



FALL 2026 COURSE SYLLABUS

Course Number: 151

Course Title: Aviation Law

Credit Hours: 2

Grading Mode: Letter-graded

Meeting Day(s)/ Time(s): Mondays, 6:05 pm to 8:05 pm

Meeting Mode: In person

Exam Day(s)/Time(s): December 1, 6:00 pm

Final Exam Mode: In person

Prerequisite(s): N/A

Corequisite(s): N/A

Instructor(s): Gregory Walden

Contact Information: gwalden@gmu.edu

Office Hours: By phone: 9:00 AM – 6 PM Monday through Friday; available in person before class if scheduled in advance

Course Overview

The class will examine current aviation industry topics such as:

- **Safety:** What lessons should be learned from the investigations into 2025 Potomac River midair collision and the 2026 LGA runway collision? What is the proper relationship between the FAA and airlines with respect to type and airworthiness certification of aircraft? Are the FAA's inspection, oversight, regulatory & certification programs in need of improvement?

How is the FAA integrating unmanned aerial systems – drones and air taxis – into the National Airspace System? What authority do State and local governments have to address trespass, privacy and nuisance concerns drone operations may raise?

What if any are the limits to the FAA's safety authority?

- **Economic regulation:** What is the proper U.S. government response to: consolidation of the industry; poor treatment of passengers, including tarmac

delays, cramped space, refunds for flights not taken, and a lack of transparency in fares and fees? Has DOT received sufficient regulatory authority?

Does the deregulatory model from 1978 still work with a consolidated industry? Is antitrust law still relevant?

- **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?

Course Learning Outcomes

Students will receive an introduction into all major aspects of aviation law, with emphasis placed on government regulation of aircraft, airlines, airports, and airline personnel. In particular, students will gain a basic understanding of the structure and forms of domestic and international aviation law.

This course will expose students to the basics of administrative law in the context of DOT and FAA rulemakings and adjudications, and the basics of antitrust law and environmental law as they relate to aviation and airports. This course will also introduce students to several Constitutional provisions, such as the Commerce Clause, the Supremacy Clause, the Takings Clause, the First Amendment, the court-recognized right to travel and the court-created dormant Commerce Clause.

Reading(s) & Supplement(s): The casebook is *Aviation Law – Cases and Materials* (Carolina Academic Press, 2006). Other materials will be provided to students. Recent decisions can be accessed by students.

Grading Policies

Participation & Preparation %: Student participation is encouraged, both questions and comments. Students are expected to have read the assigned materials in advance of the class. The final exam will be 100% of your grade; you will also be eligible for a one-third-grade increase (e.g., from “B” to “B+”) based on substantial class participation and attendance. The written exam will likely last three hours and consist of a mix of short answer and essay questions.

Midterm %: N/A

Final %: 100 (see above regarding class participation)

Additional Information:

Adjunct Professor Gregory S. Walden has taught Aviation Law at the Scalia Law School since 1998. In addition to teaching Aviation Law, since 2019 Mr. Walden has also taught a course in Automated Vehicles Law. Mr. Walden is a co-author of *Aviation Law – Cases and Materials* (2006) and *Eyes to the Skies: Privacy and Commerce in the Age of the Drone* (Cato 2021). After graduating cum laude from Washington & Lee University in 1977 and magna cum laude from the University of San Diego School of

Law in 1980, he clerked for the U.S. Court of Appeals for the District of Columbia, first as a court law clerk and then as a clerk to Judge Robert H. Bork. Mr. Walden served in several positions in the Justice Department before becoming Chief Counsel of the Federal Aviation Administration in 1988. He subsequently served as Associate Counsel to President George H.W. Bush and Member of the Interstate Commerce Commission. From 2014-2026, he served as Aviation Counsel for the Small UAV Coalition.

