Draft Syllabus version 3/27/2019

CE 579 / PPD 588: Introduction to Transportation Planning Law

Units: 2
Term: Fall 2019
Day of Week: Monday
Location: KAP 145
Instructor: Patrick Harder
Office: KAP 201
Office Hours: Monday, 4:00PM-5:00PM

Contact Info: uscemail pending
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Phone: (213)612-7859
Website: https://blackboard.usc.edu/
IT Help: engrhelp@usc.edu for Viterbi IT consult@usc.edu, 0-5555 for ITS

Catalogue Course Description

Federal and state statutory and regulatory requirements affecting California transportation systems, including transportation planning and funding law; and government contracting, environmental, and civil rights requirements.

Expanded Course Description

This course is an introduction to basic Federal and California laws relating to the planning, funding and competitive bidding and award of contracts for the construction of transportation-related public works projects. The following topics will be covered over the semester:

I. Introduction.
   A. The significance of transportation law.
   B. Basics of administrative law: Statutes and administrative agency rules.

II. The players: Major governmental agencies and private interest groups and parties involved in California transportation planning.

III. Accountability of public agencies: Open meetings, decisionmaking and records.

IV. Setting policy: Federal and State transportation planning law.
   A. The Statewide Transportation Plan.
   B. Regional Transportation Planning.

A. Contracting and procurement structures
B. Public-Private Partnerships

VI. Transportation funding: Federal, State, local, and “innovative” sources; accounts, flow, and restrictions on use.

VII. Federal and State transportation programming.
   A. The State Transportation Improvement Program (STIP).
   B. Regional and County Transportation Improvement Programs.

VIII. Environmental laws applicable to transportation planning.
   A. The Federal and State Clean Air Acts.
   B. The National Environmental Policy Act and the California Environmental Quality Act.

IX. Civil Rights laws
   A. Title VI of the 1964 Civil Rights Act.
   B. The status of affirmative action in public contracting requirements.
   C. Environmental Justice and Executive Order 12,898.
   D. Property rights and Takings issues

X. Federal and State labor laws.

Audience
This course exists at the intersection of civil and environmental engineering and public policy and urban planning. It is appropriate for graduate students in the Viterbi and Price Schools, subject to approval of their program advisors.

Learning Objectives and Outcomes
This course is an introduce students to basic Federal and California laws relating to the planning, funding and competitive bidding and award of contracts for the construction of transportation-related public works projects. Main learning objectives of the course include:

1. Providing an overview of the major Federal, State, regional and local agencies involved in the planning, funding, and award of transportation-related public works contracts and grants.

2. Summarizing the major Federal and State schemes of laws and regulations governing transportation planning and finance and the award of transportation-related public works contracts and grants.

3. Discussing the major sources of funding – Federal, State and local; traditional as well as innovative – available for the planning and construction of transportation infrastructure projects,

4. Explaining the requirements imposed on transportation planning and the construction of transportation-related public works projects by competitive bidding laws, the State and Federal Clean Air Acts, other major environmental laws, civil rights laws, and labor laws.

5. Imparting a practical overview of the Federal and State laws prohibiting and penalizing corruption in the government contracting process and protecting whistleblowers.

Prerequisite(s) None
Co-Requisite(s) None

Concurrent Enrollment None

Recommended Preparation
This course is designed primarily for graduate planning and engineering students and presumes general backgrounds in either of these areas. Students should have an interest in transportation, but no specific prior coursework is needed. Students who are unsure of their preparation are encouraged to consult with the instructor for a careful determination.

Communication and Course Notes
All class related information, assignments, and reading materials are available on blackboard, https://blackboard.usc.edu/. For issues requiring an immediate response, USC email (TBD@usc.edu cc: tcfellenz@yahoo.com) is the best way to communicate.

Technological Proficiency and Hardware/Software Required
Students should be comfortable locating on the World Wide Web, and prepared to communicate in a timely way via email.

Required Readings and Supplementary Materials
Two texts are required and are available at the USC Bookstore:

Other individual articles and materials may be assigned to students for reading over the course of the semester, in which case copies of all such materials will be available on blackboard beforehand.

Grading Breakdown
This course is a combination of lectures and some seminar, discussion-intensive classes. Students are required to complete all reading and assignments prior to each class. In addition to class participation and periodic class assignments, course requirements include a group project and a final paper.

