

**The George Washington University  
Trachtenberg School of Public Policy and Public Administration**

**PPPA 6056: Regulatory Comment Clinic**

Spring 2024, Tuesdays 6:10 – 8:00 PM  
Funger Hall 223

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Student hours Tuesdays 4-6 PM, and by appointment

**Summary:** Regulation is one of the most important mechanisms by which the federal government sets policy. In this course, students engage in the federal regulatory process, analyzing an active regulation and filing public comments (from a public interest perspective) with a federal agency.

**Readings:** Susan E. Dudley & Jerry Brito, [\*Regulation: A Primer\*](#). The George Washington University and Mercatus Center 2012.

Other assigned readings will be made available on Blackboard or the Internet. Students will also read – in their selected area of interest – agency regulatory proposals and supporting material, and public comments filed with agencies.

**Learning objectives:**

- **Understand** how regulations are developed.
- **Explore** how regulation can serve the public interest, and how to determine when a regulatory proposal might not.
- **Gather information** from government and other sources to evaluate a specific regulatory proposal in your area of interest.
- **Analyze**, quantitatively and qualitatively, the likely impacts of selected regulation.
- **File comments** from the perspective of the public interest on an active regulatory proposal.
- **Effectively present** your findings succinctly in a mock administrative hearing.
- **Draft a short newspaper commentary (op-ed)** that communicates your analysis to a general audience.

### Course format:

- **Practical lectures** on regulatory theories, the regulatory development process, and regulatory analysis.
- **Guest lectures** from faculty and practitioners involved in setting regulatory policy.
- **Workshops** on effectively communicating legal, economic, and policy ideas through different media.
- **Mock hearings** where students present their arguments regarding their selected regulation.
- Preparation of **public comments** on current regulatory proposals filed on the public record.
- **Op-eds** based on student's analysis.

### Grading:

Weekly Questions	5%
Memo	10%
Comment outline	10%
Mock hearing	15%
Op-ed	15%
Public interest comment	45%

**Attendance policy:** It is important that you attend all classes, arrive on time, watch recorded lectures (when appropriate), and read the assigned material before class so that you may contribute your insights to the class discussion and learn from the insights of other students. In the event that we conduct class virtually, we encourage you to keep your camera on during our live sessions whenever possible. If you must miss a class, please send us an email in advance of the class to let us know that you will be absent. Attendance as such will not be graded but it is unlikely that you will do well in the graded assignments without regular attendance in class.

**Course Effort:** Across the 15-week semester, students should expect to devote 7.5 hours per week to this class. This total includes a two-hour class session each week, as well as an *average* of 5.5 hours of out-of-class time spent on assigned reading, class preparation, and assignments. Some weeks will entail less reading than others, and the major written assignments are due at the end of the semester, so getting ahead on assignments earlier in the semester will help you manage your time towards the end.

## Class Schedule & Assignments

<p><b>1. Introduction: What is regulation, and why do we do it?</b></p> <ul style="list-style-type: none"> <li>● <a href="#">Regulation: A Primer</a>, Ch. 1-2</li> <li>● OMB, <a href="#">2020, 2021 and 2022 Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act</a>. October 2023. pp 1-22.</li> <li>● <a href="#">Executive Order 12866</a>, Regulatory Planning and Review. September 1993.</li> <li>● Susan Dudley, <a href="#">Exploring Regulatory Capture's Unanswered Questions</a>, Penn Regulatory Review. July 4, 2016.</li> <li>● Bruce Yandle, "<a href="#">Bootleggers and Baptists in Retrospect</a>," Regulation, Vol. 22, No. 3 (1999).</li> <li>● Rachel Handler, "<a href="#">What the Hole is Going On?</a> The very real, totally bizarre bucatini shortage of 2020." New York magazine. December 28, 2020.</li> </ul>	1/16
<p><b>2. Administrative Law Overview</b> (Guest, Roger Nober)</p> <ul style="list-style-type: none"> <li>● <a href="#">Regulation: A Primer</a>, Ch. 3</li> <li>● Congressional Research Service, <a href="#">A Brief Overview of Rulemaking and Judicial Review</a>. <a href="https://fas.org/sgp/crs/misc/R41546.pdf">https://fas.org/sgp/crs/misc/R41546.pdf</a></li> <li>● The Chevron Two-Step (video &amp; lyrics on YouTube) <a href="https://www.youtube.com/watch?v=uHKujqyktJc">https://www.youtube.com/watch?v=uHKujqyktJc</a></li> <li>● CRS Report on Chevron: <a href="https://fas.org/sgp/crs/misc/R44954.pdf">https://fas.org/sgp/crs/misc/R44954.pdf</a> (selected pages: Summary (no page #), What is Chevron Deference? (pp 1-4), Issues to Consider (pp 22-26).</li> <li>● Peter Wallison, "<a href="#">Major Questions about Chevron</a>." 1/25/2023</li> <li>● Cass R. Sunstein, Cost-Benefit Analysis and Arbitrariness Review, <a href="https://harvardelr.com/wp-content/uploads/sites/12/2015/10/Sunstein.pdf">https://harvardelr.com/wp-content/uploads/sites/12/2015/10/Sunstein.pdf</a> (pp 1-19)</li> <li>● <i>Additional blogs will be assigned after Loper Bright oral Supreme Court arguments on 1/17/24.</i></li> </ul>	1/23
<p><b>3. The Regulatory Process: How is the sausage made?</b></p> <ul style="list-style-type: none"> <li>● <a href="#">Regulation: A Primer</a>, Ch. 4-5</li> <li>● Maeve Carey, <a href="#">The Federal Rulemaking Process: An Overview</a>, CRS No. RL32240, June 17, 2013.</li> <li>● Maeve Carey, <a href="#">An Overview of Federal Regulations and the Rulemaking Process</a>, CRS IF10003, January 2019.</li> <li>● Office of Federal Register, "<a href="#">Guide to the Rulemaking Process</a>."</li> <li>● Susan Dudley, "OIRA &amp; the Durability of Regulatory Oversight," <i>Regulation and Governance</i>, 2020 (Blackboard).</li> <li>● Sally Katzen, "OIRA at Thirty: Reflections and Recommendations," <i>Administrative Law Review</i>, 2011 (Blackboard).</li> <li>● <a href="#">OIRA meetings guidance</a>, December 2023.</li> <li>● E.O. 14094, <a href="#">Modernizing Regulatory Review</a>, April 2023.</li> </ul>	1/30

