Administrative Law  
(Law 116-002)

Office:  Hazel 322  
Hours:  Tuesday, 2:00 – 4:00 or by appointment  
E-mail:  jrabkin@gmu.edu

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

I.  INTRODUCTION

Jan 7:  Why do They Get to Decide?  
“Agencies”:  1 – 9; 641-56 (FDA v. Brown & Williamson, skim);  
734-43 (Mass v. EPA, skim);  970-72 (Sackett v. EPA or skim on TWEN)

Jan. 9:  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. 14:  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)

II.  THE CONSTITUTIONAL SETTING OF FEDERAL ADMINISTRATION

Jan 16:  Agencies and Article I:  Before the New Deal and After  
59 - 107 (Aurora, Wayman, Field, Hampton; Panama, Schechter, Mistretta, I.U.D)

Jan 21:  Controlling Delegation  
96 – 140 (Am. Trucking, Chadha)
Jan 23: Agencies and Art. II
140 – 50, 159 – 216 (Buckley, Morrison, Free Ent Fund)
Myers v. U.S., Opinions of Early Attorneys General (Excerpts, TWEN)

Jan 28: Art III and Separation of Powers
217-55 (CFTC, Stern, Withrow)
NLRB v. Jones & Laughlin Steel (excerpt, TWEN)

III. CONSTITUTIONAL REQUIREMENTS AND DUE PROCESS

Jan 30: Earlier Views
803-10, 818 -33 (Bailey, AntiFascist Com’tee, Cafeteria Workers)

Feb 4: The Due Process Revolution
834 - 871 (Goldberg, Bell, Roth, Sinderman, Thompson)

Feb. 6: “Due Process of Law”
895-929 (Mathews, Cleveland, Gilbert)

Feb. 11: Constitutional Standing
989-1021 (Lujan, Friends of Earth, Kansas City Power)

IV. STATUTORY CONSTRAINTS: CONSTRUCTIONS OF THE APA

256 - 88 (Fla. East Coast Ry.)
Chicago, Milwaukee & St. Paul Rwy v. Minn (excerpt, TWEN)

Feb. 18: Formal Adjudication
288-306 (W. Chicago, Seacoast Anti-Pollution, Chem. Waste)

Feb. 20: Informal Adjudication, I
306-49 (Vt. Yankee, Conn. Light, Am Radio)
Feb. 25: Informal Adjudication, II  
359 – 97 (Air Transport, U.S. Tel, Prof’s & Patients, Am. Min’g)

Feb. 27: Informal Adjudication and Choice of RM or Adjudication  
413 - 56 (Overton Park, Pension Benefit, Chenery I and II)

V. SCOPE OF REVIEW

Mar. 4: Review of Factual Findings  
Informal Proceedings: 492 - 500 (ADPSO)

Mar. 6: Review of Legal Conclusions – History  
“Theory and History”: 501 – 31 (Gray, Hearst, O’Leary, Packard, Skidmore)

Mar. 18: Review of Legal Conclusions – Current Practice (i)  
“Quiet Revolution”: 532 – 51 (Chevron, Cardoza)

Mar. 20: Review of Legal Conclusions – Current Practice (ii)  
“When Chevron Applies”: 551- 605 (Christopher, Rapaport, Christensen, Mead, Gonzalez)

Mar. 25: Review of Clear, Precise, Reasonable  
“How Clear is Clear?”: 608 -56 (Zuni, Dole, Pauley, Brown & Williamson)

Mar. 27: Review of Discretion and Policymaking  

Apr. 1: More on Review of Discretion and Policymaking  
“Hard Look”: 763- 800 (Lemoyne, FLRA, Auto Safety, Matheson)
VI. TIMING and AVAILABILITY OF JUDICIAL REVIEW

Apr. 3: Exclusion of Review
"Whether": 955 - 89 (Block, Bowen, Webster, Lincoln)

Apr. 8: Standing
"Whom ... Statutory Standing": 1024 -52 (Data Processing, Clarke, Air Courier, National Credit)

Apr. 10: Ripeness
"When": 1069- 1106 (Standard, Air Brake, Abbott, Toilet Goods, Ohio Forestry)

Apr. 17: Review and Conclusion