

## PLANO DE ENSINO

<b>DISCIPLINA</b>	REGULATORY STRATEGIES								
<b>DOCENTE</b>	EDUARDO FERREIRA JORDÃO E FLORIANO PEIXOTO DE AZEVEDO MARQUES NETO								
<b>CÓDIGO</b>	GRDDIRELE0791	<b>SEMESTRE</b>	2022.1	<b>PERÍODO</b>	-	<b>NATUREZA</b>	ELETIVA	<b>CARGA HORÁRIA</b>	30h

<b>EMENTA</b>	Conceptualizing Regulation. The regulation rationales (why regulate?). Good Regulation and Better Regulation. Different ways to assess regulatory quality and proposals for an assessment system. Explaining regulation. Analysis of different theoretical approaches toward regulation. Consumer Choice, Interest Groups and Public Interest. Analysis of the institutional approaches and of the relation between institutional design and regulation. Network issues. Identifying regulatory failure. Analysis of the regulatory strategies. Command and Control strategies and its problems. Capture. Issues on legalism, standard setting and enforcement. The pros and cons of incentive-based regimes. Market harnessing controls. Competition Law and Negotiable Licenses as regulatory strategies. Disclosure of information as a strategy and its limits and possibilities of application. New scopes for regulation: design solutions choice architecture and nudging. Understanding Rules as a regulatory strategy. Analysis of enforcement alternatives. Regulating with rules: choosing between standards and principles.								
<b>OBJETIVOS</b>	By the end of the course, students should be able to: (i) Understand the variable meanings and different theoretical foundations of regulation, being able to criticize approaches, in articles and textbooks that do not clearly set their regulation definition and fundamentals. (ii) Identify the main advantages and problems on each regulatory strategy studied. (iii) Properly design and criticize regulatory rules, standards, principles and proceedings as related to the regulatory goals and theoretical foundations.								
<b>METODOLOGIA</b>	Classes will be mainly expositive and participative in a dialectical approach. When possible, the class will be divided in discussion groups to find solutions to particular regulatory problems, oriented by the professor.								
<b>HABILIDADES</b>  Exigência MEC  CNE/CES nº 5, 18 de dezembro de 2018		Interpretar/aplicar as normas (princípios e regras) do sistema jurídico nacional, observando a experiência estrangeira comparada, quando couber, articulando o conhecimento teórico com a resolução de problemas.							
	X	Demonstrar competência na leitura, compreensão e elaboração de textos, atos e documentos jurídicos, de caráter negocial, processual ou normativo, bem como a devida utilização das normas técnico-jurídicas.							
	X	Demonstrar capacidade para comunicar-se com precisão.							
	X	Dominar instrumentos da metodologia jurídica, sendo capaz de compreender e aplicar conceitos, estruturas e racionalidades fundamentais ao exercício do Direito.							
	X	Adquirir capacidade para desenvolver técnicas de raciocínio e de argumentação jurídicas com objetivo de propor soluções e decidir questões no âmbito do Direito.							
	X	Desenvolver a cultura do diálogo e o uso de meios consensuais de solução de conflitos.							
		Compreender a hermenêutica e os métodos interpretativos, com a necessária capacidade de pesquisa e de utilização da legislação, da jurisprudência, da doutrina e de outras fontes do Direito.							
		Ter competências para atuar em diferentes instâncias extrajudiciais, administrativas ou judiciais, com a devida utilização de processos, atos e procedimentos.							
	X	Utilizar corretamente a terminologia e as categorias jurídicas.							
	X	Aceitar a diversidade e o pluralismo cultural.							
	X	Compreender o impacto da inteligência artificial e das novas tecnologias na área jurídica.							
	X	Possuir o domínio de tecnologias e métodos para permanente compreensão e aplicação do Direito.							
	X	Desenvolver a capacidade de trabalhar em grupos formados por profissionais do Direito ou de caráter interdisciplinar.							
	Aprender conceitos deontológico-profissionais e desenvolver perspectivas transversais sobre direitos humanos.								
	Outras:								
<b>CONTEÚDO PROGRAMÁTICO</b>									
<b>AULA</b>	<b>TEMA</b>								
1	PART 1: INTRODUCTION TO REGULATION; Week 01: Introduction to the Course and Concepts of Regulation								
2	PART 1: INTRODUCTION TO REGULATION; Week 02: Reasons to Regulate								
3	PART 1: INTRODUCTION TO REGULATION; Week 03: Reasons to Regulate 2 (Behavioral Economics)								
4	PART 1: INTRODUCTION TO REGULATION; Week 04: Explaining Regulation (Public Interest and Public Choice)								
5	PART 1: INTRODUCTION TO REGULATION; Week 05: Explaining Regulation 2 (Institutional, Network and Cultural Theories)								
6	PART 2: REGULATORY STRATEGIES; Week 06: Strategies 1: Command and Control, Incentive-based Regimes and Market Harnessing Controls								
7	PART 2: REGULATORY STRATEGIES; Week 07: Strategies 2: Disclosure Regulation, Rights and Liabilities, Compensation Schemes and Choice Architecture								

