

SYLLABUS

PAD 300: ADMINISTRATIVE LAW

INTRODUCTION

In exercising their “delegated” and “discretionary” powers to realize “legislative intent” administrative agencies must devise rules and orders that make enforceable the public policies they implement. At the level of legislation most public policies remain “fluid”, waiting to be given “real body” in the course of legislation most public policies remain “fluid”, waiting to be given “real body” in the course of implementation. A public policy on meat safety remains a mere theoretical concept until experts in the Department of Agriculture determine what is “safe” and “unsafe” about how, for example, cows slaughtered for meat are fed; how the meat is processed and preserved; what the sanitation environment of the fed; how the meat is processed and preserved; what the sanitation environment of the slaughter should be, etc. In this example, the Agricultural Agency operationalizes “safety”; determines a measure for it and demands from the regulated meat producers compliance with the standards set by the agency, or penalizes them for non-compliance. There is no gainsaying the enormous power of agencies in effectuating public policies.

Often such powers assume quasi-legislative and quasi-judicial proportions. Public concern for how administrative agencies have used and should use these powers led to the enactment in 1946 of the Federal Administrative Procedure Act (APA). That act and its subsequent amendments govern administrative practices in federal agencies and in those of states that copied it. The Act is a statutory enactment of the constitutional “due process” mandates of the 4th, 5th and 14th amendments. It is a reminder to the bureaucracy that the congress is the source of its power and that this power should not be exercised without regard for accountability. As an additional instrument of democracy, the Act opens the administrative process to public view and scrutiny, and makes it possible for regulated entities to have a recourse to law wherever they perceive unfairness.

All of the above and role of the courts in reviewing decisions of administrative agencies constitute the stuff of administrative law.

As science and technology continue to shift power from generalist law-makers to specialist implementers, the influence of the bureaucracy in American public life will remain a constant presence, and this society will remain virtually an administrative state. The debate as to the democratic desirability of this reality will certainly continue. Administrative Law can intelligently inform that debate.

NOTE:

Please read and adhere strictly to the “Student Classroom Decorum Expectations” issued by the University . How we all would gain by applying our time wholly to the task of teaching and learning instead of enforcement and the attendant anger, conflict and embarrassment!

COURSE READINGS

RECOMMENDED:

- Cooper, Phillip J. Public law and Public Administration, 2nd edition.
(Englewood Cliffs, New Jersey: Prentice Hall, 1988).
- Lorch, Robert S. Democratic Process and Administrative Law,
(Detroit: Wayne State University Press, 1969).

REQUIRED

David H. Rosenbloom. 2003. Administrative Law for Public Managers (Westview Press)

ASSIGNED READINGS (Rosenbloom)

WEEK

TOPIC

1. What is Administrative Law? Why we have administrative law statutes; Delegation and discretion. (Chp. 1.)
2. Administrative Decision-making; Procedural and substantive Review of Administrative Decisions; Development of U.S. Administrative Law. (Chp. 1 cont’d.)
3. Constitutional Context of U.S. Public Administration: The separation of Powers: Congress, the president, the judiciary. Federalism: the commerce clause; the 10th amendment; the spending clause; the 11th amendment. Individuals’ constitutional rights in administrative encounters. (chp. 2)
4. Wk. 3 topic cont’d: Public Personnel management; relationship with contractors; public mental health patients; prisoners’ constitutional rights; street-level regulatory encounters; public administrators’ liability for constitutional torts. (chp. 2)
5. Administrative Rulemaking. Definitions and concerns about rulemaking; rulemaking processes; Hybrid and negotiated rulemaking processes. (chp. 3)
6. Wk. 5 cont’d: Additional rulemaking features. (chp. 3)
- 7.

8. (7) Student class presentations based on Chapters 4 and 5 topics: “Evidentiary Adjudication and Enforcement” and “Transparency.” Schedule and format will be announced the 3rd week of class.
9. Judicial and Legislative Review of Administrative Action (chp. 6)
10. Wk. 9 topic cont’d.
11. Review of wks. 1-5 topics
12. Review of wks. 6-10 topics
13. (14, 15) Staying current on administrative law issues (chp. 7); Revision and Final Exams.

ASSIGNMENTS AND EXAMS:

2 take-home assignments	10 points each (total 20 points)
Class Presentation	10 Points
Mid-Term Exam	30 Points
Final Exam/Term Paper	40 Points

NB: I would like to gauge the progress of the class before making definitive announcements on exams/term paper and presentations.