ADA preemption; labor & bankruptcy law (Chapters 3 & 4) (week 5)
- Airline Deregulation Act preemption
- Labor law – Railway Labor Act
- Bankruptcy law

Aircraft (Chapter 2) (weeks 6-7)
- Scope of FAA’s authority over aviation safety
- Federal Aviation Act preemption
- FAA aircraft registration, certification, and regulation

Airmen (Chapters 2 & 3) (weeks 8-9)
- Federal Aviation Act preemption
- FAA certification and safety regulation of air carriers, aircraft, and airmen
- FAA safety rulemaking and judicial review
- FAA enforcement & NTSB appellate jurisdiction & judicial review
- Civil rights laws and criminal sanctions applicable to airline personnel

Aviation Security (Chapters 1 & 6) (week 10)
- International conventions on hijacking, sabotage and other crimes and acts of terrorism
- TSA regulation of air carriers and airports
- Constitutional challenges to TSA regulation and policies; the right to travel
- Airports and the First Amendment

Accident investigation and litigation (Chapter 4) (week 11)
- Domestic accident investigation and litigation
- International accident litigation (Warsaw and Montreal Conventions)

Airports (Chapter 6) (weeks 12-14)
- Takings Clause and relationship between Federal and local governments
- Airport expansion; funding of construction & improvements; noise abatement authority
- FAA safety regulation of airports and regulation of hazards to air navigation
- Statutory and contractual grant assurances
- Federal environmental review (NEPA) and judicial review of final orders
- Airport rates and charges and state taxation (dormant Commerce Clause; Anti-Head Tax Act; DOT policy; Passenger Facility Charges) & judicial review
- FAA and DOT administrative processes to challenge airport rates and access restrictions