

# The Ripple Effect of “Leg-Reg” on the Study of Legislation & Administrative Law in the Law School Curriculum

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## INTRODUCTION

Most of the current debates over adding a mandatory legislation-administration course to the law school curriculum rightly focus on the need for and value of such a course, or on what traditional core course(s) the so-called “leg-reg” course might replace. Less often investigated, however—and the subject of this article—is the question of how “leg-reg” might affect pre-existing or future upper-level offerings in legislation and administrative law. Also rarely probed is the question of whether the impact on the two fields is the same. Given that legislation is the younger and less-entrenched field, this author has long wondered whether the recently developed upper-level legislation course “survives” leg-reg to the same degree that upper-level administrative law may survive. If it does not, one has to evaluate whether reaching more students through leg-reg is worth what may be lost in the reduction of more complex upper-level offerings. These questions should be of great interest not only to leg-reg’s detractors but also to its proponents, who must balance considerations of breadth, i.e., reaching the most students, and depth, i.e., how much can be taught to first-year law students in a course that combines element of two black-letter courses in their own right.

Do mandatory leg-reg courses diminish or increase interest in the upper-level legislation and administrative law courses? Does the existence of mandatory leg-reg alter the content or credit hours of the upper-level courses? Do the mandatory courses take needed faculty away from upper-level legislation and administrative law offerings? What portion of leg-reg courses are “leg” and what portion are “reg”?—a question that may determine what topics are left over for upper-level work. This article takes on these questions, reporting the results of a survey of registrars, academic deans and legislation and

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administrative law professors from the top-ninety-nine law schools<sup>1</sup> conducted by email over the summer of 2014. Of the ninety-nine schools surveyed, we received responses from fifty-nine registrars and deans' offices, which we then supplemented with publicly available information from the remaining forty schools. Of the two hundred twenty-eight professors emailed, we received responses from one hundred thirty-five.

The survey instrument allowed us to gather some basic information about the prevalence of leg-reg offerings. Required courses appear to be a smaller trend in the top one hundred than anecdotal evidence has suggested. But the trend does appear to be on the rise. Of the fifty-nine schools that responded, seventeen schools have a required course. Thirteen of those courses are leg-reg courses<sup>2</sup>; three are pure legislation courses<sup>3</sup>; and one is pure administrative law.<sup>4</sup> As this article went to press, one school—Boston University—reported that it would be switching its requirement from legislation to administrative law.<sup>5</sup> Moreover, at least six additional schools that did not respond to our survey have such courses,<sup>6</sup> four of which are leg-reg courses and two of which are statutory interpretation courses.

1. As ranked by U.S. News and World Report. Best Law Schools, U.S. NEWS & WORLD REPORT, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings?int=992008> (last visited Feb. 15, 2015). We surveyed 99 schools in total. Due to multiple schools with the same ranking, there are 99 schools ranked 1-93 (seven schools are ranked at number 93). We excluded schools ranked at 100 because there were four schools ranked at 100.
2. Specifically: Harvard; NYU; U. Michigan; Vanderbilt; Wake Forest (taken 2L year); Brigham Young; Fordham; Colorado (Boulder); Richmond; Houston; Case Western; Pittsburgh; and West Virginia.
3. Specifically: Boston University [BU]; Ohio State; and Chicago-Kent.
4. Specifically: University of Denver [Denver].
5. We report the data as of fall 2014. Therefore, we count BU as a school that requires a Legislation course unless otherwise noted.
6. James Brudney, as then-Chair of the AALS Section on Legislation and the Political Process, conducted an email survey to the Section in early 2014 asking schools to report if they had such a course. Florida State, Michigan State and Emory—none of which responded to our email survey—responded in the affirmative to Brudney's email. All other data captured by the Brudney email is consistent with the results of our broader survey. In addition, we reviewed the websites of the 40 schools that did not respond. Of these, six (including the three just mentioned) indicated on their website that they have a required course in Legislation or Administrative Law: Minnesota, Florida State, George Mason, Baylor, Michigan State, and Emory. See *Juris Doctor Degree Requirements*, U. MINN. L. SCH., <http://www.law.umn.edu/prospective/curriculum2.html> (last visited Apr. 13, 2015); *JD Curriculum, 2012 and Later*, GEO. MASON U. SCH. L., [http://www.law.gmu.edu/academics/degrees/jd/jd\\_curriculum\\_2012\\_later](http://www.law.gmu.edu/academics/degrees/jd/jd_curriculum_2012_later) (last visited Apr. 13, 2015); *Juris Doctor*, EMORY U. SCH. L., <http://law.emory.edu/academics/jd-degree-program/index.html> (last visited Nov. 14, 2014); *First-Year Curriculum*, FLA. ST. U. C. L., [http://archive.law.fsu.edu/academic\\_programs/jd\\_program/](http://archive.law.fsu.edu/academic_programs/jd_program/) (last visited Apr. 13, 2015); *Required Courses*, BAYLOR L. SCH., <http://www.baylor.edu/law/cs/index.php?id=76102> (last visited Nov. 14, 2014); *Required Curriculum*, MICH. ST. U. C. L., <http://www.law.msu.edu/academics/curriculum.html> (last visited Nov. 14, 2014).

Suggestive of the recentness of the trend, of the seventeen schools with a required course that responded to our survey, fifteen added their required courses after 2000. Of these, ten were added in 2010 or later. The survey also included a qualitative component: We asked each professor who teaches leg-reg or any other legislation or administrative law course at the responder schools to evaluate the change at their schools or the idea of such a proposed change.

Our findings suggest that the addition of leg-reg may have different effects on upper-level legislation than on upper-level administrative law. In the schools surveyed, the traditional upper-level black-letter administrative law course survived leg-reg, but the parallel course in legislation did not. At the same time, *both* types of courses had “net gains” at the required schools. For administrative law, these gains came through the retention of the upper-level lecture course, but there was a conspicuous absence of other advanced offerings. For legislation, the gains came from new upper-level (but lower-credit) seminar courses and also the addition of leg-reg in schools that had *no* legislation offerings at all before.

We also hypothesized that there might be advantages to the “new blood” required to staff the courses—the drawing in of new faculty to both fields. But the professor evaluations of leg-reg were mixed. While many were enthusiastic, at least as many of the professors new to the field complained that legislation especially was too difficult or too “boring” to teach or that students “hated” the course—a view not at all shared by the more seasoned legislation professors surveyed at schools with no leg-reg requirement. Many also expressed concerns about coordination with the upper level, in particular that the upper-level administrative law course was duplicative of too much material already covered in leg-reg.

Our review of the syllabi provided by the responding professors also was illuminating. Among the syllabi we received, virtually every legislation course—whether upper-level or not—contained some administrative law component. In contrast, almost none of the administrative law courses touch on legislation concepts. The leg-reg courses themselves are relatively evenly divided among the two subjects, but the more complex legislation topics taught in the upper-level legislation course are typically dropped out of leg-reg. Thus, one important issue that our findings illuminate is the potential loss of more complex legislation topics with the addition of leg-reg, if upper-level legislation is not retained in some form.

In the end, administrative law seemed more firmly entrenched across all schools, leg-reg or not. Every single school that responded has an upper-level administrative law course, compared with about two-thirds for legislation. This is understandable: Administrative law has a longer doctrinal and theoretical pedigree as a field of study. But legislation, having established itself as a legal field in its own right, is now entering its second generation, and with it more complexities and nuances are emerging. A critical consideration with respect

to leg-reg is thus the potential loss of these news ideas from the law school curriculum.

This article does not aim to be the definitive statement on these matters, nor does it undertake complex empirical analysis. Instead, the study aims to focus the debate on this different set of questions—the “ripple” effect of leg-reg on the upper-level courses, and also on the fact that the effect on the two fields that leg-reg combines may not be the same. As a legislation expert, this author cannot help but emphasize this difference and urge other legislation experts to think not only about the value of the leg-reg in general but its particular effect on this relatively young and still developing field. It may be that more students are now exposed to these concepts than without leg-reg, and that alone may be worth what is lost. This article aims to begin that conversation and encourage further investigation of these questions.

### I. Methodology and Overview of Required Courses

Between June and August 2014, we emailed academic deans’ and registrars’ offices at the top ninety-nine law schools as ranked by the 2014 U.S. News and World Report,<sup>7</sup> with a three-question survey that had up to seven more sub-questions depending on how the main three questions were answered. The survey inquired about the school’s offerings of a required course “in legislation, statutory interpretation, administrative law or any combination course, such as Leg-Reg or Regulatory State” as well as upper-level electives, in either lecture or seminar format, in legislation, statutory interpretation or administrative law. We also asked for course titles, how many credits are offered for each course and the names of the professors who teach them, because two questions of interest are whether the existence of mandatory courses pulls professors away from the upper-level courses and whether the traditional three- or four-credit black-letter upper-level courses in each field survive after the introduction of a mandatory course.

Recognizing the difficulty of isolating causal factors and the well-known, but very difficult to measure, impact that individual professor reputation has on course enrollment numbers, we also asked for the average enrollment numbers of the upper-level courses, in order to investigate whether the addition of mandatory leg-reg seems to increase or decrease student interest in those offerings. In addition, we sought information on whether, for those schools that do have a required course, they also had upper-level electives in legislation, statutory interpretation and administrative law *before* the required course was added. For the same reasons already discussed, we inquired about the credit hours and enrollment figures of those offerings prior to the addition of the required leg-reg course. Our interest in asking these questions was to determine whether the addition of leg-reg added something to the curriculum that was not there before, or grew out of a robust legislation and administrative law presence, and/or to compare how the upper-level enrollment and offerings differed before and after the addition of leg-reg. This was easiest where at least

7. See *Best Law Schools*, U.S. NEWS & WORLD REPORT, *supra* note 1.

some of the same professors taught the electives before and after, which was the case for administrative law at most (fourteen) of the seventeen schools but was not the case for legislation generally (only at three responding schools)<sup>8</sup>. (This difference seems due to the fact that, as detailed below, the upper-level black-letter administrative law course appears to survive leg-reg, whereas the parallel legislation course does not.)

