Administrative Law Research Course Materials

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Link to Administrative Law course Wiki. Goes with other materials for the course.

http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage

Administrative Law Research Syllabus – Spring 2018

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Course Description

This course will focus on administrative law research skills. These skills are important because so many areas of law in our modern economy are heavily regulated by agencies (tax, securities, the environment, health and welfare, to name only a few). There is no focus on one specific area of law; the idea is that once students understand administrative law research in general they can use their knowledge to quickly master research in their own areas of interest. By the end of the course, students will understand administrative law research and demonstrate mastery of strategies for finding the primary and secondary information necessary to answer legal questions and develop legal arguments. Toward that end, students will thoroughly examine agencies and their powers, state and federal regulatory processes, organization of administrative law materials, and a variety of online sources of administrative law. Students will learn to efficiently utilize a variety of free and commercial sources and employ a variety of search strategies to find regulations, enabling and authorizing statutes, administrative decisions, guidance documents, executive orders, cases, and secondary source information. In addition, students will learn different techniques for tracking regulatory developments and participating in the regulatory process.

Course Objectives

Objectives are listed below for each administrative law topic. For the course objectives as a whole, the student will:
- Understand the basic framework of administrative law and agencies
- Understand state and federal regulatory processes
- Understand the organization and purposes of administrative codes and registers
- Be familiar with the different online sources for administrative law research
- Efficiently use a variety of sources to find regulations and other administrative material on a specific topic
- Efficiently use a variety of finding methods (indexes, keyword searching, looseleafs, etc.) to find regulations and other administrative material on a specific topic
- Use administrative law sources to determine the answers to legal questions and develop legal arguments

Class Sessions

This course meets for 8 one hour and fifty minute sessions for the first 8 weeks of the semester in room 15 in the basement of the library. We will be working on exercises in class so please bring your laptop to each class unless you want to use the computers in the computer lab. I will be using D2L to communicate and post course materials and assignments so students are responsible for regularly checking the course site.

Office Hours

As a general rule, I will be available following our class. However, feel free to stop by my office anytime during the week or email me to set up an appointment.

Course Components

Class Participation and Attendance

The best way to develop legal research skills is to actually do legal research. Therefore, class attendance and thoughtful participation are essential elements of this course and a critical portion of each student’s grade, since the majority of class time is devoted to working on exercises.

Homework and Quizzes

In order to minimize lecture time during class, students are expected to prepare before each class by reading short assignments from the class wiki and occasionally watching online tutorials. Short quizzes will be given each week at the beginning of class to encourage/assess student preparation.

Weekly Exercises

Each week students will work on exercises in class involving different administrative law topics and research skills. Students learn how to research by practice. These exercises are part of the learning process and will be graded on effort as much as getting the actual correct answers. I will be discussing the exercise questions and answers in class so it is okay (encouraged, actually) if you work together in or
out of class. Each student is responsible for recording her own answers and submitting her own assignments.

Exercises are due each week on Sunday at midnight unless another due date is assigned.

**Final Research Project**

Throughout the semester we will use examples from different areas of law in class lectures and weekly exercises. The final project is an opportunity for students to explore a particular area of law of interest more deeply. Students can choose any highly regulated area of law such as tax, securities, the environment, FDA, SSA, immigration, etc.

Part 1 of the project involves examining federal statutes that govern the area of law, the agency that regulates it, the agency’s rulemaking, enforcement, and adjudicatory powers, the primary sources of law produced by the agency (regulations, decisions, guidance documents, etc.) and the court system’s power to review the agencies regulations, decisions, and other actions. Part 2 involves researching specific legal questions in different areas of law (students will all have the same questions for this part).

**Final Quiz**

A one-hour final quiz will be given in the last week of class. Students can prepare for the quiz by reviewing the course wiki and reviewing the materials covered in class, paying special attention to the information that I have repeatedly emphasized. The quiz will be true/false, multiple choice, and short answer.

**Grading**

Grades for this course will be calculated as follows:

- 10% Class participation, attendance, quizzes
- 10% Weekly exercises (due each week on Sunday at midnight)
- 15% Part 1 of the final research project (assigned Class 7 and due on March 25 at midnight)
- 50% Part 2 of the final research project (assigned Class 7 and due on March 25 at midnight)
- 15% Final quiz during the last class (Class 8)

*Excellent, Good, Okay,* or *Needs Improvement* will be awarded as grades for quizzes and exercises.

Numerical grades will be awarded for the final quiz and final project.

As deadlines are important in practice, the final project must be turned in on time. Late projects will receive a 5 percent deduction per day. In order to assess your abilities on the projects, please work independently, without the assistance or advice of other people (other than myself). Extensions will be granted only for good cause such as serious illness, family illness, or other similar circumstances.

The normal curve for upper level classes applies to this course.
Preparation for Week 1 Class:

Pick your favorite Arizona state agency and be prepared to explain why it is your favorite.

Week 1: Overview of State Administrative Law

Objectives:

Student will be able to:
- Understand the basic framework of state administrative law
- Explain the state regulatory process
- Explain the role of the Arizona Administrative Procedures Act
- Define key concepts such as regulations, enabling acts, etc.
- Explain the purpose of state regulations
- Explain the relationship between statutes and regulations
- Explain the purpose and organization of the Arizona Administrative Code (A.A.C.)
- Explain the purpose and organization of the Arizona Administrative Register (A.A.R.)
- Explain the parts of an individual regulation
- Use the different online sources for Arizona regulatory research (Westlaw, Lexis Advance, Arizona Secretary of State website)
- Explain the creation, roles, and responsibilities of state agencies
- Explain how state agency websites are useful
- Explain the pros and cons of using different online sources for Arizona regulatory research
- Find Arizona regulations on specific topics using:
  - Secondary sources
  - Indexes, tables of contents/keyword searching
  - Arizona statutes
  - Agency websites

Class Assignments:

- Week 1 exercise

Preparation for Next Class:

- Wiki for Week 2 (only the red links)
  - [http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage](http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage)

Week 2: State Administrative Law Continued

Objectives:

Student will be able to:
- Find Arizona enabling acts
- Understand the authority and historical information for a regulation
- Find administrative decisions using different online sources
- Find executive orders and other administrative material
- Find cases reviewing law involving judicial review of state regulations and administrative decisions
- Update an Arizona regulation using different online sources
- Cite an Arizona regulation
- Cite an Arizona Administrative Register issue

Class Assignments:
- Week 2 quiz
- Week 2 exercise

Preparation for Next Class:
- Wiki for Week 3 (only the red links)
  - [http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage](http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage)
- Optional - View tutorials:
  - Part I - Introduction ([http://www.law.georgetown.edu/library/research/tutorials/admin/admin01.cf m](http://www.law.georgetown.edu/library/research/tutorials/admin/admin01.cfm))
  - Part II - Overview of Federal Administrative Law Sources ([http://www.law.georgetown.edu/library/research/tutorials/admin/admin02.cf m](http://www.law.georgetown.edu/library/research/tutorials/admin/admin02.cfm))
  - Part III - Federal Agency Websites ([http://www.law.georgetown.edu/library/research/tutorials/admin/admin02.cf m](http://www.law.georgetown.edu/library/research/tutorials/admin/admin02.cfm))

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**Week 3: Overview of Federal Administrative Law/Code of Federal Regulations/Federal Register**

**Objectives:**

Student will be able to:
- Explain a bit about the history of federal regulations
- Explain the role of the federal Administrative Procedures Act
- Explain the purpose, organization, and powers of agencies
- Explain federal enabling acts and the relationship between statutes and regulations
- Explain the purpose and authority for federal regulations
- Explain the federal regulatory process
- Explain the purpose and organization of the Code of Federal Regulations
- Explain the purpose and organization of the Federal Register
- Explain the parts of an individual regulation

**Class Assignments:**
- Week 3 quiz
Week 3 exercise

Preparation for Next Class:

- Wiki for Week 4 (only the red links)
  - http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage
- Optional - View tutorials:
  - Part IV(a) - Finding Federal Regulations by Citation
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin04a.cfm)
  - Part IV(b) - Finding Federal Regulations with a Known Statute
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin04b.cfm)
  - Part IV(c) - Finding Federal Regulations by Subject
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin04c.cfm)

Week 4: Researching Federal Regulations

Objectives:

- Understand the authority segment of a CFR section
- Find enabling acts
- Find federal regulations on specific topics using different search strategies:
  - Table of contents
  - Keyword searching
  - Indexes
  - By USC section
- Find federal regulations on specific topics using different sources:
  - Treatises
  - Agency websites
  - Westlaw/Lexis Advance
  - e-CFR
  - FDsys
  - Google
- Explain the pros and cons of using different online sources for federal regulatory research

Class Assignments:

- Week 4 quiz
- Week 4 exercise

Preparation for Next Class:

- Wiki for Week 5 (only the red links)
  - http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage
Optional - View tutorials:
- All the IntelliConnect tutorials
  (http://researchhelp.cch.com/flashfiles/flashhelp.html)

Week 5: Terms and Connectors Searching Review/Researching Federal Regulations Using Looseleafs

Objectives:
Student will be able to:
- Terms and connectors searching
  - Understand how to choose keywords
  - Run searches using AND, OR, and proximity connectors
  - Understand singular/plural and truncation rules
  - Understand the default order of operation of connectors and use parentheses to change the order
  - Use segments to narrow searches to specific parts of documents
- Looseleafs
  - Understand the general organization and purposes of looseleafs
  - Explain the organization of CCH IntelliConnect
  - Explain the organization of specific looseleaf sources in CCH IntelliConnect
  - Use CCH IntelliConnect looseleafs to:
    - Research starting with a USC section
    - Research starting with an index
    - Research starting with a search

Class Assignments:
- Week 5 quiz
- Week 5 exercise

Preparation for Next Class:
- Wiki for Week 6 (only the red links)
  - http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage
- Optional - View tutorials:
  - Part V(a): Updating Federal Regulations on FDSYS
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin05a.cfm)
  - Part 5(b): Updating Federal Regulations on Westlaw and Lexis
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin05b.cfm)
  - Part 5(c): Finding Proposed Regulations
    (http://www.law.georgetown.edu/library/research/tutorials/admin/admin05c.cfm)
Week 6: Updating/Citing Federal Regulations

Objectives:

Student will be able to:
- Understand the history segment of a CFR section
- Understand updating schedule of the official version of the CFR and e-CFR
- Update and validate a CFR section using:
  - Print/FDsys site
  - e-CFR
  - WestlawNext
  - LexisAdvance
- Correctly cite the CFR
- Correctly cite the Federal Register

Class Assignments:

- Week 6 quiz
- Week 6 exercise

Preparation for Next Class:

