Administrative Law
Political Science/Public Affairs 420
Spring 2015
MW 4:00-5:15
Ingraham 22

Professor Information:

Professor Ryan Owens
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Office Hours: Mondays 9:30-10:45

Teaching Assistant:

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Office Hours: TBD

Class Description: This class examines the role that federal administrative agencies play in the U.S. political and legal system. The course is about the law and politics of administration. We will investigate the institutional context and ideological character of administrative law and agency practices. We will examine classic debates over the origins of regulation, competing legal philosophies about democratic administrative regulation, political struggles to control the bureaucracy, and how agencies use adjudication and rulemaking to effectuate their policies.

Requirements and Grades

Readings. Each week, I will assign a number of required readings. All assigned journal articles (and some cases) are available on the course website through Learn at UW. There is one required book for the course, with nearly all our cases contained within it. I have asked the bookstore to carry the second-to-last edition (and used) to cut down on the cost.


Grading. I will base your grade on two midterm exams, class attendance, and a final exam. The midterm exams will both be held in class. Each counts for 25% of your overall grade. The final exam counts for 40% of your grade and is cumulative. Attendance counts for 10% of your grade. If you perform well, your grade will reflect it. That is, I do not grade on a curve.
Exams. We will have three exams. The first midterm will cover material from the first day of class to the last full lecture before the midterm. The second midterm covers the material between the first midterm and the second midterm. The final exam will be cumulative. The format of these exams will be a mix of multiple choice questions, short answers, and essays.

If you do not take the exam on its scheduled date (and do not arrange another time with me), you will receive a grade of 0. Do not ask to take the test at another time unless you have very important reasons to miss it (e.g., taking a vacation does not count).

If you believe we wrongly graded your test and want to challenge that grade, you must wait 24 hours to contact me. After that 24 hour period, if you still believe the grade is incorrect, you must email me a thorough explanation (at least one long paragraph) why you believe the grade is wrong and what you think is correct. I will exercise reasonable discretion when determining whether to make an adjustment.

Class Attendance. I expect you to come prepared to all classes. This means that you have read the material assigned and can discuss it. I interact with my classes and expect students to be present and able to talk about the reading material for the day’s class. Unprepared classes are boring to teach and boring to sit through. So please come prepared. If discussion becomes lopsided, with only a few people speaking, I will randomly call on people.

Similarly, at the end of five classes (chosen randomly by me), I will hand out index cards to all those in attendance. On them, you will write your name and a brief question from the topic of the day’s lecture or discussion. More specifically, you will write a question that remains unanswered in your mind or is otherwise unclear regarding the day’s topic. I will review these cards to determine what topics require follow up on my part. If you are in class each time I circulate index cards, you will get full credit for attendance. If you are never in class during those times, you will receive a 0 for attendance.

Grade Scale. The grade scale is as follows:

- 93-100 (A)
- 88-92 (AB)
- 83-87 (B)
- 78-82 (BC)
- 70-77 (C)
- 60-69 (D)
- < 60 (Fail)

Class Behavior. We all want to learn while in class, so do not speak out of turn or otherwise cause disruptions in class. Be respectful to your fellow students. If you fail to do so, university guidelines require me to take action. For more information, please see http://www.students.wisc.edu/rights/. Bottom line, I want you to talk in class—but not while I’m talking.

Laptops. I do not allow laptops in class. They are distracting to other students and entice you to read non-class related material during lecture. If you have a documented medical need
that requires you to use a laptop, let me know. Otherwise, please put them away. Failure to
do so amounts to a disruption.

**Academic Integrity.** I hold all students to the university’s academic integrity standards. For
more information on those, please see: http://students.wisc.edu/saja/integrity.html.

