

**WESTERN STATE UNIVERSITY
COLLEGE OF LAW**

**ADMINISTRATIVE LAW (3 HOURS)
SYLLABUS & POLICIES
Spring 2024**

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Class Time: Mondays 6:40 p.m. – 9:50 p.m.
Office Hours: Times to be Announced/Also by appointment

I. COURSE MATERIALS

The materials for this course are:

1. a course book: Richard Henry Seamon, Administrative Law: A Context and Practice Casebook (Carolina Academic Press, 2nd ed. 2020), ISBN 978-1-5310-0738-6.
2. “Handouts,” which will be distributed in class and electronically, from time to time.
3. Short weekly Summary/Preview Videos distributed electronically (see Class Preparation, below).

II. SUBJECT MATTER AND COURSE OBJECTIVES:

This course explores the law governing administrative agencies. The course materials focus on federal agencies, but many of the principles governing federal agencies also apply to state agencies. In addition, expect practical application as part of the weekly classes, videos that focus on state and local government agencies (cities, planning commissions, etc.).

Administrative Law is a sprawling subject that requires you to learn challenging concepts and to study intricate statutory and regulatory provisions. It will require, on your part, a *minimum* of 9 hours of work for each class session (including the three hours of class time). It is a course you may come to love, however, because it will open your eyes to an amazing legal realm that very few people, even lawyers, truly understand.

This course will advance Western State College of Law’s Programmatic Learning Outcomes

1. **Doctrinal Knowledge:** The course will: (1) introduce you to basic aspects of Administrative Law, allow you to compare and contrast the administrative law process with the judicial process, and understand the procedural and substantive rights and duties when the administrative process intersects with the administrative process.
2. **Practice Skills:** Students will develop skills for oral presentation and advocacy during classroom discussion and projects as well legal research and writing.

3. **Legal Analysis:** The course should hone your ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities and differences between the precedent case and a fact pattern and explaining why those are legally significant), statutes, and regulations (including the ability to connect legally significant facts in a fact pattern to the statute or regulation) to predict how a both an administrative agency and the court would decide the issue. Students will also demonstrate the ability to identify and evaluate how public policy can impact the application of a rule to the legal issue.
4. **Legal Research:** In addition to the cases and rules assigned for reading in the course book, you will develop the practical skill of locating relevant legal authority, including researching relevant administrative law procedures and codes.
5. **Professional Responsibility:** Identify how professional responsibility issues play an important role in the administrative law process. Students to gain an understanding how to analyze and comply professional responsibility problems and issues

III. GRADES AND COURSE REQUIREMENTS

Your grade will be based on (1) class participation, worth up to 20% of your grade; and (2) a 3-hour final exam, worth at least 80% of your grade.

IV. ATTENDANCE

You must do your best to show up (1) for every class, (2) on time, and (3) prepared to participate. I will do my best to make it worth your while.

Attendance will be taken. The College of Law requires regular and punctual class attendance of students. Satisfactory attendance in a course means attending at least 85% of scheduled classes during the semester. If you miss more than *two* classes, you also must: (i) tell me as soon as you miss, or anticipate missing, your third class; and (ii) be prepared to explain and document the reasons for *all* your absences. Consider this an exercise in administrative law. If an exception to the College of Law's attendance policy is demonstrated, or if good cause is shown, I will work with you to make special arrangements to enable student to satisfy the attendance requirement. Otherwise, you will be excluded from the remainder of classes or course sessions and receive a failing grade designated as AF on your transcript, in accordance with the College of Law policies.

V. CLASS PREPARATION

Pursuant to ABA Standard 310, you are expected to devote at minimum two (2) hours of out of class time preparing for each hour of classroom instruction. The assigned readings and case book problems each week have been calibrated for you to achieve this minimum requirement. This class meets for 3 hours per week, you will be expected to read and prepare outside of class for a minimum of 6 hours in the week leading to each class.

Note: Class coverage of reading assignments is fluid. We may not always cover all the assigned

material during the scheduled class periods. However, it's your responsibility to make sure you are prepared for each class.

In addition, I may distribute additional reading and other materials for additional review and class discussion.