- Wiki for Week 7 (only the red links)
  - [http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage](http://administrativelawresearch.pbworks.com/w/page/68139207/FrontPage)
- Optional - View tutorial:
  - Part VI - Finding Agency Decisions
    - [http://www.law.georgetown.edu/library/research/tutorials/admin/admin06.htm](http://www.law.georgetown.edu/library/research/tutorials/admin/admin06.htm)

Week 7: Federal Agency Administrative Decisions and Guidance/Judicial Review

Objectives:

Student will be able to:
- Explain the creation, roles, and responsibilities of federal agencies
- Find agency decisions
- Understand the judicial review procedure for agency decisions
- Find agency guidance information
- Understand judicial review of regulations
- Find for cases reviewing federal regulations and administrative decisions

Class Assignments:

- Week 7 quiz
- Week 7 exercise

Preparation for Next Class:
Week 8 (October 16): Regulations Tracking

Objectives:

Student will be able to:
- Use different sources to track regulatory developments:
  - federalregister.gov
  - Alerts from commercial services
  - Current awareness publications
  - Blogs
  - Unified Agenda
- Participate in the regulatory process by commenting on proposed regulations through regulations.gov
- Find executive orders
- Understand the role of executive orders in setting regulatory policy
- Understand the regulatory process in greater detail
- Understand the role of FOIA requests in obtaining agency information

Class Assignment:
- Week 8 exercise

Other:
- Final quiz in class today for second hour
Week 1 - Arizona Administrative Law Exercise Answers

Name ____________________________________

Instructions: You are a lawyer for Banner University Medical Center. Part of your job is to ensure that your organization complies with all the numerous and frequently changing Arizona laws and regulations which govern medical professionals – doctors, nurses, midwives, pharmacists, etc. Therefore, you are familiarizing yourself with all aspects of Arizona administrative law. You are glad that you are starting with Arizona administrative law before tackling the more complicated federal administrative law!

Before We Explore or Learn Anything about Anything

1. Of course, it is possible to research regulations without understanding anything in particular about regulations since they both look like statutes and are arranged just like them. You decide to use Westlaw to search for Arizona regulations to answer the following question.

A midwife works for your hospital. She has a client who is about to deliver her baby and she just now disclosed that she has had two previous c-sections. Before she said she just had one. The midwife wants to know if she can handle the delivery herself or needs to transfer her client to another medical professional.

Keep in mind that when you are searching for either regulations you also ALWAYS want to look for applicable statutes (and vice versa).

a. List the relevant Arizona regulation(s) about the specific issue and briefly summarize the relevant section(s).

A.A.C. R9-16-111(C)(1)(a) – A midwife shall not perform a vaginal delivery for a client who has more than one previous Cesarean section.

Source: Arizona Regulations database

Index: Source has no index

Search: adv: Cesarean and midwife = 4 documents.

b. List the relevant Arizona statute(s) about the specific issue and briefly summarize the relevant section(s).

None.
Source: Arizona Statues and Court Rules database

Index: Cesarean = no. Midwives/Cesarean = no.

Search: adv: Cesarean and midwife = 0 documents.

c. What are you going to tell the midwife?

She should not have accepted the client in the first place because midwives cannot handle women who have had more than one Cesarean section anyway.

d. SEARCHING REVIEW! You don’t want to go around giving out advice without being sure you have found all relevant statutes and regulations on your topic. So, it is important that you can correctly formulate a terms and connectors search.

i. Since you only want Arizona statutes you limit your search to the Arizona Statues and Court Rules database. List a search that retrieve all statutes involving midwives and c-sections with as few mishits (irrelevant documents) as possible. *(Hint:* There is 1 document with both relevant terms. Suggested search: ADV: term! AND term.) List the number of documents retrieved.

adv: midwife AND cesarean = 1 documents.

ii. Since you only want Arizona regulations you limit your search to the Arizona Regulations database. List a search that retrieve all regulations involving midwives and c-sections with few mishits (irrelevant documents) as possible. *(Hint:* There are 4 documents with both relevant terms. Suggested search: ADV: term! AND term.) List the number of documents retrieved.

adv: midwife AND cesarean = 4 documents.

Purpose of Above Questions: To point out that searching for regulations is just like searching for statutes. To point out that using terms and connectors searching can save time and give you confidence in your results.
Exploring the Arizona Administrative Code (A.A.C.)

2. Part of knowing what you are talking about when it comes to Arizona regulations is being FAMILIAR with the Arizona Administrative Code. You decide to use the free version of the Arizona Administrative Code (A.A.C.) on the Arizona Secretary of State’s website.

a. What is the URL for the site?


b. What does the Arizona Administrative Code contain? *Hint:* Look at the initial screen.

The official rules of the state of Arizona.

c. Is this the official version of the A.A.C.? If not, which version is official? *Hint:* Look at the Popular Questions near the top of the screen.

“The paper version of the Arizona Administrative Code, as printed by the Division, is considered the official version under the law. Refer to the Disclaimer of this website for more information.”

d. How many titles comprise the A.A.C.?

21.

e. How do you run a search in the A.A.C.? *Hint:* Try searching for an unusual word like “Cesarean” that you know appears in the A.A.C.)

Strangely you can no longer search within the text of the A.A.C.! Annoying!! You can only navigate through the table of contents. Sigh... More on this below.

f. Which title and chapter contain the regulations about pharmacists?

Title 4 – Professions and Occupations, Chapter 23 – Board of Pharmacy.
g. You have been asked to clarify the rule about pharmacist’s offering rebates. List the citation to the relevant regulation.

A.A.C. R4-23-404 – Unethical practices.

**Search:** rebate

h. Since you can’t search the Arizona Administrative Code through the Secretary of State’s website, you have to use Google. Which is the most useful search to find regulations from the Arizona Administrative Code about Cesareans and midwives. *(Instructions: Place a check next to the correct answer.)*

- X ___ “arizona administrative code” “midwife” “cesarean” “PDF”
- _________ “arizona regulations” midwife cesarean

i. Each chapter of each title is current through a different date. How current is the chapter with the rules that govern pharmacists (Title 4, Chapter 23)? *(Hint: Click on the PDF link and scroll to the bottom of the first page).*

**September 30, 2017.**

j. So, you see that the PDF for Title 4, Chapter 23 is out of date. What should you do to see if the chapter has been amended since that date? *(Instructions: Place a check next to the correct answer.)*

- _________ Don’t worry about it and assume everything is okay.
- X ___ Check to see what has happened since that date (more on this later).
- _________ Ask a chicken for advice.

k. If you printed out the PDFs on the site, would you then have the complete official print version of the A.A.C.? *(Hint: Ask Sarah.)*

Yes, the PDFs are official so this website is doing a bad job of explaining what is official and unofficial.
Clearly this version of the A.A.C. is not easy to search or navigate. However, usually nothing in legal research is all bad! What are two advantages of this version?

Free and official (at least the PDFs are official).

**Purpose of Above Questions:** To practice investigating a source to see what it contains, how it is organized, what search features are available, how up to date it is, etc.

**Exploring the Arizona Administrative Register (A.A.R.)**

3. To make sure you can always find the current regulations (also proposed regulations) you have to be **FAMILIAR** with the Arizona Administrative Register. You decide to use the Arizona Administrative Register (A.A.R.) on the Arizona Secretary of State’s website.

   a. What is the URL?


   b. According to the website’s *Popular Questions*, what is the A.A.R.?

      “The Administrative Register (Register) is a legal publication published by the Administrative Rules Division that contains information about rulemaking activity in the state of Arizona. The Register is published by a numbered volume in a calendar year. Weekly issues are published each Friday with each issue making up the volume. The electronic version as authenticated by the office online is the official version.”

   c. The A.A.R. is organized into yearly volumes comprised of weekly issues. What is the most recent *volume* number and date? What is the most recent *issue* number and date?


   d. Because you are interested in regulatory developments in the medical field, you are very interested in the A.A.R. and look at it each week. Click into the Table of Contents for the most recent issue of the most recent volume. Briefly describe any one rulemaking activity related to the medical field.
Purpose of Above Questions: To practice investigating a source to see what it contains, how it is organized, what search features are available, how up to date it is, etc.

Exploring a Regulation in the A.A.C. and its History in the A.A.R.

4. You are using the A.A.C. on the Secretary of State’s website. The A.A.C. is organized by titles which are subdivided into chapters, articles, and individual sections. Locate A.A.C. R4-19-215.

a. What do the numbers in the citation R4-19-215 represent?

Title 4, Chapter 19, Section 215.

b. What is Title 4 about?

Title 4 - Professions and Occupations.

c. What is Chapter 19 about?

Chapter 19 - Board of Nursing.

d. What is R4-19-215 about?

A.A.C. R4-19-215 Voluntary Termination of a Nursing Program or a Refresher Program.

e. When was R4-19-215 most recently amended? What is the citation to the Arizona Administrative Register (A.A.R.) page that has the information about this amendment? (Hint: An A.A.R. citation looks like 10 A.A.R. 200.)

5. Go to the above listed page in the Arizona Administrative Register (A.A.R.) (Note: 19 is the volume number for 2013.)

a. What is the URL for the PDF of that page?


b. You are interested in the who, what, when, why, and where of R4-19-215, so you decide to look at the preamble for the regulation. (Note: You can always find a preamble at the beginning of regulations. Agencies are required to publish a preamble so the public will know the who, what, when, why, and where of new and amended regulations).

i. What is the statutory authority for R4-19-215? (Hint: Look next to “authorizing statutes.”)

A.R.S. §§ 32-1606(A)(1), (A)(9), (B)(1), (B)(2), (B)(3), (B)(8), (B)(10), (B)(23) and (C).

ii. Which statutes does the regulation implement? (Hint: Look next to “implementing statutes.”)

A.R.S. §§ 32-1601(2), (16), (20); 32-1644(A), (B), (C), (D) and (E); 32-1664(G), (H) and (N); 32-1666(B); 32-1667(3); and 41-1056.01.

iii. What is the effective date of the regulation?

July 6, 2013.

iv. Why did the agency amend this regulation? (Hint: Look at number 6.)

“Amendments to this section clarify that a program is considered voluntarily terminated when it no longer admits or plans to admit students after current students graduate.”

v. Mr. Duke used his right as a member of the public to comment about the proposed regulations. What did he have to say about R4-19-216?
Purpose of Above Questions: To practice looking at a regulation and finding background information about it.
Week 2 - Arizona Administrative Law Continued Exercise

Name _________________________________

Purpose of Questions: To practice analyzing a short fact pattern, finding regulations on a specific topic, and using the information to answer a legal question.

Agency Websites

2. Today you are interested in familiarizing yourself with the regulations about medical doctors (called allopathic doctors in Arizona to distinguish them from naturopathic doctors). You decide to look at the Arizona Medical Board website to find useful information. Usually an agency website links to related statutes and regulations which is nice because it saves you the effort of looking at the A.R.S. and A.A.C. yourself.

   a. What is the URL for the Arizona Medical Board website?

   b. Click on the link to the Arizona statutes. Which A.R.S. section created the Arizona Medical Board?

   c. Go to the Arizona regulations (aka rules). Which title and chapter contain the regulations of the Arizona Medical Board?

   d. List two areas regulated by the Arizona Medical Board.

   e. One of your jobs is to keep up with the developments of the Arizona Medical Board. What link can you click on to get this information?