We received responses from fifty-nine out of ninety-nine schools: a 59.6 percent response rate.<sup>9</sup> Sixteen of the top twenty schools responded, twelve schools in the next quintile responded, eleven schools in the following quintile responded, and ten schools in each of the last two quintiles responded.<sup>10</sup> We recognize this slightly different response rate in each quintile, but also note that in general the responses themselves did not differ significantly across quintiles.<sup>11</sup>

After receiving these responses, we then emailed a new survey to every professor identified to us by a responder school as someone who teaches the required course, an upper-level course, or who had taught an upper-level

8. NYU did not respond to this question.
9. Initial emails were sent between June 5th and 10th, 2014. We re-emailed any school that did not respond to our first email on July 7, 2014. For the schools that remained non-responders, the author then emailed an individual legislation or administrative law professor at every school for which she knew such a professor to ask if they might encourage the dean's office to respond. These 11 emails resulted in three additional responses.
10. Due to multiple schools at the same ranking, the specific breakdown is as follows: 16 of the top 20 schools (22 schools total); 12 of 23-40 (19 schools total); 11 of 42-58 (19 schools total); 10 of 61-79 (20 schools total); and 10 of 81-93 (19 schools total).
11. For example, there was no statistically significant relationship between a school's quintile and whether or not it had a required iL course in legislation. Moreover, with respect to most of the data we report, there is no statistically significant difference between the top quintile and the bottom quintile. The two exceptions to this are upper-year course offerings in administrative law, and upper-year enrollment in administrative law classes. Regardless of whether iL elective courses are included, on average, the total number of upper-year administrative courses offered is higher at schools in the top quintile compared with those in the bottom quintile. This difference is statistically significant at the 5% level.

However, if iL electives (which, as noted below, are a self-reported set of courses) are omitted, a different picture emerges. We continue to find that the average number of upper-year seminar courses offered in administrative law is significantly higher at schools in the top quintile, compared with those in the bottom quintile. This higher number of seminar courses, in turn, results in a higher total number of upper-level elective courses in administrative law offered by schools in the top quintile, relative to those in the bottom quintile. This difference, however, is driven largely by the fact that one school in the top quintile, Yale Law School, reported that it offered four such courses. If Yale is omitted, this difference ceases to be statistically significant at the 5% level. Moreover, even if Yale is included, there is no statistically significant difference across quintiles when it comes to the number of upper-level elective lecture courses in administrative law.

Second, if iL electives are included, schools in the top quintile report higher enrollment in upper-year administrative law courses, compared with those in the bottom quintile. This difference is also statistically significant at the 5% level. If iL electives are excluded, this difference ceases to be statistically significant at the 5% level. In other words, the presence of the self-reported iL elective courses is driving this result.

course before the addition of the required course. To that end, we emailed two hundred twenty-eight professors between July and September 2014. We heard back from one hundred thirty-five. Three of those one hundred thirty-five demurred on the ground that they were teaching the course for the first time in 2014, and three more promised detailed responses at a later date but did not ultimately provide them. Our emails asked the professors for their confidential reactions to leg-reg at their schools, or to the idea of mandatory leg-reg if their schools had not adopted it. Our emails also asked the professors for copies of their syllabi, as one goal of the project is to determine the content of the typical leg-reg course as well as how it differs from upper-level offerings at schools both with and without leg-reg. In total, we received one hundred forty-seven syllabi (of which five were duplicates from professors for the same course offered in different years and two of which were eliminated as not legislation or administrative law courses<sup>12</sup>) from one hundred fifteen professors.<sup>13</sup>

#### *A. Required Courses in Twenty-Three Schools*

As detailed in the introduction, of the fifty-nine schools that responded, seventeen schools have a required course, fifteen of which are required in the first year. Ten of the seventeen schools have added this requirement in the past four years. In addition, from reviewing the websites at the remaining forty schools, we determined that six schools that did not respond to our survey also have a required course in the first year.<sup>14</sup> Of the twenty-three offerings, eighteen are combined legislation/regulation courses, four are legislation/statutory interpretation courses, and one is administrative law.<sup>15</sup> (BU will switch its legislation requirement to administrative law next year.) Figures 1-3 provide a summary.

Figure 1. Schools with a Required Course in Legislation				
Rank	School	Course Name	Year Added	Year Required
20	Minnesota Twin Cities <sup>16</sup>	Legal Research & Writing/Statutory Interpretation	Unknown	1L
27	BU	Legislation	Spring 2010	1L
31	Ohio State	Legislation	1995-1996 academic year	1L

12. E.g., we eliminated a course titled "Workplace Legislation."

13. Two additional professors sent syllabi for Elements of Law courses, which are general law school introductory courses to legal methodology and reasoning, and are offered at more than two schools. We have not included those courses in the tally within the text.

14. It is possible that other non-responder schools require legislation, administrative law, or related courses to be taken in the upper level as part of their core graduation requirements.

15. We were not able to determine the answers to the other survey questions from websites of the non-responder schools, and so the rest of the data reported in the article come only from schools that responded to the survey.

16. Based on school website. See *Juris Doctor Degree Requirements*, U. MINN. L. SCH., *supra* note 6.

**Figure 1. Schools with a Required Course in Legislation**

Rank	School	Course Name	Year Added	Year Required
46	George Mason <sup>17</sup>	Legislation and Statutory Interpretation	Unknown	1L
72	Illinois Institute of Technology, Chicago-Kent	Legislation: Process and Interpretation	Fall 2005	1L

**Figure 2. Schools with a Required Course in Administrative Law**

Rank	School	Course Name	Year Added	Year Required
68	Denver	Administrative Law	Required for at least twenty years	2L or 3L

**Figure 3. Schools with a Required Course in Leg-Reg**

Rank	School	Course Name	Year Added	Year Required
2	Harvard	Legislation and Regulation	2007-2008 academic year	1L
6	NYU	Legislation and the Regulatory State	Spring 2003	1L
10	U. Michigan	Legislation and Regulation	2013-2014 academic year	1L
16	Vanderbilt	Regulatory State	Fall 2007	1L
19	Emory <sup>18</sup>	Legislation and Regulation	Unknown	1L
31	Wake Forest	Legislation and Administrative Law	2003-2004 academic year	2L
36	Brigham Young	Legislation and Regulation	Fall 2010	1L
36	Fordham	Legislation and Regulation	Spring 2012	1L
43	Colorado (Boulder)	Legislation and Regulation	Fall 2010	1L
45	Florida State <sup>19</sup>	Legislation-Regulation	Unknown	1L
51	Richmond	Legislation and Regulation	2010	1L
51	Baylor <sup>20</sup>	Legislation, Administrative Power & Procedure	Unknown	1L
58	Houston	Statutory Interpretation and Regulation	Spring 2013	1L

17. Based on school website. See *J.D Curriculum, 2012 and Later*, GEO. MASON SCH. L., *supra* note 6.

18. Based on school website. See *Juris Doctor*, EMORY U. SCH. L., *supra* note 6.

19. Based on school website. See *First-Year Curriculum*, FLA. ST. U. C. L., *supra* note 6.

20. Based on school website. See *Required Courses*, BAYLOR L. SCH., *supra* note 6.

<b>Figure 3. Schools with a Required Course in Leg-Reg</b>				
<b>Rank</b>	<b>School</b>	<b>Course Name</b>	<b>Year Added</b>	<b>Year Required</b>
64	Case Western Reserve	Law, Legislation and Regulation	Spring 2015	1L
81	Pittsburgh	Legislation/Regulation	Fall 2011	1L
83	West Virginia	Legislation and Regulation	Spring 2014	1L
87	Michigan State <sup>21</sup>	Regulatory State	N/A	1L

*B. 1L Electives in Legislation or Administrative Law and Required  
"Elements of Law" Courses*

Although the survey was designed to elicit information only about required leg-reg courses, six schools also volunteered that they offer a “1L elective” in legislation, statutory interpretation, regulatory state, or administrative law.<sup>22</sup> Four schools (including two of the six with a 1L elective) volunteered that they also require all students to take an “elements of law”-type course, which is a general introduction to legal reasoning with a strong statutory component.<sup>23</sup> In addition, four schools noted that although their courses in legislation, statutory interpretation, regulatory state, or administrative law are not required, they count toward graduation requirements. However, we did not inquire directly about 1L electives, elements-of-law courses or core graduation requirements, and it is likely that more schools have similar offerings and requirements. For that reason, unless otherwise stated, we have included these volunteering schools in the category of schools with *no* required courses, although it seems likely that schools with a 1L elective or elements of law course are different, and may be cultivating an interest in and emphasizing the importance of legislation-regulation in ways that schools without required courses are not. Our very limited information suggests this may be the case. This—along with further investigation of the extent to which legislation or administrative law courses fulfill core graduation requirements—would be a fruitful subject for further research, given that 1L electives or core requirements are possible alternatives to the required course.

## II. Effect of the Required Course on the Rest of the Legislation and Administrative Law Curriculum

The quantitative findings divide into two main categories: the relationship between leg-reg and legislation and statutory interpretation offerings, and leg-reg’s relationship to administrative law offerings. Within each group, the

21. Based on school website. See *Required Curriculum*, MICH. ST. U. C. L., *supra* note 6.

22. The six schools are Yale, Columbia, Georgetown, Arizona State, University of Connecticut, and Miami. Chicago also mentioned that it occasionally offers a 1L elective in “Legislation and Statutory Interpretation.”

23. These schools include Columbia, Pennsylvania State, Miami, and Cardozo. Columbia and Miami offer both an elements of law-type course and a 1L elective.

survey aims to capture four main points: (1) the relationship between required courses and the *types* of courses offered—e.g., lecture courses versus seminar courses; (2) the relationship between required courses and the number of *credit hours* offered for upper-level electives; (3) the relationship between required courses and *enrollment* in upper-level electives; and (4) the relationship between required courses and the *net number* of courses offered in these areas. We report on the syllabi provided and professor comments in Part III and Part IV.

#### *A. Effect on Legislation and Statutory Interpretation Offerings*

Perhaps unsurprisingly, schools with a required course had fewer upper-level courses in legislation and statutory interpretation than schools without a required course. Where required-course schools do have upper-level offerings, they are generally for fewer credit hours and have lower enrollment than in schools without a required course (at least in part because the offerings tend to be seminars). Nevertheless, as detailed below, at least for our responder schools, it appears that schools with a required course experienced a *net gain* in legislation and statutory interpretation offerings. Sometimes, the net gain at these schools occurred because leg-reg effectively displaced the upper-level lecture course, and a second seminar or lecture course was added. In other instances, the gain occurred not because additional upper-level courses were added, but rather from the addition of the required course in leg-reg at schools that had *no* legislation-related offerings at all before the new requirement.

##### 1. Number of Upper-Level Courses Offered Appears Lower in Schools with a Required Course

Among the seventeen responder schools with a required course, there is an average of 0.82 upper-level courses in legislation or statutory interpretation. By comparison, schools without a required course have an average of 1.43 upper-level courses in legislation or statutory interpretation, not including iL electives in legislation. Including the iL electives that were volunteered by a few schools, this number rises to an average of 1.60. As noted, we cannot draw any separate conclusions from this small group. Thus, we include the iL electives in the tallies of “upper-level” offerings unless otherwise stated because excluding them would undercount the legislation offerings at the particular school. We suspect there are other schools with similar offerings.

