

The Graduate School of Political Management

THE GEORGE WASHINGTON UNIVERSITY

M.P.S. in Legislative Affairs

Fall 2016

Thursday Classes: first class September 1 and last class December 8

Legislative Drafting

LGAF 6240.LH2

3 credits

Thursday 6:00pm to 8:00pm

Hall of the States (check with front desk each week for room number for that week)

BASIC INFORMATION AND RESOURCES

Instructor

M. Douglass Bellis

BA Cornell 1968, majors in Greek and Latin Classics and Government

JD Duke 1971

Member of the North Carolina bar

Contact Information

Phone Number: (202) 543-8023

Email Address: mdbellis@verizon.net

Communication

Please use the above email to communicate with me. I check it often. Do not use the GW email because I check that only once a week or so. Use the phone only in emergencies. It may be hard to reach me by phone.

Blackboard Site

A Blackboard course site has been set up for this course. Each student is expected to check the site throughout the semester, as Blackboard will be the primary venue for outside classroom communications between the instructors and the students. Students can access the course site at <https://blackboard.gwu.edu>. Support for Blackboard is available at 202-994-4948 or helpdesk.gwu.edu.

Academic Integrity

All members of the university community are expected to exhibit honesty and competence in their academic work. Students have a special responsibility to acquaint themselves with, and make use of, all proper procedures for doing research, writing papers, and taking exams. Members of the community will be presumed to be familiar with the proper academic procedures and will be held responsible for applying them. Deliberate failure to act in accordance with such procedures will be considered academic dishonesty. Academic dishonesty is defined as “cheating of any kind, including misrepresenting one’s own work, taking credit for the work of others without crediting them and without appropriate authorization, and the fabrication of information.” Acts of academic dishonesty are a legal, moral, and intellectual offense against the community and will be prosecuted through the proper university channels. The University Code of Academic Integrity can be found at <https://studentconduct.gwu.edu/code-academic-integrity>.

Support for Students with Disabilities

GW's Disability Support Services (DSS) provides and coordinates accommodations and other services for students with a wide variety of disabilities, as well as those temporarily disabled by injury or illness. Accommodations are available through DSS to facilitate academic access for students with disabilities. Please notify your instructor if you require accommodations. Additional information is available at <https://disabilitysupport.gwu.edu>.

In the Event of an Emergency or Crisis during Class

If we experience some an emergency during class time, we will try to stay at this location until we hear that we can move about safely. If we have to leave here, we will meet at the professor's house at 128 11 Street, SE in order to account for everyone and to make certain that everyone is safe. Please refer to Campus Advisories for the latest information on the University's operating status: <http://www.campusadvisories.gwu.edu/>.

Attendance Policy

Attendance is mandatory. Unless you have informed the professor in advance or can demonstrate an emergency that prevented you from doing so, failure to appear in class, or tardiness in arrival will diminish your class participation grade and so your overall grade. The other members of the class need your participation to do their work for the class. Class will generally start promptly at the appointed hour.

Course Evaluation

At the end of the semester, students will be given the opportunity to evaluate the course through GW's online course evaluation system. It is very important that you take the time to complete an evaluation. Students are also encouraged to provide feedback throughout the course of the semester by contacting any/all of the following:

Dr. Steven Billet
Director, Legislative Affairs Program
sbillet@gwu.edu | 202-994-1149

Dr. Jack Prostko
Associate Dean for Learning and Faculty Development
College of Professional Studies
jackp@gwu.edu | 202-994-3592

Suzanne Farrand
Director of Academic Administration, GSPM
sfarrand@gwu.edu | 202-994-9309

THE COURSE

Legislative Affairs Program Objectives

Upon completion of the Master's degree in Legislative Affairs, students will:

1. Gain both theoretical and practical knowledge related to the U.S. Congress, general issues in the legislative arena, and how to effectively advance legislation;
2. Hone their oral and written communication skills in both theoretical and technical aspects of legislative affairs;
3. Be able to conduct cutting-edge research and engage in effective problem solving by learning critical thinking skills;
4. Learn how to work effectively with others, the value of collaborative work, and will understand ethical issues involved in the legislative arena.