Purpose of Questions: To practice using an agency’s website to find information.

Arizona Administrative Decisions
3. You are still looking at the Arizona Medical Board website and you see that A.R.S. 32-1403(5) gives the Board the power to discipline physicians. A physician at your hospital has been accused of medical malpractice after performing surgery on the patient’s wrong leg. You already researched Arizona cases about the malpractice issue and now you want to find out whether this type of situation has resulted in physician discipline in Arizona so you want to search the Board’s opinions.

   a. You are on the Arizona Medical Board website and see that there is a tab for *Recent Actions* and you click on it to see what is available. What is the date coverage for the source? How can you search the opinions?

   b. You decide that you would like a database that is easier to search that also has orders older than the last 24 months so you decide to look to see what is available on *Westlaw*.

      i. What is the name of the database that has the decisions?

      ii. What is the date coverage? (*Hint*: Click on the little i to the right of the database name to find out when coverage begins. Then look on the initial screen to determine the date of the most recent documents.)

      iii. List the name and citation of a decision involving amputation of or surgery on the wrong body part and briefly describe the Board’s action against the doctor.

      iv. **AN IMPORTANT RESEARCH SKILL IS LOCATING ALL THE POSSIBLY RELEVANT DOCUMENTS IN A DATABASE.**

You want to make sure that your search has retrieved all possibly relevant documents about amputation of or surgery on the wrong body without also retrieving a lot of irrelevant documents/mishits. List a useful search and note how many documents it retrieves.

*Sample Search Formats:*
• dog /S bit! /S girl
• dog OR canine /S bit OR scratch! /S boy OR girl OR minor
• dog OR “german shepard” /S bit OR scratch! /S boy OR girl OR minor
• dog OR canine /S bit! OR scratch! /S boy OR girl OR minor AND municipality

v. AN IMPORTANT RESEARCH SKILL IS DETERMINING WHETHER THERE ARE ANY DOCUMENTS ON A TOPIC IN A DATABASE.

You are still searching in Westlaw’s Arizona Medical Board Administrative Decisions. You want to retrieve all documents specifically involving a doctor not correctly diagnosing rickets. List a useful search and note how many documents it retrieves.

Purpose of Questions: To practice exploring databases and finding agency decisions.

Keyword Searching

You decide to take a break from your investigation of Arizona administrative law to ponder the importance of keyword searching in legal research. You decide to use Westlaw.

Keep things simple!

1. Include alternatives for your terms (when necessary)
2. Use proximity connectors between your alternative terms
3. Remember to truncate terms (usually verbs) to retrieve variations

Example:

• term! /S term /P term!
• term! /S term /P term! OR “term term”
• term! OR term! /S term OR term /S term OR term!
• term! OR term! OR term /S term /P term!
Other Examples:

- operat! /S wrong /S site OR arm OR leg
- surg! OR operat! OR amputat! /S wrong /P arm OR limb OR hand OR foot OR side OR leg OR site
- surg! OR operat! OR amputat! /30 wrong OR other OR healthy /30 arm OR limb OR hand OR foot OR side OR leg OR site

4. You are still searching Arizona Medical Board Administrative Decisions. You want to retrieve as many relevant documents as possible (without retrieving too many mishits/irrelevant documents) about the failure to get adequately informed consent for a procedure. List a useful search, the number of documents it retrieves, and a brief description of why you think the search retrieves as many relevant documents as possible without retrieving too many mishits/irrelevant documents.

5. You are still searching Arizona Medical Board Administrative Decisions. You want to retrieve as many relevant documents as possible (without retrieving too many mishits/irrelevant documents) about a patient that died after taking too much pain medication. List a useful search, the number of documents it retrieves, and a brief description of why you think the search retrieves as many relevant documents as possible without retrieving too many mishits/irrelevant documents.

6. You are still searching Arizona Medical Board Administrative Decisions. You want to retrieve as many relevant documents as possible (without retrieving too many mishits/irrelevant documents) about a doctor who left stuff in the patient during surgery. List a useful search, the number of documents it retrieves, and a brief description of why you think the search retrieves as many relevant documents as possible without retrieving too many mishits/irrelevant documents.

Purpose of Questions: To practice keyword searching.

Arizona Administrative Decisions and Judicial Review
7. You are using Westlaw. A doctor that works for your organization has a similar problem to a doctor named Golob who was disciplined by the Arizona Medical Board, so you want to investigate to see what happened in that case.

a. List the citation to the Arizona Medical Board decision involving Dr. Golob and briefly describe her conduct and how long she was placed on probation.

b. Golob appealed the Board’s decision. List the citation to the relevant Arizona case and briefly describe the Court’s ruling.

c. List and briefly summarize one statute and/or regulation that Golob violated.

d. **AN IMPORTANT RESEARCH SKILL IS USING KEY NUMBERS TO FIND CASES ON A SPECIFIC TOPIC.**

   List the most relevant Key Number about judicial review of the discretion of administrative agencies. Briefly describe how you can use the Key Number to find other cases on the topic.

e. What is the current status of Golob’s ability to practice medicine in Arizona? List the URL with the information. (**Hint:** Think about how you would find out if your own doctor had a valid license.)

**Purpose of Questions:** To practice figuring out what happened in a disciplinary action.
Week 3 - Code of Federal Regulations and Federal Register Exercise Answers

Name: _______________________

Instructions: You just got a job practicing immigration law! You decide to familiarize yourself with the laws and regulations governing immigration as well as the organization of the Code of Federal Regulations (C.F.R.) and the Federal Register (FR).

Before We Explore or Learn Anything about Anything

1. Of course, it is possible to research regulations without understanding anything in particular about regulations since they are arranged just like statutes.

Your client, Erpa, is 30 years old and in good physical and mental health with no cognitive disabilities. Her application for naturalization was denied (after the agency appeal process) by the USCIS for failure to adequately demonstrate the ability to speak English. The interviewer said she mumbled some non-responsive English words/expressions in answer to questions. You decide to use Westlaw to research the law concerning the English language requirement for naturalization. You decide to use the indexes for both the U.S.C.A. and C.F.R.

a. List and briefly summarize the relevant statute(s) (include the specific subsection(s)). Also list what you clicked on in the index to find the statute(s).

Naturalization – English Language: 8 USCA § 1423.
8 U.S.C.A. § 1423 - Requirements as to understanding the English language, history, principles and form of government of the United States.
8 U.S.C.A. § 1423(a)(1) – No person can be a naturalized citizen without demonstrating “an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language.”

b. List and briefly summarize the relevant regulations(s) (include the specific subsection(s)). Also list what you clicked on in the index to find the regulation(s).

Naturalization – English Language: 8 C.F.R. § 312.1.
8 C.F.R. § 312.1 - Literacy requirements.
8 C.F.R. § 312.1(a) “General. Except as otherwise provided in paragraph (b) of this section, no person shall be naturalized as a citizen of the United States upon his or her own application unless that person can demonstrate an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language.”
8 C.F.R. § 312.1(c)(1) - “Verbal skills. The ability of an applicant to speak English will be determined by a designated immigration officer from the applicant’s answers to questions normally asked in the course of the examination.”

AN IMPORTANT RESEARCH SKILL IS USING A VARIETY OF CASE FINDING METHODS TO FIND CASES ON A SPECIFIC TOPIC.

c. STATUTORY ANNOTATIONS. As you know, you can’t really tell what the language of a statute or regulation means until it is interpreted by courts. Look at the
Notes of Decision for the above listed regulation. List the case name and citation for one relevant case and briefly summarize it.

In re Swenson, 61 F. Supp. 376 (D. Or. 1945). Mumbling a few common English words and banal expressions does not sufficiently demonstrate the ability to speak English.

d. KEY NUMBERS. Look at the Key Numbers in the case listed above.

   i. What is the most relevant Key Number that you could use to find other cases on the topic?

   Aliens - 24k702 - Literacy and Educational Requirements.

   ii. Use the Key Number to find other cases on the topic by clicking on the Key Number and choosing All Federal as your jurisdiction. How many cases do you retrieve?

   14 headnotes and 8 cases.

   e. TERMS AND CONNECTORS SEARCHING. According to the above search using the Key Number, there are not many cases on this topic. However, you always want to search for cases using a variety of methods!

List a useful terms and connectors search you could use to find cases about the denial of naturalization due to the inability to speak English in the Federal Cases database. How many results does the search retrieve and how relevant to they seem to be?

Well, there are a lot of choices and there is no one right answer... The goal is to formulate something that makes sense to get your started. Then you review the documents that you retrieve to further refine your search.

adv: speak! OR spok! OR proficien! OR inabil! /S english /25 naturaliz! /25 den! = 19 documents

adv: speak! OR spok! OR proficien! OR inabil! /S english /45 naturaliz! /25 den! = 38 documents

Purpose of Questions: To point out that searching for regulations is just like searching for statutes and to practice finding statutes and regulations on a specific topic.
Exploring the Code of Federal Regulations (e-CFR)

2. The e-CFR is a popular choice for regulations research. It is not official but it is free and frequently updated.

f. What is the URL?

http://www.ecfr.gov/cgi-bin/ECFR?page=browse

g. How current is the e-CFR as of today? How often is it updated? (Hint: Click on the purplish More button on the initial screen.)

The e-CFR always has the date info at the top in read. It says: “e-CFR Data is current as of X.” It is updated daily.

h. How many titles comprise the C.F.R.?

50.

i. What types of advanced search features are available for the e-CFR?

Boolean and proximity searching.

j. Since you are researching naturalization today, you are interested in finding where the statutes and regulations about the topic are codified.

i. You are into free resources today so you decide to use a free version of the United States Code - http://uscode.house.gov/. List the range of U.S.C. sections where the naturalization statutes are codified. (Example: 12 U.S.C. §§ 234 - 321). (Hint: Chapter 11 has been repealed so look at Chapter 12.)


ii. You decide to use the e-CFR to find the regulations. List the range of C.F.R. sections where the naturalization regulations are codified. (Example: 12 C.F.R. §§ 425.10 – 450.12)

k. You decide to familiarize yourself with the agency’s naturalization appeal process.

i. You are interested in what happens when an applicant fails to meet the English literacy requirements at the first examination. List the citation to the relevant C.F.R. section (include the subsection). The applicant has how many days after the first test to take a second test?

8 C.F.R. § 312.5 - Failure to meet educational and literacy requirements.

8 C.F.R. § 312.5(a) – “An applicant for naturalization who fails the English literacy or history and government test at the first examination will be afforded a second opportunity to pass the test(s) within 90 days after the first examination during the pendency of the application.”

