Administrative Law
(Law 116-002)

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(all page numbers refer to this text; all other readings on TWEN)

I. INTRODUCTION

Jan 11: Why do They Get to Decide?
“Agencies”: 1 – 9; *FDA v. Brown & Williamson* (641-56, skim); *Mass v. EPA*, skim (734-43); *Sackett v. EPA* (TWEN)

Jan 13: What is ‘Administration’?
“Functions”: 10-25 (Dickinson, Fuchs; *Londoner, Bi-Metallic, Yesler*)
“Theories of Behavior”: 34 - 40 (esp. Landis, Bernstein, Noll, Wilson)
A.V. Dicey, *Law of the Constitution* (excerpt, TWEN)

Jan 20: Does Administration Transcend Separation of Powers?
“Concepts”: 41 – 59 (Landis, Strauss, Burns, McCutcheon)
“Rights & Remedies”: 810 - 16 (*Cold Storage, Phillips*)
“Tort Actions”: 942 - 45 (Little); *Ives v. South Buffalo Ry.* (TWEN); *American School of Magnetic Healing v. McAnulty* (TWEN)

II. THE CONSTITUTIONAL SETTING OF FEDERAL ADMINISTRATION

Jan 25: Agencies and Article I: Before the New Deal and After
59 - 107 (*Aurora, Wayman, Field, Hampton; Panama, Schechter, Mistretta, I.U.D*)

Jan 27: Controlling Delegation
96 – 140 (*Am. Trucking, Chadha*)
Feb 1: Agencies and Art. II
140 – 50; 159 - 216 (Buckley, Morrison, Free Ent Fund)
Myers v. U.S., Opinions of Early Attorneys General (Excerpts, TWEN)

Feb 3: Art III and Separation of Powers
217 - 55 (CFTC, Stern, Withrow)
NLRB v. Jones & Laughlin Steel (excerpt, TWEN)

III. CONSTITUTIONAL REQUIREMENTS AND DUE PROCESS

Feb 8: Earlier Views
803 – 10; 818 – 33 (Bailey, AntiFascist Com’tee, Cafeteria Workers)

Feb 10: The Due Process Revolution
834 - 871 (Goldberg, Bell, Roth, Sinderman, Thompson)

Feb 15: “Due Process of Law”
895 - 929 (Mathews, Cleveland, Gilbert)

Feb 17: Constitutional Standing
989 – 1021 (Lujan, Friends of Earth, Kansas City Power)

IV. STATUTORY CONSTRAINTS: CONSTRUCTIONS OF THE APA

Feb 22: The APA and Formal Rule-Making
256 - 88 (Fla. East Coast Ry.)
Chicago, Milwaukee & St. Paul Rwy v. Minn (excerpt, TWEN)

Feb 24: Formal Adjudication
288 – 306 (W. Chicago, Seacoast Anti-Pollution, Chem. Waste)
Morgan v. U.S. (I), U.S. v. Morgan (IV) (TWEN)

Feb 29: Informal Rule-making I
306 - 49(Vt. Yankee, Conn. Light, Am Radio)
Mar 2: **Informal Rule-making, II**

359 – 97  (Air Transport, U.S. Tel, Prof’s & Patients, Am. Min’g)

*U.S. v. Dean* (TWEN)

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Mar 14: **Informal Adjudication and Choice of RM or Adjudication**

413 - 56  (Overton Park, Pension Benefit, Chenery I and II)

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V. **SCOPE OF REVIEW**

Mar 16: **Review of Factual Findings**


Informal Proceedings: 492 - 500  (*ADPSO*)

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*Skidmore*: 527- 532;  “Quiet Revolution”: 532 – 50  (*Chevron, Cardoza*)

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“When Does *Chevron* Apply”: 551 - 605  (*Christopher, Rapaport, Christensen, Mead, Gonzalez*)

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Mar 28: **Review of Clear, Precise, Reasonable**

“How Clear is Clear?”: 608 – 40  (*Zuni, Dole, Pauley*);  *Utility Air Reg Group* (TWEN);  *Home Concrete*  (TWEN);  *King v. Burwell* (TWEN)

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Mar 30: **Review of Discretion and Policymaking**

“Review of Agency Discr”: 697 -734  (*I.U.D., Motor Vehicle, P.R. Sun Oil*)

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Apr 4: **More on Review of Discretion and Policymaking**

“Hard Look”: 763 - 800  (*Lemoyne, FLRA, Auto Safety, Matheson*);

*Norton v. So. Utah* (TWEN);  *Mass v EPA* (734 – 43)

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Apr 6: **Executive Review**

Exec Or. 12291: 1184 – 1192;  Later E.O.s: 1192- 1215 (skim)

*Sherley v. Sibelius* (TWEN);  J. Nou, “Agency Self-Insulation” (TWEN)
VI. TIMING and AVAILABILITY OF JUDICIAL REVIEW

Apr 11: Preclusion of Review
“Whether”: 955 – 89 (Block, Bowen, Cheney, Lincoln)

Apr 18: Standing
“Whom ... Statutory Standing”: 1024 - 52 (Data Proc., Clarke, Air Courier, National Credit)

Apr 20: Finality and Ripeness
“Finality”: 1069 - 1086 (Standard Oil, Air Brake Systems); “Ripeness”: 1086 -1105 (Abbott, Toilet Goods, Ohio Forestry)
“Over-ripeness”: 1106 – 16 (FLRA, JEM, Yakus, Adamo Wrecking)

VII. SUMMATION

Apr 21: Review and Conclusion