Finally, I expect that you will have questions about the class, the material, and the application of Administrative Law. To answer these questions, and to preview the upcoming week's class, I intend to distribute a short weekly video summary/preview, where I will try to recap issues that came up in the last class, preview the upcoming class session, and answer student questions. You will be expected to watch the video before that week's class (and note that it may have additional information about preparation for the week). During a 15 week class, I will expect you to have at least one serious question about the class, and you can submit those questions by e-mail or during office hours, and I will (try) to answer those questions in the weekly video.

VI. CLASS PARTICIPATION

Legal education is a cooperative venture, and this is especially critical in a small class such as ours. Moreover, legal practice is a cooperative venture, so in this class you should expect to participate substantially and substantively.

I will involve students in class discussion in three main ways. *First*, I will designate at least two students (depending on class size) to serve as "experts" for each class (after the first week). *Second*, I will call on volunteers. *Third*, I will call on students at random and without prior warning to answer questions that anyone who is well prepared should be able to answer.

Every student will serve as an "expert" for at least one class, and possibly more depending on class size. Experts for the following week will be assigned at the end of the class. You may volunteer to be an expert for the following week; if there are not enough volunteers, or if all of the other students have already served as an "expert," you will be randomly assigned. If you need to miss class the week that you are assigned to be an "expert," you must contact me (and preferably contact the other "experts" for that week), and you will be assigned as an "expert" for the following week.

Class participation is part of your grade. But it is a part of your grade that I expect everyone to be able to earn 100% in. Class participation includes regular punctual attendance, serving your fair share of classes as an expert, contributing questions to the weekly video summary/preview, and being prepared for questions when called on at random. Class participate does not mean knowing all the answers, mastering the subject before class, or dominating the class discussion. Wild and creative ideas are encouraged (even if they end up not working out). Defending your position is good; admitting you are wrong is even better. And admitting that you don't know is fine—as long as you make sure you are ready the next time. But your participation grade will be marked down if you are not prepared when it is your turn to be the class expert, are not prepared when called on (this is a lower standard), clearly try to fake it when you are not prepared, or do not contribute to questions for the weekly video summary/preview.

VII. FINAL EXAMINATION

The final examination will consist of essays and short answer questions. The examination will require an analysis of the law, statutes, and policy issues covered in the reading materials and class discussions.

As a general rule, during the examination you may use only:

1. The course book;
2. “Handouts” -- i.e., any material distributed to the class, either in class or electronically;
3. Your Class Notes; and
4. Any material that you have participated in preparing, such as an outline, flow charts, check lists, etc. You can use this material as long as: (a) you had a substantial role in creating the material; and (b) it contains no more than a truly minor amount of material from sources *other than* from items 1-3 or from a current classmate. This provision is designed to allow you to use material you made yourself or as part of a study group, with no more than minor material from elsewhere outside the class (e.g., from a commercial study aid).

The material you use during the exam cannot contain material that you have physically or electronically cut and pasted from anywhere other than the items described in 1 through 4. Thus, for example, if you want to include in your outline material from a commercial study aid, you must handwrite it or hand keyboard it into your outline. And, even then, under the “General Rule” above, this outside material can be no more than a truly minor amount.

VIII. CONTACTING ME

I will have “regular” office hours, in that there will be times that I set aside that I will be in my office on the Law School campus for you to come and visit. Those hours will be announced periodically during the term, and may change as my schedule changes. During those regular office hours, you can come talk to me about the course, specific questions you have, administrative law, other courses, your prospective legal career, my legal career, personal problems that you want to share, politics, baseball, popular culture, and the heat death of the Universe. If you do not come, I will be sad, lonely, and probably just plotting against my litigation adversaries.

In addition, if you have specific issues you want to discuss and cannot make the regular office hours, please contact me and we can set up a meeting, Zoom, or phone call to discuss.

The best way to contact me is by e-mail, especially with simple questions or appointment requests. I will answer you promptly, but it allows me to answer during off-hours where I can give thought to the answer and am not dealing with pressing matters.

If you need to reach me immediately, please call me. Please don’t text me unless there is some emergency (like you’re about to be arrested and, for some reason, you think I am the first person that should know).

In addition, if you want to get practical exposure to the law, you are welcome to shadow me at Court appearances, hearings, trials, and other proceedings (if appropriate). I will periodically let the class know if I have something that might be particularly interesting, but otherwise feel free to ask if you would like to join.

