

LRWA IV – Legislative and Regulatory Drafting

Introduction: Welcome to LRWA IV – Legislative and Regulatory Drafting. **The work you will do in this course is significantly different from the legal writing you have done to date.** You will be learning to prepare legal documents governing the future behavior of people and entities. While this course focuses on legislative and regulatory drafting work, attorneys use legal drafting skills in all areas of practice. For example, litigators frequently review, interpret, and litigate the meaning of statutes, regulations, and contracts. Transactional attorneys draft legal documents that govern the future behavior of private parties using similar drafting skills to those taught in this course. Family law attorneys likewise negotiate and draft a variety of contracts governing future behavior – wills, divorce settlements, and custody agreements – on behalf of their clients.

At the conclusion of this course, you should be able to do the following:

- perform legislative and regulatory history research
- understand and appropriately use drafting techniques to remove ambiguity in documents governing the future behavior of people and entities
- draft statutory language
- draft rulemaking notices and regulations
- negotiate changes to regulatory language

You are expected to take initiative and responsibility in connection with your projects and class meetings. It is incumbent upon you to read the material assigned, ask questions of your Professor when you have them, conduct research, consult sources outside of the assigned text and readings as necessary, and submit a quality final product similar to that which you would give an employer. You should be familiar with the syllabus and rules and check TWEN for updates on class meetings and assigned exercises or readings.

Professors: LRWA IV is taught by practitioners who are involved with Scalia Law because they care about the community and about the training of new lawyers. We are lucky to have these dedicated and experienced individuals involved with our program. Each Professor has his or her own practice, clients, and family; please keep in mind that due to their professional or personal commitments they will not always be available to e-mail or call you back immediately. Please treat your Professor with respect.

Page 5 of this Syllabus contains a chart listing the Professors by section. As you did for Appellate Writing last semester, **please register on TWEN for both the general LRWA IV Legislative and Regulatory Drafting (All Students) course and your individual Professor’s course.**

Required Textbook: Richard K. Neumann Jr. & J. Lyn Entrikin, Legal Drafting By Design: A Unified Approach (Wolters Kluwer) (“LDD”)

Restrictions on Collaboration: This course teaches and tests new methods of research and new writing concepts. Accordingly, while students may discuss the concepts, the readings, and the various project and exercise content with other students, **students may not share their written work product or request or accept drafting, editing, or proofreading assistance in this course from any person unless expressly authorized by their Professor.**

Assignment Information

Grading Methods: Individual assignments are graded on either a 0 to 6-point scale or an Expanded Pass/Fail basis. A grading guide describing the 6-point scale is available in the Course Materials section of the LRWA IV Legislative and Regulatory Drafting (All Students) TWEN site. The possible grades for Expanded Pass/Fail projects are: High Pass; Pass; Low Pass, Fail.

Coursework: You will prepare a variety of outside exercises for in-class discussion. You will also prepare three major written projects and will participate in a negotiation. While the projects and the negotiation are related, you will be acting in different roles for each. Specific instructions for the projects will be included in each project memo, posted on the LRWA IV Legislative and Regulatory Drafting (All Students) TWEN site.

The exercises and projects for the semester, with their assigned percentage value and applicable grading method, are as follows:

Exercises 1-5	Various assigned exercises	10%	EP/F
Project 1	Draft statute	20%	6Pt
Project 2	Draft Notice of Proposed Rulemaking	25%	6Pt
Project 3	Negotiation of Proposed Regulation	15%	EP/F
Project 4	Final Rule	25%	6Pt

The projects this semester build on each other and continued use of and attention to items introduced in early assigned exercises and projects will be necessary to perform well in later projects. **Once a topic or drafting technique has been introduced and used for one project it will continue to be relevant for all following projects.**

Professionalism: In addition to the assignments, 5% of the final grade is based on professionalism. Professionalism grades are awarded on the six-point scale. Class participation is one aspect of that valuation, which may include performance of in-class or supplemental exercises, indices of preparation, attention and focus during class (including refraining from web-surfing, texting, instant messaging, and the like), and interaction with classmates and your Professor during class. The professionalism score will also take into account your interactions

with your Professor outside of class, including at one-on-one meetings and in your e-mail or telephone communications with your Professor, the Director, or both.