Purpose of Questions: To practice investigating a source to see what it contains, how it is organized, what search features are available, how up to date it is, etc.

Exploring a Regulation

3. It appears that the C.F.R. is organized by titles which are subdivided into chapters, parts, and sections. Use Westlaw to retrieve 8 C.F.R. § 312.1.

f. What do the numbers in the citation 8 C.F.R. § 312.1 represent?

8 = title
312 = part
312.1 = section number

g. What is the section title?

Literacy requirements.

h. What is Title 8 about?

Aliens and Nationality.
i. What is Part 312 about?

Part 312. Educational Requirements for Naturalization.

j. What is section 312.1 about?

Literacy requirements.

k. When was 8 C.F.R. § 312.1 originally promulgated and what is the Federal Register citation? (Hint: Look under Credits at the bottom of the screen for the earliest date.)


l. When was 8 C.F.R. § 312.1 most recently amended and what is the Federal Register citation? (Hint: Look under Credits at the bottom of the screen for the most recent date.)

76 FR 53797, Aug. 29, 2011.

m. Which U.S.C. sections give the Department of Homeland Security (DHS) the authority to enact 8 C.F.R. § 312.1? (Hint: Look under Authority at the bottom of the screen.)


Purpose of Questions: To practice looking at a regulation and finding background information on it.

Exploring the Federal Register (FR)

4. You decide to use the Federal Register on the GPO website.

e. What is the URL?

f. According to the website, what information does the Federal Register contain? (Hint: Click on About the Federal Register.)

Rules, proposed rules, and notices of Federal agencies and organizations, executive orders and other presidential documents.

g. Is it the official version of the Federal Register? (Hint: Click on the About the Federal Register link.)

Yes, it says it is the “official daily publication.”

h. How is the Federal Register organized? (Hint: Click around.)

There is a volume for each year. Each year is broken down by month and then day. There is an issue for each day and the information is organized by agency.

i. As noted above, 8 C.F.R. § 312.1 was last amended on Aug. 29, 2011 and the Federal Register citation for the amendment is 76 FR 53797. Retrieve the citation by clicking clicking clicking. (Hint: The PDF that contains page 53797 is huge and doesn’t begin on that page.)

i. List the URL for the PDF document which contains page 53797.


ii. Federal agencies are required to publish a preamble with each proposed, final, or interim rule to explain the who, what, when, why, and where (why the regulation is needed, the authority for the regulation, how to comment on the regulation, etc.).

1. The Department of Homeland Security amended a lot of regulations (including 8 C.F.R. § 312.1) beginning of page 53764. All that “Summary,” “Dates,” “For Further Information Contact,” etc., beginning on the top of 53764 is the preamble for all the changes to all the parts. In general, what was the DHS trying to accomplish with all the amendments?

“The Department of Homeland Security (DHS) is amending its
regulations to enable U.S. Citizenship and Immigration Services (USCIS) to migrate from a paper file-based, nonintegrated systems environment to an electronic customer-focused, centralized case management environment for benefit processing…”

2. Who can people contact if they have questions about the regulations?
   Dan Konnerth.

3. What U.S.C. sections give the Department of Homeland Security the authority to enact/amend 8 C.F.R. § 312.1? (Hint: Search the PDF for 312.1.)

4. How was the regulation amended? (Hint: Search the PDF for 312.1.)
   Subsection (c) was revised.
   (c) Literacy examination.
   (1) Verbal skills. The ability of an applicant to speak English will be determined by a designated immigration officer from the applicant’s answers to questions normally asked in the course of the examination.
   (2) Reading and writing skills. Except as noted in 8 C.F.R. § 312.3, an applicant’s ability to read and write English must be tested in a manner prescribed by USCIS. USCIS will provide a description of test study materials and testing procedures on the USCIS Internet Web site.

5. What is the reason for the amendments to the regulations in part 312? (Hint: As far as I can tell it doesn’t specifically say…)
   It doesn’t specifically say. “The Department of Homeland Security (DHS) is amending its regulations to enable U.S. Citizenship and Immigration Services (USCIS) to migrate from a paper file-based, nonintegrated systems environment to an electronic customer-focused, centralized case management environment for benefit processing.”

6. You could always compare the current version of 8 C.F.R. § 312.1 with the old version to see what changed and kind of guess why it changed. Since all changes to a C.F.R. section are published in the Federal Register, can you use it to find the old language?
   Yes.
Purpose of Questions: To practice investigating a source to see what it contains, how it is organized, what search features are available, how up to date it is, etc.

Exploring the Statutory Authority for Regulations

5. You are still looking at 8 C.F.R. § 312.1 on Westlaw. As you noted above, 8 C.F.R. § 312.1 is enacted pursuant to the authority of 8 U.S.C. §§ 1103, 1423, 1443, 1447, and 1448. Another way to say that is that the Department of Homeland Security gets the authority to enact regulations from those code sections. (Note: Federal agencies usually get their authority to enact regulations from multiple code sections.)

   a. What language in 8 U.S.C. 1103 that gives the agency the power to enact regulations. (Hint: Search for “regulations” in the text of the statute.) What does “this chapter” refer to?

      8 U.S.C. 1103 (3) “He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter.”

      “This chapter” means Chapter 8.

   b. Briefly summarize the language in 8 U.S.C. 1423 related to the requirement to speak English.

      8 U.S.C. 1423(a)(A) – No one can be naturalized unless she can demonstrate the ability to “speak words in ordinary usage in the English language.”

   c. Retrieve 8 C.F.R. § 312.1 on the e-CFR site. Where is the authority information? Does it seem to be applicable to just the individual regulation or all of Part 312?

      At the top of the screen. Yes, there is no authority information for each section so it seems to be applicable for the whole part.

Purpose of Questions: To practice finding the language that gives an agency the power to enact regulations.
Researching Federal Regulations Exercise Answers

Name: _______________________

Using a Secondary Source to Find Regulations

1. We are learning a lot of different ways to research but usually a good secondary source is often the best way to start your research (unless it wasn’t – hard to know until you get started on your research)! Today you decide to start by using *Bloch on Social Security* which is available on Westlaw.

Your client, Publica, had her SSI (Supplemental Security Income) benefits suspended because she moved to live in a *public institution* – a state *publicly operated community residence* with 5 other people. You know that in general, people lose their benefits when they move into public institutions, but you think that there is some sort of exemption for those who live in small publicly operated community residences.

   a. List the citation for the relevant CFR section (include the specific subsection) and briefly summarize the relevant part.

   How to find? Possible searches: “public institution” or maybe “publicly operated community residence”

   20 C.F.R. § 416.211(c) – List exceptions for community residences with no more than 16 residents.

   20 C.F.R. § 416.201 – “Public institution means an institution that is operated by or controlled by the Federal government, a State, or a political subdivision of a State such as a city or county. The term public institution does not include a publicly operated community residence which serves 16 or fewer residents.”

   b. Based on the law, should her SSI benefits be reinstated? Briefly explain your answer.

   Seems like it. She lives in a publicly operated community residence with only 5 other people and if it otherwise meets the requirements, her benefits should be reinstated.

Purpose of Questions: To practice using a secondary source to find regulations.
Using the CFR Index and TOC on Westlaw to Find Regulations

2. You decide to use the Westlaw index for the CFR. Your client is a large agribusiness corporation that employs migrant workers to harvest crops. Your client frequently transports workers to and from various locations and needs to be advised of the current regulations in Title 49 – Transportation. You decide to use the index to get started and then use the TOC to look at surrounding sections.

a. List the CFR title and part that contains the regulations about transportation of migrant workers. Include the title of the title and the title of the part. (Example: Title 7 – Agriculture, Part 801 - Official Performance Requirements for Grain Inspection Equipment.)

How to find?

Go to the Code of Federal Regulations data.
Click on Code of Federal Regulations Index.
Click M
Scroll to find Migrant and Seasonal Workers and click on it
Click on Agricultural Labor and Employment
Click on Registration – Workforce
Click on Transportation - 49 C.F.R. § 398.1 et seq.

Title 49 – Transportation, Part 398 - Transportation of Migrant Workers.

b. What sort of eyesight is required to be a driver? List the citation for the relevant CFR section (include the specific subsection) and briefly summarize the relevant part. (Hint: Click around the table of contents to see the different sections in Part 398.)

How to find? Click on TOC links. You can click on Part 398 - Transportation of Migrant Workers and then look at the sections to find 49 C.F.R. § 398.3.

49 C.F.R. § 398.3(b)(4) – “Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal meridian shall not be less than a total of 140 degrees; ability to distinguish colors red, green and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.”
c. Go back to the index. You are interested in housing for migrant workers, specifically what kind of cooking implement is required in the housing if folks are allowed to cook in their units.

20 C.F.R. § 654.413 – If cooking is allowed the unit must have a stove or hotplate with at least two burners.

Purpose of Questions: To practice using an index of the CFR to find regulations.

Using e-CFR to Find Regulations

3. You decide to use the free e-CFR. Your client, SuppCo, a health supplement manufacturing company, received a warning letter from the FDA. At a facility inspection, the inspector found that the company repeatedly failed to test to verify the identity of a component that is a dietary ingredient before it was used in a dietary supplement. SuppCo admits to you that they have no basis to claim an exemption and that they have been rather sloppy about testing and need to know the proper testing specifications for the future.

a. List the citation for the relevant CFR section (include the specific subsection) and briefly summarize the relevant part. (Hint: Consider a Boolean search.)

How to find: Go to Boolean...
21 C.F.R. § 111.75(a)(1)(i) – Before a component is used, “at least one appropriate test or examination to verify the identity of any component that is a dietary ingredient, unless you petition the agency under paragraph (a)(1)(ii) of this section and the agency exempts you from such testing.”

b. According to the above listed regulation, what kind of testing is needed for the test to be scientifically valid?

21 C.F.R. § 111.75(h)(2) – “The tests and examinations that you use must include at least one of the following:
(i) Gross organoleptic analysis;
(ii) Macroscopic analysis;
(iii) Microscopic analysis;
(iv) Chemical analysis; or
(v) Other scientifically valid methods.”

http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2012/ucm299052.htm

Purpose of Questions: To practice using a free resource to find regulations.

Using an Agency Website to Find Regulations and Google Scholar to Find Cases

4. You are using free resources for your research today! You decide to use the TTB website. Your client, Wina, has been dealing with the Alcohol and Tobacco Tax and Trade Bureau (TTB) in setting up a commercial wine-producing enterprise. She received a letter recently from the TTB denying approval of her brand label. Her label includes the name “Doctor Wina’s Mended Heart Vineyards” and it has a logo of a broken heart with a band-aid on it. The TTB denied approval because, in their opinion, the label presents a health-related statement.

a. List the CFR title and part that contains the regulations about wine labeling. Include the title of the title and the title of the part. (Example: Title 7 – Agriculture, Part 801 - Official Performance Requirements for Grain Inspection Equipment.)