<p><b>4. Market Processes &amp; Regulation</b></p> <ul style="list-style-type: none"> <li>● <i>Regulation: A Primer</i>, Ch. 6-7</li> <li>● Ellig &amp; Lin, Taxonomy of Dynamic Competition Theories pp 11-23 (Blackboard)</li> <li>● Michael Munger, <i>Analyzing Policy</i>, pp. 54-72 (Blackboard)</li> <li>● Richard Stroup, <i>Eco-nomics: What Everyone Should Know about Economics and the Environment (Second Edition)</i>. Chapter 3, “Rights: How Property Rights and Markets Replace Conflict with Cooperation” pp 25–44 (Blackboard)</li> <li>● OIRA <a href="#">Regulatory Impact Analysis Checklist</a> (2010) (Blackboard)</li> <li>● <b>Begin to look for your regulation</b> (We’ll spend part of this class and next navigating resources to identify the rules you’ll select for comment. See “4. Finding Regulatory Information” on Blackboard.)</li> </ul>	2/06
<p><b>5. Regulatory Analysis I: Need for Regulation &amp; Alternatives</b></p> <ul style="list-style-type: none"> <li>● <i>Regulation: A Primer</i>, Ch. 8-9</li> <li>● Keech, Munger &amp; Simon. “Markets and Government: Realizing the Promise of Gains from Exchange and Cooperation” (2012) (Blackboard)</li> <li>● OIRA Regulatory Impact Analysis: <a href="#">A Primer</a> (2011)</li> <li>● OIRA Regulatory Impact Analysis FAQs (2011)</li> <li>● <a href="#">OMB Circular A-4</a>, “Regulatory Analysis,” November 2023 (pp 1-27)</li> <li>● Dudley et al, “<a href="#">Consumer’s Guide to Regulatory Impact Analysis: Ten Tips for Being an Informed Policymaker</a>,” <i>J. Benefit-Cost Analysis</i> (2017)</li> </ul>	2/13
<p><b>6. Regulatory Analysis II: Benefit-Cost Analysis</b></p> <ul style="list-style-type: none"> <li>● Brian Mannix, <a href="#">Benefit-Cost Analysis as a Check on Administrative Discretion</a>, Supreme Court Economic Review. Vol 24, No. 1 (2016) (Blackboard)</li> <li>● <a href="#">OMB Circular A-4</a> (Read: 27-40, 57-65, 67-77, 82-93; Skim detailed sections in between, as you may come back to them in your analysis)</li> <li>● National Association of Manufacturers, <a href="#">The Cost of Regulation...</a> Executive Summary (2023)</li> <li>● <i>Additional readings may be assigned.</i></li> </ul>	2/20
<b>POLICY MEMO DUE</b>	
<p><b>7. Workshop – Effective Engagement in the Regulatory Process</b></p> <ul style="list-style-type: none"> <li>● Regulations.gov, “Tips for Submitting Effective Comments.” (Blackboard)</li> <li>● Jerry Ellig, “A Guide to Writing Public Interest Comments Using Economic Analysis” (Blackboard)</li> <li>● Come with questions about your comment and be prepared to discuss your RIA.</li> <li>● Brookings: “<a href="#">How to effectively comment on regulations</a>”</li> <li>● We’ll also talk about expectations for mock testimony &amp; op-ed. (We encourage you to read ahead to class **10 tips—both are short.)</li> </ul>	2/27

