

San José State University

Course Number: MTM 214
Title: Transportation Policy & Regulation
Section: 001
Semester: Fall-B
Year: 2021

Instructor: Dr. James Brent
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Email: james.brent@sjsu.edu
Office Hours: By appointment
Class Days/Time: Thursdays, 5:30-9:30, July 29 - September 30
Classroom: Via Zoom
Prerequisites: None

Course Format

All class sessions will be held via Zoom. Students must have regular access to email and the internet in order to communicate with the instructor, submit assignments, and engage in other class activities.

Course Description

Surveys political frameworks of governments as both customer and provider; development of transportation policy with public involvement; and performance measurement with public oversight. Reviews policy impact on intermodal development in seeking to manage public and private objectives and diverse agendas of federal, state and local agencies.

Course Learning Outcomes

Upon successful completion of this course, students will be able to:

- distinguish between the various sources of transportation law & policy
- Analyze policy problems to identify the relevant legislative structures that guide the decision
- conduct legal research related to transportation issues

- explain important federal and state constitutional provisions and laws related to transportation, including issues of equity and discrimination, interstate commerce, takings, the environment, transportation planning, privacy and speech
- describe leading Supreme Court cases related to transportation in the above areas
- explain the tradeoffs between public and private interests in various aspects of transportation policy
- Analyze a transportation management scenario to identify the appropriate roles for the different government entities

Required Texts/Readings

Textbook

Panagopoulos, Costas, and Joshua Schank. (2008). *All Roads Lead to Congress: The \$300 Billion Fight Over Highway Funding*. Washington DC: CQ Press.

Other Readings

Reading for the remaining weeks will consist of journal articles and court cases. All readings will be distributed to you in .pdf format for free via the course web site. [The textbook is shared with permission of the authors.]

Dropping and Adding

Students are responsible for understanding the policies and procedures about add/drops, academic renewal, etc. Information on add/drops are available at

<http://www.sjsu.edu/advising/faq/index.htm#add>

Information about late drop is available at

<http://www.sjsu.edu/aars/policies/latedrops/>. Students should be aware of the current deadlines and penalties for adding and dropping classes.

Assignments and Grading Policy

Your grade will consist of the following elements:

- Midterm = 25% [Learning Objectives 1, 4, 5, 6, 7]
- Final Exam = 30% [Learning Objectives 1, 2, 4, 5, 6]
- Research Paper = 30% [Learning Objectives 1, 3, 5, 6, 7]
- Oral presentation or leading discussion = 5%
- Participation = 10%

The midterm and final examinations shall be administered on-line, and will usually be available for at least 48 hours. They consist exclusively of essay questions, and they will be based primarily on your understanding of the assigned readings, the legal concepts involved, and the arguments made therein. The research and oral presentation are described more fully

at the end of the syllabus. Participation is assessed on quantity rather than quality – I am not judging the “worthiness” of your contribution to the class. No extra credit will be available.

Late Assignments – I am fairly flexible about allowing makeup exams when a student has an unavoidable conflict or an unexpected emergency. I am not at all flexible about due dates for the term paper, because the due date is not the only day that you may submit your paper – it is merely the last day you may submit your paper without penalty. The penalty for submitting the term paper late – regardless of excuse – is 10% of the total points possible for that assignment.

Final letter grades for the course will be assigned based on the following scale:

A = 93 to 100%	A minus = 90 to 92%	B plus = 88 to 89%	B = 83 to 87%
B minus = 80 to 82%	C plus = 78 to 79%	C = 73 to 77%	C minus = 70 to 72%
D plus = 68 to 69%	D = 63 to 67%	D minus = 60 to 62%	F = 59% or less

Classroom Protocol for the Lucas College Graduate School of Business

<http://www.sjsu.edu/cob/Students/policies/index.html>

University Policies

Per University Policy S16-9, university-wide policy information relevant to all courses, such as academic integrity, accommodations, etc. will be available on Office of Graduate and Undergraduate Programs’ [Syllabus Information web page](#) at <http://www.sjsu.edu/gup/syllabusinfo/>”

Lucas College and Graduate School of Business Mission

We are the institution of opportunity in Silicon Valley, educating future leaders through experiential learning and character development in a global business community and by conducting research that contributes to business theory, practice and education.