Title 27 – Part 4 – Labeling and Advertising of Wine.
b. List the citation for the relevant CFR section (include the specific subsection) and summarize the specific part of the section that deals with wine labeling prohibited practices related to health related statements.

27 C.F.R. § 4.39(h)(1) & (2) apply regarding health-related statements. Health-related statement means any statement related to health—other than the required warning statement—and this includes statements of a curative or therapeutic nature that expressly or by implication suggest a relationship between consumption of wine and health benefits.

c. You are still interested in free resources! You want to see if there are any cases about this regulation so you decide to use Google Scholar. (Hint: Put quotations marks around the citation.)

i. What is a useful search and how many cases did it retrieve?

"27 cfr 4.39" = 9 cases.

ii. Give the citation to one of the above listed cases that discusses agency discretion.


**Purpose of Questions:** To practice using an agency website to find regulations and Google Scholar to find cases.

**Using Westlaw to Find Regulations by USC Section**

5. You retrieve 42 U.S.C. § 1382 on Westlaw which is about eligibility for Social Security benefits. Since no statutory research is complete with finding related regulations, you are interested in related CFR sections.

   a. Briefly describe how to find the CFR cross references for the statute.

   Click on **Context and Analysis.** Then you will see **Code of Federal Regulations.**

6. You are still looking at 42 U.S.C.A. § 1382 on Westlaw. You decide to find the regulations enacted pursuant to its authority by limiting/filtering the **Citing References** to **Regulations.**
a. How many federal regulations do you retrieve? *(Note: Be sure to limit the jurisdiction to Federal.)*

Click on the *Citing References* tab and then *Regulations* on the right. Then limit the regulations to *Federal.* 420.

b. That is a lot of regulations. How can you narrow the regulations down to those discussing public institutions? *(Hint: When running an advanced search (aka terms and connectors search), always type in the singular form of a term to retrieve both the singular and plural forms. Note: Any search typed in the *Search within Results* box is interpreted by the system as an advanced search.)*

Type “public institution” in the *Search within Results* box. Be sure to type “institution” and not “institutions.”

c. How many regulations do you retrieve?

15.

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**Purpose of Questions:** To practice using cross references to find regulations. To practice using KeyCite Citing References to find regulations enacted pursuant to the authority of a particular USC section.
Using Citation Feature in CCH Intelliconnect

1. You are new to tax law! You wish to use CCH Intelliconnect (on the library website) to find information on the deductibility of moving expenses. Your boss told you that the relevant I.R.C. section is 1 I.R.C. § 217 (aka 26 U.S.C. § 217).

You decide to use Standard Federal Tax Reporter which is a well-respected source for tax law research. You click on Citations and then navigate through the TOC to get to Standard Federal Tax Reporter and then type in your citation and click Go.

Then click on Enacted Law: Standard Federal Tax Reporter (2017), Sec. 217. MOVING EXPENSES. You notice that your document has all sorts of links to information about 1 I.R.C. § 217 in one place.
Your client, Mova, who just moved from her old house to be closer to her new job has a number of questions about the deductibility of her moving expenses.

a. **CODE SECTION**: According to the text of 1 I.R.C. § 217, can Mova, who otherwise qualifies for the moving deduction, deduct the cost of moving her grandfather (an individual other than the taxpayer) from Tucson to Denver to live with her in her new residence? Answer the question with reference to the relevant I.R.C. section/subsection. *(Hint: Read the code section.)*

   1 I.R.C. 217(b)(2) Individuals other than taxpayer – Moving expenses for the grandfather are only deductible if “such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household.”

b. **REGULATIONS**: You want to review the regulations about deductibility of moving expenses and the Standard Federal Tax Reporter provides an easy way to do it by clicking on Regulations. List the citation to the relevant regulation for expenses incurred after December 31, 1969.


c. **ANNOTATIONS**: You are pretty sure that the code section has been interpreted to cover the moving expenses for pets but you want to find the relevant tax case or ruling or whatever. You can click on Annotations to find cases and rulings that interpret the code section. List the citation to the relevant document. *(Hint: Click on the IRC § 217 tab to get back to the initial screen.)* *(Another Hint: You can use the Search/Browse feature to search within your results.)*


d. **CCH EXPLANATIONS**: You want to find a quick summary on the law the deductibility of traveling expenses while moving so you click on CCH Explanations. *(Hint: Click on the IRC § 217 tab to get back to the initial screen. Also, you can use the search bar above to search within results.)* *(Another Hint: You can use the Search/Browse feature to search within your results.)*

   i. Mova’s car broke down on the road to Denver! Can she deduct the cost of repairs? Answer the question with reference to the relevant statutes, regulations, cases, and/or agency decisions/guidance.
According to *D.K. Svendsen v Commr*, 37 TCM 1851-63, Dec. 35,592(M), TC Memo. 1978-503, car repairs are only deductible if they are solely attributable to the move.

e. **CURRENT DEVELOPMENTS**: Briefly summarize one current development in the law of moving expenses.

Deductions: Automobiles: Business expenses: Moving expenses: Medical expenses: 2017 standard mileage rates....

**Using an Index and Advanced Search in CCH Intelliconnect**

2. Last year your client, Gadget Corporation, purchased a patent for a plane from its inventor. It has been a banner year, so the CEO of the company would like to take as many federal tax deductions as are legally allowed.

a. You decide to use the topic index (*Topical Index*) to find the info in *Standard Federal Tax Reporter*. You think it might be possible to deduct depreciation on a patent. List the citation to the *Standard Federal Tax Reporter* document on the topic.

Then scroll down...
Depreciation ¶11,015—11,016.88; ¶11,039.021.

b. You decide that you want to run an advanced search to find documents in any source about amortization of patents for airplanes. List your search and how many documents you retrieve. Remember to truncate “amortization” and use proximity connectors between your terms. (Hint: Click on Advanced Search and then look at the Help links.

amortizat* w/35 patent w/35 airplane or plane or aircraft = 7 documents.

Using a Print Looseleaf

3. You have a farmer for a client who has some questions about tax deductions. You decide to use the print *Farm Income Tax Manual* (KF 6369.8.F3 F35) to answer her questions.

a. How up to date is it? (Hint: Look on the first page of Volume 1.)

May 2017.

b. What finding aids can you use to find information in the *Farm Income Tax Manual*?

The index at the end of volume 2 or the tables of contents at the beginning of chapters.

c. Your client knows that the IRS is skeptical about farmers paying their young children to “work” on the farm. In case she gets audited, she wants to make sure she is doing everything right so she can show that her children are real employees. If she is audited, what is the IRS going to look at to determine whether a farmer’s children are real employees? Answer her question with
reference to the relevant statute, regulation, case, agency decision, or agency guidance document.

Can look in the index - Children – Dependent children, deductibility of wages paid to.

The IRS is going to want to know if the employment was bona fide, that the payment was reasonable, and that the payment was actually made. According to Rev Rule 72-23, 1972-1 CB 43, IRS is going to inquire into whether the employment was bona fide, whether the payment was reasonable, and whether the payment was actually made.

Using a Looseleaf on Lexis Advance

4. You have some more questions from your farmer client. You just noticed that you have the Farm Income Tax Manual on Lexis Advance so you decide to use it instead of the print this time.

   a. How up to date is it? (Hint: Go to the table of contents view.)

       If you click on What’s New and then Publication Update you can see that the last update was in May 2017.

   b. What finding aids can you use to find information in the Farm Income Tax Manual?

       There is now an index! Or can go to the TOC and search the TOC or the full text. Or you could navigate through the TOC.

   c. Part of your client’s barn roof blew off in a wind storm. She wants to know if it can be deducted as a casualty loss. Is wind damage to a barn considered a casualty loss? Answer the question with reference to the relevant statutes, regulations, cases, and/or agency decisions/guidance.

       Wind damage is considered a casualty loss according to Stein v. Comm’r, TC Memo 1955-57 (wind damage to barn) and Barry v. United States, 175 F Supp 308 (WD Okla 1958) (loss allowed for topsoil blown away by storm).

WestlawNext Terms and Connectors (aka Advanced) Searching Practice

5. You are following up on the tax research you did above by searching the Federal Cases database to find cases on specific issues.
For each question, list a useful search (meaning one likely to retrieve a decent number of the possibly relevant cases without too many mishits) and the number of documents it retrieves. List the citation for one relevant case and briefly summarize it. Remember how to formulate a simple search.

![Diagram of dog biting a girl](image)

**a.** Cases about a taxpayer deducting moving expenses for moving a boat.

- `deduct! /p "moving expense" /p boat OR yacht` = 4 documents.
- "moving expense" /p boat OR yacht = 13 documents.

*Aksomitas v. Commr. of Internal Revenue*, 50 T.C. 679, 1968 WL 1428 (Tax 1968). Taxpayer may deduct as moving expenses yacht repairs or the cost of attempting to move his boat.

**b.** Cases about a taxpayer claiming a casualty loss for selling a house at a loss to escape horrible neighbors.

- `adv: "casualty loss" /p neighbor!` = 24 documents.
- `adv: "casualty loss" /p house /p neighbor!` = 7 documents.
- `adv: "casualty loss" /p mean OR harass! OR crim! OR scar! OR fright! OR threat! OR intimidat! /p neighbor!` = 3 documents.
Torre v. C.I.R., 82 T.C.M. (CCH) 429, T.C. Memo. 2001-218 (9th Cir. 2002)(unpublished). Selling a house to avoid harassing neighbor does not qualify for a casualty loss deduction.
Week 6 – Agency Guidance/Decisions Exercise Answers

Name: ______________________________

Exploring Guidance Documents

1. You are new to the practice of Social Security law! You know that Social Security law includes federal laws, regulations, and case law. You don’t know anything about Social Security guidance documents so you decide to use Bloch on Social Security on Westlaw get some background information.

   a. What is a Social Security Ruling?

      They are policy statements or interpretations of the Social Security Act and implementing regulations which are based upon court decisions, opinions of the Office of General Counsel, and other policy interpretations of law and regulations.

   b. What deference do courts give to Social Security Rulings?

      Courts generally defer to rulings as the Administration’s interpretation of the Social Security Act and implementing regulations.

   c. Briefly describe the binding effect, if any, of Social Security Rulings. Answer the question with reference to the relevant statutes, regulations, cases, and/or agency decisions/guidance.

      20 C.F.R. § 402.35(b)(1) – “They are binding on all components of the Social Security Administration. These rulings represent precedent final opinions and orders and statements of policy and interpretations that we have adopted.”

   d. What is the Program Operations Manual System?

      A manual for the processing and adjudication of all Social Security claims.

   e. What is the current legal effect of the Program Operations Manual System?

      Some courts have held that POMS is not binding while others have held it is entitled to some deference.