<i>The focus of classes 8 &amp; 9 will depend on class interests and regulations chosen, and may have guest lecturers with additional readings assigned. For class 10, start reading the editorial pages of your favorite newspapers and bring in op-eds on regulation to share in class.</i>	
<b>8. Guest</b> Ajit Jillavenkatesa, Senior Standards Legal Policy Advisor at Apple, to discuss his 20-year experience developing regulations and standards at the National Institute of Standards and Technology (NIST).	3/05
SPRING BREAK	
<b>9. Guests</b> <ul style="list-style-type: none"> <li>• Lea Mosen, Deputy Assistant Director, Regulatory Administration &amp; Program Development, Office of Regulations, Consumer Financial Protection Bureau,</li> <li>• Amber Jessup, Chief Healthcare Economist in the Department of Health and Human Services (HHS) - Office of the Inspector General (OIG).</li> </ul>	3/19
<b>COMMENT OUTLINE DUE</b>	<b>3/22</b>
<b>10. Workshop – Working with the media</b> (Guest: Amber Palmer-Halma) <b>VIRTUAL</b> <ul style="list-style-type: none"> <li>• Reading packet on writing op-eds (Blackboard)</li> <li>• Read the newspapers for op-eds and articles on regulation.</li> </ul>	3/26
<b>11. Legislators’ Perspective</b> (Guests: Maeve Carey, PhD, CRS; Anthony Papian, Senate; & Daniel Flores, House) <ul style="list-style-type: none"> <li>• <a href="#">Tips for Nailing your Congressional Testimony</a></li> <li>• <a href="#">Twelve Tips for Testifying before Congress</a></li> </ul> This will be interactive. Come with questions for our guests!	4/02
<b>TESTIMONY DUE</b>	<b>4/04</b>
<b>12. Mock hearing</b> <ul style="list-style-type: none"> <li>• Each “witness” will offer 5-minutes of testimony and answer questions from two “members.”</li> </ul>	4/09
<b>13. Mock hearing</b>	4/16
<b>14. Course wrap up</b>	4/23
<b>OP-ED AND COMMENT DUE</b>	<b>5/05</b>

## APPENDIX: UNIVERSITY & TRACHTENBERG SCHOOL CLASS POLICIES

1. **Incompletes:** A student must consult with the instructor to obtain a grade of I (incomplete) no later than the last day of classes in a semester. At that time, the student and instructor will both sign the CCAS contract for incompletes and submit a copy to the School Director. Please consult the TSPPPA Student Handbook or visit [http://www.gwu.edu/~ccas/faculty/files/Incomplete\\_poli0.pdf](http://www.gwu.edu/~ccas/faculty/files/Incomplete_poli0.pdf) for the complete CCAS policy on incompletes.
2. **Submission of Written Work Products Outside of the Classroom:** It is the responsibility of the student to ensure that an instructor receives each written assignment. Students can submit written work electronically only with the express permission of the instructor.
3. **Submission of Written Work Products after Due Date: Policy on Late Work:** All work must be turned in by the assigned due date in order to receive full credit for that assignment, unless an exception is expressly made by the instructor.
4. **Academic Honesty:** All examinations, papers, and other graded work products and assignments are to be completed in conformance with the George Washington University Code of Academic Integrity. (see <http://www.studentconduct.gwu.edu/code-academic-integrity>) 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. Note especially the definition of plagiarism: "intentionally representing the words, ideas, or sequence of ideas of another as one's own in any academic exercise; failure to attribute any of the following: quotations, paraphrases, or borrowed information."
5. **Changing Grades After Completion of Course:** No changes can be made in grades after the conclusion of the semester, other than in cases of clerical error.
6. **The Syllabus:** This syllabus is a guide to the course for the student. Sound educational practice requires flexibility and the instructor may therefore, at her/his discretion, revise content and requirements during the semester.
7. **Safety and Security:** In the case of an emergency, if at all possible, the class should shelter in place. If the building that the class is in is affected, follow the evacuation procedures for the building. After evacuation, seek shelter at a predetermined rendezvous location.
8. **University policy on observance of religious holidays:** In accordance with University policy, students should notify faculty during the first week of the semester of their intention to be absent from class on their day(s) of religious observance. For details and policy, see: [students.gwu.edu/accommodations-religious-holidays](http://students.gwu.edu/accommodations-religious-holidays).
9. **Accommodation for Students with Disabilities:** Any student who may need an accommodation based on the potential impact of a disability should contact the Disability Support Services office at 202-994-8250 in the Rome Hall, Suite 102, to establish eligibility and to coordinate reasonable accommodations. For additional information see: [disabilitysupport.gwu.edu/](http://disabilitysupport.gwu.edu/)
10. **University Mental Health Services Center:** The University's Mental Health Services (202-994-5300) offers 24/7 assistance and referral to address students' personal, social, career, and study skills problems. Services for students include: crisis and emergency mental health consultations confidential assessment, counseling services (individual and small group), and referrals. For additional information see: [counselingcenter.gwu.edu/](http://counselingcenter.gwu.edu/)

