

Administrative Law Syllabus – Spring 2015

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Tuesday, Thursday 8:10 am

- 1. Syllabus:** Reading assignments are set forth in this syllabus. The class-by-class breakdowns and dates represent approximations. During the semester, there will be alterations, deletions and additions. Any changes will be announced in class.
- 2. Texts:** The case book that we will be using is the 6th edition of Federal Administrative Law by Gary Lawson. I will also supply additional materials. I will discuss optional commercial materials, including those that I think can be --- depending on the source and the manner in which they are used --- helpful and harmful early in the semester. For now, the critical point is that relying on outside sources *instead* of the course materials is to follow a well-worn path to the destinations of delusion (first) and disaster (second).
- 3. Preparation & Participation:** You are expected to read and think about the assigned material before each class. Likewise, you are expected to contribute to the classroom discussions on both a voluntary and involuntary basis. I will call on you. Your participation may impact your grade at the margins.
- 4. TWEN:** There is a TWEN page for this course. To register (1) go to lawschool.westlaw.com (2) click on TWEN (3) choose “add course” and add this course. Once you have registered you will have the ability to engage in substantive discussions with your fellow students. I will also use TWEN to post course materials. I encourage you to use the TWEN list serve to discuss substantive matters relating to the course. I may monitor these discussions as a matter of interest, but will not be intervening as a matter of course.
- 5. Attendance:** Regular, on-time attendance is the expectation. Accommodations will be made for compelling circumstances.
- 6. Exams:** Your grade will turn primarily on a final exam at the end of the semester. More will be said this in due course. I will be covering matters in class that are not part of the readings, and your readings will cover matters that are not covered in class. All of it is fair game for the exam. You will develop a good sense of the relative import of the material as the semester develops, but I will also give some additional guidance on this in the days leading up to the exam.
- 7. Laptops:** As you know, some professors in the school have banned laptops. Personally, I think they are doing you a favor. I have decided, however, that you are allowed to use your laptops in our class for note-taking purposes. Using laptops for other purposes (chatting, emailing, surfing, gaming) is prohibited, mostly because it is distracting for both you and those around you. A compelling articulation of the view that handwritten note-taking promotes greater overall learning may be found at *Dorf on Law*, http://michaeldorf.org/2006_11_01_archive.html

- 8. Office:** My office (463-7236) is in Room 215. You are welcome to drop by at any time; if I'm in and can't meet with you right away, we'll find a time to do so. My "formal" office hours will be determined early in the semester and I will attempt to coordinate these with your schedules to the extent feasible. You may also make an appointment to meet with me by emailing me.

NB: Reading assignments begin below.

Assign.	Topic(s)	Reading
1-2	Intro to Agency Functions; Theories of Agency Behavior; Mass. v. EPA (a snap-shot of administrative law)	1-11; statutory portion of page 22; 34-40; 734-743
3	Separated (and Balanced) Powers; Formalism vs. Functionalism; Intro to Agencies and Art. I	41-top of 61 (pay extra heed to relevant constitutional provisions)
4-5	Agencies and Art. I (non-delegation doctrine)	66-86; 86-107 (Industrial Union case – largely on your own but not to be skipped); 131-140
6	Agencies and Art. I (controlling delegations)	114-top of 131
7-8	Agencies and Art. II (appointment of agency officials)	140-159; 159-178
9-10	Agencies and Art. II (removal of agency officials)	178-bottom of 200; 200-215 (Free Enterprise v. Public Co Accounting Oversight Board)
11	The "Unitary Executive" theory	216-217; supplemental materials on TWEN and to be distributed
12	Intro and Overview of the APA	256-264; APA on 1141-1154 (Not to be glossed. Arguably, the most difficult reading of the course, but commensurably important)
13	Formal Rulemaking – FECR Saga	264-288
14-15	Formal Adjudication	288-306

16	Informal Rulemaking – Vermont Yankee Saga	306-332
17-18	Notice of Proposed Rulemaking; Statement of Basis and Purpose; Statutory Hybrid Rulemaking	344-middle of 365
19-22	Exemptions from Rulemaking Procedures	365-413
23-24	Informal Adjudication; Choice Btw Rulemaking & Adjudication: The Chenery Doctrines	413-426; 426-456
25-28	Judicial Review of Agency Legal Interpretations: The Chevron Doctrine	457-464; 527-541; 551-575; 575-608; 608-610; 641-657; 665-668
29-31	Judicial Review of Agency Policy and Discretion	697-727; 752-753; 779-786; 800-801