8	EXAM PERIOD AND BREAK; Week 08.
9	PART 2: REGULATORY STRATEGIES; Week 09: Regulatory Alternatives: A Case
10	PART 2: REGULATORY STRATEGIES; Week 10: Enforcing Regulation
11	PART 2: REGULATORY STRATEGIES; Week 11: Designing Regulation that Works: Rules, Standards and Principles
12	PART 2: REGULATORY STRATEGIES; Week 12: Regulatory Coordination
13	PART 2: REGULATORY STRATEGIES; Week 13: Self Regulation
14	PART 2: REGULATORY STRATEGIES; Week 14: Regulating New Technology
15	PART 2: REGULATORY STRATEGIES; Week 15: Revision
<b>TRILHA</b>	Advocacia Empresarial
	Carreiras Públicas
	<input checked="" type="checkbox"/> Regulação
	<input checked="" type="checkbox"/> Justiça e Sociedade
	Tecnologias
<b>CRITÉRIOS DE AVALIAÇÃO</b>	P1 – Class participation and group dynamics activities P2 (final exam) – Written exam
<b>BIBLIOGRAFIA BÁSICA</b>	<p>BLACK, Julia. Critical Reflections on Regulation. CARR Discussion Papers, LSE, 2002. (Disponível em: <a href="http://eprints.lse.ac.uk/35985/1/Disspaper4-1.pdf">http://eprints.lse.ac.uk/35985/1/Disspaper4-1.pdf</a>)</p> <p>HANTKE-DOMAS, Michael. The Public Interest Theory of Regulation: Non-Existence or Misinterpretation? European Journal of Law and Economics, 15: 165–194, 2003. (Disponível em: <a href="https://link.springer.com/content/pdf/10.1023%2FA%3A1021814416688.pdf">https://link.springer.com/content/pdf/10.1023%2FA%3A1021814416688.pdf</a>)</p> <p>LEIGHT, Julia. Public Choice: A Critical Reassessment. In BALLEISEN, Edward; MOSS, David. Government and Markets: Toward a New Theory of Regulation. Cambridge University Press, 2009. (Disponível em: <a href="https://www.nber.org/papers/w0041.pdf">https://www.nber.org/papers/w0041.pdf</a>)</p> <p>POSNER, Richard. Theories of Economic Regulation. The Bell Journal of Economics and Management Science, Vol. 5, n. 2, 1974. (Disponível em: <a href="https://www.nber.org/papers/w0041.pdf">https://www.nber.org/papers/w0041.pdf</a>)</p> <p>STIGLER, George. The Theory of Economic Regulation. Bell Journal of Economics, vol. 2, 1971. (Disponível em: <a href="https://www.jstor.org/stable/3003160#metadata_info_tab_contents">https://www.jstor.org/stable/3003160#metadata_info_tab_contents</a>)</p> <p>MOSS, David. Reversing the Null: Regulation, Deregulation, and the Power of Ideas. Harvard Business School BGIE Unit Working Paper No. 10-080, 2010. (Disponível em: <a href="https://www.hbs.edu/faculty/Publication%20Files/10-080_0758cb59-ae51-409a-bdf5-0bcf10c752a6.pdf">https://www.hbs.edu/faculty/Publication%20Files/10-080_0758cb59-ae51-409a-bdf5-0bcf10c752a6.pdf</a>)</p> <p>BALDWIN, Robert. Why Ruled Don't Work. The Modern Law Review, Vol. 53, No. 3, 1990. (Disponível em: <a href="https://www.jstor.org/stable/1096474?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/1096474?seq=1#metadata_info_tab_contents</a>)</p> <p>LODGE, Martin. The Wrong Type of Regulation? Regulatory Failure and the Railways in Britain and Germany. Journal of Public Policy, vol. 22, ed. 3, 2002. (Disponível em: <a href="https://www.cambridge.org/core/journals/journal-of-public-policy/article/wrong-type-of-regulation-regulatory-failure-and-the-railways-in-britain-and-germany/79104E8FDF81F52FF18AA665D318D5BA">https://www.cambridge.org/core/journals/journal-of-public-policy/article/wrong-type-of-regulation-regulatory-failure-and-the-railways-in-britain-and-germany/79104E8FDF81F52FF18AA665D318D5BA</a>)</p> <p>BRAITHWAITE, John. The Limits of Economism in Controlling Harmful Corporate Conduct. Law and Society Review, vol. 16, ed. 3, 1982. (Disponível em: <a href="https://www.jstor.org/stable/3053371?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/3053371?seq=1#metadata_info_tab_contents</a>)</p> <p>KAHNEMAN, Daniel. Maps of Bounded Rationality: Psychology for Behavioral Economics. Nobel Foundation 2002. (Disponível em: <a href="https://www.jstor.org/stable/3132137?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/3132137?seq=1#metadata_info_tab_contents</a>)</p> <p>SUNSTEIN, Cass. The Real World Of Cost-Benefit Analysis: Thirty-Six Questions (And Almost As Many Answers). Harvard Public Law Working Paper No. 13-11, 2013. (Disponível em: <a href="https://columbialawreview.org/wp-content/uploads/2016/04/Sunstein-Final.pdf">https://columbialawreview.org/wp-content/uploads/2016/04/Sunstein-Final.pdf</a>)</p>
<b>BIBLIOGRAFIA COMPLEMENTAR</b>	<p>OGUS, Anthony. Regulation Revisited. Public Law, ed. 2, 2009. (Disponível em: <a href="https://core.ac.uk/download/pdf/18514069.pdf">https://core.ac.uk/download/pdf/18514069.pdf</a>)</p> <p>WINDHOLZ, Eric; HODGE, Graeme. Conceptualising Social and Economic Regulation: Implications for Modern Regulators and Regulatory Activity. Monash University Law Review, Vol. 38, No. 2, pp. 212, 2012. (Disponível em: <a href="http://www5.austlii.edu.au/au/journals/MonashULawRw/2012/20.html">http://www5.austlii.edu.au/au/journals/MonashULawRw/2012/20.html</a>)</p> <p>BLACK, Julia. Decentring Regulation: understanding the role of regulation and self regulation in a "post-regulatory" world. Current Legal Problems, 54 (1). pp. 103-146, 2001. (Disponível em: <a href="https://www.researchgate.net/publication/30527050_Decentring_Regulation_Understanding_the_Role_of_Regulation_and_Self-Regulation_in_a_'Post-Regulatory'_World">https://www.researchgate.net/publication/30527050_Decentring_Regulation_Understanding_the_Role_of_Regulation_and_Self-Regulation_in_a_'Post-Regulatory'_World</a>)</p> <p>LEVINE, Michael; FORRENCE, Jennifer. Regulatory Capture, Public Interest, and the Public Agenda: Toward a Synthesis. Journal of Law, Economics, &amp; Organization, Vol. 6, Special Issue: [Papers from the Organization of Political Institutions Conference, April 1990], 1990.</p>