Grades are calculated as follows:

<table>
<thead>
<tr>
<th>Class Component</th>
<th>% of Course Grade</th>
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</thead>
<tbody>
<tr>
<td>Class Participation and Discussion</td>
<td>15%</td>
</tr>
<tr>
<td>Students should attend all lectures, and are expected to engage in class discussions of lecture topics. Any student might be called during any lecture. Students providing especially insightful answers or observations will receive extra credit.</td>
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<tr>
<td>Homework Assignments</td>
<td>50%</td>
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<tr>
<td>Students are responsible for a total of five assignments, each due</td>
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every two or three weeks. In each of these assignments, students will be given a set of brief questions or fact patterns regarding transportation law, and must find the relevant statutes or regulations and summarize them in brief answers.

**Takehome Final Examination**

A take-home final examination, due by 5 PM on the day identified in the Schedule of Classes as the day for the final exam. The examination will be in the same format as the homework assignments, i.e., a set of questions for which you are to provide brief answers, but it will be longer and more complicated than any of the individual homework assignments. The questions will cover all topics addressed during the semester.

<table>
<thead>
<tr>
<th>Total</th>
<th>100%</th>
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</table>

**Grading Scale**

Course final grades will be determined using the following scale:

<table>
<thead>
<tr>
<th>Grade</th>
<th>A</th>
<th>A-</th>
<th>B+</th>
<th>B</th>
<th>B-</th>
<th>C+</th>
<th>C</th>
<th>C-</th>
<th>D+</th>
<th>D</th>
<th>D-</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Points</td>
<td>95-100</td>
<td>90-94.9</td>
<td>87.5-89.9</td>
<td>85-87.4</td>
<td>80-84.9</td>
<td>77.5-79.9</td>
<td>75-77.4</td>
<td>70-74.9</td>
<td>68.5-69.9</td>
<td>66.5-68.4</td>
<td>65-66.4</td>
<td>64.9 &amp; below</td>
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</tbody>
</table>

The following qualitative grading standards apply:

**A** 95-100% of total points available in the class are attained. In addition to providing correct or defensibly correct answers to the assigned questions and projects, all or almost all completed assignments must show intellectual and practical initiative, i.e., additional research to buttress arguments, analysis and refutation of counter-arguments, advancement and defense of novel arguments. Comments made in class should reflect similar preparation.

**A-** 90-94.9% of total points available in the class are attained. The intellectual and practical initiative described in the previous paragraph is present in most of the work and comments.

**B+/B** 85-89.9% of total points available in the class are attained. The required intellectual and practical initiative described above is present in some, but not most, of the work and comments.

**B-** 80-84.9% of total points available in the class are attained. The intellectual and practical initiative described above is present in only a small portion of the work and comments. Work appears to have been hastily done or is otherwise poor. Several assignments are turned in late.

**C+/C** 75-79.9% of total points available in the class are attained. Work completed by the student does not show any special intellectual or practical effort. Work is turned in late, hastily done, or is otherwise poor. On several occasions, failure to attend class or, while in class, failure to participate constructively in the class discussions.

**C-** 70-74.9% of total points available in the class are attained. Intellectual and practical effort by the student appears to be minimal. In addition to turning in late or sloppily done assignments, failure to turn in a number of assignments altogether. Does not participate constructively in class discussions.
D 65-69.9% of total points available in class are attained. Work and class participation bespeaks no intellectual or practical effort. Several assignments have not been turned in. Non-responsive during class discussions.

F Less than 65% of total points in class are attained, or the student has violated the academic integrity provisions described below.

This scale is presented for the sake of completeness. Courses in which students earn grades below a C cannot be presented for credit toward graduation in a USC graduate program, though the course grade remains part of the students’ graduate GPA.

Assignment Submission Policy

Assignments are due at the point in the class period where the instructor ask to collect them. An assignment turned in after this point, but before midnight of that day, is considered one day late. An assignment turned in after midnight of that day is considered two days late, and so forth. Assignments will lose five points for every day that it is turned in late. For example, a paper meriting a score of 90 and turned in two days late will be downgraded to 80.

Grading Timeline

Grades will be reported back to students within one to two weeks after each assignment is submitted.