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI: Students may bring their laptop computer to class. AI may be used except it may not be used during the exam.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student’s computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e-book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor’s standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

Week 1:

Date: August 17

Topic: Introduction and sources of aviation law

Aviation law in flux? What may be shifting as a result of the accidents in 2025 and 2026, and the advent of new aviation technologies?

History and structure of U.S. regulation of domestic and international aviation; sources of aviation law (FAA, DOT, NTSB, TSA)

Overview of DOT statutory authorities and DOT certification and regulation of air carriers

Assignment(s): Casebook Chapter 1, pages 1-14; pages 20-23 and notes 4-6 (pages 26-29)

Week 2:

Date: August 24

Topic: International aviation

International aviation law: Chicago Convention; the Freedoms; bilateral agreements; UICAO; "Open Skies"; cabotage; foreign ownership; right of establishment; the US-EU agreements

International code sharing and antitrust immunity

Current Open Skies issues

Assignment(s): Casebook Appendix 1 (Articles 1 and 2); Appendix 3 (Articles 1-7, 9, 33, 37, 38, 84, 87-88); Appendix 4 (Article 1); Appendix 5 (Article 1); Appendix 30 (Articles 2,3, 8, 10, 11, 12, and Annex I); US-EU 2008 agreement (Articles 1-4, 6-8, 10, 13, 20-26, and Annexes 3 and 4); US-EU Stage 2 agreement 2010 (pages 8-9, 12)

Week 3:

Date: August 31

Topic: FAA safety authority

Scope of FAA's authority over aviation safety

FAA aircraft registration, certification and regulation

Assignment(s): Casebook, Chapter 2, pages 109-113, *Flyers Rights Education Fund v. FAA* (D.C. Cir. 2017); Casebook Chapter 2, pages 107-109, 113-124 and notes 5,6, and 8 (pages 127-129) and Appendix 3 (Articles 17 and 18) and Appendices 6, 28, and 29 (only as discussed in class)

Week 4:

Date: September 14

Topic: FAA safety authority

Key concepts in commercial transportation, general aviation, and the "in-betweens"

FAA preemption and other defenses against liability

Assignment(s): Casebook, Chapter 2, page 126 n.2; *FlyteNow, Inc. v FAA*, 80 F.3d 882 (D.C. Cir. 2015); *United States v. King*, 524 F. Supp. 3d 668 (S.D. Tex. 2020); Casebook, Chapter 2, pages 169-174, 183-188 and notes 1-9 (pages 193-196; Casebook Chapter 3, pages 217-224, 240-247; *Sikkellee v. Precision Airmotive Corp.*, 822 F.3d 680 (3d Cir. 2018)

Week 5:

Date: September 21

Topic: Drones and advanced air mobility

Assignment(s): FAA Fact Sheet (July 29023); *Singer v. City of Newton*, 284 F. Supp. 2d 125 (D. Mass 2017); *National Press Photographers Ass'n v. McGraw*, 90 F.4th 770 (5th Cir, 2024)

Week 6:

Date: September 28

Topic: Airline personnel

Administrative Procedure Act rulemaking and adjudication: general principles; what *Loper Bright* means; FAA enforcement and NTSB appellate jurisdiction and judicial review; civil rights laws and criminal sanctions applicable to airline personnel

Assignment(s): *Flight Training International, Inc. v. FAA*, 58 F.4th 234 (5th Cir., 2023): Casebook, Chapter 3 pages 224-231, and notes 2-5, pages 253-254; pages 258-260 and 271-275, notes 1-3, pages 275-276; Casebook Chapter 3, pages 276-285, notes 103 (pages 318-320)

Week 7:

Date: October 5

Topic: Accident investigation and litigation, domestic and international;

Domestic: NTSB and Federal Tort Claims Act

International; Warsaw and Montreal Conventions

Assignment(s): Casebook, Chapter 6, pages 644-664 and notes 3-8 (pages 665-668); Casebook, Chapter 4 pages 425-463 (omit case at pp. 429-437), and notes 1-10 (pages 479-483) and problem 16 (page 483), Appendices 2, 8, 13, 15, 23, 24, 25, 26 (only as discussed in class)