Finding Guidance Documents

2. There are many sources to get Social Security Rulings! You decide to start out by using the Social Security Administration website.
a. What is the URL of the site with the rulings?

   How to find: Google: “social security rulings.”


b. What finding aids are available to find rulings on the site?


   Table of Contents, cumulative index, and finding lists.

c. What is the date coverage for the rulings on the site? (Hint: Click on Finding Lists and then Yearly List of Social Security Rulings and Acquiescence Rulings.)

   How to find: Click on Finding Lists and then Yearly List of Social Security Rulings and Acquiescence Rulings.

   Seems like 1960 to 2017.

d. You are looking for a Social Security Ruling about whether child support is subject to garnishment. (Hint: Click on something that rhymes with Windex.)

   i. List the name and citation of the ruling.

      How to find: Click on Cumulative Index, and then C, and then search for child support.

      SSR 82-38: SECTIONS 459, 1612(a)(2)(B), and 1612(b) (42 U.S.C. 659, 1382a(a)(2)(B), and 1382a(b)) SUPPLEMENTAL SECURITY INCOME -- UNEARNED INCOME -- SOCIAL SECURITY BENEFITS SUBJECT TO GARNISHMENT FOR CHILD SUPPORT OR ALIMONY.

3. Westlaw also has Social Security Rulings!

   a. What is the name of the database with the Social Security Rulings?

   b. What is the date coverage of the database?

c. You are wondering how many Social Security rulings there are in the database. List the search and the number of documents retrieved. **(Hint: Search for one word that seems likely to appear in all documents.)**

**adv: social** = 1677 documents.

4. You are interested in the part of the Program Operations Manual System about how reporting fleeing from a crime committed in a foreign country can impact SSI benefit eligibility. You decide to use the POMS manual on the SSA’s website.

a. List the URL for POMS on the SSA’s website.

**How to find: Google: poms.**

[https://secure.ssa.gov/apps10/](https://secure.ssa.gov/apps10/).

b. What is the POMS citation and section title for the relevant section?

**How to find: Search for: fleeing foreign.**

**SI 00530.160 What If an Individual Reports Fleeing From a Crime Committed in a Foreign Country?**

**Agency Decisions**

5. You are new to the practice of immigration law! You know that immigration law includes federal laws, regulations, and case law. You don’t know anything about immigration agency decisions. You are interested in Administrative Appeals Office (AAO) decisions so you go to the website.

a. What is the URL for the website?


b. What kind of cases are handled by the Administrative Appeals Office?

50 different kinds.

c. What is the difference between precedent and non-precedent decisions?

“These precedent decisions are binding on DHS employees except as modified or overruled by later precedent decisions, statutory changes, or regulatory changes.”
6. Due to AAO decision bad date coverage/bad search features on the website, you decide that you want to search for the decisions on Westlaw.

   a. What is the name of the database?

      Administrative Appeals Office Decisions.

   b. What is the date coverage?


   c. Your client was denied permanent residency due to old convictions for crimes involving moral turpitude. You would like to find AAO decisions involving applicants with 20 year old (or older) convictions.

      i. List a useful search that retrieves relevant documents without too many mishits. How many documents does it retrieve?

         adv: "moral turpitude" /15 2* OR 25 OR 30 OR 40 OR 50 /3 year = 3 documents.

      ii. List the name, citation, and brief summary for one relevant decision.

         Any relevant decision is fine.

Westlaw Terms and Connectors Searching Order of Operation

The default order of operation for Westlaw is as follows:

<table>
<thead>
<tr>
<th>Order of Operation</th>
<th>Connectors within parentheses operate first.</th>
</tr>
</thead>
<tbody>
<tr>
<td>OR</td>
<td>Connectors of the same type operate from left to right</td>
</tr>
<tr>
<td>Proximity connectors</td>
<td></td>
</tr>
<tr>
<td>AND</td>
<td></td>
</tr>
<tr>
<td>NOT</td>
<td></td>
</tr>
</tbody>
</table>

Examples of Searches with Single Terms/Phrases

blind! OR sightless OR “impaired vision”

1st: ORs
**What search retrieves**: Any documents in the database with either of three terms/phrases:

- *blind*
- *sightless*
- "impaired vision"

dog /15 bit! /15 child AND rabies

1st: Proximity connectors (/15)  
2nd: AND

**What search retrieves**: Any documents in the databases with *dog* within 15 words of *bit!* within 15 words of *child* and also has *rabies* anywhere in the document.

dog /15 bit! /15 child OR infant

1st: OR  
2nd: Proximity connectors

**What search retrieves**: Any documents in the databases with *dog* within 15 words of *bit!* within 15 words of either *dog* or *infant*.

**Examples of Searches Which Include Terms Separated by Proximity Connectors**

blind! OR sightless OR (impair! /5 vision)

1st: Proximity connector (/5) in parentheses  
2nd: ORs

**What search retrieves**: Any documents with either of the three:

- *blind!*
- *sightless*
- *impair!* within 5 words of *vision*

**Retrieves documents with any of the following**: blind, blindness, blinded, blinding, sightless, impaired vision, vision impairment, vision was impaired, vision so impaired, impairment of vision, impaired plaintiff’s vision, impairment so severe her vision, etc., etc.

blind! OR sightless OR impair! /5 vision
1st: ORs  
2nd: Proximity connector (/5)

**What search retrieves**: Any documents with either of the three word groupings:

- *blind* within 5 words of *vision*  
- *sightless* within 5 words of *vision*  
- *impair* within 5 words of *vision*

**Retrieves documents with any of the following**: plaintiff was blind without vision, sightless because of the lack of vision, impaired vision, vision impairment, vision was impaired, vision so impaired, etc.

**Determining Order of Operation**

7. For each search, determine the order of operation of the connectors and describe what the search would retrieve on Westlaw. *(Note: You do not have to run the searches to figure out the answers.)*

a. blind! OR “macular degeneration”

   1st: OR

   **What search retrieves**: Any documents with blind OR “macular degeneration”

b. blind! OR “macular degeneration” /15 disabl!

   1st: OR  
   2nd: Proximity connector

   **What search retrieves**: Any documents with either blind OR “macular degeneration” that are also within 15 words of disabl!

c. impair! /5 vision OR sight

   1st: OR  
   2nd: Proximity connector (/5)

   **What search retrieves**: Any documents with either vision OR sight that are also within 5 words of impair!

d. (impair! /5 vision) OR sight

   1st: Proximity connector (/5) in parentheses
2\textsuperscript{nd}: OR

\textit{What search retrieves:} Any documents with either:

- \textit{impair!} within 5 words of \textit{vision}
- \textit{sight}

e. (impair! /5 vision OR sight)

\begin{itemize}
    \item 1\textsuperscript{st}: OR in parentheses
    \item 2\textsuperscript{nd}: Proximity connector (/5) in parentheses
\end{itemize}

\textit{What search retrieves:} Any documents with either \textit{vision} OR \textit{sight} that are also within 5 words of \textit{impair!} (\textbf{Note}: The parentheses do not have any effect on the order of operation.)

f. (impair! /5 vision OR sight) AND glasses

\begin{itemize}
    \item 1\textsuperscript{st}: OR in parentheses
    \item 2\textsuperscript{nd}: Proximity connector (/5) in parentheses
    \item 3\textsuperscript{rd}: AND operates
\end{itemize}

\textit{What search retrieves:} Any documents with either \textit{vision} OR \textit{sight} that are also within 5 words of \textit{impair!} that also contain the word \textit{glasses}. (\textbf{Note}: The parentheses do not have any effect on the order of operation.)

g. impair! /5 vision OR sight AND glasses

\begin{itemize}
    \item 1\textsuperscript{st}: OR
    \item 2\textsuperscript{nd}: Proximity connector (/5)
    \item 3\textsuperscript{rd}: AND
\end{itemize}

\textit{What search retrieves:} Any documents with either \textit{vision} OR \textit{sight} that are also within 5 words of \textit{impair!} that also contain the word \textit{glasses}. (\textbf{Note}: The lack of parentheses do not have any effect on the order of operation.)

h. (impair! /5 vision OR sight) OR blind! /15 disabl!

\begin{itemize}
    \item 1\textsuperscript{st}: OR in parentheses
    \item 2\textsuperscript{nd}: Proximity connector (/5) in parentheses
    \item 3\textsuperscript{rd}: OR
    \item 4\textsuperscript{th}: Proximity connector (/15)
\end{itemize}

\textit{What search retrieves:} Any documents with either:
• impair! within 5 words of vision
• impair! within 5 words of sight
• blind

that are also within 15 words of disabl!

i. impair! /5 vision OR sight OR blind! /15 disabl!

1st: ORs
2nd: Smaller proximity connector (/5)
3rd: Larger proximity connector (/15)

What search retrieves: Any documents with either vision OR sight OR blind that are also within 5 words of impair! that are also within 15 words of disabl!

j. (impair! /5 vision) OR (bad /3 eyesight)

1st: OR operates
2nd: Smaller proximity connector (/3) in parentheses
3rd: Larger proximity connector (/5) in parentheses

What search retrieves: Any documents with either:

• impair! within 5 words of vision
• bad within 3 words of eyesight

k. impair! /5 vision OR bad /3 eyesight

1st: OR operates
2nd: Smaller proximity connector (/3)
3rd: Larger proximity connector (/5)

What search retrieves: What search retrieves: Any documents with either vision or bad that are also within 5 words of impair! that are also within 3 words of eyesight

Adding Parentheses

8. For each search, add parentheses to group together terms separated by proximity connectors as needed to make the search work properly. (Note: You do not have to run the searches to figure out the answers.)
a. You want to retrieve cases that discuss disability within the same sentence as of any of the following: blindness, sightless, impaired eyesight, macular degeneration, wearing glasses, or bad eyesight.

blind! OR sightless OR impair! /5 eyesight OR “macular degeneration” OR wear /5 glasses OR bad /5 eyesight /5 disab!

blind! OR sightless OR (impair! /5 eyesight) OR “macular degeneration” OR (wear /5 glasses) OR (bad /5 eyesight) /5 disab!

b. You want to retrieve cases that discuss the following Pima County judges: Karen Adams, Howard Fell, or Richard Gordon. (Note: Always separate names by /3 in case the person has a middle name or initial.)

karen /3 adams OR howard /3 fell OR richard /3 gordon AND “pima county” /15 judge

judge OR karen /3 adams OR judge OR howard /3 fell OR judge OR richard /3 gordon

(karen /3 adams) OR (howard /3 fell) OR (richard /3 gordon) AND “pima county” /15 judge

(judge OR karen /3 adams) OR (judge OR howard /3 fell) OR (judge OR richard /3 gordon)

c. You want to retrieve cases that discuss disability within the same sentence as of any of the following: retarded, mental impairment, mental deficiency, low IQ, brain injury, or brain damage.

retard! OR mental! /5 impair! OR mental! /5 deficient! OR low! /5 i.q. OR brain /5 injur! OR brain /5 damag! /5 disab!

retard! OR mental /5 impair! OR deficient! OR low! /5 i.q. OR brain /5 injur! OR damag! /5 disab!

retard! OR (mental! /5 impair!) OR (mental! /5 deficient!) OR (low! /5 i.q.) OR (brain /5 injur!) OR (brain /5 damag!) /5 disab!

retard! OR (mental /5 impair! OR deficient!) OR (low! /5 i.q.) OR (brain /5 injur! OR damag!) /5 disab!
Week 7 – Updating & Citing & Finding Proposed Regulations Exercise Answers

Name ______________________

Federal Regulations

Exploring Updating Federal Regulations with KeyCite

1. You are exploring KeyCite so you decide to find some CFR sections with different flags.

   a. List the citation for a regulation with a red flag caused by negative treatment from case law. What type of negative treatment did the regulation receive? (Hint: Go to the Code of Federal Regulations (CFR) database and type in a search about a hot topic – immigration, police, etc.)