MTM 214 – TRANSPORTATION POLICY & REGULATION

This schedule is subject to change upon notification.

Week	Date	Topics, Readings, Assignments, Deadlines
1	07/29	Introduction to the Course A Brief History of Transportation Law in the U.S.
2	08/05	Constitutional Foundations (Part 1) – The Takings Clause
3	08/12	Constitutional Foundations (Part 2) The Interstate Commerce Clause & Preemption The “Dormant” Commerce Clause
4	08/19	The Legislative Process and SAFETEA-LU [<i>All Roads Lead to Congress</i> discussion] Making Regulations
5	08/26	MIDTERM EXAM; STUDENT PRESENTATIONS BEGIN
6	09/02	Transportation & Discrimination --Racial Discrimination & Equity in Transit Planning --Disability Discrimination
7	09/09	Transportation & the Environment
8	09/16	Public Transit & Congestion Mitigation --Urban Mass Transit --Strategies for Mitigation
9	09/23	Free Speech & Transportation Transportation & Privacy
10	09/30	PRESENTATIONS AND FINAL EXAM

LIST OF READINGS

Week One

Dempsey, Paul Stephen. (2003). "Transportation: A Legal History." *University of Denver Transportation Law Review*. 30:235

Week Two

Christie, Marc C. (2006). "Economic Regulation in the United States: The Constitutional Framework." *University of Richmond Law Review* 40:949

Allen, Richard A. (2003). "Does Rails-to-Trails Affect a Taking of a Property?" *Transportation Law Journal* 31:35

Morrison, Kurtis T. (2011). "Note: Compensable Property Rights and Visibility Damages in Public Transportation Infrastructure Projects: *Department of Transportation vs. Marilyn Hickey Ministries*." *Transportation Law Journal* 38:145

Raterman-Doige, Mary. (2012). "Comment: Un-Just Compensation: How Severance Damages and Inverse Condemnation Will Affect California High-Speed Rail Takings." *San Joaquin Agricultural Law Review* 21:235

Week Three

Bindman, Boris. (2015). "Keep on Truckin', Uber: Using the Dormant Commerce Clause to Challenge Regulatory Roadblocks to TNCs." *Washington and Lee Review* 72:136

Brown, Alea M. (2012). "It Is Not Just Politics That Is Local: A Look at the Constitutionality of State Trucking Weights." *Quinnipiac Law Review* 30:201

Carey, Jesse. (2019). "Interstate Blends: Challenges to the Use of the California Low Carbon Fuel Standard as the Basis for Regional Agreements." *Transportation Law Journal* 46:29-43

Week Four

Panagopoulos, Costas, and Joshua Schank. (2008). *All Roads Lead to Congress: The \$300 Billion Fight Over Highway Funding*. Washington DC: CQ Press.

Week Five - MIDTERM; NO READING ASSIGNED

Week Six

Baldrige, Kate. (2013). "If You Give a Mouse a Cookie: California's Section 11135 Fails to Provide Plaintiffs Relief in *Darensburg v. Metropolitan Transit Commission*." *Golden Gate Law Review* 43: 7

Collis, Hope M. (2014). "Why Miss Daisy Was Not Allowed to Drive Herself: An Examination Of the Need for Federally Mandated Drivers License Renewal Procedures." *Transportation Law Journal* 41:45

Reed, Rachael. (2017). "Note and Comment: Disability Rights in the Age of Uber: Applying the Americans with Disabilities Act of 1990 to Transportation Network Companies." *Georgia State University Law Review* 33:517

Retzlaff, Rebecca. (2019). "Interstate Highways and the Civil Rights Movement: The Case of I-85 and the Oak Park Neighborhood in Montgomery, Alabama." *Journal of Urban Affairs*. 41:930-59.

