

Core Courses

Environmental Law (LWEV 582)

The explosion of environmental laws since the early 1970s has dramatically impacted business, government, and private individuals. The tentacles reach into almost all areas of law: from bankruptcy to tax, from land transactions to corporate structuring. This course introduces students to a smorgasbord of federal environmental laws, including endangered species, environmental impact statements, air and water pollution, and solid/hazardous waste control. This course provides the fundamentals for those interested in other environmental law courses, students pursuing environmental law careers, as well as students curious about this important field of law.

Administrative Law (LAW 561)

This course covers agency rulemaking, agency adjudication, and judicial review of agency conduct. Through this study we delve into foundational concepts of due process, notice, public participation in a representative democracy, separation of powers, federalism, delegation of legislative authority, and regulatory enforcement. While this course has theoretical components, it is also practical: the course will prepare you to engage with these laws whether as an agency lawyer, law clerk, legislative staffer, private practitioner, litigator, or transactional attorney.

Advanced Courses

Emerging Hawaii Water Issues (LWPA 582F)

Introduction to the legal framework for water resource management in Hawai‘i; case studies illuminate the litigation process and evolution of the public trust, precautionary principle, and other legal, scientific, and policy areas.

Land Use Management and Control (LAW 580)

This is a survey course in public control of private use of land: how do state, local, and federal agencies regulate the land development process? Special emphasis is on constitutional issues (exclusionary zoning, regulations and exactions that may be “takings” of property under the federal Constitution), growth management, and innovative techniques such as impact fees, development agreements, and planned unit development. We will also cover zoning, subdivision and housing codes, state and regional land control statutes, together with those aspects of eminent domain, environmental, and public land management law affecting the use of private land.

Legal Aspects of Water Resources and Control (LWEV 588)

The course covers the legal aspects of water and water rights with primary focus on Hawai‘i. Topics include: Native Hawaiian water rights, pre-McBryde case law, McBryde and post-McBryde developments, water pollution, ground water designation, institutional relationships, and various types of allocation systems.

Domestic Ocean and Coastal Law (LWEV 592)

This course covers the layers of governance, ranging from international law to local governments, attempting to deal with the effects of climate change including sea level rise and coastal erosion, along with plastics and other marine pollution, fisheries management, marine biodiversity and efforts to conserve ocean resources.

International Ocean Law (LWEV 593)

Examination of legal issues that affect ocean resources. This course focuses on governance of living and non-living resources, environmental protection, and boundary delimitation.

Environmental Litigation Seminar (LWEV529)

This seminar, which focuses on environmental litigation and citizens suits in particular, is a practical, lively course that synthesizes statutory and case analysis, legal research and writing, oral advocacy, lawyering skills, topical natural and cultural resource management issues, and legal strategy. In addition to drafting legal pleadings based on a hypothetical situation, students will have the opportunity to argue their case in court. Students who participate actively in the course will: (1) acquire substantive knowledge and practical legal training in a vital area of environmental law, specifically environmental enforcement and citizen suit litigation and defenses to such suits; (2) gain advanced insight into the realities of the adjudicatory process and strategic litigation, applicable to all types of public interest litigation; and (3) learn about the in-and-outs of the federal and state litigation process, from both substantive legal and practical perspectives.

International Environmental Law (LWEV 528)

This course provides an overview of international law applicable to the environment. Students will gain an understanding of international governance and the formulation of environmental law and policy, the rights and obligations of states concerning the protection of the environment, and general principles and rules of international environmental law. Students will also gain an understanding of the connections between international environmental law and other areas of law, with a specific focus on international environmental law and human rights as well as international criminal law.

Environmental Law Clinic (LAW 590E)

Through this clinic, students will have the opportunity to hone their legal skills, including analyzing legal issues, developing and implementing case strategy, collaborating with clients, refining factual and legal research, and writing persuasively. Initial classes will be spent reviewing relevant state and/or federal laws relating to natural and cultural resource management. Students will then work in teams to assist clients on a range of issues. The primary work product will be legal memoranda, although students may also prepare pleadings, comment letters, or oral or written testimony. In order to facilitate that work, client interaction and site visits to affected resources and communities are highly encouraged. When a project is completed, students will have the opportunity to present the final product to a client and/or their counsel. Pre: Environmental Law (LAW 582) or Administrative Law (561). These classes may be taken concurrently.

