



Introduction to U.S. Law

Educational Objectives

After learning the content of this assignment, you should be able to:

1. Describe the U.S. civil-law and common-law systems and classifications.
2. Describe the role and usual characteristics of each of the following sources of U.S. law:
 - Constitutions
 - Legislative bodies
 - Courts
 - Executive branches
 - Administrative agencies
3. Describe the steps, motions, rules, and other concepts involved in pretrial procedures, trial procedures, and appeals.
4. Describe each of these alternative dispute resolution procedures:
 - Arbitration
 - Mediation
 - Negotiation
5. Describe these aspects of administrative agency procedures:
 - Rulemaking function
 - Adjudicatory function
 - Investigative powers
 - Judicial review



Outline

- ▶ **The U.S. Legal System**
 - A. Civil-Law System
 - B. Common-Law System
 - 1. Judicial Influence on Common Law
 - 2. The Evolution of Common Law
 - 3. Equity
 - C. Classifications of U.S. Law
 - 1. Classification as Criminal or Civil Law
 - 2. Classification by Subject Matter
 - 3. Classification as Substantive or Procedural Law
- ▶ **Sources of U.S. Law**
 - A. Constitutions
 - 1. Separation of Powers
 - 2. Provisions Relevant to Insurance
 - B. Legislative Bodies
 - C. Courts
 - 1. Federal Court System
 - 2. State Court Systems
 - D. Executive Branches
 - E. Administrative Agencies
- ▶ **Civil Trial Procedures**
 - A. Pretrial Procedure
 - B. Trial Procedure
 - C. Appeals
- ▶ **Alternative Dispute Resolution**
 - A. Arbitration
 - B. Mediation
 - C. Negotiation
- ▶ **Administrative Agency Procedures**
 - A. Role of Administrative Agencies
 - B. Agencies' Rulemaking Function
 - C. Agencies' Adjudicatory Function
 - D. Agencies' Investigative Powers
 - E. Judicial Review



Don't spend time on material you have already mastered. The SMART Review Notes are organized by the Educational Objectives found in each assignment to help you track your study.



For each assignment, you should define or describe each of the Key Words and Phrases and answer each of the Review and Application Questions.

Educational Objective 1

Describe the U.S. civil-law and common-law systems and classifications.

Key Words and Phrases

Doctrine of stare decisis

Equity

Criminal law

Civil law

Substantive law

Procedural law



Review Questions

1-1. Describe the civil-law and common-law systems.

1-2. Explain how the common law changes.

1-3. Distinguish between civil and criminal law.



Application Question

- 1-4. In 1852 the Midvale Township court wrote an opinion stating that if a dog bites a person, the dog's owner must pay for the damages resulting from the dog bite, whatever the circumstances. In 1875 Midvale Township passed a law saying that any owner of a dog who allows that dog to run free is responsible for any damage the dog causes. In 1952 the local court wrote an opinion saying that dogs owned by green-eyed people could have "one free bite" unless the dog has shown vicious propensities. That is, if a dog bites a person for the first time, its green-eyed owner is not liable unless the dog previously had shown vicious propensities. However, upon the second bite, the dog owner with green eyes is liable. Mary, who has brown eyes, lives in Midvale. Her large dog, Sam, which had never shown any vicious propensities but had knocked a few people down, just bit Mary's neighbor. The neighbor is suing Mary. Describe how the common law applies here.

Educational Objective 2

Describe the role and usual characteristics of each of the following sources of U.S. law:

- **Constitutions**
- **Legislative bodies**
- **Courts**
- **Executive branches**
- **Administrative agencies**

Key Words and Phrases

Equal Protection Clause

National Association of Insurance Commissioners (NAIC)



Original jurisdiction

Diversity jurisdiction

Writ of certiorari

Conflicts of law

Administrative law

Review Questions

- 2-1. Describe the provisions of the U.S. Constitution relevant to the insurance business.

- 2-2. Explain the role of the National Association of Insurance Commissioners (NAIC) in promoting uniformity in the states' regulation of insurance.



2-3. Discuss how administrative agencies become sources of law.

Educational Objective 3

Describe the steps, motions, rules, and other concepts involved in pretrial procedures, trial procedures, and appeals.

Key Words and Phrases

Allegation

Complaint

Pleading

Cause of action

Answer

Counterclaim

Motion



Motion to dismiss

Motion for summary judgment

Discovery

Deposition

Interrogatories

Subpoena

Direct examination

Cross-examination

Relevance

Materiality



Competence

Hearsay rule

General verdict

Special verdict

Res judicata

Review Questions

- 3-1. Identify the filing parties and the purpose of the complaint and the answer in a lawsuit.

- 3-2. Explain the purpose of pretrial discovery and some of the tools used during discovery.



3-3. Discuss the three requirements for evidence presented during a trial.

3-4. Contrast two different decisions an appellate court might render regarding improper evidence presented at trial

Educational Objective 4

Describe each of these alternative dispute resolution procedures:

- **Arbitration**
- **Mediation**
- **Negotiation**

Key Words and Phrases

Alternative dispute resolution (ADR)

Mediation



Review Questions

- 4-1. When is alternative dispute resolution (ADR) binding on parties?
- 4-2. Explain the role of the mediator in alternative dispute resolution.
- 4-3. Explain how mini-trials and court-sponsored mock summary jury trials can lead to negotiation of major disputes.

Educational Objective 5

Describe these aspects of administrative agency procedures:

- Rulemaking function
- Adjudicatory function
- Investigative powers
- Judicial review

Key Words and Phrases

Legislative rule



Interpretative rule

Procedural rule

Standing to sue

Final order

Exhaustion of administrative remedies

Review Questions

5-1. List the three types of administrative agency rules.

5-2. What actions can an administrative agency take after it has reviewed all comments about a proposed rule?



- 5-3. What must be included in an appropriate notice for an administrative agency adjudicatory proceeding?
- 5-4. Describe the United States Constitutional limitations on agency investigations.
- 5-5. What is required before courts will review administrative agency decisions?

Application Question

- 5-6. The Board of Health, an administrative agency with rule-making authority, adopted, without a formal hearing, a rule prohibiting tattooing by any unlicensed person. The rule, which was made final, was based on the opinion of medical experts on the Board of Health staff asserting a definite connection between tattooing and hepatitis. Several unlicensed persons who had been operating tattoo parlors sued to have the rule declared invalid.
- a. Explain whether the unlicensed tattoo-parlor operators must seek further administrative action before appealing to the courts.



