

**ADMINISTRATIVE LAW**  
**Political Science 452**

**Ethridge**  
**Summer 2011**

The purpose of this course is to explore the most important legal and Constitutional principles relating to the administrative process. Essentially, Administrative Law pertains to the powers and procedures of administrative agencies and how their decisions are reviewed by courts. The law thus has implications for the development and exercise of administrative rule-making powers, for the steps agencies must take to observe the rights of Due Process, for the availability and scope of judicial review, for limits on agency investigations, and for the vulnerability of administrators and government agents to lawsuits. In general, administrative law is an effort to forge a compromise between what must be done to protect the rights of those who are regulated by agencies, and what must be done to preserve the efficiency and energy of administrative agencies themselves.

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**IMPORTANT:** Please remember that I will be sending everything to your *UWM* email account. If you don't regularly use that account, make sure you check it or forward it to an account you do use regularly.

**BOOK:** Each student should purchase a copy of Pierce, Richard J., Jr., Sidney Shapiro, and Paul R. Verkuil, *Administrative Law and Process*, 5<sup>th</sup> Edition (2009) [ISBN-13: 9781599414256.] (As of March, 2011, the UWM Bookstore's price for a new copy is \$71.05; used copies will be about 31% less.)

Although it will be necessary to do some outside reading in case materials and law review articles, this text will contain all the class reading assignments.

**GRADE:**

The grade for this course will be determined by the following:

For undergraduate students:

<b>Discussion Postings</b>	<b>20%</b>
<b>Mid-Term Exam</b>	<b>30%</b>
<b>Paper</b>	<b>15%</b>
<b>Final Exam</b>	<b>35%</b>

For graduate students:

**In addition to the above requirements**, students taking the course for graduate credit must complete a longer paper exploring the effects of administrative law in a program or policy area of special interest.

Thus, for graduate students, the grade will be determined by the following:

<b>Discussion Postings</b>	<b>15%</b>
<b>Mid-term Exam</b>	<b>25%</b>
<b>Paper</b>	<b>15%</b>
<b>Graduate Student Paper</b>	<b>15%</b>
<b>Final Exam</b>	<b>30%</b>

**DISCUSSION POSTINGS.** During the **four** weeks in which there is no mid-term or final exam, I will post a discussion question to which each student must post a 250-word response. Each student should also post a comment on another student's response to the discussion question. I will post the discussion question by noon on Monday of each of these weeks, and you will have to post your response by midnight on Thursday. Comments on other students' postings are due by Sunday night of that week.

*Each discussion posting will be graded, and the **total** of these grades will constitute **20%** of the course for **undergraduate students**, and **15%** of the course for **graduate students**.*

**EXAMINATIONS:**

The Mid-term examination will be held during the week of **July 5<sup>th</sup>**.  
The Final Examination will be scheduled for the week of **July 18<sup>th</sup>**.

**PAPER ASSIGNMENT (*all students*):**

The subject for the paper will be the problem of *Due Process in Administrative Law*. From lists prepared by the instructor, each student will select and read two cases, one from a list of cases that *expanded* the reach of the Due Process Clause and the other from a list of cases that *contracted* it (or declined to expand it). Your assignment is to write a 8-12 page paper in which you compare the cases and *discuss their implications for administrative power*.

**DUE DATE: Midnight, July 10<sup>th</sup>**

**PAPER ASSIGNMENT (*graduate students*):**

The graduate student paper should focus on the effect of administrative law on a policy or program or an administrative agency (broadly defined). For example, some observers argue that the broad availability of judicial review makes pollution control agencies timid and sluggish in implementing environmental protection regulations. Another context in which administrative law arguably affects agency behavior is the area of welfare administration: some contend that the procedures setting forth the opportunities that individuals have to contest denials of benefits allow agencies to be unfair in making decisions.

In both of these examples, there is a possible connection between some aspect of administrative law (for example, the availability of judicial review, the right to be heard to contest adverse decisions, the hearing requirements for administrative rule-making, etc.) and the agency's effectiveness, fairness, or efficiency. The graduate student papers should address a problem along these lines. These papers should *not* simply evaluate the "substantive" aspects of programs and policies (e.g., "pollution standards are too lenient", or "welfare payments undercut work incentives," etc.). The key thing is to explore a connection between some aspect of administrative law and agency effectiveness and/or fairness.

I urge each of you to contact me to discuss the topic for your graduate student paper.

**DUE DATE: Midnight, July 17<sup>th</sup>**

**COURSE OUTLINE AND READING ASSIGNMENTS:*****Week 1 (June 13<sup>th</sup> through June 19<sup>th</sup>)***

<u>Introduction: Administrative Power in the American Political System and the Nature and Scope of Administrative Law</u>	<i>Pages 1-32</i>
<u>Legislative Delegation of Legislative Power</u>	<i>Pages 32-41</i>

**(discussion question)**

***Week 2 (June 20<sup>th</sup> through June 26<sup>th</sup>)***

Legislative and Executive Control of  
Administrative Power

*Pages 45-125  
Pages 326-374;  
Pages 498-505*

Procedural Requirements Regarding Rule-Making

Procedural Requirements Regarding Adjudication:  
Due Process in Administrative Law  
Part One

*Pages 235-273*

**(discussion question)**

***Week 3 (June 27<sup>th</sup> through July 3<sup>rd</sup>)***

Procedural Requirements Regarding Adjudication:  
Due Process in Administrative Law  
Part Two

*Pages 273-292*

Procedural Requirements Regarding Adjudication:  
Other Procedural Issues

*Pages 179-188  
Pages 490-512  
Pages 293-325*

**(discussion question)**

***Week 4 (July 5<sup>th</sup> through July 10<sup>th</sup>)***

Information Acquisition and Disclosure

*Pages 429-490*

**\*\*\*\*\*MID-TERM EXAMINATION (available between July 7<sup>th</sup> and July 10<sup>th</sup>) \*\*\*\*\***

*Week 5 (July 11<sup>th</sup> through July 17<sup>th</sup>)*

Judicial Review of Agency Action:

The Standing Problem

*Pages 126-179*

Ripeness, Exhaustion, and

Primary Jurisdiction

*Pages 194-231*

**(discussion question)**

*Week 6 (July 18<sup>th</sup> through July 23<sup>rd</sup>)*

Judicial Review of Agency Action:

Scope of Review

*Pages 379-424*

**\*\*\*\*\* FINAL EXAMINATION (available between July 21<sup>st</sup> and July 23<sup>rd</sup>) \*\*\*\*\***