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” policy.usc.edu/scampus-part-b. Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, policy.usc.edu/scientific-misconduct.

Support Systems:

Student Health Counseling Services - (213) 740-7711 – 24/7 on call engemannshc.usc.edu/counseling
Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call suicidepreventionlifeline.org
Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-4900 – 24/7 on call, engemannshc.usc.edu/rsvp
Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED) | Title IX - (213) 740-5086, equity.usc.edu, titleix.usc.edu
Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

*Bias Assessment Response and Support* - (213) 740-2421
[studentaffairs.usc.edu/bias-assessment-response-support](http://studentaffairs.usc.edu/bias-assessment-response-support)

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

*The Office of Disability Services and Programs* - (213) 740-0776
[dsp.usc.edu](http://dsp.usc.edu)

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

*USC Support and Advocacy* - (213) 821-4710
[studentaffairs.usc.edu/ssa](http://studentaffairs.usc.edu/ssa)

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

*Diversity at USC* - (213) 740-2101
[diversity.usc.edu](http://diversity.usc.edu)

Information on events, programs and training, the Provost’s Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

*USC Emergency* - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call
[dps.usc.edu](http://dps.usc.edu), [emergency.usc.edu](http://emergency.usc.edu)

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

*USC Department of Public Safety* - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call
[dps.usc.edu](http://dps.usc.edu)

Non-emergency assistance or information.

**Weekly Course Schedule:**

Readings identified here should be completed in advance of lectures. Assignments are due on the day under which they are listed. Additional readings will sometimes be posted in advance of the lectures.
<table>
<thead>
<tr>
<th>Week</th>
<th>Topics</th>
<th>Reading / Assignment</th>
</tr>
</thead>
</table>
| 1 | 1. Overview  
a. Introduction and course summary  
b. The importance of planning and funding transportation public works projects: From the 1930’s, to the Cold War, to the 2009 American Recovery and Reinvestment Act, to the I-Bank (transportation infrastructure bank) proposal  
c. The players: Major governmental agencies and private interest groups and parties involved in transportation planning and finance. |
| | | HW 1 Assigned. |
| 2 | 2. A brief introduction to legal research  
a. Tools of the Trade: Statutes, administrative agency rules, interpretive guidance, and case law (judicial and administrative)  
b. Conducting legal research on the Internet: Demonstration  
c. In-class exercise: Using the Internet to find laws dealing with the accountability of public agencies  
  - Public meetings: The Ralph M. Brown, Bagley-Keene, and Grunsky-Burton Open Meeting Acts  
  - Reporting Lobbying and Gifts: The Political Reform Acts |
| 3 | 3. Setting transportation policy: Federal and State transportation planning law  
a. Statewide transportation planning: Federal and State law  
b. Regional Transportation Planning (I): Federal law requirements  
c. Regional Transportation Planning (II): State law requirements |
| | | Readings:  
  HW 2 Assigned.  
  HW 1 due at the beginning of class. |
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| 4.4  | 4. Transportation funding (I): Federal and State funding sources, accounts, flow, and restrictions on use  
|      | a. Funding in proposed Federal economic stimulus package  
|      | b. Limitations on state funding and exceptions: Propositions 13, 62 and 218 | *Readings:*  
| 5.5  | 5. Transportation funding (II): Programming (allocation) of funds at the regional level  
|      | a. County and Regional Transportation Improvement Programs | *Readings:*  
|      | HW 3 Assigned. | HW 2 due at the beginning of class.  
| 6.6  | 6. Transportation funding (III and IV): Statewide programming of funds / Alternative funding  
|      | a. The State Transportation Improvement Program (STIP) process  
|      | b. Alternative sources of and approaches to transportation funding  
|      | ▪ Innovative transportation finance  
|      | ▪ Public-private partnerships | *Readings:*  
|      | *b. California Public Contract Law,* 83-84. |                     |
| 7.7  | 7. Public contracting for transportation related plans and projects: Introduction to the public contracting process  
|      | a. Basic principles of contract law.  
|      | b. Public versus private contracts: Some differences  
|      | ▪ Differences between private businesses and public agencies  
|      | ▪ Matters of public record  
|      | ▪ Funding agency oversight  
|      | c. Sources of public contract law in California:  
|      | ▪ Federal laws and regulations  
|      | ▪ State laws and regulations | *Readings:*  
|      | *California Public Contract Law,* 1-22. | HW 3 due at the beginning of class.  