Week 8:

Date: October 13 (Tuesday)

Topic: Airlines and passengers

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; APA rulemaking and adjudication – reprise of general principles

Assignment(s): Casebook, Chapter 4 pages 343-366 and notes 1-3, pages 410-415; *United States, et al. v American Airlines Group Inc. and JetBlue Airways Corp.*, 121 F.4th 209 (1st Cir. 2024)

Week 9:

Date: October 19

Topic: Airlines and passengers: consumer protection

DOT enforcement and adjudication; consumer protection – unfair or deceptive practices and unfair methods of competition; regulation of travel agents, online travel agents and metasearch sites; tarmac delays, ancillary service fees, and family seating

Assignment(s): Casebook Chapter 4, pages 376-382 and note 8, pages 415-416

Date: October 19

Topic: Civil rights protections for passengers: section 40127 and the Air Carrier Access Act

Assignment(s): Casebook Chapter 4, pages 395-400, and note 15, pages 420-421

Week 10:

Date: October 26

Topic: Airlines and passengers: ADA preemption

Assignment(s): Casebook, Chapter 4 pages 366-376 (omit discussion of EPCA issue), pages 382-394, and notes 9-13, pp. 416-420, and Problem 15, page 425; *Delta v. NYC Department of Consumer Affairs*, 564 F. Supp. 3d 109 (S.D.N.Y. 2021); *Bevacqua, et al. v Southwest Airlines*, 2024 WL 3673548 (5th Cir. 2024)

Date: October 26

Topic: Labor law and bankruptcy law

Assignment(s): Casebook Chapter 3, pages 320-331 and 337-345 (omit TACA case), and notes 1-6, pages 340-342

Week 11:

Date: November 2

Topic: Aviation security and the Constitution

International conventions on hijacking, sabotage and other crimes and acts of terrorism

TSA regulation of air carriers and airports

Assignment(s): Casebook Chapter 1, pages 52-61, 64-654 and notes 1-4, pages 67-69; Casebook Appendix 10 (Articles 1-16), Appendix 12 (Articles 1-9), Appendix 14 (Articles 1-8), Appendix 19, Appendix 20 (Articles I-II), and Appendix 21

Date: November 2

Topic: Aviation security and the Constitution

4th and 5th amendment challenges to TSA regulation and policies; the right to travel

Airports and the First Amendment

Assignment(s): *Latif v. Holder*, 28 F. Supp. 3d 1134 (D. Ore. 2014); *Latif v. Lynch*, 2016 WL 1239925 (D. Ore.); *Ibrahim v. Department of Homeland Security*, 62 F. Supp. 3d 909 (N.D. Cal. 2014)

Week 12:

Date: November 9

Topic: Airports

Takings Clause and relationship between Federal and local governments

Airport expansion; funding of construction and improvements; noise abatement authority

Assignment(s): Casebook, Chapter 6 pages 551-556 and notes 102, pages 582-583, and Problem 22, page 620; Casebook, Chapter 6, pages 556-562

Date: November 9

Topic: Airports

FAA safety regulation of airports and regulation of hazards to air navigation

Statutory and contractual grant assurances; Federal environmental review – noise abatement and NEPA and judicial review; airport proprietary powers

Assignment(s): Casebook, Chapter 6, page 584 note 5; pages 586-603 and notes 1-2, pages 617-618

Week 13:

Date: November 16

Topic: Airports

Airport rates and charges and state taxation (dormant Commerce Clause; Anti-Head Tax Act, DOT policy; Passenger Facility Charges) and judicial review

FAA and DOT administrative processes for challenges to airport rates and access restrictions

Assignment(s): Casebook, Chapter 6, pages 603-617 and notes 3-5, pages 618-620

Date: November 16

Topic: Class review

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-993-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)