Conservation Transactions (LWEV 504)

Real estate transactions are an important and growing conservation strategy; examines land transactions within the environment of conservation.

Climate Change Law and Policy (LWEV 530)

Climate change is a core challenge that will influence law and policy well into the future. This course will study climate change science, litigation, law and policy at state, national, and international levels.

Environmental Compliance & Regulated Industries (LWEV 512)

Modern businesses and industries are heavily regulated by a myriad of federal and state environmental laws. Ensuring compliance with these important and complex laws is a critical function of corporate law today and can have far-reaching positive impacts on the environment. Conversely, failure to comply with these laws and their accompanying regulations can lead to serious civil and criminal penalties. This course covers the environmental regulatory structure that impacts businesses and explores the compliance issues that arise under the statutes, regulations, and case law.

Wildlife & Natural Resources Law (LWEV 503)

Hawai'i's wildlife and other natural resources are among the most endangered in the world. By exploring the compelling stories of Hawai'i's imperiled ecosystems, this seminar provides a unique lens through which to view the pressing national and global legal and policy issues related to species preservation and resource conservation and management. The course examines the federal, state and local legal scheme that governs use and protection of resources, from the endangered humpback whale to energy planning.

Supplemental Courses

Native Hawaiian Rights (LWPA 581)

This course examines the evolution of the rights of Native Hawaiians to land and resources and the important statutes and laws affecting Native Hawaiians. Areas of study include the Hawaiian land tenure system, the Mahele and conversion to fee-simple land system, traditional and customary rights, the public land trust (Government & Crown Lands), the Hawaiian Home Lands trust, and the charitable trusts established by ali'i to benefit Native Hawaiians. The course will look particularly at current cases and legislation relating to the political status of Native Hawaiians.

International Law (LWPA 585)

An examination of the evolving process of formulating rules to govern the transnational problems requiring global solutions. After looking at the United Nations and other international and regional organizations, students focus on: (a) the Law of the Sea negotiations, (b) the laws of war, (c) human rights, and (d) economic problems. Students examine both the substantive content of the current rules and the procedures by which they are being developed. Finally, the course examines the enforcement mechanisms and ways in which international law can be used in the courts of the United States.

Negotiation & Alternative Dispute Resolution (LAW 508)

Lawyers negotiate settlements in almost all their cases. This class presents a “hands-on,” skill-building approach to the newest ideas, as well as centuries-old techniques, about the skill lawyers will use most often in their private practice- negotiation. The class also examines the rapidly developing field of alternative dispute resolution (ADR), including mediation, facilitation, arbitration, and court-annexed ADR. (Cross-listed as CEE 614)

Constitutional Law II (LAW 534)

A continuation of Constitutional Law I, with special emphasis on due process, equal protection, and freedom of expression. This course examines core concepts of fairness and focuses particularly on racial and gender discrimination and the varied relationships between individual freedoms and the state. Pre: Constitutional Law I (LAW 533).

Federal Courts (LAW 571)

An examination of the jurisdiction and law-making powers of the federal courts, standing issues, appellate jurisdiction of the Supreme Court, federal-question and diversity-of-citizenship jurisdiction of the federal district courts, immunities from suit in the federal courts possessed by governmental entities and officers, intervention by federal courts in state proceedings, and choice of law in the federal courts. Particular emphasis on relevant Federal Rules of Civil Procedure. Pre: 533 (or concurrent).

Historic Preservation Law (LAW503)

In this course, students will study case law and the application of federal and state constitutional, statutory, and administrative regulations relevant to historic preservation issues and the protection of Native burials, moepū (funerary objects), sacred objects, and objects of cultural patrimony. Students will explore varying perspectives of different stakeholders: scientists, anthropologists and archaeologists, developers, governmental agencies, and Indigenous groups with respect to historic preservation issues. Students will review case studies that highlight ongoing tensions and conflicts that arise when certain land use development activities and government action threaten Native burials, cultural sites, and Indigenous cultural and religious practices; some of which resulted in litigation and others that reflected peaceful resolution and positive collaboration. Students will examine emerging issues such as creating policies and adaptation strategies related to impacts from climate change on burial sites, particularly sea level rise. Students will also explore novel areas where historic preservation laws are being applied.

