

SYLLABUS

Course: Law 171-R01: Congressional Oversight
Professor: Andrew Block
Semester: Spring 2024 Semester, Winter Intersession

Book: There is no assigned book for this class. Readings will be assigned from a variety of sources and links will be supplied where necessary.

Class Meetings: This class will meet during the Winter 2024 Intersession. Class meetings will be virtual, held over Zoom, and occur from 3pm to 5pm Weekdays from January 3, through January 11.

Students are expected to be on video for the duration of each class. This is intended to be an interactive class with ample discussion so I will assume that if your camera is off that you are unable to participate at that time. We will aim to have a 10-minute break each day near the middle of the class.

Participation & Grading: This is a Credit/No Credit class. In order to earn credit, students must be in class (on camera) 80% of the time, participate in discussions, and complete the assignments. There will also be a writing project assigned during class and due by the end of Day on January 15, 2024.

Student Learning Outcomes: Upon completion of this course, students will be able to:

1. Identify the various sources of Congressional authority to conduct investigations, and articulate powers that come from those authorities.
2. Identify the tools Congress has to conduct fact-finding and oversight.
3. Draft an oversight request for a Member of Congress or response to an oversight request for the recipient of such request.
4. Formulate legal arguments for or against a particular oversight activity in furtherance of a client's goals.

Availability: There are no scheduled office hours, but I am available for meetings upon request.

Reading and Course Schedule: Below is a schedule of class topics and reading.

Class 1: Introduction and Overview

- *McGrain v. Daugherty*, 273 U.S. 135 (1927)
- *United States v. AT&T*, 567 F.2d 121 (D.C. Cir. 1977)
- *Kilbourn v. Thompson*, 103 U.S. 168 (1880)
- *Watkins v. United States*, 354 U.S. 178 (1957).
- *Wilkinson v. United States*, 365 U.S. 399 (1961)

Class 2: Who May Conduct Oversight & How?

- CRS Report [RL30240](#): Congressional Oversight Manual pages 14–17, 21–27, 39–54 (Legal tools).
- [OLC Opinion](#) on Authority of Individual Members of Congress to Conduct Oversight of the Executive Branch (May 1, 2017).
- [Letter from Senate Judiciary Committee Chairman](#) Chuck Grassley to President Trump re OLC Opinion re Authority of Individual Members of Congress to Conduct Oversight of the Executive Branch (June 7, 2017).
- [Letter from Marc Short](#), Director of the White House Office of Legislative Affairs, to Chuck Grassley re Executive Branch Oversight (July 20, 2017).
- 5 U.S.C. §§ 1211–1215, § 2302, § 2954.
- *Cummings v. Murphy*, 321 F. Supp.3d 92 (D.D.C. 2018).
- *Maloney v. Murphy*, 984 F.3d 50 (D.C. Cir 2020).
- *Maloney v. Carnahan*, 45 F. 4th 215 (D.C. Cir 2022) (denial of rehearing en banc).

Class 3: Congressional Structure and Committee Rules

- CRS [Report RL31835](#): Reorganization of the House of Representatives: Modern Reform Efforts, Pgs. 1–12.
- CRS Report [RL30240](#): Congressional Oversight Manual pages 27–39.
- [Rules of the House](#), Rule X (pay particular attention to Clauses 2, 4), Rule XI, Clause 2.
- Browse the following Committee rules paying particular attention to the requirements for conducting various oversight activities:
 - House Judiciary Committee [Rules](#)
 - House Oversight Committee [Rules](#)
 - Ways and Means Committee [Rules](#)
 - House Agriculture Committee [Rules](#)
 - House Transportation Committee [Rules](#)
 - House Armed Services Committee [Rules](#)
 - House Energy and Commerce Committee [Rules](#)

Class 4: The Accommodation Process, Legislative Purpose, and The Power to Impeach

- *Trump v. Mazars*, 140 S. Ct. 2019 (2020).
- [OLC Opinion](#) on House Committees' Authority to Investigate for Impeachment (Jan. 19, 2020).
- Watch: Arguments of Pat Philbin, Deputy White House Counsel, before the Senate on the Impeachment Trial of President Trump, Jan. 27, 2020 available at <https://www.youtube.com/watch?v=u5j5HIB-Iw4> (watch from 29:12 to 47:40).

Class 5: Practical Application—Part 1, Responding to Oversight

For this class, students will be assigned to read, and prepare a response to, a recent Congressional Oversight letter. Students will be placed into one of several group, and each group will be assigned a different Congressional oversight letter and should come to class prepared to discuss all aspects of they would propose responding to this letter. Every student will be expected to contribute to this class.

Class 6: Practical Application—Part 2, Guest Speaker

This class will finish any remaining discussion from the Oversight letter assignment from Class 5 and we will have a guest speaker to discuss what it is like, on a day-to-day basis, to run Congressional investigations.

Class 7: Privileges, Responses, Duties, and Other Considerations in Advising Clients navigating Oversight Requests.

- *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975).
- *U.S. Fish & Wildlife Serv. v. Sierra Club, Inc.*, 141 S. Ct. 777 (2021).
- *Trump v. Thompson*, 20 F.4th 10, 22–27 (D.C. Cir. 2021); No. 21-5254, 13–25.
- *Trump v. Thompson*, 142 S. Ct. 680 (Jan. 19, 2022); No. 21A272, On Application for Stay of Mandate and Injunction Pending Review.
- Watch: Arguments of Pat Philbin, Deputy White House Counsel, before the Senate on the Impeachment Trial of President Trump, Jan. 27, 2020 available at <https://www.youtube.com/watch?v=u5j5HlB-Iw4> (watch from 13:35 to 29:10).