

UCDC Law Syllabus

Spring 2012

Law and Lawyering in the Nation's Capital

Wednesdays, 6 to 9 p.m. (Note: Class will take place on 4 Mondays during the semester)
University of California Washington Center
1608 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Instructor:

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Program Description:

Your externship in the UCDC Law Program has two main components: the lawyering you do at the externship site, guided by your externship supervisor, reflected upon in your journal and monitored and supported by your instructor; and the companion course, a 3-credit seminar with frequent guest speakers, class discussion and a final paper on a legal topic relevant to the externship.

The seminar is designed to enhance your externship experience in three principal ways. First, we will learn about the process of federal lawmaking and the impact it has on business as well as our daily lives directly from leading government lawyers, lobbyists, and public interest advocates. Second, we will investigate the unique role of lawyers, across a range of subject areas and ideologies, in making and changing federal law and policy. And third, we will explore career opportunities unique to lawyering in Washington. Underlying all these is our intention to put you in touch with the wisdom, and the professional values, of America's most dedicated public law practitioners.

Class sessions generally include guest speakers and discussion based on your questions. Many of our sessions will include a "grand rounds"-style exchange to facilitate peer-to-peer learning about lawyering at the broad range of externship sites. Each student will write a final paper, typically on a legal topic selected in consultation with the instructor and the externship supervisor for educational value and salience to the office. The final two classes of the term will feature a formal presentation on your paper in progress.

From time to time we will also have events outside of class. These will be announced in advance. **Please inform you placement of this possibility.**

Seminar requirements:

Your seminar grade will be based on:

- **Class participation (25%).** This includes your attendance, class participation, active engagement with our guest speakers, and presentation on your externship or paper in progress. Effective class discussions depend on the contribution and preparedness of each student. If you have to miss a class, please advise me prior to the class. Absence from two or more classes may result in your seminar course grade being lowered.
- **Short Writing Assignments, questions for speakers, and timekeeping (25%).** During the semester you will be assigned four short writing assignments. The writing assignments will include a goals memorandum, a mid-term self-evaluation, and two guided journals. These assignments will be the topic of discussion for the preceding class. Details are noted in the syllabus. Each writing assignment should be approximately 5 pages.

You should observe the confidentiality and privilege rules of your placement host organization and of the D.C. Bar, which generally means you should omit information that could identify an individual client or breach an agency's deliberative process privilege. We are here to help you resolve any questions you may have on this and other subjects.

Each week you are asked to submit to me via email a question for the speaker or on the upcoming discussion topic. These questions should be drawn from your reading and experiences at your placement. All questions are due by 5 pm on the day prior to class. (Sunday at 5 pm for a Monday class; and Tuesday 5 pm for a Wednesday class).

Timesheets are a close equivalent of billable hour logs. Timesheets are due every two weeks. Timesheets are absolutely mandatory to ensure you are meeting the hours/weeks requirements mandated by your home schools. Timesheets must be turned in on time. **I will not accept late timesheets at the conclusion of the semester.** Failure to submit timesheets in a timely manner may result in the hours worked not being counted toward your end of semester total.

Timesheet due dates for spring 2012:

January 25 (weeks 1 and 2)
February 8 (weeks 3 and 4)
February 22 (weeks 5 and 6)
March 7 (weeks 7 and 8)
March 21 (weeks 9 and 10)
April 11 (weeks 11 and 12)
April 25 (weeks 13 and 14)

- **Final paper (50%).** As guidelines for your own progress, and to allow time for your instructor's assistance, expect to hand in a topic statement with reading list by **March 29**; a draft or outline by **April 13**; and the final paper by **May 4**.

Externship requirements:

- **Timesheets/hours:** Successfully complete hours as determined by your home school. Berkeley, Davis and Irvine require 560 hours or more over a minimum of 14 weeks; UCLA requires 14 full weeks of five days each, except for holidays when the office is closed. If you have to miss a day or more at the placement, please see me. Send your timesheets to law@ucdc.edu every other Wednesday, on the schedule provided. Please use the timesheet that has been provided.
- **Receive a satisfactory evaluation** from your supervisor at the end of the semester. **Due April 13, 2012.**
- **Meet your supervising attorney's expectations** for attendance, performance and professionalism.
- **Complete the final evaluation form** about your placement. **Due April 20, 2012.**

Office hours: I do not have set office hours, but I am available to meet with you during the week. Please feel free to email or call me to set up a time to meet. We will have at least one individual one-on-one meeting during the semester. A sign-up sheet will be provided for the one-on-one meetings.

