

University of Baltimore School of Law

Fall 2017

COURSE: LEGISLATION WORKSHOP
Law 886 – 511

TIME: Mondays, 1:30 to 4:15, Room assignments are available through MyUB.

INSTRUCTORS:

Professors Sandy Rosenberg and Jeremy McCoy

Delegate Sandy Rosenberg contact information: delsandy@aol.com and 410-664-2646

Jeremy McCoy contact information: jermccoy1@gmail.com and 410-693-1002

Office hours: By appointment

COURSE MATERIALS:

1. Robert Caro, *Master of the Senate* (2003)

2. Legislative Drafting Manual, 2017, Department of Legislative Services

http://dls.state.md.us/data/legandana/legandana_bildra/legandana_bildra_bildraman/Drafting-Manual.pdf

All reading assignments are in these texts and supplemental reading is noted in the syllabus. All supplemental readings are required as well. Please make sure to check the TWEN site regularly for course materials and updates.

COURSE DESCRIPTION AND GOALS:

The course will provide an in-depth view of the legislative process in Maryland, using selected pieces of legislation to illustrate and understand this process. We will also discuss the Congress' consideration of the American Health Care Act of 2017.

The course focuses on the evolution of legislation from a policy idea to bill drafting, bill introduction, strategies to secure the bill's passage, written and oral testimony, and amendments. In addition, the course involves written assignments that illustrate different stages of the legislative process. Students will also come to understand the legislative process from key players in the legislative arena.

Through this course, students will understand the key aspects of the legislative process, learn how to draft bills, amendments, and testimony, and develop legislative strategy concerning a bill topic of the student's choice. This exercise mirrors conduct at a legislative session.

These objectives will be furthered by students keeping abreast of media coverage of legislative issues included in the syllabus.

The syllabus will be updated during the course of the semester, and topics are subject to rescheduling, given the availability of guest lecturers.

STUDENT LEARNING OBJECTIVES:

- (1) Understand the legislative process;
- (2) How to read a bill;
- (3) How to write a bill, an amendment, and testimony;
- (4) Deliver oral testimony to a legislative committee;
- (5) Strategize in concept and in reality the passage of legislation by understanding the legislative process

COURSE EXPECTATIONS:

All reading assignments are in the assigned course materials, and supplemental reading is noted in the syllabus. All supplemental readings are required as well. Additional reading materials may also be required of students during the course of the semester. Please make sure to check the TWEN site regularly for course materials and updates.

You are expected to complete all reading assignments before class and to participate consistently in class discussion to demonstrate that you have read and considered the materials assigned.

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

ATTENDANCE:

You are expected to attend each class on time. We will pass around a sign-in sheet at each class session. It is your responsibility to ensure that you sign this sheet, as it is the official record of your attendance.

Class attendance is the primary obligation of each student whose right to continued enrollment in the course and to submit class assignments is conditioned on a record of attendance satisfactory to the professors. A student who exceeds the maximum allowed absences for this class, two absences, may be compelled to withdraw from the course or may be barred from submitting assignments. Students who are forced to withdraw for exceeding the allowed absences may receive a grad of FA (failure due to excessive absence). This policy is consistent with the American Bar Associations Standards for Law Schools.

CLASS CANCELLATION:

If the instructors must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

COURSE WEBSITE:

This course has a TWEN site that contains the syllabus and supplemental reading materials. Each student is required to register for the course's TWEN website. The TWEN website will contain materials noted on the syllabus that are not on-line. They will be titled by the class date.

COMPUTERS:

Students may use laptop computers for class related purposes. We often ask students to examine additional legislative materials on-line during class. However, random laptop internet searching (involving materials that are not related to that day's class) or instant messaging is a distraction to the rest of the class and to our guest speakers. If you are discovered to be using your computer for purposes unrelated to productive class participation, you will be marked absent for that day.

EVALUATION:

You will be evaluated based on your performance on six writing projects, oral testimony, and class participation. The assignments for the Legislation Workshop and class participation will count for the following percentages of your grade:

1. First class assignment	5%
2. First Bill Drafting exercise	5%
3. Bill Draft	25%
4. Written testimony on Bill Draft	15%
5. Oral Testimony on Bill Draft	15%
6. Amendments to Bill	5%
7. Strategy memo on Bill Draft	20%
8. Class participation	10%

While you may discuss your written assignments with your classmates, the writing assignments are NOT a collaborative effort. You must independently research, organize, write, edit, and proofread your own assignments.

Each of these writing requirements will be graded on the standard grading scale. Class participation will be graded on your contribution to meaningful discussion in class and your ability to answer questions.