##### 2. Type of Upper-Level Courses Offered Differs

In addition, the type of upper-level courses offered appears to change between schools with a required course and those without one. In general, schools with and without a required course offer roughly the same number of seminar courses: an average of 0.29 upper-level seminar courses for schools with a required course, compared with an average of 0.31 for schools without a required course. However, schools without a required course offer more upper-level lecture courses—an average of 0.88 upper-level lecture courses, excluding the volunteered iL electives, and 1.05 including them, compared

with an average of 0.24 lecture courses for schools with a required course. In addition, several schools with a required course seem to have replaced their upper-level lecture courses with upper-level seminars, clinics, and other courses. For example, one respondent at a school with a required course noted that the school added two new seminar courses in the 2014-2015 academic year.

<b>Figure 4. Schools with a Required Course: Upper-Level Legislation/Statutory Interpretation Electives by Type of Course</b>					
School	Lecture	Seminar	Clinic <sup>24</sup>	Other <sup>25</sup>	Total
Harvard <sup>26</sup>	I	2	0	0	3
NYU	O	O	O	I	I
U. Michigan <sup>27</sup>	O	I	O	O	I
Vanderbilt	O	O	O	O	O
BU	O	O	O	O	O
Ohio State	O	O	I	O	I
Wake Forest	O	O	O	O	O
Brigham Young	O	O	I	O	I
Fordham	O	I	O	O	I
Colorado (Boulder)	I	O	O	O	I
Richmond	I	O	O	O	I
Houston	O	O	O	O	O
Case Western Reserve	O	O	O	O	O
Denver	O	O	O	O	O
Illinois Institute of Technology, Chicago-Kent	O	O	O	2	2
Pittsburgh	O	O	O	O	O
West Virginia	I	I	O	O	2
<b>Total</b>	4	5	2	3	14
<b>Average</b>	0.24	0.29	0.12	0.18	0.82

- 24. Some schools may not have thought to list a legislation clinic in response to our question about legislation offerings; therefore, some schools may offer legislation-related clinics that are not included in these data.
- 25. This includes an “Appellate and Legislative Advocacy Workshop” at NYU and two combination lecture/seminar courses in legislative advocacy at Chicago-Kent.
- 26. Harvard has a seminar course titled “The Administrative State: Law and Theory.” We have included this course in both the legislation/statutory interpretation and administrative law categories for all of the charts because we assume it bridges both legislation and administrative law.
- 27. U. Michigan also has an upper-level lecture course that was added for upper-class students who were not required to take the IL required course once that course was added. Because this course will be phased out, we have not included it in any of the tallies in the paper.

Figure 5. Schools without a Required Course: Upper-Level Legislation/Statutory Interpretation Electives by Type of Course					
School <sup>28</sup>	Lecture	Seminar	Clinic	Other <sup>29</sup>	Total
Yale	2	1	1	0	4
Stanford	2	0	0	0	2
Columbia	4 <sup>30</sup>	0	0	0	4
Chicago <sup>31</sup>	1	1	0	0	2
Berkeley	1	1	0	1	3
Duke	1	0	0	1	2
Northwestern	1	0	0	0	1
Georgetown	3	1	0	0	4
Cornell <sup>32</sup>	1	0	0	1	2
Washington University in St. Louis	1	0	0	0	1
George Washington	1	1	0	0	2
Southern California	0	1	0	0	1
College of William and Mary	0	1	0	0	1
Iowa	1	0	0	0	1
Indiana (Bloomington)	1	0	0	0	1
Arizona State	1	0	0	0	1

28. 1L electives are included in all of the charts for schools without a required course. 1L electives in Regulatory State (Yale, Columbia, and Georgetown), Legislation and Regulation (Columbia and University of Miami), and Congress and the Administrative State (Georgetown) are included in both the legislation/statutory interpretation charts and the administrative law charts. 1L electives for two schools—Arizona State and University of Connecticut—are offered with 2Ls and 3Ls, so these are counted toward upper-level offerings and not double-counted as a 1L elective when 1L electives are mentioned in the text.
29. Berkeley's other course is a workshop. Duke's other course is a colloquium. Cornell's other course is a colloquium/seminar/problem course. UNC Chapel Hill's other course is a skills course. New Mexico's other course is a drafting course. Rutgers' other courses are all skills courses. Marquette's other course is a workshop.
30. Three of these courses are 1L electives. One—Legislation—was mentioned during the survey results. The other two—Regulatory State and Legislation and Regulation—were encountered during an Internet search. See *First-Year Electives*, COLUM. L. SCH., <http://web.law.columbia.edu/courses/browse?id=304> (last visited Nov. 14, 2014).
31. Chicago's upper-level lecture course, titled "Legislation and Statutory Interpretation," is sometimes offered as a 1L elective.
32. Cornell has a course titled "Regulatory Policymaking: Politics, Ethics, Economics." We have included this course in both the legislation/statutory interpretation and administrative law categories for all of the charts.

Figure 5. Schools without a Required Course: Upper-Level Legislation/Statutory Interpretation Electives by Type of Course					
School	Lecture	Seminar	Clinic	Other	Total
North Carolina Chapel Hill	I	O	O	I	2
Davis	I	O	O	O	I
Illinois Urbana Champaign	I	O	O	O	I
Maryland	2	O	O	O	2
Florida	I	O	O	O	I
Pennsylvania State	2	O	O	O	2
University of Connecticut	O	I	O	O	I
Pepperdine	I	O	O	O	I
Nebraska	2	O	O	O	2
Kentucky	I	O	O	O	I
Oklahoma	O	O	O	O	O
Miami	I	O	O	O	I
Arkansas Fayetteville	O	O	O	O	O
Cardozo <sup>33</sup>	I	I	O	O	2
Missouri	I	O	O	O	I
Louisiana State University Baton Rouge	O	I	O	O	I
New Mexico	O	O	O	I	I
San Diego	I	O	O	O	I
Brooklyn Law School	2	I	O	O	3
Rutgers (Newark)	I	O	O	3	4
Seattle	O	I	O	O	I
Louisville Brandeis	O	I	O	O	I
Marquette	I	O	O	I	2
Northeastern	O	O	O	O	O
St. Louis	I	O	O	O	I
South Carolina	2	O	O	O	2
<b>Total</b>	44	13	I	9	67
<b>Average</b>	1.05	0.31	0.02	0.21	1.60

33. Cardozo's course is sometimes a lecture and/or a seminar depending on how many students sign up; it is counted in both categories.

### 3. Credit Hours

Upper-level legislation offerings at schools with required courses carried fewer credits and were held for fewer hours than upper-level legislation offerings at schools without required courses. This is in line with our finding that schools with a required course tend to offer more upper-level seminar than lecture courses, because seminars usually are offered for fewer credit hours. On average, schools with a required course offer 1.64 credit hours for upper-level legislation and statutory interpretation electives, compared with 2.42 credit hours for schools without a required course, not including the volunteered *TL* electives. Including the volunteered *TL* electives, the number rises to an average of 2.50. The following figures summarize these findings.

**Figure 6. Schools with a Required Course: Average Credit Hours**

School	Credit Hours for Required Courses	Average Credit Hours for Upper-Level Legislation/Statutory Interpretation Courses <sup>34</sup>
Harvard	4	2.33
NYU	4	3
U. Michigan	4	2
Vanderbilt	4	0
BU	3	0
Ohio State	3	4
Wake Forest	3	0
Brigham Young	3	3
Fordham	4	3
Colorado (Boulder)	3	3
Richmond	3	3
Houston	3	0
Case Western Reserve	3	0
Denver	4	0
Illinois Institute of Technology, Chicago-Kent	3	2
Pittsburgh	3	0
West Virginia	3	2.5
<b>Average</b>	<b>3.35</b>	<b>1.64</b>

**Figure 7. Schools without a Required Course: Average Credit Hours**

School	Average Credit Hours for Upper-Level Legislation/Statutory Interpretation Courses
Yale	3

34. Classes that are offered for multiple credit hours were averaged (i.e., a course that is offered for 3-4 credit hours was averaged to 3.5).

**Figure 7. Schools without a Required Course: Average Credit Hours**

School	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses
Stanford	3
Columbia	3
Chicago	3
Berkeley	2.33
Duke	2.5
Northwestern	3
Georgetown	3
Cornell	3
Washington University in St. Louis	3
George Washington	2.25
Southern California <sup>35</sup>	2
College of William and Mary	3
Iowa	2
Indiana (Bloomington)	2.5
Arizona State	3
North Carolina Chapel Hill	3
Davis	3
Illinois Urbana Champaign	3
Maryland	2
Florida	2
Pennsylvania State	3
University of Connecticut	3
Pepperdine	2.5
Nebraska	3
Kentucky	3
Oklahoma	0
Miami	3
Arkansas Fayetteville	0
Cardozo	3
Missouri	3
Louisiana State University Baton Rouge	2
New Mexico	2

35. Southern California's course is listed for two credits, but students writing journal notes may

**Figure 7. Schools without a Required Course: Average Credit Hours**

School	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses
San Diego	3
Brooklyn	3
Rutgers (Newark)	2
Seattle	3
Louisville Brandeis	2
Marquette	2.5
Northeastern	0
St. Louis	3
South Carolina	2.5
<b>Average</b>	<b>2.50</b>

**Figure 8. Schools with a Required Course: Credit Hours Before and After the Requirement**

School	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses <i>Before</i> Required Course Added	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses <i>After</i> Required Course Added
Harvard	2 <sup>36</sup>	2.33
NYU	NR*	3
U. Michigan	3	2
Vanderbilt	NR*	0
BU	3	0
Ohio State	NR*	4
Wake Forest	0	0
Brigham Young	NR*	3
Fordham	0	3
Colorado (Boulder)	3	3
Richmond	3	3
Houston	3	0
Case Western Reserve	0 <sup>37</sup>	0
Denver	NR*	0
Illinois Institute of Technology, Chicago-Kent	2	2
Pittsburgh	3	0

enroll for three or four credits.

36. One of the two courses offered before the required course was added was a one-credit reading group on Statutory Interpretation.

37. Case Western had a three-credit upper-level offering, but not in the years immediately preceding the addition of the required course.