Course Description and Overview

This is a skills-oriented course to provide an introduction, primarily for non-lawyers, to the methods and process of legislative drafting in the U.S. Congress. While the focus is on Congress and the skills taught are specific to Congress, the principals learned can be applied to other legislative bodies, and even in business settings.

Course Learning Objectives

You will be able to

1. Recognize and use the conventions used in drafting Federal legislation.
2. Work with others as a group to agree on a common policy in detail sufficient to allow its drafting.
3. Work with others as a group, using your course textbooks, to draft legislation.

Course Requirements

During about the first half of the semester, you will read the assigned material for each week's session and prepare and submit, before midnight the day before the class session begins, by email to the professor at the address shown above, an outline of that part of the material that comes from the two textbooks. This should familiarize you with the concepts, and give you the tools you will need, to take the open book exams. If you do the readings in a timely manner and participated in the class sessions, you will be able quickly to recognize drafting problems and look up the relevant drafting conventions. You will not be able to absorb this material sufficiently to do well on the exams unless you read and outline as we go along. In class sessions and perhaps through Blackboard exercises, you will learn the tools you need to look up legislation-related documents to help you in the drafting process.

The professor will divide the class into two groups. Starting probably about the second half of the second or third session of class, each group will elect a chair and begin work on choosing a legislative topic and developing by majority vote the details of policy on that topic. Thereafter, while the readings are still going on in the textbooks, each class session will be divided between discussing questions arising from the readings and your policy group's meetings.

When the readings are completed, about half way through the course, there will be a practice midterm exam, a take home, to be completed by each student without consultation with others. This exam will be an objective, short answer test based on the information in the texts and involving some of the skills learned in class. If a student does A level work on this exam, the student will be excused from the final, which is a test on the same material.

At that point, the main work in the course will be completing the policy making process and working on a draft you create to carry out the policy of the other group. Observing the other group’s sessions will be an important help to you in drafting. When drafting you can consult other drafters in your group and make suggestions on each other’s drafts. In some cases more than one student may work together with another or others in the drafting group to produce a joint draft, but initially the drafts will be separate. The course is intentionally structured so that the most time consuming readings and outlining occur during its first half. The second half, at a time when you have many other papers and projects to complete in other courses, will be comparatively lighter in that regard. But you will still need to complete your group’s policy and your draft for the other group. That can take a lot of non-class-time consultation with other class-members.

Typically there will be a last session, with drinks and snacks, at the professor’s home on Capitol Hill. In that session each policy group may vote on the draft or drafts made for it. This last session cannot hurt anyone’s grade. But assuming the draft is well explained and follows the normal conventions of legislative drafting, it might push toward a higher grade for those whose drafts are voted out favorably.

Evaluation and Grading

Assignment	Learning Objective(s) Addressed	Weight
Midterm or final	Mostly number 1	33 and 1/3%
Draft legislation	Numbers 1 and 3	33 and 1/3%
Attendance and Participation	Mostly numbers 2 and 3 above, though number 1 as well	33 and 1/3%
Total		100%

Following is the grade scale for all GSPM classes:

Grade*	Grading Standard
A 94-100	Your work is outstanding and ready for submission in a professional environment. Your material, effort, research, and writing demonstrate superior work.
A- 90-93	Represents solid work with minor errors. Overall, excellent work.

B+	87-89	Very good. Represents well-written material, research, and presentation, but needs some minor work.
B	83-86	Satisfactory work, but needs reworking and more effort. Note that although not a failing grade, at the graduate level, anything below a “B” is viewed as unacceptable.
B-	80-82	You’ve completed the assignment, but you are not meeting all of the requirements.
C+	77-79	Needs improvement in content and in effort. Shows some motivation and concern.
C	73-76	Needs reworking, improved effort, and additional research. Shows minimal motivation and concern.
C-	70-72 (lowest grade to pass)	Poor performance. Major errors, too many misspellings, problems with accuracy, etc.
F	Below 70	Unacceptable performance, or inability to submit the assignment.

