

Antonin Scalia Law School at George Mason University
Legal Practicum — Regulatory Comments — LAW 300
Spring 2022, Mondays 8:10 - 10:10 PM
2 Credits -- Writing Course
David Zorn

dzorn@gmu.edu

703-505-4913

I will teach students to effectively influence the U.S. federal rulemaking process. I will explain

- a) the way that the federal regulatory process works,
- b) the role that public comments play in agency decision making,
- c) the practical strategies for writing comments that are more likely to alter regulatory decisions, and
- d) the content and style of writing that is best suited to this aspect of administrative law.

Students are expected to learn to

- a) accurately summarize the content of public comments on a federal rulemaking;
- b) persuasively communicate views in writing;
- c) deliver written assignments that have only rare errors of grammar, mechanics, and usage;
- d) clearly explain meaningful concepts; and
- e) improve written text.

Feel free to contact me any time by phone, text, or email.

Assignments and Grading: No group work. All assignments graded on the Scalia curve.

- Brief writing and editing assignments (20%, each due on the Friday after it is assigned). Five, 1-page-or-less writing/editing assignments to practice communicating clearly and improving text. **Late work will not be accepted.**
- Written evaluation of the effectiveness of comments submitted on a final rule (30%, **due 11:59 PM, 3/6**). Study a recent rulemaking to gain appreciation for what agencies face in using public comments. Write a comment summary and an analysis of the influence of comments on the rulemaking.
- Written comment on a rulemaking (50%, **due 11:59 PM, 4/25**). Use the techniques and strategies learned in the course, including specifying how the rule should be changed.

Late penalty: one letter grade for the first 24 hours; after that, zero credit for the assignment.

Class participation will not be a factor in grading.

General References (there are no required texts):

- ★ Kolln and Gray, *Rhetorical Grammar: Grammatical Choices, Rhetorical Effects*.
A superior text on writing for effect instead of for art or mechanics.
- Carey, [*The Federal Rulemaking Process: An Overview*](#). Congressional Research Service (CRS), 2013.
- Carey, [*Cost-Benefit and Other Analysis Requirements in the Rulemaking Process*](#). CRS, 2014.
- Carey and Davis, [*The Congressional Review Act: Frequently Asked Questions*](#), CRS, 2020.
- Cole, [*An Introduction to Judicial Review of Federal Agency Action*](#). CRS, 2016.
- Eisner, [*Rulemaking Requirements*](#). Department of Transportation, 2011.
- Garvey, [*A Brief Overview of Rulemaking and Judicial Review*](#). CRS, 2017.
- Law Librarians Society of Washington, DC, [*A Research Guide to the Federal Register and the Code of Federal Regulations*](#) (from [*LLSDC's Legislative Source Book*](#)). 2016.

Schedule of Classes

1/24	<ul style="list-style-type: none"> • Course Overview • Overview of Effective Writing 	<ul style="list-style-type: none"> • Texas A&M, Writing; and • Kolln, Using Grammar.
1/31	<ul style="list-style-type: none"> • Instructions for First Assignment • Fundamental Regulatory Sources 	<ul style="list-style-type: none"> • Regulations.gov, • eCFR.gov, • RegInfo.gov, • FederalRegister.gov, and • Law Librarians Society of DC
2/7	<ul style="list-style-type: none"> • Overview of Informal Rulemaking 	<ul style="list-style-type: none"> • Balla & Dudley, Stakeholder Participation and Regulatory Policymaking in the United States, and • Reg Map or updated, more complex version
2/14	<ul style="list-style-type: none"> • Comment Evaluation and Response Process 	<ul style="list-style-type: none"> • USDA, Evaluation of Public Comments on CWD Program Standards; • EPA, Clean Water Rule Comment Compendium - Mass Mailing Campaigns; and • Regulations.gov, Tips for Submitting Effective Comments
2/21	<ul style="list-style-type: none"> • Effective Writing Style 	<ul style="list-style-type: none"> • RegulationRoom, What is Effective Commenting?; • Colorado Bar Association, Quick Tips for Persuasive Writing video
2/28	Individual Consultation on Summarizing and Analyzing Comments	
3/7	<ul style="list-style-type: none"> • Instructions for Final Assignment • Requirements for Rulemaking 	<ul style="list-style-type: none"> • Carey, 2013; • Eisner; and • RegulationRoom, What is Effective Commenting? video
3/21	<ul style="list-style-type: none"> • Strategizing Content 	<ul style="list-style-type: none"> • Willer & Feinberg, "Key to Political Persuasion" and • Feinberg & Willer, "From Gulf to Bridge"
3/28	<ul style="list-style-type: none"> • Opportunities and Common • Vulnerabilities in Rulemakings 	<ul style="list-style-type: none"> • Shapiro, When Will They Listen?; and • Williams, Regulations Checklist: Common Pitfalls in Regulations
4/4	<ul style="list-style-type: none"> • Effective Writing Style for • Administrative Policy 	<ul style="list-style-type: none"> • Kolln & Gray handouts and • Writing an Argument
4/11	<ul style="list-style-type: none"> • Federated Federal Government 	<ul style="list-style-type: none"> • Sunstein, "The Office of Information and Regulatory Affairs"; • Copeland, Federal Rulemaking: The Role of the Office of Information and Regulatory Affairs, and • Murphy, Who Regulates Whom and How?
4/18	Individual Consultation on Writing Comments	
4/25	Overview of New Administration's Regulatory Activities	