**Figure 8. Schools with a Required Course: Credit Hours Before and After the Requirement**

School	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses <i>Before</i> Required Course Added	Average Credit Hours for Upper-Level Legislation/ Statutory Interpretation Courses <i>After</i> Required Course Added
West Virginia	2.5	2.5
<b>Total</b>	24.5	27.83
<b>Average</b> <b>NR*</b> No Response (school did not respond to this question or elected not to provide enrollment numbers)	2.04	1.64

#### 4. Enrollment

Average enrollment in upper-level lecture courses at schools with a required course is 15.92 students (but note, this is a very small sample size of four courses), compared with 27.57 students for schools without a required course, not including the iL electives volunteered by a handful of schools responding to the survey. If we include the iL electives that were volunteered, this number rises slightly to an average of 27.93. Comparing only seminar courses, schools with a required course have an average of 15 students per seminar course (but note, this is a very small sample size of four courses), while schools without a required course have an average of 14.93 students per seminar course.

We were particularly interested in capturing information about potential enrollment changes in upper-level electives *before* and *after* the required course was added at the relevant schools. However, only one school provided enrollment numbers for upper-level offers before the switch. For this school (University of Colorado Boulder), average enrollment in the upper-level legislation and statutory interpretation course decreased from 60.33 students before the course was added to 21.67 after for the exact same course offering. Many schools added their required courses recently, so enrollment numbers for after the required course was added were not yet available. This is an issue that might be surveyed again in a few years.

In addition we note that, to overcome anticipated reluctance to provide enrollment figures that would compare professors at a single school, we simply asked the schools for enrollment figures for three offerings of the course *or* for average enrollment. Some responses included wide internal variations (e.g., enrollment of 20, 60, 40 for the past three offerings) for the identical course. Professor reputation, scheduling, and other factors make these data difficult to capture.

We also realize that, by asking for enrollment in this manner, we failed to capture a critical piece of information: how many students are now graduating having taken *some* course in legislation (or administrative law). Determining

whether the addition of leg-reg increases overall student exposure to the materials is a significant question for future research.

<b>Figure 9. Schools with a Required Course: Average Enrollment by Type of Course<sup>38</sup></b>				
School <sup>39</sup>	Lecture	Seminar	Clinic	Other <sup>40</sup>
Harvard <sup>41</sup>	12 <sup>x</sup>	21 <sup>x</sup>		
NYU	NR*			
U. Michigan		13 <sup>42</sup>		
Vanderbilt				
BU				
Ohio State	NR*			
Wake Forest				
Brigham Young			6 <sup>x</sup>	
Fordham		12		
Colorado (Boulder)	21.67			
Richmond	19			
Houston				
Case Western Reserve				
Denver				
Illinois Institute of Technology, Chicago-Kent <sup>43</sup>				14.5
Pittsburgh				

- 38. Some schools included only a “rough estimate” of enrollment, which we used if nothing else was provided. If the rough estimate was a range, we averaged the range (e.g., 50-60 students became 55 students). We did not include evening-class enrollment numbers. In addition, although we asked for enrollment numbers for the past three times each course was offered, some schools provided information for fewer offerings (often because the course had not been offered more than once or twice). We used these enrollment numbers when provided and denote these numbers with an “x”. A few schools provided enrollment numbers for the past three years, rather than the last three offerings. We identify these schools with a footnote.
- 39. We could not weight the enrollment numbers to account for differences in the size of the law school because some courses may have been offered simultaneously (within the same semester), but the schools did not so specify.
- 40. The “other” section includes two combination lecture/seminar courses at Chicago-Kent.
- 41. Harvard’s two seminar courses began in fall 2014; as of this writing only “expected” enrollment figures were available, and we have used those here.
- 42. U. Michigan added its required course during the 2013-2014 academic year. Therefore, these upper-level course enrollment numbers cannot be used to evaluate interest in the upper-level courses after the required course was added.
- 43. Chicago-Kent provided average enrollment numbers over the past three years.

<b>Figure 9. Schools with a Required Course: Average Enrollment by Type of Course</b>				
School	Lecture	Seminar	Clinic	Other
West Virginia <sup>44</sup>	11	14		
<b>Total</b>	63.67	60	6	14.5
<b>Average (of those with a class)</b>	15.92	15	6	14.50
<b>NR*</b> No Response (school did not respond to this question or elected not to provide enrollment numbers)				
<sup>x</sup> Denotes fewer than three enrollment numbers.				

<b>Figure 10. Schools without a Required Course: Average Enrollment by Type of Course</b>				
School <sup>45</sup>	Lecture	Seminar	Clinic	Other <sup>46</sup>
Yale	47.4 <sup>x</sup>	12 <sup>x</sup>	7.33	
Stanford	51	14		
Columbia	48			
Chicago	35	19		
Berkeley	32.33	18 <sup>x<sub>47</sub></sup>		10
Duke	24.5 <sup>x</sup>			8 <sup>x</sup>
Northwestern	14			
Georgetown	58.67	7		
Cornell	25			10 <sup>x</sup>
Washington University in St. Louis	32			
George Washington	43	19.33		
Southern California		15		
College of William and Mary		15		
Iowa	15 <sup>x</sup>			

44. West Virginia added its required course in spring 2014. Therefore, these upper-level course enrollment numbers cannot be used to evaluate interest in the upper-level courses after the required course was added.

45. Numbers from William and Mary; Davis; Pepperdine; Missouri; Louisiana State University Baton Rouge; and Marquette are rough estimates.

46. Berkeley's other course is a workshop. Duke's other course is a colloquium. Cornell's other course is a colloquium/seminar/problem course. UNC Chapel Hill's other course is a skills course. New Mexico's other course is a drafting course. Rutgers' other courses are all skills courses. Marquette's other course is a workshop.

47. This course began in fall 2014; as of this writing only an "expected" enrollment figure was available, and we have used that number here.

Figure 10. Schools without a Required Course: Average Enrollment by Type of Course				
School	Lecture	Seminar	Clinic	Other
Indiana (Bloomington)	22.25			
Arizona State <sup>48</sup>	42.67			
North Carolina Chapel Hill	10 <sup>X</sup>			21.5 <sup>X</sup>
Davis	25			
Illinois Urbana Champaign	NR <sup>*49</sup>			
Maryland	19			
Florida	50			
Pennsylvania State	23.33			
University of Connecticut <sup>50</sup>		12		
Pepperdine	10			
Nebraska	14 <sup>X</sup>			
Kentucky	12.67			
Oklahoma				
Miami	NR*			
Arkansas Fayetteville				
Cardozo <sup>51</sup>	17.66	17.66		
Missouri	30			
Louisiana State University Baton Rouge		10		
New Mexico				6 <sup>X</sup>
San Diego	20.67			
Brooklyn	27	14		
Rutgers (Newark)	26			18.33
Seattle		17		
Louisville Brandeis		19 <sup>X</sup>		
Marquette	33.5			11
Northeastern				
St. Louis	13			
South Carolina	15.17			
<b>Total</b>	837.82	208.99	7.33	84.83

48. Both Arizona State and University of Connecticut's courses are sometimes offered as a 1L elective, so some of the enrollment numbers may include 1Ls, 2Ls and 3Ls.
49. Illinois Urbana Champaign's course will be offered for the first time in spring 2015.
50. See *supra* note 48.
51. Because Cardozo's class is sometimes a seminar and a lecture, but with low enrollment regardless (22 was the highest figure given), we include the enrollment in both the seminar and lecture categories.

Figure 10. Schools without a Required Course: Average Enrollment by Type of Course				
School	Lecture	Seminar	Clinic	Other
Average (of those with a class)  NR* No Response (school did not respond to this question or elected not to provide enrollment numbers)	27.93	14.93	7.33	12.12
<sup>x</sup> Denotes fewer than three enrollment numbers.				

### 5. New Professors Teaching the Course

We were also curious as to whether the addition of a required course in leg-reg brought new professors—those professors who previously had not taught a legislation-related course—into the classroom. A positive finding on this front might support the idea that leg-reg could productively encourage new academic interest in the field.

While it was difficult to determine the answer to this question based on the responses received (and two schools did not fully respond to this question),<sup>52</sup> it appears that of the sixteen schools with a legislation or leg-reg required course,<sup>53</sup> at least *forty-seven*<sup>54</sup> professors who had not taught any legislation-related course at that school in the past, and maybe not at all, are now teaching leg-reg at these schools.<sup>55</sup> That is a striking number, especially for those interested in broadening the reach of legislation concepts beyond the core faculty who historically have taught the course at each school. Whether these additions have led to more academic interest in the field among those professors is a different question. As detailed in Part III, professor reactions to the course and its materials were mixed.

- 52. NYU and Vanderbilt both indicated that they had a legislation or statutory interpretation course at some point before their respective required courses were added; however, they did not state who taught these prior courses.
- 53. Therefore Denver is not included in this count since its required course is Administrative Law.
- 54. This number may be as high as 53. Since NYU and Vanderbilt did not specify who taught their legislation or statutory interpretation courses prior to the addition of the required course, we could include only professors who joined the faculties at these schools after the required courses were added (three for NYU and two for Vanderbilt) in the 47 count. Therefore, there are six additional professors who may also be in this category (four for NYU and two for Vanderbilt).
- 55. It is possible, however, that at least some of these professors taught relevant courses at other schools before moving to their current school. For example, there are two professors who we positively know taught legislation-related courses at another school prior to the switch to their current schools. We did not include these two professors in the 47 total.

## 6. Net Gains?

Perhaps counterintuitively—and despite the findings that adding a required course changed the type of upper-level courses offered, the number of credit hours offered, and the average enrollment in large lecture courses—adding a required course resulted in a *net gain* of legislation and statutory interpretation courses at most of our responder schools *when the required course is included*. If the new requirement is excluded, there is no net change.

Among the seventeen schools that added a required course, sixteen schools responded to our questions comparing current offerings to offerings before the required course was added. Across those sixteen schools, there was a net gain of fifteen courses total, when the required course was included.<sup>56</sup> Every school gained at least one course except for U. Michigan, BU, and Pittsburgh, which stayed neutral (one before, one now<sup>57</sup>). As the figure below details, several of the schools had no course in this area before and so the required course *itself* was the net gain. In some cases, schools with nothing added a required course plus an additional course, such as a practical course in legislative advocacy or drafting—actions that suggest the new course may be increasing interest in the subject matter among students or faculty. Across schools that previously offered a legislation-related course, the net gain was either in advanced courses (such as theory or advocacy courses) or the net gain occurred because previous courses (e.g., West Virginia’s Legislative Process course) were retained even after leg-reg was added.