Course materials: There is no casebook, but there will be handouts and assigned readings that you can obtain on the Internet, Westlaw, or Lexis. For document repository, scheduling and other functions this term, we will be using bspace, <https://bpace.berkeley.edu>. Please feel free to let me know if you have questions or tips to improve our use of these electronic aids.

UC Washington Center events: UCDC Law students are warmly invited to all UC Washington Center Forums, most Mondays at 6:30 p.m. in the Center's first floor auditorium. The

Forums feature talks and Q & A with a wide range of Washington notables, and are typically publicized around the building ahead of time. See www.ucdc.edu for a schedule.

**Class One: Wednesday, January 11; 6-9:00 p.m.
Auditorium – First Floor UCDC Building**

Introduction to the UC Washington Center and the Seminar; and Program Orientation

We will introduce ourselves and our externship placements, discuss foundational questions for the seminar, review course requirements and expectations.

We'll get a briefing about Center facilities, including essential logistics (building access and services, student use of the fitness room, the Monday night "Center Forum" lecture series, etc.). And we'll have our ID pictures taken and ID cards before class.

Class Discussion: Setting goals and designing and managing your externship experience. With the MacCrate Report and your own values as a guide, come prepared to talk about your personal goals for the externship, and any obstacles you anticipate to achieving them. We will brainstorm strategies for overcoming those obstacles, including developing your lawyering skills, managing your own work, time, and interactions with the office, managing your superior(s), matching your interests to your work, obtaining important assignments and more.

Review first writing assignment – The Goals Memo.

Reading:

- 1) Review your agency's organizational chart and mission.
- 2) Chapter 5, "Statement of Fundamental Lawyering Skills and Professional Values," of the ABA Section of Legal Education and Admission to the Bar, *Legal Education and Professional Development: An Educational Continuum* (1992), popularly known as "The MacCrate Report" after Robert MacCrate, chair of the Report task force.
- 3) Learning From Practice, Setting Goals for the Externship, Chapter 2, J.P. Ogilvy, Leah Wortham, Lisa Lerman, etc.

**Class Two: Wednesday, January 18; 6-9:00 pm
Auditorium; Room 311**

The government lawyer's client and other ethical considerations.

Laura Odwazny, Department of Health and Human Services, General Counsel's Office. Laura will explore with us the unique role of the government lawyer in identifying and advocating for its client. We will also talk about other ethical considerations.

Discussion: For this class we will look again at your agency's organizational chart and determine who your agency's client is. Also think about any ethical issues you have encountered in your externship or previous work? What are some of the situations that you have been faced with? They do not necessarily have to be huge ethical dilemmas – often the biggest ethical pitfalls are small issues that you do not realize can have large ethical implications. How did you work through these issues? Are there special obligations associated with the role that require lawyer to be leaders? What are some of the Professional Ethical considerations that lawyers should practice?

Review issues and questions related to Goals Memo.

Reading:

- Review agency's organizational chart.
- Review Goals Memo reading now that you have had an additional week at work.
- Judge Eric Bruggink, *Speaking the Truth*, ABA Public Contracts Section Symposium in Colorado Springs, Colorado (1998).
- Kathleen Clark, *Government Lawyers and Confidentiality Norms*, 85 Wash. U. L. Rev. 1033 (2007).

**Class Three: Monday, January 23; 6-9 pm
Conference Room 3rd Floor**

Congressional Influence

Speaker: Martin P. Paone, Executive Vice President of Prime Policy Group & former Democratic Secretary of the U.S. Senate

Reading:

- Barbara Sinclair, *The New World of U.S. Senators*, in CONGRESS RECONSIDERED 1-22 (Lawrence C. Dodd & Bruce I. Oppenheimer eds., 9th ed. 2008).
- George Packer, *The Empty Chamber: Just How Broken is the Senate?*, THE NEW YORKER, Aug. 9, 2010.
- John Elwood, *Recess Appointment of Richard Cordray Despite Pro Forma Sessions*, Volokh Conspiracy, Jan. 4, 2012, at <http://volokh.com/2012/01/04/recess-appointment-of-richard-cordray-despite-pro-forma-sessions/>.