*Please note that you may be penalized for late submission of assignment(s).

Required Text and Learning Materials

The Legislative Drafter's Desk Reference, 2nd Edition. Lawrence E. Filson and Sandra L. Strokoff. CQ Press. Washington 2008. [Be sure you get the 2nd Edition!]

Legislative Drafter's Deskbook. Tobias A. Dorsey. The Capitol Net. Alexandria VA. 2006

Optional Supplemental Text and Learning Materials

Additional materials, which should be available on-line, will be mentioned below in the weekly account of the class sessions

Tentative Course Calendar*

*The instructor reserves the right to alter course content and/or adjust the pace to accommodate class progress. Students are responsible for keeping up with all adjustments to the course calendar.

Class Date: September 1

Week 1

Topic and Content Covered: Optional readings: M. Douglass Bellis. "Drafting in the U.S. Congress". *Statute Law Review*. Volume 22, number 1. 2001. M. Douglass Bellis. "The Illusion of Clarity". Chapter 11 of *Obscurity and Clarity in the Law: Prospects and Challenges*. Ed. Anne Wagner and Sophie Cacciaguidi-Fahy. Ashgate Press. 2008.

This class will be a general introduction. It is not necessary to outline these readings for the first class. We will at the first meeting prepare to divide the class into policy making groups.

Matters that might be discussed during class:

How does legislative drafting differ from other types of writing? How do legislative drafts differ from other types of legal documents?

What characteristics of Congress make legislative drafting there very different from that in other countries, other legislative bodies in the United States?

Why are so many people confused by legislative drafts when presented with them?

Learning Objective(s) Addressed: Numbers 2 and 3 mainly.

Class Date: September 8

Week 2

Topic and Content Covered: Big picture questions about how to approach creating a draft, such as
How does policymaking differ from drafting?

To what extent can non-lawyers draft laws?

When do you need a draft?

What on-line tools help us find the starting points for drafting?

Why is it so hard to find out what is the law of the United States?

We should have the initial meetings of the policy groups this session

Learning Objective(s) Addressed: Numbers 1, 2, and 3

Reading Due Today: Dorsey, chapters 1 and 2. Filson and Strokoff, part I.

Assignment(s) Due 3 September by midnight: outline of readings

Class Date: September 15

Week 3

Topic and Content Covered:

How do you go about analyzing a policy proposal?

How do you distinguish the problem to be solved from the possible solutions?

How much do you need to know about other existing laws affecting the problem or the solution? How can you find this out?

What are the administrative or parliamentary constraints that might affect the policy?

Where does the Constitution fit into this process?

What are the typical forms of legislative documents that are “introduced” in Congress?

What are the typical subdivisions of laws and introduced legislative documents?

Learning Objective(s) Addressed: 1, 2, and 3

Reading Due yesterday: Dorsey, chapters 4 and 5. Filson and Strokoff, parts II and III

Assignment(s) Due yesterday: outline of readings

Class Date: September 22

Week 4

Topic and Content Covered: *Matters that might be discussed during class:*

Last law in time (and space?) is first in right? How does this affect the way we amend laws?

Civil code vs. common law amendments: which do we use in Congress?

Functus officio.

Learning Objective(s) Addressed:

Reading: Dorsey, chapter 9. Filson and Stokoff, parts IV and V

Assignment(s) Due yesterday: outline of readings

Class Date: September 29

Week 5

Topic and Content Covered: *Matters that might be discussed during class:*

Shall and may: why do people debate this?
Structuring legislative documents for clarity.

Learning Objective(s) Addressed: 1 and 2

Reading Due Today: Dorsey, chapters 6 and 7. Filson and Strokoff, part VI

Assignment Due yesterday: outline of readings

Class Date: October 6

Week 6

Topic and Content Covered:

Why have courts created all those rules of statutory construction?
When can we safely ignore them?
The presumption of constitutionality.
Agency interpretation of statutes.