Figure 11. Net Gains in Legislation for Schools with a Required Course				
School	Upper-Level Before	Upper-Level Now	Required Course (Now)	Net Gain/Loss
Harvard	(1) Legislation (2) Statutory Interpretation	(1) Advanced Legislation: Theories of Statutory Interpretation (2) The Administrative State: Law and Theory (3) Statutory Interpretation in the Modern Day	(1) Legislation and Regulation	2
NYU	(1) Statutory Interpretation	(1) Appellate and Legislative Advocacy Workshop	(1) Legislation and the Reg. State	1

56. University of Denver was not included in this total, because the required course is in Administrative Law. The required course was counted as a “gain” for legislation only if the required course has a legislation or statutory interpretation component.

57. As noted, BU is replacing its 1L Legislation requirement with an Administrative Law requirement. It may reinstate its upper-level legislation course at some point in the future.

Figure 11. Net Gains in Legislation for Schools with a Required Course				
School	Upper-Level Before	Upper-Level Now	Required Course (Now)	Net Gain/Loss
U. Michigan <sup>58</sup>	(1) Legislation and Regulation (2) Legislation	(1) Legislation	(1) Legislation and Regulation	0
Vanderbilt <sup>59</sup>	Irregularly taught Legislation/ Statutory Interpretation course	None	(1) Regulatory State	1
BU	(1) Legislation	None	(1) Legislation	0
Ohio State	(1) Legislation	(1) Legislation Clinic	(1) Legislation	1
Wake Forest	None	None	(1) Legislation and Administrative Law	1
Brigham Young	(1) Legislation	(1) Government and Legislative Clinical Alliance	(1) Legislation and Regulation	1
Fordham	None	(1) Legislative Drafting	(1) Legislation and Regulation	2
Colorado (Boulder)	(1) Legal Interpretation and Legislative Process	(1) Legal Interpretation and Legislative Process	(1) Legislation and Regulation	1
Richmond	(1) Legislation	(1) Legislative Advocacy	(1) Legislation and Regulation	1
Houston	None <sup>60</sup>	None	(1) Statutory Interpretation and Regulation	1
Case Western Reserve <sup>61</sup>	None	None	(1) Law, Legislation and Regulation	1
Denver	N/A <sup>62</sup>	None	(1) Administrative Law	N/A

58. U. Michigan currently has two upper-level courses but one of them is the same as the required course, and we were told it will be phased out.
59. Vanderbilt had a legislation/statutory interpretation course on the books before the required course was added, but it was not regularly taught.
60. Houston reported that in the several years leading up to the introduction of the new required course, it did not offer an upper-level elective in Legislation or Statutory Interpretation. However, before the introduction of the new course, Statutory Interpretation was offered as one of a small list of 1L spring electives.
61. Case Western Reserve had an upper-level course at some point, but it did not have an upper-level course when the required one was added.
62. Denver was not sure about its prior course offerings because Administrative Law, which is

<b>Figure 11. Net Gains in Legislation for Schools with a Required Course</b>				
School	Upper-Level Before	Upper-Level Now	Required Course (Now)	Net Gain/Loss
Illinois Institute of Technology, Chicago-Kent	(1) Legislative Advocacy (2) Advanced Legislative Advocacy	(1) Legislative Advocacy (2) Advanced Legislative Advocacy	(1) Legislation: Process and Interpretation	1
Pittsburgh	(1) Legislation	None	(1) Legislation/Regulation	0
West Virginia	(1) Lawyers and Legislation (2) Legislative Process	(1) Lawyers and Legislation (2) Legislative Process	(1) Legislation and Regulation	1

### B. Administrative Law Results and Some Comparisons with Legislation Results

Our anecdotal impressions before the survey were that required leg-reg courses do not diminish administrative law offerings, or undermine the traditional black-letter administrative law course and that, if anything, the addition of leg-reg would allow the black-letter course to get into more advanced topics that it could not cover before the addition. Our findings lend support to some of these impressions and also some important differences between administrative law and legislation in this context.

#### i. Number and Types of Course Offerings:

##### Black-Letter Course Remains Strong, but Few Seminars

At our responder schools, those with a required course offer 1.12 upper-level administrative law electives on average, compared with an average of 1.14 courses for schools without a required course, excluding the volunteered 1L electives. If we include the 1L electives that were volunteered, this number rises to an average of 1.33. Sixteen of the seventeen schools with a required leg-reg course offer an upper-level elective in administrative law (compared with the eleven out of seventeen schools that offered an upper-level elective in legislation). The one school with a required course that does not offer any upper-level administrative law electives—Denver—requires students to take Administrative Law during their 2L or 3L year. Fifteen out of the sixteen schools with upper-level administrative law have that course in a lecture format.

In addition, *every single school* that responded to our survey except for two—regardless of whether they have a required course—offer an upper-level lecture course in administrative law—compared with thirty-six out of the fifty-nine schools (across all school types) that offer an upper-level lecture in legislation.

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that school's required course, has been required for so long.

The two schools that do not offer an upper-level *elective* administrative law lecture course—Denver and Wake Forest—are the two schools where administrative law is *the* required course or a significant component of the required course. In addition, although Wake Forest does not offer an upper-level lecture course, it offers an additional upper-level seminar in administrative law.

On the other hand, only five schools out of our fifty-nine respondents offer *more* than one upper-level administrative law course, whereas twenty schools offered multiple legislation/statutory interpretation upper-level courses. If we include the 1L electives that were volunteered, this number rises to eight schools for additional upper-level courses in administrative law and twenty-one schools for legislation/statutory interpretation.

Figure 12. Schools with a Required Course: Upper-Level Administrative Law Electives by Type of Course					
School	Lecture	Seminar	Clinic	Other	Total
Harvard	I	I	O	O	2
NYU <sup>63</sup>	I	2	O	O	3
U. Michigan	I	O	O	O	1
Vanderbilt	I	O	O	O	1
BU	I	O	O	O	1
Ohio State	I	O	O	O	1
Wake Forest	O	I	O	O	1
Brigham Young	I	O	O	O	1
Fordham	I	O	O	O	1
Colorado (Boulder)	I	O	O	O	1
Richmond	I	O	O	O	1
Houston	I	O	O	O	1
Case Western Reserve	I	O	O	O	1
Denver <sup>64</sup>	O	O	O	O	0
Illinois Institute of Technology, Chicago-Kent	I	O	O	O	1
Pittsburgh	I	O	O	O	1
West Virginia	I	O	O	O	1
<b>Total</b>	15	4	O	O	19
<b>Average</b>	0.88	0.24	O	O	1.12

63. One of NYU's classes has been offered as both a lecture and a seminar. It is counted in both categories.
64. Denver's required class is administrative law and must be taken during the 2L or 3L year.

**Figure 13. Schools without a Required Course: Upper-Level Administrative Law Electives by Type of Course**

School	Lecture	Seminar	Clinic	Other <sup>65</sup>	Total
Yale	2	4	0	0	6
Stanford	I	0	0	0	1
Columbia	4 <sup>66</sup>	0	0	0	4
Chicago	I	0	0	0	1
Berkeley	I	I	0	0	2
Duke	I	0	0	0	1
Northwestern	I	0	0	0	1
Georgetown	4	0	0	0	4
Cornell	I	0	0	I	2
Washington University in St. Louis	I	0	0	0	1
George Washington	I	0	0	0	1
Southern California	I	0	0	0	1
College of William and Mary	I	0	0	0	1
Iowa	I	0	0	0	1
Indiana (Bloomington)	I	0	0	0	1
Arizona State <sup>67</sup>	I	0	0	0	1
North Carolina Chapel Hill	I	0	0	0	1
Davis	I	0	0	0	1
Illinois Urbana Champaign	I	0	0	0	1
Maryland	I	0	0	0	1
Florida	I	0	0	0	1
Pennsylvania State	I	0	0	0	1
University of Connecticut <sup>68</sup>	I	0	0	0	1
Pepperdine	I	0	0	0	1
Nebraska	I	0	0	0	1
Kentucky	I	0	0	0	1

- 65. Cornell's "other" class is a colloquium/seminar/problem course.
- 66. Three of these courses are 1L electives: Regulatory State; Legislation and Regulation; and Administrative Law. All three were encountered during an Internet search. See *First-Year Electives*, COLUM. L. SCH. *supra* note 30.
- 67. Arizona State's upper-level administrative law course is also sometimes offered as a 1L elective. 1Ls can take the course with upper-class students.
- 68. University of Connecticut's upper-level administrative law course is also offered as a 1L

Figure 13. Schools without a Required Course: Upper-Level Administrative Law Electives by Type of Course					
School	Lecture	Seminar	Clinic	Other <sup>65</sup>	Total
Oklahoma	I	O	O	O	I
Miami	2	O	O	O	2
Arkansas Fayetteville	I	O	O	O	I
Cardozo	I	O	O	O	I
Missouri	I	O	O	O	I
Louisiana State University Baton Rouge	I	O	O	O	I
New Mexico	I	O	O	O	I
San Diego	I	O	O	O	I
Brooklyn	I	O	O	O	I
Rutgers (Newark)	I	O	O	O	I
Seattle	I	O	O	O	I
Louisville Brandeis	I	O	O	O	I
Marquette	I	O	O	O	I
Northeastern	I	O	O	O	I
St. Louis	I	O	O	O	I
South Carolina	I	O	O	O	I
<b>Total</b>	50	5	0	I	56
<b>Average</b>	1.19	0.12	0	0.02	1.33

## 2. Credit Hours

Our responder schools without a required course offer slightly more credit hours for their upper-level administrative law courses than schools with a required course. Schools with a required course offer, on average, 2.92 credit hours for upper-level administrative law electives, compared with, on average, 3.1 at schools without a required course, excluding the volunteered 1L electives. If we include the 1L electives that were volunteered, this number decreases slightly to an average of 3.08. However, given the small sample, this slight difference may result from the fact that Denver—a school with a required course—is the only school that does not offer an upper-level elective in administrative law, likely because its required course is administrative law. Moreover, no school with a required course reported that it had decreased its upper-level administrative law course credits after adding the required course. Fourteen affirmatively reported keeping the same number of credits; two did not know the credit hours offered before the requirement was added; and one school (Wake Forest) did not have an upper-level course before the requirement was added.

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elective, and 1Ls take the course with upper-class students.

In contrast, the average credit hours for legislation upper-level class offerings are lower. While the difference is not as great at schools without a required course (2.50 average credit hours for upper-level legislation compared with 3.08 for upper-level administrative law), it is larger at schools with a required course (1.75 credit hours for upper-level legislation compared with 2.92 average credit hours for upper-level administrative law).<sup>69</sup> This suggests that leg-reg may be associated with more of a loss of upper-level legislation content than administrative law content.

