

ADMINISTRATIVE LAW SYLLABUS – SPRING 2026
(Wednesday 9:00-11:55)

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GMU email: To Be Named Later

Summary: This course examines the powers and processes of federal administrative agencies. It will examine the control of federal agency actions via judicial review and other means. The class meets once per week, on Wednesdays, for 2 hours and 55 minutes from 9:00 to 11:55 a.m.

Casebook: The casebook is the tenth edition of *Administrative Law: Cases and Materials*, by Ronald Cass et al. Both the Administrative Procedure Act (APA) and the U.S. Constitution are included in the appendices to the casebook. You may consult them at will, and you should be sure to consult them when they are referenced in the assigned readings. I may supplement assigned readings with additional materials.

Overview – Roadmap of the Course: The federal administrative state is large and complex. Among other functions, it gives (and takes away) such things as benefits and licenses; it regulates everything from content, to fishing, to emissions, and a number of other things you might not even imagine; and it creates rules and procedures that can impact significantly our jobs and our personal lives, perhaps without our awareness. We'll look at some of those issues. We can't cover everything within the purview of the federal administrative state during our 13 classes. As such, we will focus on major concepts.

The Administrative Law landscape is relatively calm and predictable, on the legal continuum. Long periods of relatively uneventful, conflict-free coexistence between and among the three branches of government, however, can be interrupted by significant legislative, executive or judicial actions. Those actions can create short- or even long-term turbulence along the Administrative Law continuum. That turbulence is part of what makes this topic so intriguing and worthy of discussion. It is a truly interesting time to be studying the topic.

We will start by examining constitutional issues regarding congressional delegation of power to federal agencies, and we will examine the issue of presidential oversight of those same agencies. We will examine the standards by which courts review federal agency actions, and we will delve into matters of fact and law as courts review their actions. We will then examine the nature of federal agencies, including the processes by which they administer the law (*i.e.*, how agencies conduct their business).

Where cases are concerned, our readings will nearly always include excerpts of cases, rather than their full texts. The sheer number of pages in some full opinions, not to mention the concepts being addressed and issues being decided, can be voluminous and, quite frankly, a bit distracting from our weekly mission of understanding discrete concepts. Our casebook excels at distilling voluminous pages of opinions to their

essence, and focusing the reader on a particular case's main takeaways. Where appropriate, I will try my best to fill in the rest of the story for those cases whose significant findings, holdings or dicta helped shape the Administrative Law landscape.

Student Classroom Responsibilities: Be prepared for class, always. Anticipate being "cold called." I recognize that not everyone can be "on," all the time. Illnesses, family issues or other episodic personal circumstances beyond your control may occasionally cause you not to be at your best during our class. If those circumstances do crop up on occasion, please notify me in advance of class via email. As a class of professionals, we will rely on each other to minimize outside communications (*i.e.*, cellphones will be muted and put away) and other distractions in class. You may not sound or video record any part of a class without advance permission.

Standard of Evaluation: Students will be evaluated on the basis of a final examination, which will be open-book / open-note, essay-style, and three hours long. I will retain discretion to adjust your final grade by one-half letter to reflect either exceptional class participation or a persistent lack of participation.

Office Hours and Contact Information: As an adjunct, I will notify you during the first class of my office hours and the place we may meet. At this point, I anticipate that office hours will be the hour after our scheduled class time on Wednesdays. I will also notify you during the first class of my GMU email address.

Note: Administrative Law developments and jurisprudence move fast. Emerging issues in case law and, quite frankly, the pace of new developments in the workings of the federal government may cause us to veer, occasionally, from our roadmap below (*i.e.*, The Syllabus). The below Syllabus is subject to amendment, as are the assigned readings, based on: my sense of how we are progressing as a class; new or emerging developments in the law; and a multitude of other considerations. We will try to review major concepts before we move from one primary concept to another. I have identified two classes to be conducted via Zoom, identified by two asterisks **.

PART 1 – CONGRESS & ADMINISTRATIVE AGENCIES

Class #1 – January 14:

- Introduction: Origin of Administrative Agencies – pp 3-17
- Delegation & the Nondelegation Doctrine – pp 17-39
- Alternative Methods of Congressional Control – pp 39-68
- APA sec. 551
- US Constitution – Art I, sec. 1

PART 2 – THE PRESIDENT & ADMINISTRATIVE AGENCIES

**** Note – No Class on January 21**

Class #2 – January 28:

- Introduction to Presidential Control – pp. 68-81
- Appointment – pp 81-86 (through Note 2); 91 (Note 7)-98
- Removal – pp 99-137
- US Constitution – Art II, sec. 1, clause 1

PART 3 – JUDICIAL REVIEW OF ADMINISTRATIVE DECISIONS

Class #3 – February 4:

- Standards of Review under the APA – pp 139-152
- “Hard Look” Review – pp 156-181
- Review of Agency Changes to Policy – pp 181-187 (through Note 2); 191-194
- APA sec. 706

Class #4 – February 11:

- Review of Agency Decisions Not to Act – pp 194-201
- “Substantial Evidence” Review of Questions of Fact or Policy – pp 298-326
- APA sec 706

Class #5 – February 18:

- Judicial Review of Questions of Law (*i.e.*, Statutory Interpretation): Deference Standards under *Skidmore* & *Chevron*, and *Chevron’s* Demise – pp 201-235
- APA sec. 706

Class #6 – February 25:

- Statutory Construction Post-*Chevron* – pp 235-264
- “Major Question” Doctrine – pp 264-282
- Judicial Review of Regulatory Interpretations – pp 285-298

Class #7 – March 4:

- Availability of Judicial Review: Jurisdiction & Reviewability (“Agency Action,” Statutory Preclusion, and “Commitment to Agency Discretion”) – pp 331-403

**** Note – No Class on March 11**

Class #8 – Mar 18: ** Class to be Conducted via Zoom

- Availability of Judicial Review: Standing under the APA and Constitution & Timing of Review (Ripeness, Finality & Exhaustion) – pp 403-470

PART 4 – ADMINISTRATIVE FUNCTIONS & PROCEDURES

Class #9 – Mar 25:

- Choices for Agency Policymaking Instruments: Due Process & Statutory Constraints, and Agency Discretion – pp 471-486; 498 (Note 4)-508; 524-535
- Adjudication and Constitutional Implications: Agency Authority to Adjudicate – pp 681-706
- US Constitution – Art. III
- APA secs. 551, 553, 554, 556-557

Class #10 – Apr 1: ** Class to be Conducted via Zoom

- Adjudication: Due Process - Bias & Prejudgment – pp 706-726 (through Note 2); 738-756; 762-764
- APA secs. 554, 556-557

Class #11 – Apr 8:

- Formal Adjudication: Statutory Hearing Requirements (Triggering Formal Procedures and the Procedures, Themselves) – pp 764-785
- Informal Adjudication – pp 808-812
- APA secs. 554, 556-557

Class #12 – Apr 15:

- Rulemaking: Formal & Informal – pp 537-562; 575-603 (through Note 5)
- APA secs. 553, 556-557

Class #13 – Apr 22:

- Rulemaking: Exemptions – pp 606-628
- Rulemaking: Stays – pp 628-633
- APA sec. 553