

**ADMINISTRATIVE LAW**  
**Spring 2013**  
**Thursdays 6:30 pm – 9:45 pm**  
**Room 206**

**Professor Jennifer Lee Koh**  
Office # 315E  
(714) 459-1136  
[jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu)  
Office Hours: TBA

## **COURSE DESCRIPTION**

Welcome to Administrative Law! This course involves the study of administrative agencies. Whatever you decide to do with your law degree, whether you choose a litigation or transactional practice or even if you use your degree to go into business or become a government official, your clients and you are going to deal with government agencies at the federal, state and local level. Administrative agencies exert tremendous control over public and private enterprises of every variety, including employment, unemployment, retirement, health, communication, immigration, the environment, family relationships, and business competition, to name just a few areas of law. It should come as no surprise that in many ways, administrative agencies actually “govern.”

This course is principally about (1) the procedural law regulating how government agencies make decisions, and (2) the law related to how courts monitor decisions of agencies and hold them accountable. We will also touch upon legislative and executive oversight of government agencies, the central conundrums of governance (such as the tension between administrative efficiency and due process) as well as the importance of historical context. Although comparisons to state (in particular California) administrative law and policy will be raised from time to time, the primary focus of this class is on federal administrative law.

## **COURSE MATERIALS**

The following is the course textbook:

**Richard Henry Seamon, Administrative Law: A Context and Practice Casebook (2013)**

The assigned readings should keep you sufficiently busy and I recommend that you read the assigned material several times before turning elsewhere. If you wish to read supplementary materials to better understand a topic, there are a number of Administrative Law treatises and hornbooks that summarize the law and concepts covered in class. Examples include Richard J. Pierce, Administrative Law (2d ed., 2012); William F. Fox, Understanding Administrative Law (5<sup>th</sup> ed., 2008); and William R. Anderson, Mastering Administrative Law (2010). These books are on reserve in the Western State library.

## LEARNING GOALS

After completion of this course, you should be able to competently:

1. Understand, and think critically about, the principles and policies behind our current and past system of administrative law. As noted above, these principles and policies cut across a wide range of practice areas, and the course is geared towards helping you identify common themes and problems raised by the administrative state.
2. Apply principles of administrative law to hypothetical fact patterns (and eventually, to real-life practice after you graduate).
3. Understand the relevance of statutes, regulations, federal court caselaw, agency decisions and other forms of informal adjudication in administrative law.
4. Communicate, both orally and in writing, appropriate legal and factual arguments in support of each side of opposing positions that frequently arise in the administrative law context.
5. Demonstrate reliability, responsibility, good judgment, self-motivation, hard work, professionalism, courtesy, and critical self-reflection.

## GRADING

Your grade will be based on the following:

- ***Class preparation and participation (10% of grade):*** Like the rest of the faculty, I expect you to come to class prepared. I value in-class contributions, and encourage volunteers in class. Professionalism in class, and online participation in the course's TWEN discussion forum also go towards your class participation grade.
- ***Team Contribution (20% of grade):*** Throughout the course you will be assigned problems and exercises to work on in teams that will be created during the first class. One half of the grade for this section will be assigned based upon the work that the team produces. The other half of this grade will be based upon your contribution to your team's efforts as set out in the evaluations submitted periodically by your team members and my observations during class sessions.
- ***Midterm Examination (20% of grade):*** ***One and a half hour*** examination dealing with the first half of the material covered in the course (through agency rulemaking).
- ***Final Examination (50% of course grade):*** Three hours. The final exam will likely consist of a combination of essays, short answers, and true-false/multiple choice questions.

## CLASS FORMAT, ATTENDANCE AND PARTICIPATION

Law teaching is a cooperative venture. I will commit to being prepared for class and will expect to have thoroughly read and reflected upon the assigned readings, notes and problems. I expect the same of you. This course will work best if our examination of the materials we will study includes a considerable amount of lively and thoughtful class discussion, in which every student participates. I will call on people in various ways, including cold-calling, and highly

encourage volunteers. We will engage in a meaningful amount of group work and team-based learning.