Exercise and Project Submissions: Exercises and Projects must be electronically submitted using TWEN's submission system. To electronically submit your project, go to your section's TWEN page and click on the Assignment Submission tab on the left-hand side. Locate the correct exercise or project and follow the submission instructions. Your Professor may require the submission of hard copies; please follow your Professor's instructions in this regard.

Time Penalties and Extensions of Time: LRWA Rule 3, which governs submission and extension requests, applies regardless of grading scale. **Exercises and projects submitted after the submission deadline will receive a zero.**

Your professor does not have the authority to grant extensions of time on Projects 1, 2, 3, and 4. You may only request an extension of time to submit a project from the Director. Extensions of time must be requested *prior to* the due date and time whenever possible. **Absent a compelling reason for the delay, requests received after the project is due will be denied.** Please see LRWA Rules 3.13 and 3.14 for further information on extensions of time.

Anonymous Grading: LRWA IV employs the same anonymous grading scheme used in LRWA III. Seven-character AGNs will be used for all projects graded using the 6-point scale, and **you must select your AGNs online before 6:00 p.m. on Monday, January 30.** A link to the form has been posted on the LRWA IV Legislative and Regulatory Drafting (All Students) TWEN site. Your name should never appear on a project being graded using the 6-point scale. In submitting those projects, you should place your anonymous grading number in the document header and where you would normally list the name of counsel or as otherwise specified by your Professor. **Please note that, under the LRWA Rules, penalties will attach for failure to timely sign up for AGNs.** Other penalties related to AGNs are set forth in the LRWA Rules.

Final Grades and Credit: As in previous semesters, the final grades for your section are curved within each Professor's section. LRWA IV is a two-credit course.

Administrative Items

LRWA Rules: You are responsible for knowing and following the rules specifically applicable to this LRWA course. The rules are posted on the LRWA IV Legislative and Regulatory Drafting (All Students) TWEN site.

A Note on Plagiarism & A Note of Caution: The rules on plagiarism are different in this course than those applicable in other courses. Most attorneys drafting a statute or regulation start with existing language from other statutes or regulations; this is considered an acceptable practice and does not raise issues of plagiarism. However, merely repeating language found elsewhere is not advisable. Your primary goal as an attorney is to create legal documents (statutes/regulations) that accurately reflect the will of the legislature. If you rely on language

copied from elsewhere without fully considering drafting guidelines and the substantive issues in the problem provided, you may not meet that goal. Your Professor may ask you to turn in a list of your sources, so keep track of them. Our drafting guide for the semester is the textbook.

Use of Student Projects: Any project you submit to your Professor may be used as a teaching tool for discussion with the entire class.

Schedule: A class meeting schedule with reading assignments and due dates is on pages 6-8 of this Syllabus. Professors may add additional required or recommended readings to those provided in this Syllabus and may change the schedule as needed.

Questions: Direct questions about the class materials or the projects to your Professor. Direct general questions, comments and suggestions, or concerns about the program to:

Dean Atkins, Director, Second Year Legal Research, Writing, & Analysis Program
Hazel 433BA, (703) 993-9158, jatkins8@gmu.edu

Legislative Drafting				
Day	Time	Professor	Section #	Room #
Tuesday	9:50 am	Atkins	099-001	
Tuesday	6:05 pm	Martinez	099-016	
Tuesday	8:10 pm	Wagstaff	099-018	
Wednesday	9:00 am	Maldonado	099-003	
Wednesday	6:05 pm	Warren	099-017	
Wednesday	6:05 pm	Stitcher	099-006	
Thursday	9:50 am	Muedeking	099-005	
Thursday	8:10 pm	Lareau	099-008	
Thursday	8:10 pm	Park	099-019	
Thursday	8:10 pm	Perry	099-020	
Friday	9:50 am	Ash	099-004	
Friday	3:00 pm	Brown	099-007	

Schedule

The following schedule provides class meeting dates and information, the reading and assignments to complete **before** class, and the due dates of projects. The schedule does not include any section-specific readings or assignments. Professors may change class session timing and content as needed. You are responsible for following your section's TWEN page and abiding by your Professor's rules.