Week Seven

Bilir, Aylin. (2012). "Stopping the Runaway Train of CEQA Litigation: Proposals for Non-Judicial Substantive Review." *Environmental Law and Policy Journal* 35:145-171

Kazis, Noah M. (2014). "Environmental Review as an Incentive for Parking Provision in New York and California: Moving from Conservatism to Conservation." *Transportation Law Journal* 41:157

Toma, Byron K. (2011). "The Error of Streamlining CEQA for Transit Priority Projects: Why California Transit Agencies May Share the Same Fate as Polar Bears." *University of Baltimore Journal of Environmental Law*. 18:171

Week Eight

Baltruzak, Jeffrey. (2007). "The Core Plan or How I Learned to Stop Worrying and Love the Central City: Shifting Control of Regional Mass Transit to the Central City." *Pierce Law Review*. 5:271

Lewyn, Michael. (2001). "Big Government's War Against Public Transportation." *Columbia Journal of Environmental Law* 26:259

Week Nine

Creamer, Morgan E. (2016). "*Walker v. Texas Division, Sons of Confederate Veterans, Inc.* and License Plate Speech: A Dangerous Roadblock for the First Amendment."

Tanner, David. (2001). "Bond v. United States: What's Protecting Your Luggage? A Look at the Fourth Amendment and How It Applies to Searches of Luggage on Mass Transit Carriers." *Baylor Law Review* 53:713

TERM PAPER & PRESENTATION

"There is hardly a political question in the United States which does not sooner or later turn into a legal one." -- Alexis de Tocqueville

Transportation agencies and officials are regularly subject to lawsuits on all manner of topics. Many of these cases raise extremely interesting factual and legal questions. Your term paper assignment is to locate and write about one of these cases that interest you. Although the case should be somehow related to one of the broad themes of the course, I will attempt to grant you as much flexibility as possible.

The case you write about should have the following elements (however, exceptions to virtually all of these requirements can be waived pursuant to consultation with me):

- It should have been initiated or decided since 2000
- It should involve surface transportation
- It should involve a law or regulation passed or a transportation project undertaken by either the federal government or a state, county or municipal government
- It should not be the subject of one of the assigned readings in this course
- It should be controversial

The paper should consist of four parts:

Part 1 -- Introduction -- A brief description of the facts of the case and the law being challenged, and an identification of the public and private interests involved

Part 2 -- The Intergovernmental Context -- Most transportation projects and policies involve a complex web of law at the federal, state and local level. In this section, you should identify and explain the different roles played by the federal, state, and local governments in the project or issue you've selected. If applicable, you should also identify and briefly explain any constitutional issues related to federalism that are relevant to your topic.

Part 3 -- The Constitutional/Legal Context - This section should fully explain the legal challenge(s) made against the law, including any additional constitutional provisions that might apply, as well as an discussion of the major relevant precedents that might apply. If the Supreme Court or another court has issued a decision in the case, that decision, as well as any concurrences and dissents, should be discussed.

Part 4 - Your Analysis -- In this part, you should apply the legal tests discussed in parts 2 and 3 to the facts of your case and should analyze whether the court reached the correct decision, or (if the case has not yet been decided) what decision the court should reach.

Your paper should possess the following characteristics:

- 1) It should be at least 15 typed, double-spaced pages long and utilize a minimum of 10 sources. Many of these sources should be academic in nature.
- 2) It should contain appropriate attribution. I do not care what citation format you utilize as long as you use one consistently.
- 3) It should display proper grammar and spelling.

In addition, students will be asked to give a 15-minute in-class presentation on their topic to the class. In-class presentations will be scheduled for weeks 6 through 9, and 10 if needed.

Oral Presentation -- All students will be asked to give a 10-15 minute presentation to the class about the court case that is the subject of their term paper. These presentations will run from week 5 through week 10. Although most students tend to use Powerpoint slides, it's not required. The presentation is worth 5% of your grade, and full credit is given unless you are utterly unprepared, or if you fail to give a presentation.

Online Access via Zoom:

You can join class using SJSU Zoom from any location, as long as you:

- Are in a quiet room without distractions (e.g., no family members or colleagues walking through or asking questions)
- Have stable internet access
- Use a video camera and good quality microphone so that you are seen as well as heard
- Follow good "meeting etiquette" principles (one such list: <https://blog.gotomeeting.com/7-rules-virtual-meeting-etiquette-every-professional-know/>)

To access class sessions by Zoom, click on the following link from your computer or tablet: <https://sjsu.zoom.us/j/92583769035>. A password is required.

Plan to join at least ten minutes before 5:30 pm, to make sure you are ready when class begins. (The very first time you join from a computer or device, allow extra time for set-up.)

The university has many useful tutorials on how to use Zoom here: <http://www.sjsu.edu/ecampus/teaching-tools/zoom/index.html>