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</table>
| 8    | 8. Public Contracting Part II: The competitive bidding process under Federal and State law  
   a. When is competitive bidding necessary?  
   b. Drafting and Publication of Requests for Proposals (RFPs) / Requests for Qualifications (RFQs)  
   c. Responses to RFPs/RFQs  
   d. Review of proposals by public agency and criteria used to rate proposals  
   e. Award of contract  
   f. Bid protest procedures | **Readings:**  
*California Public Contract Law*, 23-84.  
HW 4 Assigned | |
| 9    | 9. Public Contracting (III) : Elements of a public contract  
   a. Agency funding agreements  
   b. Master agreement  
   c. Certifications  
   d. Bid guarantees and bonding requirements:  
   - OMB Circular A-110, Subpart C, Section 48(c)  
   - OMB Circular A-102  
   e. Scope of work  
   f. Letter of task agreement  
   g. Contract amendments | **Readings:**  
*California Public Contract Law*, 87-102. | |
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</table>
| 10-11 | 10-11. Abuse of the Public Contracting Process: Civil and criminal sanctions for misconduct  
   a. 18 U.S.C. Section 208 and California Government Code Sections 1090 et seq., 1120 et seq., and 87100 et seq.: Prohibitions on conflicts of interest  
   b. Federal and State False Claims Acts  
   ▪ Whistleblower protection  
   ▪ Qui tam actions  
   c. Penal Code Section 424 : Misuse / Misappropriation of public funds  
   d. Penal Code Section 504 : Embezzlement of public property  
   e. Penal Code Section 6200 : Falsifying government records  
   f. Title 18 U.S. Code Sections 201 et seq. and California Penal Code Sections 67 et seq. and 85 et seq. : Bribery  
   g. Penal Code Section 182(a)(5) : Conspiracy to obstruct justice  
   h. Copeland Anti-Kickback Act : 18 USC Sec. 874 and 40 USC Sec. 276c | Readings:  
California Public Contract Law, 103-154. | |
| 12    | 12. Environmental laws applicable to transportation plans and projects (I) The Clean Air Acts  
   a. The California Clean Air Act: Air Quality Management Plans  
      ▪ South Coast Air District  
      ▪ Southern California  
      ▪ Sacramento  
   b. The Federal Clean Air Act  
      ▪ Transportation Control Measures  
      ▪ Conformity | Readings:  
HW 5 Assigned. | HW 4 due at the beginning of class. |
| 13    | 13. Environmental laws applicable to transportation planning (II): Environmental Review  
   a. National Environmental Policy Act (NEPA)  
   b. California Environmental Quality Act (CEQA) | Readings:  
Transportation, Logistics, and the Law, 249-286. | |
<table>
<thead>
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</tr>
</thead>
</table>
| 14   | **12. Civil Rights Laws (I) : Discrimination**  
|      | a. Title VI of the 1964 Civil Rights Act  
|      | b. The status of affirmative action in public contracting requirements  
|      | c. Environmental Justice and Executive Order 12,898  
|      | If Thanksgiving vacation precludes this lecture during a fall offering, a make-up lecture will be taped via DEN. |  
|      | Readings:  
|      | *California Public Contract Law*, 66-76.  
|      | Take Home final examination posted on blackboard. |  
| 15   | **15. Civil Rights Laws (II) : Property Rights and Takings Law / Labor laws applicable to transportation-related public works contracts**  
|      | a. Property rights and takings law  
|      | Condemnations : Eminent Domain Regulatory takings  
|      | b. Labor laws applicable to transportation-related public works contracts:  
|      | ▪ Occupational safety and health (OSHA) laws  
|      | ▪ Collective bargaining rights  
|      | ▪ Davis-Bacon Act (400 USC Sec. 276a) |  
|      | Readings:  
|      | To be distributed in advance by the instructor. |  
|      | HW 5 due at the beginning of class. |  
| Final| **16. Submission of Final Take Home Final Examination**  
|      | **Date:** For the date and time of the final for this class, consult the USC Schedule of Classes at [classes.usc.edu/](http://classes.usc.edu/), and the Instructor. |