

Self-Guided Library Tour #3 For LLM Students:

- Statutes
- Regulations
- Uniform Laws and Model Acts

SELF-GUIDED LIBRARY TOUR #3

STATUTES, REGULATIONS, UNIFORM LAWS AND MODEL ACTS

Although the United States still describes its legal system as a “common law” system, more and more aspects of our lives are governed by statutes or by administrative regulations issued pursuant to a statute. For this reason, when you have to solve a problem, one of the first things to consider is whether there is an applicable statute.

This tour will help you to learn, first, how to locate a statute; second, how to find materials that will help you interpret the statute; and, third, how to update the statute and be sure that the version you are looking at is still current.

Statutes are initially published chronologically, first as slip laws, and later in bound volumes known as "session laws," i.e., the laws from each session of the legislature. Session laws, however, are not the source we generally use in legal research. Just as cases are classified according to subject matter in a digest, statutes currently in force are grouped according to subject matter in collections known as codifications. A codification, or “code,” is the collection of legislation currently in force in the jurisdiction arranged according to subject matter.

I. FEDERAL STATUTORY MATERIALS

A. Federal Codes

Location: Ninth floor - stacks 908 & 909; Seventh floor - stack 715 (U.S.C.A. and U.S.C.S.)

1. What are Codes and How are They Useful in Legal Research?

A "code" or "codification" is a collection of legislation arranged according to subject matter. There are three different publications of the United States Code. The first is the official version, the United States Code (U.S.C.). It is followed by the West-published United States Code Annotated, (U.S.C.A.), and Lexis Publishing's United States Code Service (U.S.C.S.).

All three versions of the Code are organized into 50 sections known as "titles." All three also have a copy of the U.S. Constitution, and, in the annotated versions, rules of procedure. When researching a constitutional issue, these volumes are a good start, but the sophisticated nature of constitutional doctrine also usually mandates that you look to a treatise for guidance.

The first few titles after the Constitution relate to government organization, but starting with Title 7 relating to agriculture, and extending to Title 50 relating to war and national security, they are alphabetical by subject matter.

Open up any volume of the U.S.C. You will see that it contains the text of the statute, followed by any relevant statutory history. Statutory history is the history of a statute after it has been enacted into law, and contains references to statutory amendments. The U.S.C. also contains cross-references to related sections of the Code, including those that actually refer to the section you are researching.

Now pick up the same title from the U.S.C.S. and U.S.C.A. Notice that both contain not only the text of the statute and statutory history, but lots of helpful cross-references to other resources such as legal encyclopedias. The U.S.C.A. also contains a great potential shortcut in the form of references to West key numbers dealing with the subject matter of the statute. You can move right into the West digest without consulting the indexing system. Both annotated codes also contain cross-references to related provisions of the code, although it is best not to rely on these references as complete. Both contain a historical note about how many times the statute has been amended, along with references to the Public Law number.

Most important, however, both the U.S.C.A. and the U.S.C.S. contain annotations of court decisions construing the statutes. Thus, after any provision of a statute, there will be a short entry about cases that have interpreted that provision of the statute. In the case of the U.S.C.A., these are essentially the same as the headnotes that you would find in the digest. West tries to be relatively comprehensive and includes references to cases even where the same point is made over and over. Lexis Publishing, on the other hand, tends to have in the U.S.C.S. somewhat longer and more helpful descriptions of cases, but does not try to include all cases.

Look at several provisions in both sources to see how the annotations are grouped. Obviously, some statutory provisions are rather short in themselves, but have been construed literally thousands of times by courts. Good examples include the civil rights acts or antitrust statutes. Where the case annotation section of an annotated code section contains a large number of cases, there is a short index to the annotation itself at the beginning of the annotation.

2. How Do I Find Relevant Statutes in a Code?

As you learned from your tutorials on secondary sources, the best way to find relevant information within any legal resource is to use the index. Although you can consult the "Title and Chapter Outline" (table of contents) that appears on the front page of each title to the code, this approach only works if you know which title contains your statute.

Thus, most researchers begin by looking in the index volumes, found at the end of all the code volumes. As with any other research problem, you must develop a list of search terms in order to locate a statute on a particular topic using the index.

If you start your research knowing the popular name of the statute (e.g., "The Americans with Disabilities Act"), you can locate the statute within the code by using the "Popular Names" table found at the end of each of the three codes.