ACADEMIC INTEGRITY:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and /or the School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about assignments, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm

TITLE IX SEXUAL MISCONDUCT AND NON-DISCRIMINATION POLICY:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation, and/or related experiences or incidents. Policies and procedures related to Title IX and UB's non-discrimination policies can be found at <http://www.ubalt.edu/about-ub/offices-and-services/government-and-community-relations/titleix.cfm>

DISABILITY POLICY:

If you are a student with a documented disability who requires academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or lmetzger@ubalt.edu.

ASSIGNMENTS:

Students are expected to complete the reading assignments, be prepared to answer the questions provided online the morning of the class, attend each class on time, timely complete the writing assignments, and engage in the in-class discussion of the readings. Bring the relevant texts (and any statutes or handouts assigned as a supplement) to each class. Consistently active participation, demonstrating that you have read and thought about the class assignment, is expected.

Writing assignments are to be sent as follows (other than the first class assignment):

- **if you are Professor Rosenberg's student you are to send all assignments to Delsandy@aol.com**
- **if you are Professor McCoy's student you are to send all assignments to jermccoy1@gmail.com**

The writing assignments are due as follows:

1. **First class assignment** – emailed to delsandy@aol.com and jermccoy1@gmail.com on August 21 by 1:30 p.m. or handed in at the beginning of class.
2. **First bill drafting assignment** – turned in by September 18 by 1:30 p.m or handed in at the beginning of the class.
3. **Bill Draft** – emailed (through TWEN) to both professors and all class members by 9:00 a.m. the day you have been assigned to present your bill and written testimony.
4. **Written Testimony** – emailed (through TWEN) to both professors and all class members by 9:00 a.m. the day you have been assigned to present your bill and written testimony.
5. **Amendments to your bill draft** – Turned in, November 27 (last day of class) by 1:30 p.m., or by 5 p.m. on December 4 if your bill hearing was on November 27.
6. **Bill Strategy Memorandum** – no more than 5 pages single spaced and turned in the day that finals begin, December 6 by 5:00 p.m.

OTHER:

We will distribute a seating chart on the first day of class. Please sign the chart in the place where you intend to sit all semester. Please sit in your seating chart place for each class. This will help us put your name and face together and keep track of class participation.

August 21 – How a Bill Does and Doesn't Become a Law

First writing assignment due at the beginning of class (Assignment will be posted separately to TWEN)

Discussion of Role and Structure of Maryland General Assembly and its legislative process. (Please read and be prepared to discuss: Department of Legislative Services, “The Legislative Process (How a Bill Becomes Law),” Legislative Drafting Manual 2016, p. 5-11.
http://dls.state.md.us/data/legandana/legandana_bildra/legandana_bildra_bildraman/Drafting-Manual.pdf

“Room where it happens,” *Hamilton*,
<https://www.youtube.com/watch?v=IWdBOsk8D7A>

Unlike some high-minded radicals whose purism took precedence over politics, [Congressman Thaddeus] Stevens knew how to get things done. And, like Lincoln, he knew that passing the Thirteenth Amendment could not involve compromise, whether construed as splitting the difference between two contesting sides or as revising one's principles. It involved exploiting all of democracy's dark but often essential arts, including dispensing favors of patronage to congressmen and hedging public remarks to the edge of mendacity. These arts, especially as wielded by Lincoln and his other indispensable political ally, Secretary of State William H. Seward, yielded slavery's abolition. Without that monumental victory, the hard-nosed Republican Stevens could never have picked up the fight to achieve his highest principles, including full black citizenship and racial equality. So Stevens, in Lincoln, emblemizes politics in contrast to the sanctimonious anti-political stance that passed itself off (and still does) as righteous progressivism.

Sean Wilentz, “Lincoln in Hollywood, from Griffith to Spielberg,” *The New Republic*, December 21, 2012
<http://www.tnr.com/article/books-and-arts/magazine/111242/the-lost-cause-and-the-won-cause?page=0,2>

Note: Be prepared to discuss the above and other quotations in the syllabus in class. You do not need to read the article from which a quote is excerpted.

“I had a choice between some progress,” [Governor Roy] Cooper later told me, “or no progress.”

<https://www.nytimes.com/2017/06/20/magazine/is-north-carolina-the-future-of-american-politics.html?action=click&contentCollection=magazine®ion=rank&module=package&version=highlights&contentPlacement=2&pgtype=sectionfront&r=0>

“You don't know it all. Seek advice from others. My Number One lesson learned from this session.” Del. Sandy Rosenberg, email to Sen. William Ferguson, March 27, 2014

NOTE: Throughout the syllabus, you will notice individual bills listed (as House Bill or Senate Bill or both), and in some instances, amendments to those bills. Please read those documents ahead of time to prepare for class discussions on those bills on the date listed. Those documents may be found on the General Assembly website (<http://mgaleg.maryland.gov/webmga/frm1st.aspx?tab=home>).

