

LEGISLATION AND STATUTORY INTERPRETATION (LAW 266)
Spring 2026

Instructor: Nelson Lund
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Class Times: Tuesdays or Thursdays, 1:50–3:50 pm

IMPORTANT NOTICE

For students in section 001: our first class meeting will be on Thursday, January 22, and our last meeting will be on Friday, April 24.

Office Hours: Tuesdays, 4:00–4:30, Room 433i

Required Text: William N. Eskridge, Philip P. Frickey, and Elizabeth Garrett, *Cases and Materials on Statutory Interpretation* (West, 2012), ISBN: 978-0-314-27818-0

Course Description: An introduction to the theory and practice of statutory interpretation.

Learning Outcomes: The American Bar Association requires that this syllabus describe what the ABA calls “learning outcomes.” For this course, the learning outcomes include one that has been designated by the faculty: “Students will exercise the professional skills expected of members of the legal profession.”

Evaluation:

There will be an examination at the end of the course.

Class discussions are educationally important, and they require coming to class prepared. For that reason, final grades may be raised or lowered to reflect the quality of class participation. If you are not prepared when called on, please say so rather than waste everyone's time by trying to wing it.

Everyone is expected to pay attention in class, *not just to my questions and comments but also to what other students are saying*, and to be ready to join the discussion. This is more important than taking extensive notes. Anyone who, when called on, seems not to have been paying attention will be marked down as unprepared.

AI Policy:

I do not recommend the use of AI tools in preparing for class or for the exam, but I do not forbid it. You may not use AI tools while taking the exam.

Additional Policies:

Academic Regulation 4 has strict and specific rules about attendance, which I do not have the authority to waive. If you have questions or concerns about these rules, please contact the Associate Dean for Student Affairs and Academic Support.

If you think I may not know how to pronounce your name, please send me an email with a phonetic spelling. If I mispronounce your name during class, please correct me.

My job is not to indoctrinate you, and your job is not to figure out what I think in hopes of feeding my opinions back to me on the exam. I will not make any great effort either to reveal or to conceal my views about the cases we're going to study. I neither expect nor welcome unthinking deference to anything I say, and I will ask you to offer reasoned arguments for whatever opinions you express.

No sound or video recording devices of any kind may be used during class. This is partly to discourage inattentiveness, and partly to encourage participation by students who understandably don't relish the prospect of having their contributions immortalized on other people's recording devices.

When employing the Socratic method, I will call on students at random. That means that you may be called on in any given class, no matter how frequently or recently you've been called on before.

ASSIGNMENTS

Class 1 – Tues. January 20; Thus. January 22 – The Civil Rights Act of 1964

Eskridge, Frickey, & Garrett, pp. 2-42

Griggs v. Duke Power Co., 420 F.2d 1225 (4th Cir. 1970), excerpts included in the supplement to this syllabus at pp. 1-15

Class 2 – Tues. January 27; Thus. January 29 – Interpretations of Title VII of the Civil Rights Act of 1964

Griggs v. Duke Power Co., 401 U.S. 424 (1971), which is included in the supplement to this syllabus at pp. 16-23

Eskridge, Frickey, & Garrett, pp. 79-115, 125-34

Along with the excerpts from the *Weber* case on pp. 85-98 of the casebook, please read the text of § 703(i) of the Civil Rights Act of 1964, which is included in the supplement to this syllabus at p. 24

Along with the editors' note on pp. 125-29 of the casebook, please read the excerpts from the Civil Rights Act of 1991 that are included in the supplement to this syllabus at p. 25

Class 3 – Tues. February 3; Thus. February 5 – Statutory Text and Spirit

Eskridge, Frickey, & Garrett, pp. 142-51, 169-76, 199-212

Along with the excerpts from *Holy Trinity* on pp. 142-46 of the casebook, please read the full text of the statute at issue in the case, which is included in the supplement to this syllabus at pp. 26-27

Class 4 – Tues. February 10; Thus. February 12 – Deference to Precedents and Agencies

Public Citizen v. U.S. Dep’t of Justice, 491 U.S. 440 (1989), excerpts included in the supplement to this syllabus at pp. 28-45

Eskridge, Frickey, & Garrett, pp. 115-25

Loper Bright Enter. v. Raimondo, 603 U.S. 369 (2024), excerpts included in the supplement to this syllabus at pp. 46-58

Class 5 – Tues. February 17; Thus. February 19 – The “New Textualism”

Eskridge, Frickey, & Garrett, pp. 214-32, 242-52, 261-74

Class 6 – Tues. February 24; Thus. February 26 – Textual Canons

Eskridge, Frickey, & Garrett, pp. 326-62

Fischer v. United States, 603 U.S. 480 (2024), excerpts included in the supplement to this syllabus at pp. 59-72

Class 7 – Tues. March 3; Thus. March 5 – Substantive Canons

Eskridge, Frickey, & Garrett, pp. 362-70, 383-86 (n.b. that the text of 18 U.S.C. 1346 can be found at the top of p. 383)

Post-*Skilling* case summaries included in the supplement to this syllabus at pp. 73-79

Snyder v. United States, 603 U.S. 1 (2024), excerpts included in the supplement to this syllabus at pp. 80-96

Eskridge, Frickey, & Garrett, pp. 391-404

Spring Break

Class 8 – Tues. March 17; Thus. March 19 – Federalism Canons

Eskridge, Frickey, & Garrett, pp. 406-26

Along with *Gregory v. Ashcroft*, pp. 407-18, please read excerpts from Justice White’s partial dissent and excerpts from Justice Blackmun’s dissent, which are included in the supplement to this syllabus at pp. 97-104

Bond v. United States, 572 U.S. 844 (2014), excerpts included in the supplement to this syllabus at pp. 105-18

Class 9 – Tues. March 24; Thus. March 26 – Legislative Background

Eskridge, Frickey, & Garrett, pp. 443-44, 459-60

Leo Sheep Co. v. United States, 440 U.S. 668 (1979), included in the supplement to this syllabus at pp. 119-132

King v. Burwell, 576 U.S. 473 (2015), excerpts included in the supplement to this syllabus at pp. 133-53

Class 10 – Tues. March 31; Thus. April 2 – Legislative History

Eskridge, Frickey, & Garrett, pp. 469-92

Brown v. United States, 602 U.S. 101 (2024), excerpts included in the supplement to this syllabus at pp. 154-56

Lockhart v. United States, 577 U.S. 347 (2016), excerpts included in the supplement to this syllabus at pp. 157-75

Class 11 – Tues. April 7; Thus. April 9 – Legislative History

Eskridge, Frickey, & Garrett, pp. 495-97, 512-20, 282-92, 523-33

Class 12 – Tues. April 14; Thus. April 16 – Legislative History and Implied Repeals

Eskridge, Frickey, & Garrett, pp. 533-40, 545-62, 580-88

Class 13 – Tues. April 21; Friday April 24 – A New “New Textualism”?

McGirt v. Oklahoma, 591 U.S. 894 (2020), excerpts included in the supplement to this syllabus at pp. 176-87

Bostock v. Clayton County, 590 U.S. 644 (2020), excerpts included in the supplement to this syllabus at pp. 188-210