- John Yoo, Richard Cordray & the Use and Abuse of Executive Power, Nat'l Rev. Online, Jan. 5, 2012, at <http://www.nationalreview.com/corner/287264/richard-cordray-use-and-abuse-executive-power-john-yoo>.
- Marty Paone, *Practitioner's Corner: The President's Power to Recess Appoint*, Jan. 2012, at <http://www.prime-policy.com/practitioners-corner/presidents-power-recess-appoint>.

Writing Assignment 1: Goals Memo – Due January 25

This writing assignment should be in the form of a **Memo** that you will submit to your supervisor with a cc to me. You should include in this Memo your goals for the externship. Your goals should be specific, i.e., not “I hope to get real work experience” and measurable. Please explain how you plan to achieve these goals, and exactly what steps you plan to take to help you succeed in achieving these goals. Feel free to include not only projects that you would like to do at work but other activities that you may want to get involved with while in Washington DC. Give some thought to both professional and personal goals: What do you hope to learn and discover? How do you hope to improve or enrich yourself this term, as a person and as a professional? You should submit to me first and I will provide feedback. After receiving feedback you will share with your supervisor.

Class Four: Monday January 30, 6-9 p.m. Conference Room 3rd Floor

Main Justice and Legal Policy Making

Speaker: Robyn L. Thiemann, Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice (formerly with the office of the Deputy Attorney General, the office of the Solicitor General, and the Criminal Division)

Reading:

- DANIEL J. MEADOR, *THE PRESIDENT, THE ATTORNEY GENERAL, AND THE DEPARTMENT OF JUSTICE* 1-49 (1980).
- Department of Justice Organizational Chart, available at <http://www.justice.gov/agencies/index-org.html>.
- Robert H. Jackson, *Federal Prosecutor*, 24 J. AM. JUD. SOC'Y 18 (1940).
- Janet Reno & Geoffrey M. Klineberg, *What Would Jackson Do? Some Old Advice for the New Attorney General*, 2 HARV. L. & POL'Y REV. 197 (2008).
- Judith Resnick, *Revival of Justice: What Obama's DOJ Appointees Should Do First*, SLATE, Jan. 6, 2009.

**Class Five: Wednesday, February 8, 6-9 pm
Auditorium, Room 311**

White House Counsel's Office

Speaker: Andrew M. Wright, Associate Counsel to the President

Reading:

Maryanne Borrelli et al., *The White House Counsel's Office* (White House Transition Project Report No. 2009-29).

- Bruce Ackerman, *Abolish the White House Counsel*, *SLATE*, Apr. 22, 2009.

- Trevor W. Morrison, *Constitutional Alarmism*, 124 *Harv. L. Rev.* 1688, 1731-49 (2011).

- Bruce Ackerman, *Lost Inside the Beltway: A Reply to Professor Morrison*, 124 *Harv. L. Rev. F.* 13, 26-41 (2011).

Writing Assignment 2 – Due February 8 - Consider the classes we have had so far, ethics, Congressional Influence, and Policymaking. What has been your impression of the topics covered so far? Please discuss a way in which you have seen one or more of the topics discussed class in action at your placement. How have the topics so far helped you to have a deeper understanding of the dynamics at your placement? Also take some time to reflect on the work you are doing thus far at your placement – are you enjoying it, was it what you thought you would be doing, is the quality of work what you thought it would be, any issues or concerns with the placement?

Week of February 13: One-on-One (please sign up) meetings will be individually scheduled in advance of the Program Director's midterm meetings with externship supervisors. This is your chance to discuss specific issues or problems in confidence, before our visit to your externship site

**Class Six: Wednesday, February 15, 6-9 pm
Auditorium, Room 311**

The Agency General Counsel

Speaker: Boris Bershteyn, General Counsel, Office of Management and Budget

Reading: Michael Herz, *The Attorney Particular: Governmental Role of the Agency General Counsel*, in *GOVERNMENT LAWYERS: THE FEDERAL LEGAL BUREAUCRACY AND PRESIDENTIAL POLITICS* 143-179 (Cornell W. Clayton ed., 1995).