      Any answer is good. Point it just to familiarize yourself with how many CFR sections have red flags or yellow flags.

   b. List the citation for a regulation with a yellow flag caused by a proposed amendment. How does the amendment propose to change the CFR section? (Hint: Go to the Code of Federal Regulations (CFR) database and type in a search about a hot topic – immigration, police, etc.)

      Any answer is good. Point it just to familiarize yourself with how many CFR sections have red flags or yellow flags.

   c. What does it mean if a regulation has no flag?

      The regulation has no proposed amendments, no negative treatment from case law, and hasn’t been recently amended.

Updating Federal Regulations From e-CFR Using federalregister.gov/Google Scholar

2. You the e-CFR to answer this questions. You are looking at 14 C.F.R. § 36.103. You are under the impression it was recently amended to add something about the maximum take-off weight of planes.

   a. How current is the e-CFR?

      October 2, 2017.
b. The above listed date is a day or two ago so you want to see if the regulation has been amended since that date so you decide to use the easiest method which is to search on federalregister.gov. You also decide that you want to know if the regulation has any proposed amendments.

i. Has 14 C.F.R. § 36.103 been amended since the above listed date?
   
   Yes.

ii. List the URL for the amendment.


iii. What paragraphs were added by the amendment?

   (d) and (e).

iv. You decide to use Google Scholar (for Case Law) to see if 14 C.F.R. § 36.103 has received any negative treatment from case law. What search should you run? (Hint: Be sure to use quotations marks.) (Note: You don’t actually have to run the search.)

   “14 C.F.R. § 36.103”

c. One Westlaw, has the KeyCite flag appeared on the 14 C.F.R. § 36.103 yet?

   Yes.

Citing Federal Regulations

The Bluebook format for a CFR section that has not been amended since the date of the official print version (which is updated once a year):

Example: 17 C.F.R. § 201.140 (2017)

The Bluebook format for a CFR section that has been amended since the last update of the official print version:


Note: The year for the citation refers to the date of the official print version of the CFR (which is available in PDF on the FDsys site). You can find the CFR update schedule on the FDsys Code of Federal Regulations website. Each title is updated once a year.
3. You have retrieved 45 C.F.R. § 233.52 on Westlaw and you wish to cite the current version in your brief.
   
   a. When was Title 45 last updated according to the CFR FDsys updating schedule?  
      *(Hint: Look on the CFR FDsys website.)*
      
      October 1, 2017.

   b. Has 45 C.F.R. § 233.52 been amended since the above listed date? If so, list the date and Federal Register citation.  
      *(Hint: Look at the Credits/Source information at the bottom of the screen to see if there is a recent amendment.)*
      
      No.

   c. What is the Bluebook citation for 45 C.F.R. § § 233.52?
      

4. You have retrieved 10 C.F.R. § 431.466 on Westlaw and you wish to cite the current version in your brief.
   
   a. When was Title 10 last updated according to the CFR FDsys updating schedule?  
      *(Hint: Look on the CFR FDsys website.)*
      
      January 1, 2017.

   b. Has 10 C.F.R. § 431.466 been amended since the above listed date? If so, list the date and Federal Register citation.  
      *(Hint: Look at the Credits/Source information at the bottom of the screen to see if there is a recent amendment.)*
      

   c. What is the Bluebook citation for 10 C.F.R. § 431.466?
      

*State Regulations*

**Updating State Regulations with KeyCite**

5. You are exploring KeyCite so you decide to find some AAC sections with different flags.
a. List the citation for a regulation with a red flag caused by a very recent amendment. Explain why the regulation has a red flag.

Nevermind. Don’t answer! It is the same as for federal regulations.

b. List the citation for a regulation with a yellow flag caused by a proposed amendment. What is the proposed amendment?

Nevermind. Don’t answer! It is the same as for federal regulations.

Updating State Regulations Using the Secretary of State’s Website/Google Scholar

6. Your client has a question about AAC § R4-9-109. You are looking at it on the Arizona Secretary of State’s website. Before you answer the client’s question, you want to see if the section has been amended or repealed.

   a. What is the date of the regulation? (Hint: Look at the bottom of one of the PDF pages.)

      June 30, 2017.

      http://apps.azsos.gov/public_services/Title_04/4-09.pdf

   b. Now you need to know if AAC § R4-9-109 has been amended since the above listed date. You need to use the Arizona Administrative Register cumulative indexes for 2017.

      Step 1: Go to the Arizona Administrative Register site on the Internet.

      Step 2: Start with the cumulative index for 2017. Click on Volume 23, click on the Table of Contents link for the most recent issue, and then click on Indexes.

      Step 3: Search for R4-9-109 in the indexes.

      i. What is the URL for the indexes?


      ii. What number (the FM one) is listed next to AAC § R4-9-109?

         FM-2525.
iii. What does FM mean? (Hint: Look at the top of the document.)

Final amended section.

iv. All page numbers referenced in the Volume 23 indexes are to Volume 23 of the Register. (Example: FM-2525 = 23 AAR 2525.)

What is the AAR citation to the amendment for R4-9-109?

23 AAR 2525.

v. Go to Volume 23 and find the above listed page. List the URL. (Hint: The pages in volume 23 are numbered continuously.)


vi. How was R4-9-109 amended?

The whole thing was amended.

Citing Arizona Regulations

The Bluebook format for the AAC is:


Note: The Bluebook gives no specific guidance about what the date refers to so probably best to follow the CFR rules and cite the date of the official print version.

The Bluebook format for the AAR is:


Though the Bluebook gives no specific guidance, presumably, the format for a recently amended (amended after the date of the official print version) AAC section would be:


7. You would like to cite the current version of AAC § R9-5-513. The Secretary of State’s website has the date of September 30, 2013 and it hasn’t been amended since then. What is the Bluebook citation?

8. You would like to cite the current version of AAC § R4-9-109. The Secretary of State’s website has the date of June 30, 2017, and above you found an amendment in 2017 (published in 23 AAR 2525 on September 22, 2017). What is a possible Bluebook citation?

Week 8 – Regulations Tracking Exercise Answers

Name: __________________________

You work in the payday loan industry and part of your job is to monitor the activities of the Consumer Financial Protection Bureau (CFPB). You decide that you want to explore different sources for regulatory tracking/keeping up to date about agency activities.

federalregister.gov

1. The newly improved federalregister.gov is a great place to keep up with agency activity.

   a. List the URL for the CFPB agency site within federalregister.gov. (**Hint**: Click on **Browse** and then **Agencies**.)

   https://www.federalregister.gov/agencies/consumer-financial-protection-bureau

   b. Briefly describe how you would subscribe to receive documents by the CFPB.

   Click on the **Subscribe** link, type in my email address, and then click on the **Subscribe** button.

   c. Look at the most recent document under **Significant Documents**?

      i. What is it and what is it about?

         Final rule about....

      ii. Is there a link you can click to make a comment?

         No. It is too late to comment since it is already a final rule. If it wasn’t too late there would be a **Submit a Formal Comment** link which takes you too regulations.gov.
regulations.gov

2. You know that you can comment on agency actions through federalregister.gov but you decide to check out comments on regulations.gov. Under What’s Trending, click on Animal Welfare: Procedures for Applying for Licenses and Renewals.

   a. How much longer do people have to comment on this proposed rule?

   b. How many comments have been received so far?

   c. What does Sarah Cannon have to say about the proposed rule? (Hint: Under Docket Information, click on View All.

Unified Agenda

3. The Current Unified Agenda is also a great place to find information about the regulatory activity of an agency.

   a. What is the ULR for the initial screen for the Current Unified Agenda?

      http://www.reginfo.gov/public/do/eAgendaMain

   b. What is the URL for the CFPB Current Unified Agenda site?

      http://www.reginfo.gov/public/do/eAgendaMain;jsessionid=74044F1C3EE2E622B9D1C2E0C8FC9F28?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3170&Image58.x=41&Image58.y=12&Image58=Submit

   c. How is the information supplied by the Current Unified Agenda useful to people who are watching the industry for developments?

      It has all in the info, include rules in the prerule state, all together in one place.

   d. Briefly describe what the proposed rules about Supervision of Larger Participants in Markets for Personal Loans.

      “Abstract: The Bureau is considering what rules may be appropriate for addressing the sustained use of short-term, high-cost credit products, as described in a April 2013 white paper and a March 2014 data point. The CFPB is continuing to analyze other consumer protection concerns associated with the use of high-cost, small-dollar credit products. The CFPB is considering whether rules governing these products are warranted under CFPB authorities, and if so what types of rules would be appropriate. Rulemaking might include disclosures or address acts or practices in connection with these products.”

CFPB Website

4. It is always a good idea to check an agency’s website for information about its activities.
a. List the ULR for one page within the site that is useful for keeping up with the agency’s activities.

http://www.consumerfinance.gov/newsroom/ It is useful because it has agency news.

Alerts

5. You decide that you want to set up an alert in Westlaw to run a search in the news about the payday loan industry. Set up an alert. After you have set it up, cut and paste the info about it below. (Hint: You can run a terms and connectors search in News and then click on the Create Westclip Alert little bell icon.)

Example:

![Alert Example](image)

Blogs

6. You want to keep up with changes and new ideas in the industry by reading some blogs. List one blog that seem useful and briefly explain why it is useful.

Okay, you don’t have to answer this… You would just Google it.


They seem to be reputable sources that keep people informed of new developments.

Freedom of Information Act (FOIA) Request

7. You have looked for information about the CFPB and can’t find it. You called the agency and asked for the info and was told that they wouldn’t give it to you without a FOIA request.

a. What is the URL for CFPB FOIA site?

http://www.consumerfinance.gov/foia/
b. How long does it take for the CFPB to respond to a FOIA request?