IX. WESTERN STATE COLLEGE OF LAW – PROGRAMMATIC LEARNING OUTCOMES

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

1. Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

2. Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

3. Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

4. Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

5. Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

6. Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

7. Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

8. Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

X. DISABILITY SERVICES STATEMENT

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

XI. ASSIGNMENTS AND CALENDAR

Week	Chapters and Topics	Reading
Week 1: Jan. 22	Introduction Chapter 1: Welcome to Administrative Law Chapter 2: Administrative Law Problem Solving Overview of the Rest of This Book	Course Book: pgs. 3-24 Course Book: pgs. 27-42
Week 2: Jan. 29	Chapter 3: Statutory Research in Administrative Law Chapter 4: Administrative Procedure Acts (APAs) Chapter 5: Administrative Law, Federal Supremacy, and Cooperative Federalism	Course Book: pgs. 45-62 Course Book: pgs. 65-102 Course Book: pgs. 105-118
Week 3: Feb. 5	Chapter 6: Introduction to Agency Rulemaking Chapter 7: Distinction Between Legislative Rules and Non-Legislative Rules Chapter 8: Agency Rulemaking Power	Course Book: pgs. 125-129 Course Book: pgs. 131-154 Course Book: pgs. 157-175
Week 4: Feb. 12	Chapter 9: Limits on Agency Rulemaking Chapter 10: The APA as a Source of Procedural Requirements for Agency Rulemaking	Course Book: pgs. 179-200 Course Book: pgs. 203-232
Week 5: TUESDAY Feb. 20	Chapter 11: Types of Rulemaking under the APA Chapter 12: Informal Rulemaking Chapter 13: Formal Rulemaking	Course Book: pgs. 235-252 Course Book: pgs. 255-299 Course Book: pgs. 303-307
Week 6: Feb. 26	Chapter 14: Hybrid Rulemaking Types of Rulemaking under the APA Chapter 15: Other Laws Cresting Procedural Requirements Chapter 16: Legal Effect of a Valid Legislative Rule When Published	Course Book: pgs. 309-320 Course Book: pgs. 223-334 Course Book: pgs. 335-355

Week 7: Spring Break 03/3- 03/10	No Classes	
Week 8: March 11	Chapter 17: Introduction to Agency Adjudication Chapter 18: Agency Adjudicatory Power Chapter 19: Limits on Agency Adjudicatory Power	Course Book: pgs. 363-384 Course Book: pgs. 387-410 Course Book: pgs. 413-426
Week 9: March 18	Chapter 20: The Due Process Clauses as Sources of Procedural Requirements for Agency Adjudications Chapter 21: The APA as a Source of Procedural Requirements for Agency Adjudications Chapter 22: Formal Adjudications Under an APA—Initiation and Prehearing Procedures	Course Book: pgs. 427-459 Course Book: pgs. 463-496 Course Book: pgs. 501-532
Week 10: March 25	Chapter 23: Formal Adjudications under an AP--Hearings Chapter 24: Formal Adjudications under an AP--Decisions Chapter 25: Agency Choice Between Rulemaking and Adjudication	Course Book: pgs. 535-554 Course Book: pgs. 559-578 Course Book: pgs. 581-596
Week 11: April 1	Chapter 26: Effect of Valid Agency Adjudicatory Decisions Chapter 27: Introduction to Judicial Review of Agency Action Chapter 28: Jurisdiction	Course Book: pgs. 599-616 Course Book: pgs. 621-622 Course Book: pgs. 625-643
Week 12: April 8	Chapter 29: Cause of Action Chapter 30: Timing Chapter 31: Introduction to the Scope of Judicial Review	Course Book: pgs. 647-673 Course Book: pgs. 677-709 Course Book: pgs. 713-732
Week 13: April 15	Chapter 32: The “Substantial Evidence Standard” Chapter 33: The “Arbitrary and Capricious” Standard	Course Book: pgs. 733-746 Course Book: pgs. 749-787

	Chapter 34: The <i>Chevron</i> Doctrine and State Counterparts	Course Book: pgs. 789-817
Week 14: April. 22	Chapter 35: "Auer Deference," State Counterparts, and Other Specialized Review Situations Chapter 36: Judicial Remedies	Course Book: pgs. 819-839 Course Book: pgs. 841-854
Week 15: April 29	Chapter 37: Farewell! Course Review	Course Book: pgs. 857-873