

# PUBLIC INTERNATIONAL AVIATION LAW



ἴδμεν ψεύδεα πολλὰ λέγειν ἐτύμοισιν ὁμοῖα,  
ἴδμεν δ' εὖτ' ἐθέλωμεν, ἀληθέα γηρύσασθαι.

- Hesiod, *Theogony* (Lines 27-28)

## **A. Introduction**

Public International Aviation Law will explore the laws, regulations, and policy choices affecting the complex world of global air transport. During the next fourteen weeks, we will consider such topics as air traffic rights, aviation safety and security, economic regulation of airlines, the operation of airports, and the airline/passenger relationship. The transnational scope of the course will lead us to not only consider the primary international legal instruments which shape civil aviation worldwide, but also engage in comparative analyses of U.S. and European Union approaches to air transport regulation. Students without any prior background in international law should not feel intimidated. Those who have already taken one (or more) of the College of Law's numerous international law courses will find their knowledge of this fascinating and ever-expanding legal territory enriched.

## **B. Course Materials & Assignments**

Currently, there exists no comprehensive casebook for the subjects we will cover in this course. As such, all reading assignments for the following week will be given at the end of each class session and subsequently posted on Blackboard. All reasonable efforts will be made to draw the materials from one of the two commercial databases freely available to law students (i.e., Lexis or Westlaw). In some instances it may be necessary to utilize a website or one of the other academic databases the College of Law subscribes to (e.g., the CCH/Wolters Kluwer Business Law Database). A full explanation on how to retrieve these materials will be provided during the first week of class.

## **C. Grading**

Grades for the course will be primarily assessed by final exam. Examination will be in the form of a take-home final comprised of questions drawn from both the course readings *and* lectures. Please note: *All materials assigned and topics covered in class – including sub-issues which may not appear directly in the readings – are fair game for the final exam.* During the final weeks of the course time will be set aside to discuss in more detail the scope of the final, the structure of its questions, and the logistics of picking it up and returning it in a timely manner. Failure to properly follow the directions given for the final exam, including technical requirements such as providing page numbers or using the proper font, may lead to a full letter grade reduction or an "F" if the infraction is severe enough.

Students with two or less *excused absences* from class may raise their grade by a half-step (e.g., C to C+, B+ to A, etc.) so long as they make a reasonable effort to contribute to the classroom's intellectual environment and consistently demonstrate that they have read the assigned materials. An *excused absence* is one where the student has provided notification by either telephone or e-mail no later than two hours before class is scheduled to begin. (Modifications to this rule may be made in the event of emergencies.) A single unexcused absence nullifies the opportunity for a grade raise. Further, any student with more than four absences – excused or unexcused – may be given a failing grade.

#### **D. Classroom Dynamics**

The primary pedagogical method used for the course is lecture. At the same time, students should be ready, willing, and able to make meaningful contributions in the classroom with questions and insights of their own. Guest lectures may also be given during the semester, though recourse to educational videos such as *Airplane!* and *Snakes on a Plane* is unlikely.

As with any educational endeavor, students will only get out what they put in. Failure to come to class, read the assignments, or participate in impromptu discussions will not only lead to a poor grade, but result in a squandered opportunity for further intellectual refinement before exciting academia.

#### **E. Class Schedule**

Each class session is scheduled to run from 5:50p.m. to 8:30p.m. Students should expect each class to run the full duration, though exceptions may arise. *No student will ever be expected to come early or stay late.* At least one break lasting ten minutes will be offered each class session. In the event class may need to be cancelled due to exceptional circumstances, all efforts will be made to notify students in advance via Blackboard, e-mail, or the College of Law's electronic announcement system. In the event of severe weather, students should check with the usual reporting outlets to see if the College is closed.

#### **F. Academic Integrity**

Work done for this course must adhere to the University Academic Integrity Policy, which students can review in the *Student Handbook* or by visiting Academic Integrity at DePaul University (<http://academicintegrity.depaul.edu>). Since the final exam for this course will be take-home, students are expected to rigorously follow the *legal profession's conventions* on proper citation.

#### **G. Course Outline**

According to the College of Law's 2009 Academic Calendar, Public International Aviation Law is scheduled to run from January 14 to April 22 with Spring Break beginning March 21 and running until March 27. This means there are fourteen class sessions available. Under optimal conditions, each topic will be covered in one class period. The reality, however, is that certain topics – due either to their intrinsic importance or complexity – will run over. As such, one twelve sessions are outlined below with two being left to tie-up loose ends or make up material from a cancelled session. Students will be apprised throughout the semester of any changes to the outline and furnished with a written update if need be.

## **Public International Aviation Law: A Tentative Outline**

### **I. Introduction & Overview**

- Review syllabus and course expectations
- Answer preliminary questions about course topics
- Discuss retrieving reading assignments and course resources
- Review basic principles of international and comparative law

### **II. The Chicago Convention: History and Development**

- Pre-history of airspace law
- Chicago Conference on International Civil Aviation and its ideological underpinnings
- International Civil Aviation Organization

### **III. Aviation Safety & Security Part 1**

- Hijacking, sabotage, and other air crimes
- International instruments to combat air crimes
- Problems with jurisdiction, enforcement, and extradition
- Unruly passengers and “air rage”
- International safety standards and oversight

### **IV. Aviation Safety & Security Part 2**

- Continued exploration of sub-topics listed above

### **V. Airports**

- Operation and management problems
- Relationship with airlines and compliance with international law
- Consumer issues

### **VI. Air Traffic Rights**

- The “Chicago System” of bilateralism
- The so-called “Freedoms of the Air”
- The “nationality rule” and cabotage
- The “Open Skies” approach

### **VII. Air Transport (De)regulation: The U.S. Experience**

- Air transport regulation before 1978
- The post-1978 experience of a deregulated marketplace
- Route authority
- Volatile operating environments and the temptation of re-regulation

### **VIII. Air Transport Liberalization: The EU Experience**

- Early history of European air transport regulation
- The “three packages” of air transport liberalization

- State aid and the challenges of integrating the marketplace
- Harmonizing bilateralism with EU law

### **IX. “Beyond Open Skies”: New Directions in Global Air Transport Regulation**

- 2007 U.S./EC Air Transport Agreement
- The EU Common Aviation Area and exporting liberalization
- Circumventing cabotage
- Moving towards multilateralism?

### **X. Airline Alliances**

- Alliances before and after the 2007 U.S./EC Air Transport Agreement
- Approval and antitrust issues
- Impact of shifting paradigms of competition policy
- A “second best” alternative to mergers?

### **XI. Critical Issues Confronting International Air Transport**

- Infrastructure constraints
- Passenger rights
- Environmentalism
- Capital
- Labor

### **XII. Continuation of Critical Issues and Conclusion**

- Continue discussion of sub-topics listed above
- Concluding thoughts
- Discuss final exam