On the MGA website, go to the “Find Legislation” banner near the top of the site, and search either “By Number” (entering a bill number for 2017, for example “SB1” or “HB234” or “CH56”). Within each bill’s page, you will also find links for “Documents” and “History,” in which you can find amendments and other information on the bill. To find a bill from a prior year, click the “Legislation by Session” tab at the top left of the website and click on the “Change Session” window to find legislation from a prior year’s legislative session.

Other supporting documentation, such as written testimony or letters, will be posted as attachments on TWEN for each particular class, or may include news articles, the links to which are listed below.

House Bill HB 1136, Baltimore City - Alcoholic Beverages - Licenses - Hours of Sale

Jessica Anderson, “Three killed in three days within a block of Howard Park,” *Baltimore Sun*, April 29, 2016

<http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-northwest-homicides-20160429-story.html>

Fern Shen, “Amid a rash of shootings, Howard Park sends an SOS,” *Baltimore Brew*, May 6, 2016

<https://www.baltimorebrew.com/2016/05/06/amid-a-rash-of-shootings-howard-park-sends-an-sos/>

Tonia Wells, Liquor Bill Testimony Write-in, February 19, 2017

James Gilliss, Baltimore City Police Department, Testimony in Support of HB 1136, February 20, 2017

Senator Conway, Amendments to House Bill 1136 (Third Reading File Bill)

http://mgaleg.maryland.gov/2017RS/amds/bil_0006/hb1136_53332501.pdf

House Bill 796, Baltimore City - Landlord and Tenant Law - Actions for Repossession (Fairness and Integrity for Baltimore City Renters Act) (2016)

Luke Broadwater, “Baltimore eviction rate among highest in country, study says,” *Baltimore Sun*, December 7, 2015

<http://www.baltimoresun.com/news/maryland/bs-md-ci-rent-court-20151204-story.html>

House Bill 1487, Landlord and Tenant - Repossession for Failure to Pay Rent – Procedures

Delegate Samuel I. Rosenberg, Testimony In Support of House Bill 1487, March 7, 2017

Summary of House Bill 1487 - Landlord and Tenant – Repossession for Failure to Pay Rent – Procedures (undated)

Matt Garono, email to Delegate Kumar Barve, HB 1364 and HB 1487, March 7, 2017

Doug Donovan, “Lawmakers seek legal aid for tenants facing eviction in Baltimore,” Baltimore Sun, July 3, 2017

<http://www.baltimoresun.com/news/maryland/investigations/bs-md-tenant-lawyers-reaction-20170703-story.html>

August 28 – Protecting Affordable Care – Bill Drafting

Senate Bill 571, Maryland Health Insurance Coverage Protection Act

Department of Legislative Services, *Assessing the Impact of Health Care Reform in Maryland*, January 2017, 31-46 <http://mgaleg.maryland.gov/Pubs/LegisLegal/2017-Impact-Health-Care-Reform.pdf>

Maryland Hospital Association, House Bill 909 [Crossfile for SB 571], Support with Amendments (undated)

Schwartz, Metz & Wise, P.A. House Bill 909, Support With Amendment, March 10, 2017

Secretary Dennis R. Schrader, Letter to The Hon. Shane E. Pendergrass, Letter of Information-HB 909, March 10, 2017

I will venture to affirm, that what is commonly called the technical part of legislation, is incomparably more difficult than what may be styled the ethical. In other words, it is far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the lawgiver.

– John Austin, Jurisprudence

Lecture and Powerpoint on bill drafting (to be posted after this class)

Please read and be prepared to discuss: Legislative Drafting Manual

Chapter 3. p. 13 to 17

Chapter 4. p. 25 to 27

Chapter 5. p. 37 to 48

Chapter 6. p. 89 to 90

Appendix p. 252 to 253 and 259 to 260

Md. Annotated Code, General Provisions Article, Title 1, Rules of Interpretation (skim all provisions in Subtitles 1-3)

Short Titles

S. 994, Protecting Religiously Affiliated Institutions Act of 2017

H.R. 1730, Combating Anti-Semitism Act of 2017

In class bill drafting exercises

First bill drafting assignment distributed at the end of class

Class discussion of picking your bill topic. Topic is due by email on September 11 by 1:30 or can be handed in by the start of class