Business Associations (LAW 531)

After a brief survey of agency, partnerships, and other forms of business organization, the course will cover the fundamentals of corporations, and securities regulation, including disregarding the corporate entity, management and control of closely held corporations, merger, liability under the federal securities laws, takeovers, public registration, exemptions, and derivative suits.

Native Hawaiian Rights Clinic (LAW 590I)

This course provides students with a direct experience of working on cases in the context of Native Hawaiian rights and issues. Each semester, the clinic focuses on one or two major cases involving issues such as traditional and customary rights, the public lands trust, the Hawaiian Home Lands trust, and water rights. Students will aid attorneys in identifying and researching significant issues, gathering evidence, interviewing clients, and drafting pleadings.

Legislative and Statutory Interpretation (LAW 590U)

This course examines the interrelationship between the legislative and judicial branches of government in creating and interpreting laws and prepares students to work with complex statutory schemes. In modern times, legislatures have taken a larger role in creating law through the enactment of statutes, and this has resulted in a relative shrinking of purely judge-made common law. As legislatures increasingly play the role of lawmakers, lawyers and judges become more engaged as interpreters of statutes and administrative regulations. But because statutory interpretation sometimes equates to law creation, the respective role of courts and legislatures in the law-making process has become less well defined and more controversial. This class explores the synergies and tensions between law “making” and law “interpreting” and prepares students to work in a legal environment dominated by statutory and regulatory sources of law. Along the way, it covers the federal and Hawai‘i law-making processes, mechanisms of direct democracy, theories of the legislative process, techniques of legislative and quasi-legislative drafting, theories and doctrines of statutory interpretation, and the many approaches to statutory interpretation employed by lawyers and judges in their roles as advisors, advocates, and decision makers. Course Learning Objectives By the end of the course, students should have: Gained a basic understanding of the federal and Hawai‘i legislative processes; Gained a basic understanding of the leading theories of the legislative process, and of how those theories inform different approaches to statutory interpretation; Gained an understanding of the major methods and theories of statutory interpretation, including formalism, purposivism, the new textualism, and legal pragmatism, and be able to deploy these theories in predictive and normative analysis; Improved their skills in researching federal and Hawai‘i legislative history; Improved their ability to apply statutory interpretation methods and doctrines in legal analysis; and Developed basic skills in legislative drafting, and, in the process, reinforce principles of English for Legal Purposes covered in Legal Practice I and II.

State and Local Government Law (LAW 574)

The purpose of the course is to survey and analyze the organization, powers, and duties of state and local governments, their interaction, and how they fit within the increasingly pervasive federal system. We will particularly emphasize finances, home rule, state and local antitrust liability, development agreements, impact fees, tax increment and other debt financing (including state and municipal bonds), the rapidly expanding liabilities of county government under Section 1983 of the Civil Rights Act, executive privilege, and the limits to federal authority over state and local functions (the “Federalism” question). Cases, statutes, ordinances, and explanatory articles form the basis of the course. While we cover those aspects of state, local, and federal relations which have particular relevance to Hawai‘i, the course will also touch upon certain aspects of those relations which are common elsewhere in the federal system. Control of

activities of one level of government by others, both directly and indirectly by means of inducements, is a common theme.

Aloha ‘Āina Hawaiian Land Tenure (LWPA 582F)*

*Course description unavailable

Kānāwai Lawai‘a Hawai‘i’s Ocean and Fishing Laws (HWST 652)

Seminar on pre-contact, customary laws on fishing and ocean stewardship, their codification in written laws during the Hawaiian Kingdom period, and changes and impacts through U.S. annexation and statehood, including current models of ocean governance. (Alt. years: Fall)
(Cross-listed as SUST 652)