**Students Requiring Need-Based Accommodations.** Students who need
accommodations on the basis of disability should schedule an office appointment with me
within the first three weeks of the semester. Please schedule this office appointment by
email. To maintain the confidentiality of your request, please do not approach me before or
after class to discuss your accommodation needs. The McBurney Disability Resource Center
(263-2741) provides resources for students with disabilities (http:
//www.mcburney.wisc.edu/). You will need to provide documentation of disability to them
in order to receive official university services and accommodations. Do not wait until before an
exam to contact me about this matter, as I will be unable to assist you.

**Introduction to Law and Regulatory Politics**

**Week 1**

January 21: Class Intro

- Hand out syllabus
- Discuss Class Expectations

Discussion: None.

**Week 2**

January 26: The Study of Admin Law

- What is an Agency?
- Why do we have agencies?

January 28: The Study of Admin Law (cont’d)

- History of Administrative Law

Discussion:


**Week 3**
Congress, the President, and Agencies

February 2: The Non-Delegation Doctrine (Ch. 2)

- *Panama Refining Co. v. Ryan* (1935)

February 4: The Non-Delegation Doctrine (Cont’d)

- *Department of Transportation v. Association of American Railroads* (13-1080)
- Listen to oral argument

Discussion:

- Stephen Wermiel, *SCOTUS for law students: Non-delegation doctrine returns after long hiatus*, SCOTUSblog (Dec. 4, 2014, 8:00 PM)

Week 4

February 9: The Power to Appoint (Ch. 2)

- *Buckley v. Valeo* (1976)

February 11: Recess Appointments


Discussion:


Week 5

February 16: The Power to Remove (Ch. 3)

- *Myers v. US* (1926)

February 18: Other Presidential Powers to Control Agencies (Ch. 3)
- *Younstown Sheet & Tube Co. v. Sawyer* (1952)
- Pages 211-224

Discussion:

**Week 6**

February 23: Creation of Agencies

February 25: Congressional Control: The One House Veto

Discussion:

**Week 7**

March 2: Review

**March 4: Exam**

Discussion: None—extended office hours

**Week 8**

March 9: Consequences of Agency Selection

**Adjudication**
March 11: **When Due Process Applies** (Ch. 4)

- *Londoner v. Denver* (1908)
- *Bi-Metallic Investment Co. v. State Board of Equalization* (1915)

**Discussion:**

- *Wisconsin v. Constantineau* (1971)

**Week 9**

March 16: **Procedures Required by Due Process** (Ch. 4)

- *Cleveland Board of Education v. Loudermill* (1985)

**Rules and Rulemaking**

March 18: **Why Rulemaking?**

- *National Petroleum Refiners Association v. FTC* (CADC 1974)
- Administrative Procedure Act

**Discussion:**

- *Cleveland Board of Education v. Loudermill* (1985)

**Week 10**

March 23: **APA Rulemaking**

- *Shell Oil Co. v. EPA* (CADC, 1991)

March 25: **The Relationship Between Rules and Adjudications** (Ch. 5)


**Discussion:**

Week 11

March 30: No class, Spring Break
April 1: No class, Spring Break

Week 12

April 6: Review

**April 8: Exam**

Discussion: None—extended office hours

Week 13

April 13: Participation in Rulemaking


April 15: Arbitrary and Capricious Review (Ch. 5)


Discussion:


Week 14

April 20: Selected Topic: Immigration: Watch Film Well Founded Fear

Judicial Review & Statutory Interpretation

April 22: Standing

- Friends of the Earth, Inc. v. Laidlaw Environmental Services (2000)

Discussion:

- MA v. EPA (2007)
Week 15

April 27: Scope of Judicial Review

- *Citizens to Preserve Overton Park, Inc. v. Volpe* (1971)

April 29: *Chevron Deference* (Ch. 6)

- *Chevron USA, Inc. v. NRDC* (1984)

Discussion:

- *Skidmore v. Swift & Co.* (1944)

Week 16

May 4: The Mead Counter-Revolution and Review (Ch. 6)

- *United States v. Mead Corp.* (2001)

May 6: Review

Discussion: None—extended office hours

**FINAL EXAM: Sunday 5-10-15. 2:45-4:45**