“The goal is to respond within the timeframe outlined in the Freedom of Information Act, which is twenty working days or approximately one month, but this may vary with the complexity of the request. When the CFPB needs an extension of time to respond to your request it will notify you in writing and offer you the opportunity to modify or limit the scope of your request. Alternatively, you may agree to a different timetable for the processing of your request.”
Administrative Law Research Final Quiz Answers

Name _____________________

Instructions: All questions are worth 2 points unless otherwise noted.

General

1. What is a regulation?
   
   Regulations (aka rules, administrative code sections) are laws enacted by agencies pursuant to power delegated by statutes. They have the force of law with criminal and civil penalties for violations just like statutes.

2. An _________________ act is an act of a legislature that creates an agency.

   Enabling.

3. Why do legislatures create agencies and give them the power to enact regulations?

   To enforce laws and implement statutory schemes. Also because legislatures usually do not want to be bogged down in the minutiae of regulating some areas of the law.

4. What are two specific purposes of a state or federal Administrative Procedures Act?

   • To require agencies to keep the public informed of their organization, procedures and rules;
   • To provide for public participation in the rulemaking process;
   • To establish uniform standards for the conduct of formal rulemaking and adjudication;
   • To define the scope of judicial review.

Arizona Regulations

5. What is the purpose of the Arizona Administrative Code?

   The purpose is to provide access to current Arizona regulations. To make regulations easier to find they are arranged by topic.

6. Describe how the Arizona Administrative Code is organized.

   There are 20 titles. The title are divided into chapters, articles and then sections.

7. Describe how the Arizona Administrative Register is organized.

   Weekly issues are compiled in chronological order into one yearly volume.
Code of Federal Regulations

8. Describe how the Code of Federal Regulations is organized.

There are 50 titles and each title is divided into chapters, subchapters, parts, and sections.

9. 8 C.F.R. § 312.1 is a CFR citation. 8 is the _____________, 312 is the ____________, and 312.1 is the _____________.

Title, part, section number.

10. List two reasons that the e-CFR is popular for legal research.

Free, up to date, and has decent search features.

11. An agency has published a final rule amending 8 C.F.R. § 312.1 in the Federal Register today. What happens to the section on the e-CFR site in the next few days?

The new language is incorporated into the text of the section within a couple of days.

Federal Register

12. What is the purpose of the Federal Register?

To serve as a record of the rulemaking activities of federal agencies.

13. Describe how the Federal Register is organized.

Issues of the Federal Register are published five days a week and the issues are arranged chronologically into one huge volume for the year. Each daily issue is organized by agency.

14. List three types of information contained in the preamble to a proposed or final rule.

Who to contact, authority for the regulation, text of the proposed or final rule, etc.

15. The new federalregister.gov site is more useful for tracking regulatory developments then the old GPO/FDsys site (which has PDFs of the print version of the Federal Register). (Circle the correct answer.)

a. True
b. False

Finding Federal Regulations

16. (3 points). List the three ways we discussed in class to search for regulations by topic in Westlaw’s Code of Federal Regulations database.
17. List two ways researching regulations is similar to researching statutes.

- Regulations look just like statutes with citations, titles, sections titles, text, etc.
- The finding aids are the same – search boxes, indexes, tables of contents
- Statutory and regulatory codes are organized the same – by topic into titles, chapters, articles, and section

18. List two ways to search for regulations by topic in the e-CFR.

- Navigating through the table of contents
- Using the search features

19. Describe one way to find regulations by their authorizing statute (U.S.C. section that gives the agency the authority to enact the regulation) on Westlaw.

- Using KeyCite, clicking on Citing References and using the filters to restrict to Regulations
- When using a commercial version of the U.S.C., look at the CFR cross references for a U.S.C. section

20. Describe how to use Westlaw's Code of Federal Regulations Index database to find a CFR section about transporting dead bodies over state lines.

Go to “C” and scan for “corpse.” Under the list of entries under “corpses,” look for something like transportation or interstate transportation. Then, retrieve the C.F.R. sections for the most promising entries.

21. What is a looseleaf?

A looseleaf is a secondary source that comes in a binder so it can be easily frequently updated. The looseleaf format is popular for quickly changing areas of law like tax and securities.

22. What are federal agency decisions?
A decision to enforce laws or regulations that an agency is charged with enforcing.

23. What are federal agency guidance documents?

Advisory opinions, letters, or manuals.

**Updating Regulations**

24. (3 points). According to the class wiki what are the three things you want to find out about when updating a regulation?

- Do you have the most current version of the regulation?
- Has the regulation received any negative treatment from case law?
- Are there any proposed regulations that might soon amend your regulation?

25. How often is each title of the print version of the CFR updated? (Circle the correct answer.)

a. Every 2 or 3 days  
b. Once a month  
c. Once a year  
d. It is no longer updated

26. How often is the e-CFR updated? (Circle the correct answer.)

a. Every few days  
b. Once a month  
c. Once a year  
d. It is no longer updated

27. Describe how to use federalregister.gov to see if a regulation has a proposed amendment.

Go to the site and click use the search feature to restrict the search to final rules that have been published since the date of the e-CFR. Place a check next to “Final Rule” and search for the title and part number.

28. You don't have access to KeyCite or Shepard's! Describe how to use a free Google source to see if 8 C.F.R. § 312.1 has received any negative treatment from case law.

Go to Google Scholar and use the following search: “8 C.F.R. § 312.1”

Then scan the cases or try adding in something like:

“8 C.F.R. § 312.1” unconstitutional invalid

29. When using Keycite, what does a red flag on a regulation mean? (Circle the correct answer.)
a. Proposed rule
b. Recent amendment
c. Severe negative treatment from case law
d. Either b or c
e. Either a or c

30. You are using the version of the Arizona Administrative Code on the Secretary of State’s website. The first step to making sure you have the most current version of an Arizona regulation is determining the date of your regulation. How do you determine the date of your regulation?

On the A.A.C website, click on the PDF for the chapter and look at the bottom of the document.

31. You are using the version of the Arizona Administrative Code on the Secretary of State’s website. What is the second step to making sure you have the most current version of an Arizona regulation (using the Secretary of State’s website)?

Look in the Arizona Administrative Register. More specifically, you can look in the index for the weekly issue to see if there is an amendment to a specific section.

Citing Regulations

32. Which of the following is an example of the correct Bluebook citation format for a CFR section? (Circle the correct answer.)

a. 7 C.F.R. § 319.76
b. 7 C.F.R. § 319.76 (2017)
c. 7 C.F.R. § 319.76 (Jan. 2017)

33. The CFR citation format of the Bluebook uses the date of the e-CFR title. (Circle the correct answer.)

a. True
b. False

34. You want to cite the current version of 45 C.F.R. § 319.76 in your brief today. The section has not been amended since the date of the yearly print update. Which is the proper date to include in the Bluebook citation? (Circle the correct answer.)

a. 2015
b. 2016
c. 2017

35. You want to cite the current version of 45 C.F.R. § 319.76 in your brief. The section has been amended since the date of the yearly print update. According to the Bluebook, what language do you include in the citation to let the viewer know that the regulation has been amended?
Include “to be codified at 45 C.F.R. § 319.76.”

Keyword Searching

36. Googly searching works well on Westlaw in many instances. List three search situations when a terms and connectors (advanced) search can be more useful.

- Can’t find what you are looking for.
- Looking at your Googly search results is taking too long
- You are trying to retrieve all possibly relevant results on a topic.

37. You are running a terms and connectors (advanced) search on Westlaw. You want to retrieve all documents in a database that contain something about impaired vision (“impaired vision,” “vision impairment,” “vision that was impaired”) or something about blindness or sight. Which is the best search? (Circle the correct answer.)

a. impair! /5 vision OR blind OR sight
b. impair! /5 vision OR blind! OR sight
c. (impair! /5 vision) OR blind! OR sight!
d. (impair /5 vision) OR blind! OR sight!

38. You are running a terms and connectors (advanced) search on Westlaw. You want to locate ALL cases in your jurisdiction involving those cars that police drive around in. Which is the best/most comprehensive search? (Circle the correct answer.)

a. adv: “police car”
b. adv: “police cars”
c. adv: police /5 car OR vehicle OR automobile OR cruiser
d. adv: police /5 cars OR vehicles OR automobiles OR cruisers

39. You are running a terms and connectors (advanced) search on Westlaw. A doctor accidentally cut your client’s baby while performing a c-section. Since there are not too many relevant cases out there, the goal of your search is to find ALL possibly relevant cases in Westlaw’s All State Cases database. List a useful and properly constructed search that seems likely to retrieve ALL relevant cases without retrieving a large number of irrelevant documents (mishits).

Something like:

adv: c-section OR cesarean /35 cut! OR lacerat! OR slic! OR nick! OR amputat! /25 infant OR baby OR child

40. Which of the following searches will retrieve the MOST documents in a database using a terms and connectors (advanced) search on Westlaw? (Circle the correct answer.)
a. adv: affirmative defense fair use
b. adv: affirmative AND defense AND fair AND use
c. adv: “affirmative defense” OR “fair use”
d. adv: “affirmative defense” /p “fair use”

41. You are running a terms and connectors (advanced) search on Westlaw. You want to retrieve cases that discuss disability within the same sentence as of ANY of the following: blindness, sightless, impaired eyesight, impaired vision, macular degeneration, wearing glasses, or bad eyesight. Add parentheses to group together terms as needed to make the search work properly.

blind! OR sightless OR impair! /5 eyesight OR vision OR “macular degeneration” OR wear /5 glasses OR bad /5 eyesight /S disab!

blind! OR sightless OR (impair! /5 eyesight OR vision) OR “macular degeneration” OR (wear /5 glasses) OR (bad /5 eyesight) /S disab!

42. In class we have learned mainly about the search logic of Westlaw as an example. If you were using Lexis Advance or CCH Intelliconnect, what would you do to familiarize yourself with the system’s search logic?

Look at the help screens.

General Searching

43. You are searching for cases about judicial review of the discretion of administrative agencies and you find a good case on the topic. Explain how to use the Key Number system on Westlaw to find other cases on your topic.

Look at the headnotes and Key Numbers to find a Key Number that seems very specific to the topic. If not seem particularly useful and/or specific, click into one that looks close and explore the West Key Number System outline.

44. The Westlaw version of the CFR is annotated with _______________ annotations/notes which interpret the regulations.

Case law.

45. (3 points). You want to search for Arizona medical board opinions and you have found a database. In class we discussed what you should do before using a database. What are three things you should know about a database before using it?

- What is in the database?
- How up to date is it?
- How can you find information in the database?
- How reliable is the provider of the information?
- What is the date coverage of the database?
46. (5 points). You are researching a federal regulations question. According to the administrative law research process, list five types of primary legal materials you should search in order to make sure you don’t miss any relevant material.

Agency decisions, and agency guidance documents.

47. What is your greatest administrative law research strength?

Any answer is good!