**Figure 14. Schools with a Required Course: Average Credit Hours For Upper-Level Administrative Law**

School	Credit Hours for Required Courses	Average Credit Hours for Upper-Level Administrative Law Courses
Harvard	4	2.75
NYU	4	2.75
U. Michigan	4	4
Vanderbilt	4	3
BU	3	4
Ohio State	3	3
Wake Forest	3	2.5
Brigham Young	3	3
Fordham	4	3.5
Colorado (Boulder)	3	3
Richmond	3	3
Houston	3	3
Case Western Reserve	3	3
Denver	4	0
Illinois Institute of Technology, Chicago-Kent	3	3
Pittsburgh	3	3
West Virginia	3	3
<b>Average</b>	<b>3.35</b>	<b>2.92</b>

**Figure 15. Schools without a Required Course: Average Credit Hours For Upper-Level Administrative Law**

School	Average Credit Hours for Upper-Level Administrative Law Courses
Yale	2.92
Stanford	4
Columbia	3.5

69. Here again we count the volunteered 1L electives as upper-level courses.

**Figure 15. Schools without a Required Course: Average Credit Hours For Upper-Level Administrative Law**

School	Average Credit Hours for Upper-Level Administrative Law Courses
Chicago	3
Berkeley	3.5
Duke	3
Northwestern	3
Georgetown	3
Cornell	3
Washington University in St. Louis	3
George Washington	3
Southern California	3
College of William and Mary	3
Iowa	3
Indiana (Bloomington)	3
Arizona State	3
North Carolina Chapel Hill	3
Davis	3.5
Illinois Urbana Champaign	3
Maryland	3
Florida	3
Pennsylvania State	3
University of Connecticut	3
Pepperdine	3
Nebraska	3
Kentucky	3
Oklahoma	3
Miami	3.5
Arkansas Fayetteville	3
Cardozo	3
Missouri	3
Louisiana State University Baton Rouge	3
New Mexico	3
San Diego	3.5
Brooklyn	3
Rutgers (Newark)	3
Seattle	3
Louisville Brandeis	3

**Figure 15. Schools without a Required Course: Average Credit Hours For Upper-Level Administrative Law**

School	Average Credit Hours for Upper-Level Administrative Law Courses
Marquette	3
Northeastern	3
St. Louis	3
South Carolina	3
<b>Average</b>	<b>3.08</b>

### 3. Enrollment

Across our responder schools, the existence of a required course did not appear to substantially affect enrollment in upper-level administrative law courses. Average enrollment in upper-level administrative law lecture electives at schools with a required course is 44.10 compared with an average enrollment of 47.49 at schools without a required course. If we include the 1L electives that were volunteered, this number rises slightly to an average of 47.68.

It is noteworthy that those schools that volunteered the offering of an elements-of-law course or a 1L elective have even *higher* enrollment numbers in upper-level administrative law. For instance the average enrollment in upper-level administrative law at Columbia is 87.33; at Cardozo it is 110.33; at Arizona State it is 53.33. It seems likely that at these schools, and perhaps at other schools with similar offerings, there is an attitudinal difference about the importance of the regulatory state in the law school curriculum that translates to what is emphasized to students as important coursework and perhaps also to where faculty resources are directed. Our findings cannot confirm this suspicion, because we did not ask about these courses in our survey, but it may be the case that such electives or elements-of-law courses have the same if not a greater effect on student exposure to the leg-reg topics as the required course itself.

**Figure 16. Schools with a Required Course: Average Enrollment by Type of Course<sup>70</sup>**

School <sup>71</sup>	Lecture	Seminar	Clinic	Other
Harvard	61 <sup>72</sup>	22		
NYU	NR*			
U. Michigan	41 <sup>73</sup>			
Vanderbilt	44.33			

- 70. See *supra* note 39 for an explanation of how enrollment was calculated.
- 71. Vanderbilt, BU, Wake Forest, and Fordham provided rough estimates.
- 72. Harvard provided average enrollment over the past three years (nine offerings total).
- 73. U. Michigan added its required course during the 2013-2014 academic year. Therefore, these upper-level course enrollment numbers cannot be used to evaluate interest in the upper-level courses after the required course was added.

<b>Figure 16. Schools with a Required Course: Average Enrollment by Type of Course</b>				
School	Lecture	Seminar	Clinic	Other
BU	50			
Ohio State	54.67			
Wake Forest		10		
Brigham Young	40			
Fordham	27.5			
Colorado (Boulder)	60.33			
Richmond	22			
Houston	64.5 <sup>x</sup>			
Case Western Reserve	38 <sup>74</sup>			
Denver				
Illinois Institute of Technology, Chicago-Kent	27 <sup>75</sup>			
Pittsburgh	55			
West Virginia	32 <sup>76</sup>			
<b>Total</b>	617.33	32		
<b>Average (of those with a class)</b>	44.10	16		
<b>NR*</b> No Response (school did not respond to this question or elected not to provide enrollment numbers)				
<sup>x</sup> Denotes fewer than three enrollment numbers.				

<b>Figure 17. Schools without a Required Course: Average Enrollment by Type of Course</b>				
School <sup>77</sup>	Lecture	Seminar	Clinic	Other
Yale	36.92 <sup>x</sup>	7.46 <sup>x</sup>		
Stanford	51			
Columbia	87.33			
Chicago	61			
Berkeley	74.33	19.5 <sup>x</sup>		

74. Case Western Reserve will offer its required course for the first time in spring 2015. Therefore, these upper-level course enrollment numbers cannot be used to evaluate interest in the upper-level courses after the required course was added.
75. Chicago-Kent provided average enrollment over the past three years.
76. West Virginia added its required course in spring 2014. Therefore, these upper-level course enrollment numbers cannot be used to evaluate interest in the upper-level courses after the required course was added.
77. Duke, Cornell, William and Mary, Davis, Missouri, Louisiana State University Baton Rouge, Seattle, Marquette, and St. Louis provided rough averages. Some schools specified that there is a broad range depending on the teacher. Sometimes the averages reflect a wide range; for example, Davis's range was 25-70. We averaged the ranges schools gave us.

Figure 17. Schools without a Required Course: Average Enrollment by Type of Course				
School	Lecture	Seminar	Clinic	Other
Duke	42.5			
Northwestern	41.67			
Georgetown	55.5 <sup>78</sup>			
Cornell	60			10
Washington University in St. Louis	38.33			
George Washington	54.67			
Southern California	29			
College of William and Mary	65			
Iowa	48.67			
Indiana (Bloomington)	34			
Arizona State <sup>79</sup>	53.33			
North Carolina Chapel Hill	99			
Davis	47.5			
Illinois Urbana Champaign	40			
Maryland	83.5			
Florida	39			
Pennsylvania State	27			
University of Connecticut <sup>80</sup>	45			
Pepperdine	15			
Nebraska	22			
Kentucky	34.67			
Oklahoma	58.33			
Miami	NR*			
Arkansas Fayetteville	25.33			
Cardozo	110.33			
Missouri	30			
Louisiana State University Baton Rouge	50			
New Mexico	38			
San Diego	37.67			
Brooklyn	57			
Rutgers (Newark)	32			

78. Georgetown provided average enrollment over the past three years.
79. Arizona State's upper-level administrative law course is also sometimes offered as a 1L elective. 1Ls can take the course with upper-class students.
80. University of Connecticut's upper-level administrative law course is also offered as a 1L elective, and 1Ls take the course with upper-class students.

<b>Figure 17. Schools without a Required Course: Average Enrollment by Type of Course</b>				
School	Lecture	Seminar	Clinic	Other
Seattle	60			
Louisville Brandeis	27.33			
Marquette	37.5			
Northeastern	38			
St. Louis	55 <sup>81</sup>			
South Carolina	12.67			
<b>Total</b>	1955.08	26.96		10
<b>Average (of those with a class)</b>	47.68	13.48		10
NR* No Response (school did not respond to this question or elected not to provide enrollment numbers)				
<sup>x</sup> Denotes fewer than three enrollment numbers.				

#### 4. Net gains?

Thirteen of the seventeen schools with a required course experienced a net gain in administrative law courses with the addition of the required course.

<b>Figure 18. Net Gains in Administrative Law</b>				
School	Upper-Level Before	Upper-Level Now	Required Course (Now) <sup>82</sup>	Net Gain/Loss
Harvard	(1) Administrative Law	(1) Administrative Law (2) The Administrative State: Law and Theory	(1) Legislation and Regulation	2
NYU	(1) Administrative Law	(1) Administrative Law (2) Administrative Process	(1) Legislation and the Regulatory State	2
U. Michigan	(1) Administrative Law	(1) Administrative Law	(1) Legislation and Regulation	1
Vanderbilt	(1) Administrative Law	(1) Administrative Law	(1) Regulatory State	1
BU	(1) Administrative Law	(1) Administrative Law	(1) Legislation	0

81. St. Louis provided average enrollment over the past three years.

82. The required course was counted as a "gain" for administrative law only if the required course has an administrative law component.

**Figure 18. Net Gains in Administrative Law**

School	Upper-Level Before	Upper-Level Now	Required Course (Now)	Net Gain/Loss
Ohio State	(i) Administrative Law <sup>83</sup>	(i) Administrative Law	(i) Legislation	0
Wake Forest	None	(i) Advanced Administrative Law	(i) Legislation and Administrative Law	2
Brigham Young	(i) Administrative Law	(i) Administrative Law	(i) Legislation and Regulation	1
Fordham	(i) Administrative Law	(i) Administrative Law	(i) Legislation and Regulation	1
Colorado (Boulder)	(i) Administrative Law	(i) Administrative Law	(i) Legislation and Regulation	1
Richmond	(i) Administrative Law	(i) Administrative Law	(i) Legislation and Regulation	1
Houston	(i) Administrative Law	(i) Administrative Law	(i) Statutory Interpretation and Regulation	1
Case Western Reserve	(i) Administrative Law	(i) Administrative Law	(i) Law, Legislation and Regulation	1
Denver	N/A <sup>84</sup>	None	(i) Administrative Law	N/A
Illinois Institute of Technology, Chicago-Kent	(i) Administrative Law	(i) Administrative Law	(i) Legislation: Process and Interpretation	0
Pittsburgh	(i) Administrative Law	(i) Administrative Law	(i) Legislation/Regulation	1
West Virginia	(i) Administrative Law	(i) Administrative Law	(i) Legislation and Regulation	1

In addition, eight schools provided snapshots of average enrollment in upper-level administrative law electives before and after their required courses were added. Of these, five experienced a slight decrease in enrollment, two experienced an increase in enrollment, and one experienced no change in enrollment in upper-level administrative law electives after the required course was added. Thus, at least at our responder schools, the required leg-reg course does not seem to displace the upper-level administrative law courses and may, in some cases, increased interest.