**Class Seven: Wednesday, February 22, 6-9 pm
Auditorium, Room 311**

Policy Advocacy

Speaker: TBD

Reading: Alan W. Houseman & Linda E. Perle, *Securing Equal Justice For All: A Brief History of Civil Legal Assistance in the United States*, a publication of the Center for Law and Social Policy (Revised January 2007) – skim for background on legal services history.

Pat Wald, *Whose Public Interest Is it Anyway? Advise for Altruistic Young Lawyers*. 47 Me.L. Rev.3 (1995)

**Class Eight: Monday, February 27, 6-9 pm
First Floor**

- **Speaker:** Hon. Stephen G. Breyer, Associate Justice of the Supreme Court of the United States

Reading:

- STEPHEN BREYER, *MAKING OUR DEMOCRACY WORK* (2010).

After the talk with Justice Breyer we will go upstairs to do a mid-term review of your placements.

Trip to the Supreme Court: Wednesday, February 29, 1 pm.

We will be going as a group to the Supreme Court and speaking with Gerry Sinzduk, the law clerk to the Honorable Justice Ruth Bader Ginsburg.

Writing Assignment 3: Mid-Term self evaluation , Due February 29: Use this writing assignment to reflect on what you are accomplishing at your placements. Look back to your goals memorandum. Are you accomplishing the goals you set forth in your goals memo? Establish concrete steps on how you will accomplish your remaining goals. Discuss the skills that you are learning in your placement, address what else you need to work on, any issues or concerns about the placement. Finally use this writing as a way to reflect on yourself and what

improvements you have made professionally, academically, and personally over the first part of the semester.

Paper topic statements: Due Friday, March 2

Compose a one-to-two-paragraph statement of your paper topic and how you hope to develop it. You should include at least the start of a reading list for the paper. Feel encouraged to choose your topic in consultation with your externship hosts and with your instructor; but remember the paper has to be your own work and should not duplicate research or writing you are otherwise doing in the placement.

**Class Nine: Wednesday, March 7, 6-9 pm
Auditorium**

Lobbying

Speaker: TBA

Reading:

- WILLIAM N. ESKRIDGE ET AL., *CASES & MATERIALS ON LEGISLATION* 318-56 (4th ed. 2007).
- Theo Francis & Steve LeVine, *Don't Call Them Lobbyists*, *BUSINESSWEEK*, Aug. 10, 2009.

**Class Ten: Wednesday, March 14, 6-9 pm
Auditorium (sign up for class presentations)**

Speaker: TBD

Reading: TBD

March 19 – 23: UCDC Spring Break

**Class Eleven: Wednesday, March 28, 6-9 pm
Conference Room 3rd Floor**

Diplomacy

Speaker: TBD

Reading:

Class Twelve: Wednesday, April 4, 6-9 pm

Judicial Nominations

Speaker: TBD

Reading:

- JOE BIDEN, PROMISES TO KEEP: ON LIFE AND POLITICS 163-213 (2007).

ROBERT H. BORK, THE TEMPTING OF AMERICA, 345-49 (1990).

Sarah A. Binder & Forrest Maltzman, *The Politics of Advice and Consent: Putting Judges on the Federal Bench*, in CONGRESS RECONSIDERED 241-261 (Lawrence C. Dodd & Bruce I. Oppenheimer eds., 9th ed. 2008).

Writing Assignment 4: Final (Reflection) Due: Take a look back at the semester and your externship. Discuss whether the externship was useful in teaching you or helping you to improve skills that you will use in the future. What did the placement teach you about yourself, i.e., the type of work you enjoy or do not enjoy, the setting you are comfortable working in, and what you learned about the styles of management or office hierarchies. Has this experience changed your future career plans?

Class Thirteen and Fourteen: Wednesday, April 11 and 18

Presentations and Evaluations

Presentations. In our last two classes, each of you will make a 10-to-15-minute oral presentation about your final paper in progress. Treat this exercise as if it were a presentation of a case or project in a meeting among colleagues interested in your work. If you wish, you can use any capabilities of our “smart podium” or hand out materials in class. This presentation should be well prepared and thought out. It will count toward your final grade.

Draft Paper Due: April 13

Final Paper Due: May 4

