

## Administrative Law (Law 116-001)

Office: Hazel 322

Hours: Tues., 3:30 – 5:00 pm

E-mail: [jrabkin@gmu.edu](mailto:jrabkin@gmu.edu)

Casebook: Cass, Diver et al., *Administrative Law*, 8<sup>th</sup> ed. (= CB); Other readings on TWEN

Learning outcomes: Understanding of constitutional constraints on administrative procedure from separation of powers and due process requirements; understanding of process requirements under Administrative Procedure Act; understanding of ongoing disputes regarding proper levels of judicial deference to agency determinations

### **PART I: THE CONSTITUTIONAL SETTING OF FEDERAL ADMINISTRATION**

Aug 23: Introduction: Why administration?

CB 3- 15; 839-40; Dicey, *Law of the Constitution*; *Ives v. So. Buffalo RR*  
*New York Central R.R. v. White*

Aug 25: Legislative Control - I

CB 15 – 34; *Gundy v. U.S.*; *NFIB v. OSHA*; *West Virginia v. EPA*

Aug 30: Legislative Control – II

CB 33 – 60; 620 – 34; *NLRB v. Jones & Laughlin Steel Co.*

Sep 1: Executive Control

CB 60 -92; Op's of Early U.S. AG's; *Seila Law v CFPB*

Sep 6: Political Supervision  
CB 93 – 115; 600-07

## **PART II: ADMINISTRATIVE PROCESS**

Sep 8: Licensing  
CB 856 – 875

Sept 13: Rate Regulation  
CB 876 – 884; *Chicago, Milwaukee, St. Paul R.R. v. Minn.*

Sept 15: Right to Due Process  
CB 634 – 664; 417 - 421

Sep 20: Requirements of Due Process  
CB 664 - 690; 516 – 529; *U.S. v. Morgan I, IV*

Sept 22: Formal and Informal Adjudication  
CB 691 - 711; 715 – 738

Sept 27: Choice of Policy-Making Instruments  
CB 423 - 448

Sep 29: Agency Discretion  
CB 449 - 478; 568 – 571; Jackson dissent in *Chenery II*

Oct 4: Rule-making under APA  
CB 479 – 529

Oct 6: Embellishing APA  
CB: 530 – 568; *Washington v. Trump*

### **PART III: THE LAW OF JUDICIAL REVIEW**

Oct 13: Standards of Judicial Review  
CB 117 – 133; 244 – 264

Oct 18: Judicial Review of Policy  
CB 134 – 174; 264 – 273

Oct 20: Judicial Review of Questions of Law  
CB 176 – 207; *Am. School of Magnetic Healing v. McAnnulty*

Oct 25: Limits of Deference  
CB 207 – 264

Oct 27: Reviewability  
CB 278 – 313

Nov 1: Committed to Discretion  
CB 313 – 353; *Am. Inst of Int'l Steel v. U.S.*

Nov 3: Standing to Sue  
CB 351 – 389; *Am Humanist Assn v Am Legion* (Gorsuch opinion)

Nov 8: Timing of Judicial Review  
CB 388 – 414; *Sackett v. EPA*; *Chem. Waste Mngmt v. EPA*

## **PART IV: SETTINGS OF DISPUTES**

Nov 10: Enforcement  
CB 739 - 785

Nov 15: Private Litigation and Regulatory Enforcement  
CB 786 - 824

Nov 17: Public Access  
CB 887 – 929

Nov 22: Fresh New Hell, 2022  
TBD