83. Precise course title was not specified by school.

84. Denver was not sure if there was an upper-level elective before the required course was added because Administrative Law has been required for so long.

School <sup>85</sup>	Enrollment Before	Enrollment After
Harvard		
NYU		
U. Michigan		
Vanderbilt	64.25	44.33
BU		
Ohio State		
Wake Forest		
Brigham Young	54.33	40
Fordham		
Colorado (Boulder)	72.33	60.33
Richmond	25	22
Houston	40.8	64.5
Case Western Reserve	38	38
Denver		
Illinois Institute of Technology, Chicago-Kent		
Pittsburgh	51	55
West Virginia	33	32

Further, similar to the findings for legislation—but to a less remarkable degree—the addition of a required course seems to bring new administrative law professors into the classroom. Among the seventeen schools with a required course, there are at least ten professors who had not taught any administrative-law-related course at that school in the past<sup>86</sup>—and maybe not at all—who are now teaching administrative law.

### III. Comparing Syllabi

As noted, we emailed the two hundred twenty-eight professors designated by the responder schools as those who are or have been teachers of legislation, statutory interpretation, administrative law or leg-reg-type courses. In addition to asking for their feedback about leg-reg, we also asked them for their syllabi for all relevant courses. One-hundred thirty-five professors responded, sending us one hundred forty-seven syllabi (to which the author added her own Legislation syllabus). Of these one hundred forty-eight syllabi, five were duplicates (from the same professor for the same course offered in different years) and two were eliminated as not legislation or administrative law courses. Our goal in requesting the syllabi was to try to assess if the content across

85. Vanderbilt and University of Richmond provided rough averages.

86. It is possible, however, that at least some of these professors taught relevant courses at other schools before moving to their current school.

upper-level courses differed substantially between schools with leg-reg and schools without it.

Although the syllabi received do not permit us to fully address this question (we do so partially below), they do allow us to begin to tell a story about the different “models” along the spectrum of courses described in this article. Perhaps of greatest interest, the responses suggest that most legislation courses now have some administrative law component, *regardless* of whether the school also has leg-reg. In contrast, most administrative law courses—again, regardless of whether the school requires leg-reg—do *not* appear to have any content or cases traditionally associated with the core legislation course. We also were surprised to see little variation in content of upper-level administrative law courses across schools with and without leg-reg. This corroborates the comments provided by many respondent professors that there is little coordination and unnecessary overlap between the administrative law components of leg-reg and some of the content in upper-level administrative law course.<sup>87</sup>

#### *A. Legislation and Administrative Law Syllabi at Schools with No Required Course*

Based on the responses received, administrative law topics seem more common in the core legislation course than vice versa. We received thirty-eight legislation syllabi from professors at schools with no required course (one was a duplicate from a prior semester). Of this number, only five did not contain any administrative law component. Two more included *Chevron* as a main case, and sixteen more included other major administrative-deference cases, in addition to *Chevron*, as main cases. Eleven others also included more traditionally core administrative law topics—beyond the “agency statutory interpretation”<sup>88</sup> *Chevron* line of cases. These topics included *State Farm*, rulemaking, administrative adjudication, OIRA review, legislative oversight, non-delegation doctrine and theories of administrative law. One syllabus did not have content listed.

In contrast, of the forty-eight administrative law syllabi we received from schools with no required course, only eight covered any of the topics traditionally associated with legislation or statutory interpretation.<sup>89</sup> Of those eight, three had one class titled Statutory Interpretation on the syllabus; one had just one part of a class on presidential signing statements; one included one class on the canons of statutory interpretation; one included a topic on

87. Note the limitations of our syllabus review. We relied only on the descriptions of topics as set forth in the syllabus. Time, space, and resource limitations prevented us from looking at actual textbook pages assigned.

88. Jerry L. Mashaw, *Norms, Practices, and the Paradox of Deference: A Preliminary Inquiry into Agency Statutory Interpretation*, 57 ADMIN. L. REV. 501 (2005).

89. Assignments of the *Chevron* line of cases were not counted as statutory interpretation topics unless content relating to the canons of construction or statutory interpretation also appeared to be assigned.

“due process of lawmaking”<sup>90</sup> and one included some cases in addition to the *Chevron* line—*Sweet Home v. Babbitt*<sup>91</sup> and *FDA v. Brown and Williamson*<sup>92</sup>—traditionally taught in legislation as well.

#### *B. Comparing Legislation and Administrative Law at Schools with and without a Required Course*

A primary goal of the study was to determine what part of the traditional legislation course “survives” leg-reg. As noted, our anecdotal impressions before conducting the survey were that while traditional upper-level administrative law survives the requirement, legislation often does not. The cost of reaching more students in the first year thus may be the loss of more advanced topics and in-depth treatment in legislation. Unfortunately, we were unable to confirm this hypothesis through the syllabi review because only two professors at a school with a required course submitted a syllabus from a legislation-related offering before the requirement was added and only three professors from a school with a required course submitted the syllabus of an additional current legislation-related upper-class offering.

With respect to administrative law, we received syllabi from five upper-level administrative law professors who also teach the required leg-reg course, which we compared with the forty-eight syllabi received from schools with no required course. While firm conclusions are difficult to reach without close examination of actual textbook content assigned (a worthy goal for future work) and also acknowledging the very small sample size, there does not appear to be a substantial difference in the topics covered, at least among our respondents. In other words, the addition of leg-reg does not appear to substantially change the nature of the material covered in the upper-level black-letter administrative law course.

#### *C. Four Models of the “Leg-Reg” Course*

Among our seventeen responder schools, there are at least four different types of leg-reg courses. One was the Denver model, where the required course is pure administrative law. Another is required courses called “Legislation” that focus on legislation and statutory interpretation but have a *Chevron* unit as part of the course, much like the typical upper-level Legislation course at schools without the requirement. A third model is a course called “Leg-Reg,” but where the emphasis is on administrative law. The syllabus we received that typifies this approach devoted only seven out of thirty-six classes to statutory interpretation and focused for the remainder of the course on administrative law and “regulatory policy.”

The most common leg-reg model offered some blend, with legislation and administrative law either occupying 50 percent of the terrain each (nineteen

90. Hans A. Linde, *Due Process of Lawmaking*, 55 NEB. L. REV. 197 (1975-76).

91. *Babbitt v. Sweet Home Ch. of Comms. for a Great Or.*, 515 U.S. 687 (1995).

92. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000).

syllabi received by us)—some syllabi seemed scrupulous in dividing the number of classes exactly between the two topics—and others with closer to a one-third/two-thirds division (five in favor of administrative law; three in favor of legislation, among the syllabi we received). Not surprisingly, the background of the professor seems to have something to do with it. Those professors with more lopsided leg-reg courses tended to favor their areas of expertise, although we note that many in the “50-50” group are associated more strongly with one of the two fields, but still divide the course equally.

From a legislation perspective, what is interesting about these mixed syllabi is that the legislation topics covered are fairly constant—the main canons of construction, legislative history, and the central theories of interpretation. In many cases, the topics covered do not vary greatly from the topics covered in the upper-level legislation course in schools with no required course—the same material is simply being covered in half the time, using fewer illustrative cases. But a number of upper-level legislation courses at schools without required courses do cover a range of more advanced topics, including complexities of the legislative process (topics such as omnibus lawmaking and the budget process), political process (topics such as lobbying), and more detailed theoretical units.<sup>93</sup> These generally do not appear in the leg-reg syllabi.

Thus, the concern—which is one of the concerns that motivated this study in the first place—is that these more complex legislation topics may be lost if there are insufficiently few upper-level legislation offerings at schools with leg-reg, or if those upper-level offerings take the forms of different types of courses, such as clinics. Because we did not receive a substantial number of syllabi of upper-level offerings at schools with leg-reg, we cannot reach any conclusions with respect to this concern, but we note it as one that stands out in the study and presents a different set of considerations than those that likely apply to the effect of leg-reg on administrative law.

It also seems relevant that many of these more complex upper-level legislation courses have emerged only recently. Unlike administrative law, which has a lengthier academic pedigree, the notion of legislation as a field worthy of study in its own right is relatively new, and it is only now—after three decades of framing the field of study—that these more nuanced topics have emerged as part of the core coursework. Were these relatively new areas of inquiry to vanish before they become firmly entrenched, it could be a significant loss for the field.

#### **IV. Professor Feedback**

As noted, we emailed all two hundred twenty-eight professors reported by the responder schools who teach or have taught the required course, the current upper-level legislation and administrative law electives and, if applicable, upper-level electives offered before the required course was added. We received one hundred thirty-five responses—a 59.21 percent response rate.

93. Deborah Widiss’s insightful contribution to this volume discusses the value and content of such a course.

Of the one hundred thirty-five responders, fifty-five were from the top quintile, twenty-eight were from the second quintile, twenty-two were from the third quintile, fifteen were from the fourth quintile, and fifteen were from the fifth quintile. We recognize that this will cause our results to be skewed toward the experiences of faculty at higher-ranking schools, relative to those at lower ranking schools. While these experiences may or may not be representative of the experiences of faculty over all, we believe that they nevertheless provide valuable insights. We have stripped the responses of all identifying information to maintain confidentiality.

*A. Teachers of the Required Course Who Never Taught the  
Upper-Level Courses Before the Required Course Was Added*

One perhaps unappreciated effect of the new requirements may be that, given the need to staff the course for the entire first year class, additional faculty members beyond schools' core legislation and administrative law faculty may now be teaching the course. We did not measure whether or how this exposure of the field to new professors is generative of new interest or scholarship in the field by those new voices, but it seems plausible that, if the course is engaging to teach, it would. Here, results were mixed.

We received responses from twenty-five such professors who now teach the required course and had not previously taught legislation, statutory interpretation or administrative law. The responses from this group can be roughly divided into two categories: 1) those reporting that the course has been negatively received by students but that the students do ultimately find it useful, and 2) those reporting very high enthusiasm for the course, but noting concerns about duplicative content and inadequate textbooks.

