Interpretive questions are often at the heart of difficult legal questions. Lawyers regularly face problems with the meaning of words, and in particular, the meaning of statutory text. This course will begin with an introduction to the legislative process and an overview of various descriptive and normative theories of legislation. The materials focus on judicial interpretation, but will also introduce problems of interpretation in the administrative state. The class aims to combine the theory and practical art of statutory interpretation.

**Required reading:**


*Packet from University Readers.* Packets can be ordered online at [www.universityreaders.com](http://www.universityreaders.com), or by calling 1-800-200-3908. [I will inform students when packets are ready for ordering.]

Law review articles on the syllabus can be printed from Westlaw or Heinonline.

Please sign-up for TWEN as I will email students through this site with changes and updates to the reading assignments.

**Recommended readings:** I will occasionally suggest readings to supplement the coursework and will provide citations in class or post them on TWEN. In addition, a few relevant books have been placed on reserve in the library.

**Grading:** Your final grade will be based on one final exam and, at my discretion, may be increased one-half letter grade for exceptional participation or decreased one-half letter grade for failure to prepare.

Thorough preparation for class is required and participation is strongly encouraged. If you are unprepared for class, you must notify me in advance either by email or in person before class begins. You are responsible for complying with the attendance requirements of the Academic Regulations.

**Note:** No sound recording devices of any kind may be used in class.
Reading Assignments

January 5—Introduction to legislation
Required background: EFGB 21-34
EFGB 34-37
EFGB 61-69,79-106

January 12—Theories of legislation and government design
Federalist No. 10 and No. 51 (James Madison), available at
EFGB 38-60

January 19—No class: Martin Luther King Day

January 26—Problem of legislative meaning
Richard Posner, Problems of Jurisprudence 286-302 (packet)

February 2—Doctrines of statutory interpretation: Linguistic canons
EFGB 643-652, 657-689

February 9—Substantive canons and a critique
EFGB 690-707, 712-730, 749-761

February 16—Stare decisis and legislative responses
EFGB 443-465
EFGB 853-859 [Read Bob Jones, EFGB 530-543]

February 23—Theories of statutory interpretation—intentionalism, legal process
EFGB 477-497, 503-514
Stephen Breyer, Active Liberty 15-20, 85-101 (packet)

March 2—Dynamic statutory interpretation, pragmatism
EFGB 514-529, 543-549, 625-631
William N. Eskridge, Dynamic Statutory Interpretation 13-47 (packet)

March 9—No class: Spring recess

March 16—New textualism
EFGB 551-580
Antonin Scalia, A Matter of Interpretation 3-30 (packet)
March 23—Textualism applied and economic theories
EFGB 583-609, 613-624

March 30—Use and abuse of legislative history
EFGB 776-777
EFGB 786-815
Antonin Scalia, A Matter of Interpretation 29-37 (packet)

April 6—Legislative history, cont.
EFGB 829-832, 846-853
EFGB 868-890

April 13—Judicial review of agency interpretations
EFGB 1079-1107, 1112-1124

April 20—Issues in agency interpretation
EFGB 1124-1137, 1156-1165, 1170-1178

Review session

April 30 at 6PM – Final exam