3. How Do I Locate Cases Interpreting a Federal Statute?

As noted above, the annotated codes (U.S.C.A. and U.S.C.S.) contain abstracts of cases that have interpreted each statute in the code. In addition, you can use West's Federal Digest and the key number system to locate cases pertaining to a particular federal statute. You will have to search for these cases, however, using terms related to the subject of the statute; the West Digest does not organize cases according to the citation of the statute.

4. How Do I Update My Federal Statutory Research?

To update statutory research, you must both determine whether the statute has been amended or repealed, and locate any recent cases interpreting the statute. For this purpose, you must consult one of the annotated codes. The U.S.C. is not updated as regularly as U.S.C.S. and U.S.C.A. The U.S.C. supplements may be issued as much as one or two years after the laws in them were enacted. Moreover, the U.S.C. does not contain case annotations and therefore cannot provide updated case information.

The U.S.C.A. and U.S.C.S. each provide annual pocket parts at the back of every volume, containing any amendments, new provisions, or notes about repealed statutes since the bound volume was published. Sometimes, if there has been a lot of activity, there will be a separate paperbound supplement instead of the pocket part. These supplements are issued annually. These annual updates are further updated in the following manner:

West also updates U.S.C.A. with non-cumulative supplementary pamphlets, issued approximately every three months, and arranged in code section order. Locate one of these pamphlets on the shelf. Note that it includes both statutory changes and case annotation updates. The final pamphlet of the year also contains the text of statutes passed too late in the session to include in the earlier pamphlets.

Lexis Publishing updates U.S.C.S. with two publications: 1) Cumulative Later Case and Statutory Service (C.L.C.S.S.), which is issued quarterly and contains both statutory and case law updates; and 2) U.S.C.S. Advance, which is issued monthly and contains the text of recently-enacted laws and statutory changes occurring after the publication of the last C.L.C.S.S. It does not, however, contain new case annotations. Note that there is no equivalent to the U.S.C.S. Advance in the U.S.C.A. Thus, U.S.C.S. provides the most timely method of updating your statutory research in print sources. To verify that the statute you are researching has not been affected in any way by new legislation, check the table called "Code Sections Added, Amended, Repealed, or Otherwise Affected" in the most recent issue of the U.S.C.S. Advance. The tables and index to the U.S.C.S. Advance are cumulative, even though the textual material is not.

In sum, remember that the sources for statutory and constitutional materials are both duplicative and complementary of each other. Thus, although U.S.C.A. and U.S.C.S. contain a lot of the same information, each provides unique cross-references to other sources and each may contain case annotations that are omitted in the other.

B. Federal Regulations

Location: Ninth floor - stacks 909 - 910

1. What are Federal Regulations and How are They Useful in Legal Research?

We live in an increasingly complex society, and Congress cannot pass a separate law to deal with each detail of the complex regulatory schemes it enacts. Additionally, Congress does not have the necessary expertise to make what are often either scientific or economic judgments. For example, in the Federal Water Pollution Control Act, Congress established norms about a wide variety of matters relating to our nation's waters. These include the extent of regulation that is going to be imposed on dischargers, ideal levels of water quality, etc. However, Congress lacks the time and expertise to decide how many parts per million of the various compounds found in iron mining sludge can safely be discharged. Thus, it delegated this function to the

Environmental Protection Agency, a federal agency established through legislation enacted by Congress. The same holds true for certain functions of the executive branch; some of its functions are also carried out by government agencies pursuant to a delegation of power.

Because the agency powers derive from bodies with law-creating authority, agency regulations have the force of law, provided the agency has acted within the scope of delegated power and that the underlying statute delegating power was constitutional.

On the 9th floor, walk over to the north side of stack 909. You will see a lot of volumes called the Federal Register. This is a publication issued daily that contains all new, repealed, or proposed regulations, together with any agency comment on the regulation at the time it is proposed and ultimately issued or "promulgated." The Federal Register is not particularly useful for regulatory research. Fortunately, regulations are codified into the Code of Federal Regulations (C.F.R.).