September 11 – Family Planning and Farebox Recovery

Senate Bill 1081/House Bill 1083, Health - Family Planning Services - Continuity of Care

Letter, Assistant Att’y Gen. Kathryn M. Rowe to the Hon. Richard S. Madaleno, March 6, 2017

Planned Parenthood, HB 1083, Testimony in Support, March 8, 2017

Maryland State Conference NAACP, HB 1083, Testimony in Support, March 8, 2017

SB 484, Maryland Transit Administration - Farebox Recovery Rate – Repeal

Lecture and Powerpoint on Amendment Drafting (to be posted after this class)

Guest Lecturer: Senator Richard Madaleno, Vice Chair, Budget and Taxation Committee

September 18 – Local Legislation

First bill drafting assignment due at the beginning of class

Lecture on interaction of General Assembly and Local Government

Guest Lecturer: Delegate Christopher West, District 42B (Baltimore County) (topic to be determined later)

September 25 – Advise, Consent, and Withhold and Education

Erin Cox, “Maryland attorney general: No paychecks for unconfirmed members of Hogan cabinet,” *Baltimore Sun*, July 7, 2017

<http://www.baltimoresun.com/news/maryland/politics/bs-md-hogan-appointees-paycheck-20170707-story.html>

June 27, 2017 Letter of Advice from Assistant Attorney General Adam D. Snyder to the Honorable Bill Ferguson (Recess appointments of withdrawn Cabinet nominees)

July 3, 2017 Letter of Advice from Attorney General Brian E. Frosh to the Honorable Bill Ferguson (Nonpayment of salary of withdrawn nominees pursuant to 2018 Budget Bill)

July 6, 2017 Letter from Robert F. Scholz, Chief Legal Counsel to Governor Larry Hogan to Attorney General Brian E. Frosh

House Bill 878/SB 704 “Public Charter School Act of 2017”

House Bill 486/SB 595 (of 2015) “Public Charter School Expansion and Improvement Act of 2015”

2017 State budget activities relating to aid to nonpublic schools (“BOOST” Program).

Guest Lecturers:

Senator Bill Ferguson, Chair, Senate Executive Nominations Committee

Heidi Dudderar, Deputy Legislative Officer for Governor Larry Hogan

Cassandra Shirk, Policy Advisor for Governor Larry Hogan

October 2 – Budget Numbers and Policy

Senate Bill 1149, Baltimore City - Maryland Transit Administration - Transit Services for Public School Students <http://mgaleg.maryland.gov/2017RS/bills/sb/sb1149f.pdf> (First Reading, File Bill)

Senate Bill 1149, Baltimore City - Maryland Transit Administration - Transit Services for Public School Students <http://mgaleg.maryland.gov/2017RS/bills/sb/sb1149T.pdf> (Bill as enacted)

House Bill 694, Higher Education - Admissions Process - Criminal History (Maryland Fair Access to Education Act of 2017)

Governor’s Veto Letter

House Bill 255, Criminal Procedure - Sexual Assault Victims' Rights - Disposal of Rape Kit Evidence and Notification

House Judiciary Committee, Amendments to House Bill 255 (First Reading File Bill)

http://mgaleg.maryland.gov/2017RS/amds/bil_0005/hb0255_88271601.pdf

House Bill 613, Pharmacists - Contraceptives - Prescribing and Dispensing

House Health and Government Operations Committee, Amendments to House Bill 613, (First Reading File Bill) http://mgaleg.maryland.gov/2017RS/amds/bil_0003/hb0613_65688201.pdf

Guest Lecturers:

Delegate Maggie McIntosh, Chair, House Appropriations Committee

Delegate Shelly Hettleman, Member, Appropriations Committee

October 9 – Eyes and Wages

House Bill 807, Health Occupations - Requirements for the Practice of Optometry - Miscellaneous Revisions

Andrew J. Doyle, Letter to the Honorable Shane E. Pendergrass, February 21, 2017

Dr. Mary Collins, Letter to “Dear Delegate”, February 27, 2017

House Bill 0807 as amended by HB0807/346782/1 (06/05/17 at 11:10 a.m.)

