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:** What is the proper U.S. government response to: consolidation of the industry; inadequate commercial air service, including tarmac delays and cramped space? Has DOT regulated enough, or too much? Do States have any role?

The unbundling of airfares (so-called “ancillary fees”): does this development warrant any response from Congress or DOT?

**U.S. Open Skies policy:** The 3 U.S. legacy airlines complained that Middle East carriers are unfairly subsidized by UAE and Qatar. The Administration recently decided to initiate informal discussions with these countries. What other remedies are available?

**What does the BREXIT vote portent for the US-UK aviation relationship?**

**Safety and efficiency:** How is FAA integrating unmanned aerial systems (drones) into the National Airspace System? What authority do State and local governments have to address privacy and nuisance concerns?

Is current law adequate to address airport congestion and delay? Do airports have authority to address these problems?

How does and should the U.S. government fund the Next Generation Air Traffic System? Should Air Traffic Control be removed from the FAA?

**Environmental law:** How far may a local government go to mitigate environmental impacts of aircraft noise or to address other local interests? How should airline emissions be treated under climate change initiatives?

**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). Grading will be based on a 3-hour written exam; substantive and regular class participation will earn a student a half-grade improvement.

Mr. Walden is senior counsel with Akin Gump Strauss Hauer & Feld. He serves as Aviation Counsel to the Small UAV Coalition. He served as FAA Chief Counsel, 1988-90, and from
1983-1993 held senior positions in the U.S. Justice Department, the White House, and Interstate Commerce Commission.
Introduction and sources of aviation law (August 22)
- History and structure of U.S. regulation of domestic and international aviation; sources of aviation law (FAA, DOT, NTSB, TSA)
- DOT statutory authorities and DOT certification of air carriers & regulatory overview

International aviation (Chapters 1 & 3)(August 29)
- International aviation law: Chicago Convention; the Freedoms; bilaterals; ICAO; “Open Skies;” cabotage; foreign ownership; right of establishment; the US-EU agreements
- Current Open Skies issues: Norwegian Air Shuttle; US carrier complaint against Middle East governments and carriers; consequences on U.K. departure from European Union

Airlines and passengers: antitrust, competition, civil rights (Chapters 3, 4, & 6)(Sept. 12 & 19)
- 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
- Administrative Procedure Act rulemaking and adjudication – general principles
- DOT enforcement and adjudication
- Consumer protection – unfair and deceptive practices & unfair methods of competition
- Regulation of travel agents, online travel agents and metasearch sites
- Tarmac delays
- Civil rights protections for passengers: section 40127 and Air Carrier Access Act

Airlines and passengers: ADA preemption; labor & bankruptcy law (Chapters 3 & 4)(Sept. 26)
- Airline Deregulation Act preemption
- Labor law – Railway Labor Act
- Bankruptcy law

Aircraft (Chapter 2) (Oct. 3 & 11)
- Scope of FAA’s authority over aviation safety
- FAA aircraft registration, certification, and regulation
- Key concepts in commercial transportation, general aviation and the “in-betweens”
- Unmanned aircraft systems (drone) regulation
- Federal Aviation Act preemption and other defenses against liability

Airline personnel (Chapters 2 & 3)(October 17 & 24)
- APA rulemaking and adjudication – reprise of general principles
- FAA certification and safety regulation of air carriers, aircraft, and airmen & judicial review
- FAA enforcement & NTSB appellate jurisdiction & judicial review
- Civil rights laws and criminal sanctions applicable to airline personnel
Aviation security and the Constitution (Chapters 1 & 6)(October 31 & Nov. 7)
- International conventions on hijacking, sabotage and other crimes and acts of terrorism
- TSA regulation of air carriers and airports
- 4th and 5th Amendment challenges to TSA regulation and policies; the right to travel
- Airports and the First Amendment

Accident investigation and litigation (Chapter 4)(Nov. 14)
- Domestic accident investigation and litigation
- International accident litigation (Warsaw and Montreal Conventions)

Airports (Chapter 6)(Nov. 21 & 28)
- 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 – noise abatement and NEPA – & judicial review
- Airport proprietary powers
- 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