Nine of the twenty-five professors in this category who responded reported student resentment or boredom with the course. A repeated theme was that the students do not understand the relevance of the course and resent having it "forced" upon them, and that a good professor must "go to great lengths during the semester to demonstrate that statutes and regulations go to the heart of legal and policymaking." Some other typical comments were: "It's not as much fun to teach as, e.g., Con Law ... because it's much more of a vegetables course." Some complained that they received the worst teaching evaluations of their career the first time they taught the course. Just before this article went to press, we learned from BU that it had decided to discontinue its *IL* Legislation requirement and replace it with Administrative Law. We were told students "hated" the course. At the same time, several professors in this category also volunteered that in the summer directly after teaching the course they heard "from students emailing to say how useful it's been in their summer job" even as the students initially resisted the course.<sup>94</sup>

94. Seasoned scholars of legislation are intimately familiar with such emails, which invariably come after students receive their first summer research assignments.

Thirteen of the professors were extremely positive about the curricular change (including several who also discussed the student resentment), given the importance of the topic to the work of modern lawyering.<sup>95</sup> Several of these professors also mentioned how useful students find the course in the “real world.” Several also offered some criticisms, despite their support. Most notably, several expressed a desire to ensure that constitutional law was taught before or at least alongside the course, given the importance of separation of powers to the concepts in leg-reg. Four others also expressed discontent with all of the available textbooks for the course.

*B. Teachers of the Required Course Who Formerly Taught,  
but no Longer Teach the Upper-Level Courses*

We received responses from just six professors who have shifted their course offering from the upper-level course to the required course. Five of these professors were enthusiastic about the shift, but one noted the same concerns about student “resentment” and two others expressed concern about the effect of the course on the upper-level administrative law offering. One of the two was concerned that the upper-level administrative law professors had not, in turn, changed their own courses to account for the fact that some basic administrative law is being taught in the first year—leading to student complaints about repetition. The other was concerned that enrollment in upper-level administrative law was falling, with the consequence that students were no longer learning advanced administrative law concepts, such as justiciability and standing, that are covered in the upper-level course but not in the leg-reg course. A sixth professor reported being “middle of the road,” saying that the class was enjoyable and useful to students, but that what is missing from the curriculum more generally is a “big idea” “legal theory” class, not all of which can be covered in leg-reg.

*C. Teachers Who Currently Teach Both an Upper-Level Course  
and the Leg-Reg Course*

Nine professors who teach both a required course and an upper-level course responded, and seven provided specific comments about their impressions of the required course. Three professors commented that the required course had the salutary effect of allowing for more advanced concepts to be taught in the upper-level administrative law course. Two professors noted the concern that students would not take upper-level administrative law if the courses are too duplicative, but one of those two reported that at his school the effect was exactly the opposite of the predicted concern: interest in the upper-level courses had increased and that students were focusing more on administrative and statutory topics in general in other upper-level coursework and writing.

95. James Brudney’s important contribution to this volume makes the full-throated case for this point. See James J. Brudney, *Legislation and Regulation in the Core Curriculum: A Virtue or a Necessity?*, 65 J. LEGAL EDUC. 3 (2015).

Two others expressed unmitigated support. One more expressed support but emphasized the need to retain constitutional law in the iL curriculum and also a desire to make leg-reg more focused on administrative law than statutory interpretation.

*D. Teachers Who Teach the Upper-Level Courses,  
but not Leg-Reg, at Schools Where Leg-Reg is Required*

Fifteen professors provided qualitative feedback about their experience teaching only the upper-level courses at schools where leg-reg is required. Five expressed the view that the required courses were too new to evaluate and one chose not to intervene in what that professor called the “curriculum wars.” Nine were very enthusiastic about the required courses; two of these commented on the benefits of being able to teach more sophisticated administrative law concepts in the upper level; another commented on the benefits of being able to get more sophisticated in upper-level courses that are statute-based, like labor law.

But coordination across professors emerged as an issue here, too. Three noted that they had not themselves altered their administrative law courses in response to leg-reg being required. One of these reported:

A potentially big step forward would be a discussion among Ad Law teachers of what an upper-class law course should cover if students have had a serious iL Leg-Reg. If I have any apprehension here, it is that Leg-Reg will persuade some students they don't need Ad Law even though I haven't seen any Leg-Reg course that deals at all with administrative adjudication, and, as I said, the treatment of judicial review is likely to be quite truncated.

One in this category, plus one other generally positive commentator, expressed no surprise that the required course was unpopular at their schools—both placing the blame on legislation and advocating more administrative law. (One of these commenters called the study of legislation “too abstract and theoretical to please most law students,” and the other commented that leg-reg “gets the lowest student evaluations of any course in our curriculum though it is staffed by some of our best teachers.”)

*E. Teachers Who Teach Legislation or Administrative law,  
Including iL Electives, at Schools with no Required Course*

Finally, we heard from seventy-nine professors who teach the upper-level courses, or a iL elective, at schools with no mandatory leg-reg course. Given that the majority of schools do not have such a course, the higher number of responses in this category of professors was not surprising.

Of these professors, forty-three were overwhelmingly supportive of the concept of leg-reg, but many of that number also noted that there remained deep divisions on their faculty about such a shift. Eleven more were likewise supportive but had concerns about the effect of a required course on the

upper-level courses, in particular on administrative law, which many viewed as more critical than legislation. Typical comments included:

The key that your study seems to recognize is finding the dividing line between a leg-reg course and an Admin Law Course. Obviously there can be some overlap, but if Leg Reg classes taught [the two administrative law-focused] chapters of Manning, Stephenson book, I think many students would decide that the Admin Law course was redundant or repetitive and choose not to take it.

Another comment in this vein: “It is critical to name, design and teach the course so that it does not affect upper level ad law and, at least as important, it is not perceived to duplicate the upper level classes.”

Eleven more occupied a middle ground of cautious support or modest skepticism. Some of this number expressed the view that there are not enough specialist faculty to teach the course—giving rise to the concern that the course will be poorly taught, and thus unpopular. Others again raised a version of the coordination problem, namely, that the course would be unevenly taught (because of the insufficient number of specialists), making it difficult for upper-level professors to tailor their courses to the student body.

Several also expressed concern that administrative law was too complicated to have in the first year. Four said the goal should simply be to increase upper-level interest in both courses (one of these was concerned that leg-reg alone would not be sufficient grounding for serious advanced coursework of the kind that would be possible if students began with a core administrative law course first); two more suggested making administrative law mandatory; and one more supported the general reorientation of law school toward public law but was not sure leg-reg was the way to do it, in part because of the potentially detrimental effect on interest in the upper-level courses. Nine others expressed no view. Only one expressed outright opposition, and another had “mixed feelings,” viewing administrative law as a potentially good requirement for many but not all (e.g., transactional law-oriented) students.

#### *F. Common Themes across the Professor Responses*

Across all one hundred thirty-five comments, certain themes continued to repeat. There seems to be a “lore” about certain of the top schools’ experiences that professors at other schools find either discouraging or encouraging. Many mentioned Columbia’s failed experience with such a course in the past; others looked to Harvard’s successful course and how that course also has generated more interest in the upper-level courses<sup>96</sup>; still others mentioned NYU’s course as an example of inconsistent teaching across the course or as a course that has had the effect of “decimating” the upper-level courses. Because Harvard did

96. John Manning and Matthew Stephenson’s contribution to this volume provides great insight into the effort Harvard put into the course to ensure its success. See John F. Manning & Matthew Stephenson, *Legislation & Regulation and Reform of the First Year*, 65 J. LEGAL EDUC. 45 (2015).

not provide us with complete enrollment numbers from before the requirement was added, and because NYU did not provide any enrollment numbers, we cannot quantitatively confirm the accuracy of these impressions.<sup>97</sup>

Legislation also emerges across many of the comments as something like the unpopular stepchild of administrative law. A large part of this may be due to the fact that, across the one hundred thirty-five professors who responded to our request, only seven appear to have previously taught or were currently teaching upper-level legislation courses. The rest were either new to either field or seasoned administrative law professors. Nevertheless, at least among our responders, many professors viewed legislation as a topic that they did not enjoy teaching and that students did not enjoy learning, while administrative law was viewed by many as foundational and the course that needed to be “protected” in any curricular change. In contrast, upper-level specialist legislation professors almost uniformly discussed how much they enjoy teaching the course, their positive course reviews, and the importance of the materials.<sup>98</sup>

These comments give rise to the concern that the leg-reg course is being staffed by faculty members who are not experts in both fields, and often are not experts in either one. According to one important study in this volume, only a small percentage of law professors have ever had legislative experience.<sup>99</sup> And so particularly with respect to legislation, and in light of the comments that we received, guidance seems lacking for new professors about how the materials should be taught—a gap that casebooks or more seasoned professors could fill.

Another important theme that emerged was the lack of consistency across the leg-reg course—something that may be attributable to what also seems to be some dissatisfaction with the relevant casebooks—and how that inconsistency made it difficult both to determine how much is “lost” if students do not take an upper-level course. Inconsistency also emerged in response to the many comments focused on the difficulty and importance of coordination between required-course professors and upper-level-course professors, because inconsistent approaches to leg-reg make coordination with upper-level courses difficult. Moreover, regardless of the inconsistency, many reported the lack of coordination between leg-reg and upper-level administrative law and legislation within their schools.

### Conclusion

In advocating for leg-reg in the first year, supporters often focus on the centrality of leg-reg topics in the work of modern lawyers.<sup>100</sup> This is all to the good, but it may sacrifice the forest for the trees. An important question for

97. See *id.* for a description of the Harvard experience.

98. For more on this point, see Brudney, *supra* note 95.

99. See Dakota S. Rudesill, Christopher J. Walker, & Daniel P. Tokaji, *A Program in Legislation*, 65 J. LEGAL EDUC. 70, 93 (2015).

100. See Brudney, *supra* note 95; Manning & Stephenson, *supra* note 96.

advocates of more legal education on the topics of legislation and administrative law may be whether leg-reg, as a first-year combined course, actually increases exposure to these topics, and whether legislation and administrative law fare equally well with this development. Answering this question depends on a variety of factors that this article has only begun to explore. These factors include credit hours, enrollment and the depth of the content covered not only in leg-reg itself but also in whatever upper-level offerings may survive the requirement.

In other words, leg-reg is not an end in itself—no one wants a highly perfunctory exposition to these topics at the expense of losing the opportunities for more serious exploration. Legislation and administrative law also may not be similarly situated in the ultimate analysis. At the same time, if requiring leg-reg in the first year significantly increases the number of students who receive any exposure to the topic at all, that is a trade-off worth considering. If that proves to be the case, then the important questions going forward will be what is lost in pursuing that approach and whether the most valuable aspects of what is sacrificed can be retained in some way elsewhere in the curriculum.