Class Sessions & Due Dates	Class Topics	Required Reading/Assignments
Week 1 (Week of Jan 16)	Introduction to Course <ul style="list-style-type: none"> • Overview of legal drafting generally • The work of a drafting attorney in the legislative & regulatory area • Introduction to modern language drafting • Introduction to Project 1 	Syllabus and LRWA IV Rules LDD Chapters 1, 3 Project 1 Materials
Week 2 (Week of Jan 23)	Preparing to Draft Statutes and Regulations <ul style="list-style-type: none"> • Legislative and Regulatory Research (library presentation) • Statutory and Constitutional Requirements 	LDD Chapters 2, 4, 5, and 36 Exercise 1 (Posted on TWEN) Submit Exercise 1 via TWEN before class in accord with your Professor's deadline.
Week 3 (Week of Jan 30)	Drafting and Amending Statutes & Regulations <ul style="list-style-type: none"> • Parts of a statute • Drafting statutory amendments 	LDD Chapters 37, 38, 39 Exercise 2: (5-B "The Driveway") Submit Exercise 2 via TWEN before class in accord with your Professor's deadline.
Week 4 (Week of Feb 6)	Creating Statutory Rules <ul style="list-style-type: none"> • Declarations and Discretionary Authority • Drafting Techniques • Word Choices 	LDD Chapters 6,7,8

	<ul style="list-style-type: none"> • Formatting, Numbering, References 	
<p><u>Due Date</u> Sunday, Feb. 12 P1</p>	<p><u>Draft Authorizing Statute</u></p>	<p>Students submit P1 via TWEN electronic submission before 11:00 p.m.</p>
<p>Week 5 (Week of Feb 13)</p>	<p>Regulatory Process & Refining Drafting Introduction to Project 2</p>	<p>LDD Chapters 9, 10 Project 2 Materials</p>
<p>Week 6 (Week of Feb 20)</p>	<p>Refining Drafting Techniques</p>	<p>LDD Chapters 11, 12, 13 Exercise 3: 12-A (Dueling) Submit Exercise 3 via TWEN before class in accord with your Professor’s deadline.</p>
<p>Week 7 (Week of Feb 27)</p>	<p>Refining Drafting Techniques</p>	<p>LDD Chapters 14, 15, 18</p>
<p>Week 8 (Week of Mar 6)</p>	<p>Organization, Punctuation, Sentence Structure</p>	<p>LDD Chapters 20, 21, 22</p>
<p><u>Due Date</u> Sunday, March 12 P2</p>	<p><u>Draft Notice of Proposed Rulemaking</u></p>	<p>Students submit P2 via TWEN electronic submission before 11:00 p.m.</p>
	<p>ENJOY SPRING BREAK</p>	
<p>Week 9 (Week of Mar 20)</p>	<p>Public Policy, Ethics, & Statutory Interpretation Introduction to Project 3</p>	<p>LDD Chapters 34, 35 Exercise 4: 20-A Liability to Baseball Spectators Submit Exercise 4 via TWEN before class in accord with your Professor’s deadline. Project 3 materials</p>

Week 10 (Week of Mar 27)	Negotiation Materials and Techniques Preparation for Negotiation	
<u>Due Date</u> Sunday, April 2 P3	<u>Written Negotiation Materials</u>	Students submit P3 written materials via TWEN before 8:00 p.m.
<u>Due Date</u> Week 11 (Week of Apr 3)	<u>In Class Negotiations</u>	P3 Negotiations held during class or as scheduled by your Professor. Negotiation schedule and location will be determined by Professor.
Week 12 (Week of Apr 10)	Introduction to P4: Drafting the final rule	Exercise 5: LDD Exercise 18-B Submit Exercise 5 via TWEN or as otherwise instructed before class in accord with your Professor's deadline.
Week 13 (Week of Apr 17)	Refining drafting Final Class Evaluations	
<u>Due Date</u> Sunday, April 23 P4	<u>Final Rule</u>	Students should submit P4 via TWEN electronic submission before 11:00 p.m.