

**WESTERN STATE COLLEGE OF LAW  
SYLLABUS**

**COURSE:** ADMINISTRATIVE LAW, 2014

**PROFESSOR:** Myanna Dellinger (mdellinger@wsulaw.edu)

**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, clerk for a judge, 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. The focus of this class is on federal administrative law.

**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.

## **REQUIRED BOOK**

*Administrative Law*, Richard Henry Seamon (Carolina Academic Press).

## **OPTIONAL MATERIALS**

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* (5th ed., 2008); and William R. Anderson, *Mastering Administrative Law* (2010). These books are on reserve in the Western State library.

## **CLASSROOM ATTENDANCE**

Attendance is mandatory. You are allowed to miss a maximum 15% of the classes, i.e. two classes. *If you exceed that amount, you will be dropped from the course.* Although I will be taking attendance, *it is always your own responsibility to keep track of your absences.* I will not notify you if you approach the maximum number of absences allowed. There is no need to notify me through email or otherwise if you plan to be absent. Absences, if at all occurring, should be reserved for exceptional circumstances. Each class will cover much legal ground. If you have missed or will miss class, please review a classmate's notes and see me as soon as possible after the absence if you still have questions about the material.

*Arriving late in class or leaving early will count as a class absence.* See also information below under "Class start and end times."

## **CLASSROOM PARTICIPATION AND BEHAVIOR**

### Participation:

I expect you to always be prepared for class and active classroom participation. Legal education is a cooperative venture and you will learn more the more engaged you remain with the material. I will call on people in various ways including cold-calling. If you are not prepared for class and I call on you, I may deduct 0.1 grade point from your semester grade. I will lower your final grade in the course by up to 0.3 if you are consistently unprepared for class. You will receive a written warning before I lower your grade based on lack of preparation.

Conversely, I may reward people whose classroom contributions are outstanding by increasing their grades by 0.1 grade point. Note that I only do so in very few cases and not merely for speaking up in class or answering questions. Rather, this extra credit is for people who consistently demonstrate a solid and deep understanding of the law and its applications.

### Class start and end times:

Classes will start punctually. Please be seated and ready to start on time. Being on time is a simple courtesy towards me and your fellow students and an expression of your professionalism. Please plan to be present and active throughout the entire class session. *If you are late, I may*

*count it as a full absence for that day.* Unless you have medical reasons that require you to leave during class, do not exit and re-enter the classroom.

All classes will end as close to the assigned time as possible, but as classes are meant to be fluid, they may end a few minutes early *or* late *very* few times. If the latter should happen, please do not start packing up until our discussions have been completed as this is disturbing to the vast majority of students who want to be active towards the very end. I am aware of what time it is and will be wrapping up within a few minutes.

#### Professional behavior:

I welcome and expect diverse points of view and good legal discussions, including those that show how reasonable legal minds may differ on some issues. However, I expect you to be courteous and respectful towards both your fellow students and me at all times. Should you nonetheless and contrary to my expectations behave disrespectfully or unethically, I may ask you to leave the classroom. Such an occurrence would be counted as one absence and result in you losing an additional 0.1 grade point. I do not foresee this to be a problem.

#### Internet usage:

*Internet usage is strictly forbidden during class time unless authorized by me for class purposes.* It is very distracting for students who want to focus on class to have to put up with flickering screens in the background. Additionally, I consider it highly unprofessional behavior towards both me, your fellow students and the legal profession if you use the Internet when you should be studying. I will deduct 0.1 grade point per semester from each student that I catch using the Internet and may ask that student to leave the class session.

#### PowerPoint slides:

I regularly use PowerPoint slides for my classes. I will upload a copy of the slides to the course website soon after the classes. Thus, please do not copy the slides ad verbatim during class; pay attention to the class instead and take notes wisely. It is my policy *not* to post the slides ahead of classes. The slides do *not* cover everything you need to know for the tests. *However, they will address important points, issues, some rules of law and other significant aspects of the class that I consider testable.* The slides are meant to be one of your greatest assets in outlining the course and practicing for the tests. I recommend that you rely on these in such work.

I will be reviewing the materials during the semester and in several review sessions. I highly recommend that you attend these. I will not be able to review the entire course at the end of the semester. You should not consider the rules of law covered in class fully developed until each topic has been covered fully and reviewed as this gives me a chance to elaborate on aspects which I recognized are difficult for students or where student misunderstandings may have arisen.

#### Recording classes:

Recording classes is strictly forbidden without my prior permission. If you violate this rule, I may deduct 0.1 grade point from you semester grade. Recording anyone without his/her prior permission may additionally be a violation of California and/or other law.

## **COURSE WEBSITE**

Enrollment in the TWEN course website for this course is mandatory. Make sure that you can receive email notifications from the course site. If you have questions regarding this, please contact one of the librarians. I will regularly be posting materials on the site just as I will be using its email functionality to communicate with the entire class at one time. *You are responsible for all information conveyed this way!*

## **EXAMINATION AND GRADING**

Your final grade will be based on the following:

- ***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 part of your overall grade 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 (30% 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.

## **PRACTICE TESTS**

I highly encourage you to do as many practice tests as early and consistently as possible. Do not postpone this until late in the semester. As you know, the study of law does not lend itself well to last-minute cramming. You will learn the law the best by outlining and practicing throughout the semester, then revising your outlines and practicing even more *in addition to* studying the new material.