Located on the north middle of stack 910, the C.F.R. is published by the government every year, with about a quarter of the set being issued every three months. (Look at the shelf and notice that the volumes are different colors. This is because each year has its own color.) Occasionally, the government does not re-issue a volume in a year, but this occurs only in those rare instances where there has been no change in any of the regulations. If you scan the list of titles in the C.F.R., you will see that they track those used in statutory codes. So if you are trying to find regulations promulgated pursuant to a particular statute, you will generally, though not always, find them under the same title in the C.F.R. as the title in the United States Code that contained the statute.

The Code of Federal Regulations is now available on-line on a federal government web site – www.gpoaccess.gov; this is the most up-to-date place to review federal regulations. Additionally, Westlaw's RegulationsPlus now incorporates an index for the C.F.R.

2. How Do I Locate Federal Regulations and Interpretive Case Law?

To determine whether there is a federal regulation relevant to your research problem, consult the C.F.R. Index and Finding Aids volume. (The C.F.R. is also available on-line, and often, given the very narrow scope of most regulations, is easily researched using a word search approach. In contrast to statutory research, where, if you run a search on "air pollution," for example, you will get hundreds of statutory references, if your question is how many parts per million of carbon monoxide steel mills can emit, an on-line search is likely to be quite efficient.)

If you open a volume of the C.F.R. you will notice that there are no annotations to cases. There is no commercially published annotated version of the C.F.R.; thus, finding court decisions that have interpreted your C.F.R. provision requires some ingenuity. If there is a looseleaf service for the subject area you are researching, you may be able to locate court decisions interpreting your regulation in the service. You can also do a word search on-line in a federal case law library, using the citation to the regulation as all or part of your word search.

3. How Do I Update My Federal Regulatory Research?

The C.F.R. is published only once a year and does not provide any pocket parts or supplements with the text of new or amended regulations. The process of updating federal regulatory research in print sources, therefore, can be a somewhat inefficient and tedious one. The most efficient way to update federal regulations is at www.gpoaccess.gov.

II. STATE STATUTORY AND ADMINISTRATIVE MATERIALS

Location: State statutory and administrative materials are located throughout the sixth floor, shelved alphabetically by state. Illinois statutes are located on the 9th floor at the Reference Desk (ask the librarian on the desk for them), and on the 10th floor in the "Illinois Room."

Every state has its own statutory and administrative materials. Like federal statutes, state statutes appear in both session law form and code form. As in the case of federal statutes, it is most practical and efficient to research state statutes using the annotated state code and its index. Each state, however, has its own unique system of classifying and numbering statutes and you must familiarize yourself with the system used by the particular state whose law you are researching.

A special note regarding Illinois statutes: Illinois recodified its statutes in 1993. The old codification was known as Illinois Revised Statutes (abbreviated as Ill. Rev. Stat.). The new codification is known as Illinois Compiled Statutes (abbreviated as Ill. Comp. Stat.), and is published by West. The new system reclassifies statutes under different chapter numbers and uses a different system for identifying individual parts of a statute. If, in the course of your research, you find a reference to a relevant statute that uses the Ill. Rev. Stat. designation, you must find the corresponding statute in the Ill. Comp. Stat. (in order to provide the proper citation to the statute and in order to update your research on the statute). A "Disposition

Table" appears in the "Tables" volume at the end of the statutes. This table provides cross-references between the old and new codifications. For purposes of doing research, you must use the Ill. Comp. Stat. because the Ill. Rev. Stat. is no longer being updated.

III. UNIFORM AND MODEL LAWS

Location: Ninth floor stacks, classified by subject

Uniform and model laws are drafted by a public or private organization to articulate what it believes to be the preferred law in a given subject area. The drafters of these acts also hope to standardize the statutory law throughout the United States by encouraging all jurisdictions to adopt the uniform or model act. Perhaps the most famous uniform act is the Uniform Commercial Code, which has been adopted (in some form) by every jurisdiction in the country.

In contrast to uniform acts, model acts (e.g. the Model Penal Code) generally are not enacted in a substantial number of jurisdictions. They can, however, serve as a source of secondary authority where a state's actual statutory provision is unclear or where a state has no statute speaking to an issue addressed by the model act.

Our library has a complete set of annotated uniform and model laws . Like other annotated laws, these volumes provide citations to, and brief descriptions of, cases that have interpreted particular sections of a uniform or model law. Annotated uniform and model laws can be found in the 9th floor stacks, together with the treatises, casebooks and other materials related to the particular subject matter. For example, the Uniform Commercial Code is located in stack 930 with other materials on Contracts.