## **Academic Integrity Code**

Academic integrity is an essential part of the educational process, and all members of the GW community take these matters very seriously. As the instructor of record for this course, my role is to provide clear expectations and uphold them in all assessments. Violations of academic integrity occur when students fail to cite research sources properly, engage in unauthorized collaboration, falsify data, and otherwise violate the [Code of Academic Integrity](#). If you have any questions about whether or not particular academic practices or resources are permitted, you should ask me for clarification. If you are reported for an academic integrity violation, you should contact the Office of Student Rights and Responsibilities (SRR) to learn more about your rights and options in the process. Consequences can range from failure of assignment to expulsion from the university and may include a transcript notation. For more information, please refer to the SRR website (<https://studentconduct.gwu.edu/academic-integrity>), email [rights@gwu.edu](mailto:rights@gwu.edu), or call 202-994-6757.

## **University policy on observance of religious holidays**

Students must notify faculty during the first week of the semester in which they are enrolled in the course, or as early as possible, but no later than three weeks prior to the absence, of their intention to be absent from class on their day(s) of religious observance. If the holiday falls within the first three weeks of class, the student must inform faculty in the first week of the semester. For details and policy, see “Religious Holidays” at [provost.gwu.edu/policies-procedures-and-guidelines](http://provost.gwu.edu/policies-procedures-and-guidelines).

## **Use of Electronic Course Materials and Class Recordings**

Students are encouraged to use electronic course materials, including recorded class sessions, for private personal use in connection with their academic program of study. Electronic course materials and recorded class sessions should not be shared or used for non-course related purposes unless express permission has been granted by the instructor. Students who impermissibly share any electronic course materials are subject to discipline under the Student Code of Conduct. Please contact the instructor if you have questions regarding what constitutes permissible or impermissible use of electronic course materials and/or recorded class sessions. Please contact Disability Support Services at [disabilitysupport.gwu.edu](http://disabilitysupport.gwu.edu) if you have questions or need assistance in accessing electronic course materials.

## **Academic support**

### **Writing Center**

GW’s Writing Center cultivates confident writers in the University community by facilitating collaborative, critical, and inclusive conversations at all stages of the writing process. Working alongside peer mentors, writers develop strategies to write

independently in academic and public settings. Appointments can be booked online at [gwu.mywconline](http://gwu.mywconline).

### **Academic Commons**

Academic Commons provides tutoring and other academic support resources to students in many courses. Students can schedule virtual one-on-one appointments or attend virtual drop-in sessions. Students may schedule an appointment, review the tutoring schedule, access other academic support resources, or obtain assistance at [academiccommons.gwu.edu](http://academiccommons.gwu.edu).

### **Support for students outside the classroom**

#### **Disability Support Services (DSS) 202-994-8250**

Any student who may need an accommodation based on the potential impact of a disability should contact Disability Support Services at [disabilitysupport.gwu.edu](http://disabilitysupport.gwu.edu) to establish eligibility and to coordinate reasonable accommodations..

#### **Counseling and Psychological Services 202-994-5300**

GW's Colonial Health Center offers counseling and psychological services, supporting mental health and personal development by collaborating directly with students to overcome challenges and difficulties that may interfere with academic, emotional, and personal success. [healthcenter.gwu.edu/counseling-and-psychological-services](http://healthcenter.gwu.edu/counseling-and-psychological-services).

### **Safety and Security**

- In an emergency: call GYPD 202-994-6111 or 911
- For situation-specific actions: review the Emergency Response Handbook at: [safety.gwu.edu/emergency-response-handbook](http://safety.gwu.edu/emergency-response-handbook)
- In an active violence situation: Get Out, Hide Out, or Take Out. See [go.gwu.edu/shooterpret](http://go.gwu.edu/shooterpret)
- Stay informed: [safety.gwu.edu/stay-informed](http://safety.gwu.edu/stay-informed)