

ADMINISTRATIVE LAW

Mr. Mitchell
Spring 2009

Course Materials: Our casebook is Breyer, Stewart, Sunstein, and Vermeule, *Administrative Law and Regulatory Policy* (6th edition) (“CB”). You will also need the 2007-2008 supplement (“Supp.”).

Attendance and Participation: I do not have a strict attendance policy, but excessive absenteeism (eight or more absences) will render you ineligible to take the final exam. If you are unprepared for class, please let me know by e-mail before the start of that class. Laptop computers are welcome in class, but may be used only for class-related work.

Final Exam: Three hours, in class, and open book. No word limits. You may bring any resources you wish, but you may not connect to the Internet during the exam. Your grade in the class will depend solely on your exam performance.

Contact information: My office is room 403; e-mail is jmitchen@gmu.edu.

Assignments: The syllabus is tentative and subject to change. (1/7/09).

I. Administrative Agencies and the Constitution.

1. Nondelegation. CB 33-50; 53-63 (skip notes 1 and 2); 65-74.
2. President and Administration. CB 74-83; Supp. 252-253; 248-249; 166-170.
3. Congress and the Administration. CB 83-100.
4. Article II Courts? CB 123-139.

II. Scope of Review.

1. Questions of Fact. CB 191-214.
2. Questions of Law, pre-Chevron. CB 228-241.
3. Chevron. CB 242-252; 255-302; 322-329; 336-347. Supp. 11-24; 44-48.
4. Arbitrary and Capricious Review. CB 347-351; 354-374; 378-384.

III. Procedural Requirements.

1. Constitutional Requirements. CB 405-416.
2. Rules vs. Orders. CB 423-433; 438-448.
3. Retroactivity. CB 464-477.
4. More on Rulemaking vs. Adjudication. CB 479-514.
5. Formal Rulemaking. CB 514-520.
6. Notice-and-Comment Rulemaking. CB 520-538.
7. Vermont Yankee. CB 538-544.
8. Exceptions to Notice-and-Comment Rulemaking. CB 544-565.

IV. Availability of Judicial Review.

1. Reviewability. CB 775-785; 789-796; 800-808.
2. Standing. CB 813-874.