You are also encouraged to participate via the online discussion forum on the course's TWEN site. I encourage you to look for examples of Administrative Law in real life (e.g., the news media, personal experiences, movies, etc.) **If you have a question, comment, interesting thought, or current example of Administrative Law to share, please post it to the TWEN discussion board, rather than send me an email.** I will wait for other students to respond, and then, if there is no response, or if I have something to add to the response, I will post my response to the discussion board. Other than very personal questions, all substantive questions about course content should be directed first to TWEN, rather than to my email. It allows you to work collaboratively with others, ensures that if everyone has a question or confusion it will be readily apparent to me, and it means that others will have the benefit of having thought about any questions that are asked.

Although I will be taking attendance, it is always your own responsibility to keep track of your absences. Absences, if at all occurring, should be reserved for exceptional circumstances. If you have missed or will miss class, please review a classmate's notes and the class Powerpoint slides and see me as soon as possible after the absence if you still have questions about the material. In accordance with the WSCL academic policy and as described in the Student Handbook, a student who misses more than 4 (four) 90-minute class sessions will be withdrawn from class. **Note: We will not have class on Thursday, October 31 (week 11). That week, class will be held on Friday, November 1 from 1-4pm.**

Although I permit laptops in class, they must be used for classroom purposes only. Using the Internet, chat, Facebook, Twitter, Pinterest, games, or any other electronic device for any other purpose is strictly forbidden and may result in the suspension of laptop privileges for the entire class.

## **APPOINTMENTS AND OFFICE HOURS**

I will hold office hours regularly during the week, but will schedule these office hours after the first week of classes. You can also schedule an appointment by contacting me directly at [jkoh@wsulaw.edu](mailto:jkoh@wsulaw.edu). I am happy to discuss the course, career paths, law school, or anything else of interest to you. Please also feel free to come by when my door is open.

## **TWEN**

I will post class-related material, assignments and announcements on TWEN, the online program administered by Westlaw. I will also post Powerpoint notes from class *after class* on TWEN. Please be sure that you are registered to use TWEN. If you have any questions about using this program, or to get registered, please contact Scott Frey or Lesley Chan in the library. They can be reached at (714) 459-1111 or via email.

## SYLLABUS

I have provided the topics, assignments, and reading that I expect to cover for the first part of the semester. **I will update the syllabus as the semester progresses.** Keep in mind that it is difficult to anticipate how long it will take to discuss each topic and occasionally we may spend more time on a topic than initially anticipated. Accordingly, we may need to make adjustments to the syllabus throughout the semester.

The casebook has a number of exercises designed to help you apply and understand the material. **Unless otherwise specified, you should come to class having prepared your answers to the Chapter Problems and Exercises in the textbook.** In general, the Professional Development Exercises are highly recommended, but not required, although I may assign the exercises from time to time (and will tell you when they are being assigned).

Week (class dates)	Topic	Reading	Assignment or Other Notes
1 (8/22)	Welcome to Administrative Law; Administrative-Law Problem Solving; Overview of the Rest of this Book; Statutory Research and Analysis in Administrative Law	“The Rise of the Fourth Branch of Government” (on TWEN)  Chapters 1-3 (pp. 5-60)	Bring a printout of the website homepage for an administrative agency that interests you; be prepared to share one thing about that agency with the class.
2 (8/29)	Administrative Procedure Acts; Intro to Rulemaking; The Distinction between Legislative Rules and Non-Legislative Rules;	Chapter 4; Chapter 6-7; 61-97; 117-146)	Come to class prepared to share an example of an agency rule
3 (9/5)	Agency Rulemaking Power; Limits on Agency Rulemaking Power  <i>Film: The Regulators</i>	Chapters 8– 9 (pp. 147-189)	TBA
4 (9/12)	The APA as a Source of Procedural Requirements for Agency Rulemaking; Types of Rulemaking under the APA; Informal Rulemaking (part one)	Chapters 10– 12.A (pp. 191-262)	TBA
5 (9/19)	Informal Rulemaking (part two);	Chapters 12.B	TBA

	Legal Effect of a Valid Legislative Rule When Published	– end of Chapter 12; Chapter 16 (but NOT Chapter 16.C) (pp. 262-287; 319-334; 339-342, but skip “Problem 3 Revisited on p. 341).	
<b>6 (9/26)</b>	<b>First half: <u>Midterm</u></b> (covering to end of rulemaking)		Prepare for midterm!
	<b>Second half:</b> Introduction to Agency Adjudication	Chapters 17 (pp. 345-367)	

*Syllabus to be updated as the semester progresses*