

ANSWER KEY to homework assignment due Oct. 26: Sources of Law

M&M ch. 5 p. 142, Question for Review #1: Define law. What are the primary sources of American law?

Answer: Law consists of the body of rules of conduct established and enforced by the controlling authority (the government) of a society. It addresses duties, obligations, and privileges within the society. There are four primary sources of American law: (1) Common law (case law) is set forth in decisions made by judges in cases that come before courts. (2) Constitutional law addresses the text of constitutions and court decisions interpreting constitutions, including the United States Constitution and the constitutions of individual states. (3) Statutory law consists of written laws created by a legislative body, such as U.S. Congress, state legislatures, and local governing bodies (like NY City Council). (4) Administrative law consists of rules, orders, and decisions of administrative agencies, such as the U.S. Food and Drug Administration (FDA), NYS Department of Transportation (DOT), and the NYC Board of Elections.

M&M ch. 5 p. 143, Practice Question #2: Identify the type of law (common law, constitutional law, statutory law, or administrative law) that applies in each of the following scenarios:

a. LaToya strongly disagrees with the U.S. government's decision to declare war on a foreign country. She places an antiwar sign in the window of her home. The city passes an ordinance that bans all such signs.

Answer: The First Amendment to the U.S. Constitution governs freedom of speech. Thus, the type of law that applies is constitutional law.

b. An official of the state department of natural resources learns that the Ferris Widget Company has violated the state's Hazardous Waste Management Act (HWMA). The official issues a complaint against the company for not properly handling and labeling its toxic waste.

Answer: Statutory law applies because the Ferris Widget Company allegedly violated the state's HWMA, which is a statute. (We know that because it includes the word "Act"!.) Administrative law also applies because the complaint was issued by an official of the state department of natural resources, which is an administrative agency apparently tasked with enforcing the HWMA.

c. Mrs. Sams was walking down a busy street when two teenagers on inline skates crashed into her because they weren't watching where they were going. As a result of the teenagers' conduct, Mrs. Sams broke her hip, and according to her doctor, she will never walk normally again. She sues the teenagers for damages.

Answer: The law governing Mrs. Sam's injury is tort law, specifically negligence, which is based on common law principles. Thus, common law (case law) is the type of law that applies.

d. Joseph Barnes is arrested and charged with the crime of murder.

Answer: Statutory law is the basis of criminal law in most states (including New York). Thus, statutory law is the law that applies.