## **OFFICE HOURS (to be posted separately)**

Please be prepared to ask focused questions.

I may also be able to answer questions after each class. Before class, I need time to set up my materials and prepare the classroom facilities, so please limit any questions as the class start-time approaches.

I can help you review sample essays during my office hours. If using materials external to class, please print and give me the fact pattern and the proposed answer at least 24 hours beforehand and please print and bring your sample answer to office hours. Do not use practice materials for which a sample answer is not available. The essays should only focus on material already covered in class. *I do not accept emailed practice essays.* You should not look at the posted answers before *writing* the practice problems, *but you need to have reviewed the posted answer carefully before seeking my advice on your writings.* *Please prepare specific questions*

*regarding your own essay based on my answer. I will not provide feedback on any essays with sample answers posted for which you do not have specific questions.*

If time allows, I will be conducting reviews of select essay practices in class. Any questions about these should be presented to me during the class reviews. *If you have additional questions and want to see me about these during office hours, you must demonstrate that you have engaged in self-assessment using the information that I have already provided to the class and to ask specific questions.*

I am very approachable and here to help you, so please ask me earlier rather than later if you have any questions that you cannot resolve yourself in a reasonable amount of time and with reasonable effort. However, office hours are not meant to be a pre- or review of cases and materials covered in class. Rather, they are for specific questions about the topics.

*Note that I will not have office hours or be able to meet personally after the end of the semester.*

## **BLUEBOOK REVIEW**

I only review bluebooks for the first three weeks after the beginning of each semester and, for midterm tests, for the first three weeks after the test results have been issued.

**EMAIL: mdellinger@wsulaw.edu**

I respond to email as quickly as possible, usually within a few hours on weekdays and as quickly as I can on weekends during the semester. You are very welcome to email me instead of coming to office hours if you have any unresolved legal issues with which you may be struggling. However, I encourage you to attempt to find an answer before doing so in order to develop and practice your legal analytical and research skills.

## **VARIED INSTRUCTIONAL METHODS**

Pedagogical research shows that adults learn better when a range of different instructional methods is used. I will do so to the greatest extent possible and look forward to your flexibility and enthusiasm in this regard.

## **READING ASSIGNMENTS**

Changes may be made to the below reading assignments as classes will be conducted in a relatively fluid manner to reflect the needs, speed and other possible variations of each class. I will notify class of any changes either via email or in class. *You are responsible for always keeping up to date with the exact readings required for each class.*

*It is my honor and pleasure to be your law professor! Enjoy the course!*

July 18, 2014

**WESTERN STATE COLLEGE OF LAW  
PRELIMINARY READING ASSIGNMENT - DELLINGER**

**COURSE: ADMINISTRATIVE LAW, FALL 2014**

<b>Wk.</b>	<b>Date</b>	<b>Subjects</b>	<b>Readings<sup>1</sup></b>
1	8/26	<ul style="list-style-type: none"><li>• Welcome to Administrative Law; Administrative-Law Problem Solving; Overview of the Rest of this Book; Statutory Research and Analysis in Administrative Law</li></ul>	Chapters 1-3 (pp. 5-60), <i>The Rise of the Fourth Branch of Government</i> by Jonathan Turley, Washington Post, May 24, 2013
2	9/2	<ul style="list-style-type: none"><li>• Administrative Procedure Acts; Introduction to Rulemaking; The Distinction between Legislative Rules and Non-Legislative Rules</li></ul>	Chapter 4, Chapters 6-7 (pp. 61-97, 117-146)
3	9/9	<ul style="list-style-type: none"><li>• Agency Rulemaking Power; Limits on Agency Rulemaking Power</li><li>• (Film: The Regulators)</li></ul>	Chapters 8–9 (pp. 147-189)
4	9/16	<ul style="list-style-type: none"><li>• The APA as a Source of Procedural Requirements for Agency Rulemaking; Types of Rulemaking under the APA</li></ul>	Chapters 10-11 (pp. 191-249)
5	9/23	<ul style="list-style-type: none"><li>• Informal Rulemaking; Formal Rulemaking; Hybrid Rulemaking</li></ul>	Chapters 12-14 (pp. 243-304)
6	9/30	<ul style="list-style-type: none"><li>• NEPA; Executive Orders; Legal Effect of a Valid Legislative Rule When Published</li></ul>	Chapter 15 (in part only) – (pp. 305-307, 311-315, 319-342) <b>Midterm review</b>
7	10/7	<ul style="list-style-type: none"><li>• <b>First half: Midterm test</b></li><li>• Second half: Introduction to Agency Adjudication</li></ul>	Chapter 17 (pp. 345-367)
8	10/14	<ul style="list-style-type: none"><li>•</li></ul>	
9	10/21	<ul style="list-style-type: none"><li>•</li></ul>	
10	10/28	<ul style="list-style-type: none"><li>•</li></ul>	
11	11/4	<ul style="list-style-type: none"><li>•</li></ul>	
12	11/11	<ul style="list-style-type: none"><li>•</li></ul>	
13	11/18	<ul style="list-style-type: none"><li>•</li></ul>	
14	11/25	<ul style="list-style-type: none"><li>•</li></ul>	

<sup>1</sup> Subject to change. Please make sure you always follow the most recent version of the reading list.