<p>(Disponível em: <a href="https://www.jstor.org/stable/764987?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/764987?seq=1#metadata_info_tab_contents</a>) MCCUBBINS, Matthew; NOLL, Roger; WEINGAST, Barry. Administrative Procedures as Instruments of Political Control. Journal of Law, Economics, &amp; Organization, Vol. 3, No. 2, 1987.</p> <p>(Disponível em: <a href="https://www.jstor.org/stable/764829?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/764829?seq=1#metadata_info_tab_contents</a>) LODGE, Martin. WEGRICH, Kai; MCELROY, Gail. Dodgy kebabs everywhere? Variety of Worldviews and Regulatory Change. Public Administration, vol. 88, 2010.</p> <p>(Disponível em: <a href="https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1467-9299.2010.01811.x">https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1467-9299.2010.01811.x</a>) MERTON, Robert. The Unanticipated Consequences of Purposive Social Action. American Sociological Review, vol. 1, ed. 6, 1936.</p> <p>(Disponível em: <a href="https://www.jstor.org/stable/2084615?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/2084615?seq=1#metadata_info_tab_contents</a>) SALAMON, Lester. The New Governance and the Tools of Public Action: An Introduction. Fordham Urban Law Journal, Vol. 28, ed. 5, 2000.</p> <p>(Disponível em: <a href="https://www.researchgate.net/publication/254596384_The_New_Governance_and_the_Tools_of_Public_Action">https://www.researchgate.net/publication/254596384_The_New_Governance_and_the_Tools_of_Public_Action</a>) OGUS, Anthony. Corrective Taxes and Financial Impositions as Regulatory Instruments. The Modern Law Review, Vol. 61, n. 6, 1998.</p> <p>(Disponível em: <a href="https://www.jstor.org/stable/1097350?seq=1#metadata_info_tab_contents">https://www.jstor.org/stable/1097350?seq=1#metadata_info_tab_contents</a>)</p>
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