
Class participation. I expect you to be prepared to discuss the assigned reading in every class session. In effect, each student will be “on call” in each class. I reserve the right to adjust your grade up or down a half-step (e.g., A to A-minus, or B to B-plus) based on your preparation and your contributions to class discussion.

Reaching me. I am available to meet virtually anytime. Please call or email to set up an appointment. My office is room 424, phone is (703) 993-4420, and email is nsales1@gmu.edu.

Course outline. The following outline is tentative and may change based on the speed with which we progress through the material. I will announce the reading assignments for upcoming classes at intervals throughout the semester. For the first class, please read assignment I.a. (“CB” refers to the casebook; “APA” refers to the Administrative Procedure Act, which is excerpted at the end of the casebook.)

I. Introduction and separation of powers
   a. Overview of the administrative state – APA §§ 551, 553(a)-(c), 554(a)-(c), 706; CB 1-15
   b. The nondelegation doctrine
      i. Delegation of legislative powers – CB 15-33
      ii. Delegation of adjudicative powers – CB 569-80
   c. Legislative control of agencies
      i. The legislative veto – CB 34-51
      ii. Legislative oversight – CB 60-62
   d. Executive control of agencies
      i. Appointment – CB 62-69
      ii. Removal – CB 69-74
      iii. Reconsidering appointment and removal: *Morrison v. Olson* – CB 74-97
   e. Overview of agency policymaking
      i. Policymaking framework – APA §§ 553-54, 556-57; CB 379-85
      ii. Rulemaking – CB 385-97
      iii. Adjudication – CB 397-414
      iv. Informal actions – CB 414-24

II. Standards of judicial review
   a. Section 706 and *Overton Park* – APA § 706; CB 111-27
   b. Questions of fact/policy: arbitrary and capricious – CB 127-54
   c. Questions of fact/policy: substantial evidence – CB 199-213
   d. Questions of law
      i. *Chevron* – CB 155-87
ii. *Mead* – CB 187-98
e. Judicial remedies for unlawful agency action – CB 227-29

### III. Availability of judicial review

a. Reviewability
   i. “Agency action” – CB 231-45
   ii. Statutory preclusion – CB 245-61
   iii. “Committed to agency discretion by law” – CB 261-97

b. Standing
   i. Statutory standing requirements – CB 297-309
   ii. Constitutional standing requirements – CB 309-45

c. Timing of judicial review: Ripeness, finality, and exhaustion – CB 345-69

### IV. Rulemaking

a. Statutory framework – APA §§ 553, 556-57; CB 424-27

b. Rights of participation
   i. Notice – CB 427-34
   ii. The concise general statement – CB 434-38
   iii. Ex parte contacts – CB 438-47
   iv. Political influence – CB 448-60
   v. Impartiality – CB 460-74

c. Hybrid rulemaking and negotiated rulemaking – CB 474-91, 513-28

d. Exemptions from rulemaking requirements – CB 490-513

### V. Adjudication

a. Due process requirements
   i. Protected interests – CB 580-616
   ii. What process is due?
      2. Neutral decisionmaker – CB 631-45

b. Statutory requirements – APA §§ 554, 556-57; CB 569, 652-86

### VI. Investigations

a. Overview – CB 687-91

b. Physical inspections – CB 691-705

c. Producing and maintaining information – CB 705-718

### VII. Licensing

a. Entry regulation – CB 827-28, 841-76, 882-85

b. Rate regulation – CB 885-97

c. Deregulation – CB 897-913