Learning Objective(s) Addressed: 1 and 2

Reading Due Today: Dorsey, chapter 3. Filson and Strokoff, part VII.

Assignment(s) Due yesterday: outline of readings

Class Date: October 13

Week 7

Topic and Content Covered:

Learning Objective(s) Addressed:

Reading Due Today: Dorsey, chapter 8. Filson and Strokoff, part VIII.

Assignment Due Yesterday: outline of readings

Distribution of practice exams by email will take place Friday evening 14 October. Complete them in Word format and send them by email to mbellis@verizon.net not later than at midnight Sunday October 16

Class Date: October 20

Week 8

Topic and Content Covered: Federal agency legislative drafting and State and local legislative drafting

Learning Objective(s) Addressed: 1 and 2

Reading Due Today: Dorsey, chapter 10. Filson and Strokoff, part IX

Assignment(s) Due Today: **None**: no outline required this week

Class Date: October 27

Week 9

Topic and Content Covered: The practice exams will be gone over in this class and arrangements made if needed for individual tutoring of students who did not do well how to do better on the final.

Learning Objective(s) Addressed: 1

Class Date: November 3

Week 10

Topic and Content Covered: *By now the policy groups should have almost completed the making of their policy. Policy making sessions will likely take up less of the class time starting at this point. Part of this session may be used for questions students may have developed in their earlier efforts to draft this policy.*

Learning Objective(s) Addressed: 2 and 3

Reading Due Today:

Assignment(s) Due Today:

Class Date: November 10

Week 11

Topic and Content Covered: Each drafting group will meet with its policy group to discuss any policy questions needed resolution so that the drafting group will have enough information with which to

draft. Each drafting group will meet separately with the professor for suggestions on how to proceed with the draft.

Learning Objective(s) Addressed: 2 and 3

“Final exams” will be posted on Blackboard and emailed to students who will be taking them at noon on the Saturday (12 November) following this session and must be returned to the professor by email (MDBellis@Verizon.net) in Word format not later than 10 pm Sunday, 13 November. These exams will be gone over individually with the student outside of class time after they are graded, probably in about a week.

Class Date: November 17

Week 12

Topic and Content Covered: The drafts should be taking pretty near complete shape by now. If policy lacunae still exist, an attempt will be made to get the policy group to fill them. If that is not possible, the drafters will need to create an accompanying technical report with their draft detailing what problems remained and how the drafters decided to deal with them. If there is dissent among the drafters, then dissenter(s) may modify the joint draft and technical as they see fit for submission(s) to the professor separate from the main draft presented by the group.

Learning Objective(s) Addressed: mainly 3

Class Date: December 1

Week 13

Topic and Content Covered: Each drafting group will meet with its policy group to have its draft critiqued for its effectiveness in carrying out the policy group’s decisions. Each group will then work on its draft separately with the professor.

Learning Objective(s) Addressed: 2 and 3

Class Date: December 8

Week 14

Topic and Content Covered: Each drafting group will meet with the professor for his critique of the draft in its then current state. At this point each group (or dissenting party) should have all it needs to finish the draft and email it to the professor before 5 pm on Saturday December 12. This is the draft that will receive the final grade on the draft. Before this all submissions to the professor are for the purposes of useful suggestions only.

Learning Objective(s) Addressed: 3

16 December 2016: There will be an optional meeting of the class (with libations and a light supper) this evening, a Friday night, at the home of the professor, 128 Eleventh Street, SE, on Capitol Hill. (202 543 8023) The policy groups might hold a brief discussion on the draft or drafts meant to carry out their policy, and decide how well it does/they do so. Attendance at this meeting of the class is not

required, but should be enjoyable, and can assist in boosting a student's class participation grade in the context of any group discussion of the drafts.

Copyright Statement

Unless explicitly allowed by the instructor, course materials, class discussions, and examinations are created for and expected to be used by class participants only. The recording and rebroadcasting of such material, by any means, is forbidden.