House Bill 370, Richard E. Israel and Roger "Pip" Moyer End-of-Life Option Act

House Bill, 1175, Human Relations - Discrimination by a Place of Public Accommodation - Enforcement and Remedies

Yvonne Wenger, “Pugh vetoes bill that would raise Baltimore minimum wage,” *Baltimore Sun* March 24, 2017

<http://www.baltimoresun.com/news/maryland/baltimore-city/politics/bs-md-ci-pugh-minimum-wage-20170324-story.html>

Ian Duncan and Luke Broadwater, “Baltimore City Council, mayor reach budget deal,” *Baltimore Sun*, June 7, 2017

<http://www.baltimoresun.com/news/maryland/baltimore-city/politics/bs-md-ci-budget-deal-20170607-story.html>

Guest Lecturers:

Delegate Shane Pendergrass, Chair, House Health and Government Operations Committee

Robyn Elliott, Partner, Public Policy Partners,

Councilman Zeke Cohen, First District Baltimore City

October 16 – Impeachment – Then and Now?

Guest Lecturer: Senator Paul Sarbanes

October 23 – Paid Leave and Money Bail

House Bill 1, “Labor and Employment – Maryland Healthy Working Families Act,”
<http://mgaleg.maryland.gov/2017RS/bills/hb/hb0001E.pdf> (Vetoed by Governor)

Veto Letter of HB 1 from Governor Hogan

House Bill 591, Task Force to Study the Local Economic Impact of Bank Deserts in Maryland

Senate Bill 983, “Criminal Procedure – Pretrial Release”
<http://mgaleg.maryland.gov/2017RS/bills/sb/sb0983T.pdf> (Bill passed Senate, failed in House)

Court of Appeals Order and Rule on Bail

October 16, 2016 Letter of Advice from Assistant Att’y Gen. Sandra Benson Brantley to several legislators regarding Maryland pretrial detention.

Guest Lecturers:

Delegate Dereck E. Davis, Chair, House Economic Matters Committee

Delegate Kathleen M. Dumais, Vice Chair, House Judiciary Committee

October 30 – Legislative Ethics and Legislative History

Sheldon Silver’s 2015 Corruption Conviction Is Overturned

https://www.nytimes.com/2017/07/13/nyregion/sheldon-silvers-conviction-is-overturned.html?emc=eta1&_r=0

Md. must reform process for filling legislative vacancies

<http://www.baltimoresun.com/news/opinion/oped/bs-ed-op-0724-oaks-steinmetz-20170721-story.html>

Should the President’s Words Matter in Court?

https://www.nytimes.com/2017/05/31/opinion/trump-travel-ban-appeals-court.html?action=click&pgtype=Homepage&clickSource=story-heading&module=opinion-c-col-left-region®ion=opinion-c-col-left-region&WT.nav=opinion-c-col-left-region&_r=0

More than 100,000 people posted on Twitter using the hashtag #IAmAPreexistingCondition, with many naming their own long-term illnesses or medical conditions.

<https://www.nytimes.com/2017/05/05/us/politics/republican-health-care-bill-pre-existing-conditions.html>

Schwartz and Conn, “The Court of Appeals at the Cocktail Party: The Use and Misuse of Legislative History”, 54 Maryland Law Review 432 (1995).

Guest Lecturers:

Dea W. Daly, Ethics Counsel for the General Assembly.

Sandra Benson Brantley, Counsel to the General Assembly, Office of Maryland Attorney General.

Amanda S. Conn, Counsel, Washington Suburban Sanitation Commission.

November 6 – Voting – On the Senate Floor and at a Polling Place

House Bill 1443, “Natalie M. LaPrade Medical Cannabis Commission Reform Act”

Senate Bill 423, “Elective Franchise Registration and Voting at Polling Place”

Robert Caro, *Master of the Senate*, 831-894

Guest Lecturer: Yaakov (Jake) Weissmann, Deputy Chief of Staff, Office of the President of the Maryland Senate

November 13 – Legislative Staffing and Caro Book Discussion

Robert Caro, *Master of the Senate*, 895-943

Guest Lecturers:

Elizabeth Bayly, Dept. of Legislative Services, Counsel to Senate Judicial Proceedings Committee

April Morton, Dept. of Legislative Services, Counsel to Senate Judicial Proceedings Committee

Stanford Ward, Dept. of Legislative Services, Counsel to House Ways and Means Committee

November 20 –

Topic to be decided

November 27 - Honest Abe and “Radical” Thaddeus; “Honest” Selma and “Reluctant” Lyndon

Watch the movies *Lincoln* (2012) and *Selma* (2014)

Randall Kennedy, “The Civil Rights Movement and the Politics of Memory,” *The American Prospect*, Spring 2015 (excerpt)

Joseph A. Califano, Jr., “The movie ‘Selma’ has a glaring flaw,” *Washington Post*, December 26, 2014

http://www.washingtonpost.com/opinions/the-movie-selma-has-a-glaring-historical-inaccuracy/2014/12/26/70ad3ea2-8aa4-11e4-a085-34e9b9f09a58_story.html