STATEMENT ABOUT THE COURSE

Administrative law is one of the fastest growing areas in the public administration discipline, as well as in the field of law. The chief reason for this is simply that more experts in administrative law are needed to help various public and private organizations comply successfully with all the legal requirements attached to the growing number of governmental regulations. Promoting diversity, for example, is one of the main subject areas of administrative law since administrative law seeks to promote due process in new, challenging areas of law involving Affirmative Action, Equal Opportunity, EEOC, Americans With Disabilities, Gender Equality, etc. Today, the court dockets are filled with cases involving diversity issues as America tries to legally sanction into its socio-economic, political fabric sensitivity to diversity.

Administrative law is a highly recommended course to take if you are planning on going to law school or planning to follow a career path in government, not-for-profit organizations, or working for the private sector where understanding the governmental rules and regulations that apply to your industry would prove very helpful (e.g., health care industry).

Administrative law is a challenging, but fascinating subject, undergoing constant change due to changes in new regulatory requirements and court decisions. Basically, administrative law deals with the legal relationships between regulatory agencies and those they attempt to regulate. Judicial review of agency actions is a particular focus of administrative law since the courts often must decide whether governmental agencies have acted properly when flexing their regulatory muscle. Administrative law always faces new challenges. Recently, the Obama administration has faced acute domestic and foreign policy problems, as the United States tries to strengthen the economy, implement diversity, health care, and immigration reforms, as well as combat terrorist threats at home and abroad. Obama, as chief executive, has proposed all sorts of new governmental regulations to cope with these problems. Some of his proposals have become law and some of these laws (e.g., health care reform) have been challenged in the courts. Administrative law focuses on procedural due process, so we will examine throughout the semester governmental actions in the context how well agencies uphold or do not uphold fundamental procedural due process standards.

COURSE OUTLINE

I. ADMINISTRATIVE LAW: AN INTRODUCTION
A. Introductory Comments
B. Objectives
C. Approach
D. Nature of Administrative Law
E. Summary
II. ADMINISTRATIVE LAW: A SYSTEMS APPROACH
   A. The Systems Model
   B. Administrative Agencies as Key Actors
   C. Actors with Major Roles
   D. Actors with Lesser Roles
   E. Critical Analysis of the Administrative System
   F. Summary

III. THE GROWTH OF ADMINISTRATIVE POWER
   A. Agency Proliferation
   B. Delegation Doctrine
   C. Administrative Power Today
   D. Administrative Growth, the Public Interest, and the Role of Administrative Law (from basic economic regulation to regulating to promote diversity)
   F. Regulation v. Deregulation
   H. Summary

IV. CONGRESSIONAL ATTEMPTS TO ACHIEVE DEMOCRATIC ACCOUNTABILITY IN PUBLIC AGENCIES
   A. Overview
   B. Traditional Checks
   C. Attempts to Professionalize and Depoliticize the Administrative Process
   D. Administrative Procedures Act
   E. Other Major Legislation
   G. Summary

V. PROTECTING ADMINISTRATORS FROM UNDUE INTERFERENCE AND HARASSMENT
   A. Legitimate v. Illegitimate Meddling
   B. Conflicts of Interest
   C. Congressional Influence Peddling
   D. President's Appointment and Removal Powers
   E. Case: Wiener v. United States (1958)
   F. Summary

VI. RULEMAKING
   A. Overview
   B. Rulemaking Defined
   C. Democratic Character of Rulemaking: represent interests fairly
   D. Making Rulemaking More Democratic: promoting fairness and diversity
   F. Summary
VII. PUBLIC POLICYMAKING TUG-OF-WAR BETWEEN RULEMAKING AND ORDERMAKING
   A. Overview
   B. Ordermaking Defined
   C. Ordermaking v. Rulemaking
   D. Pros and Cons of Each
   E. Why Rulemaking is Preferable for Agency Policymaking
   G. Summary

VIII. AGENCY HEARINGS: HOW FAIR ARE THEY?
   A. Serving Due Process in Agency Hearings
   B. Administrative Hearings v. Court Trials
   C. Bias, Due Process, and Regulatory Effectiveness
   D. Evidence
   E. Decisionmaking
   G. Summary

IX. DISCRETIONARY AGENCY ACTIONS
   A. Formal v. Informal Agency Actions
   B. Administrative Discretion Defined
   C. The Problem of Administrative Discretion
   D. Ferguson: Police discretion, prosecutorial discretion and diversity
   E. Confining, Structuring, and Checking Discretion
   F. Traditional and Non-Traditional Methods for Controlling Abuses of
      Discretion (e.g., abuse of police discretion in Ferguson, Ohio, and NY?)
   H. Summary

X. JUDICIAL REVIEW OF AGENCY BEHAVIOR
   A. Overview
   B. The Changing Role of the Courts
   C. Reviewability
   D. Scope of Review
   E. Court Orders and Problems of Compliance
   F. EEOC and the American With Disabilities Act: Case law
   H. Summary

XI. SUING THE GOVERNMENT AND ITS ADMINISTRATORS
   A. Sovereign Immunity Doctrine
   B. Toward Qualified Immunity
   C. Toward Increased Governmental Liability and Decreased Official Liability
D. Ferguson, Bob McCulloch. prosecutorial discretion and immunity, and diversity issues
E. On Presidential Immunity
F. Case: Jones v. Byrnes (2009)
G. Summary

XII. BALANCING SOCIETAL AND INDIVIDUAL RIGHTS
A. Overview
B. Administrative Searches and Seizures
C. Fifth Amendment Protection in Administrative Searches and Seizures
D. Administrative Searches and Seizures Since the Terrorist Attack of “9/11” and the Passage of the USA Patriot Act
F. Summary

REQUIRED READINGS
Assigned cases on Lexis-Nexis
Handouts on breaking administrative law issues

GRADING POLICY
Midterm 140 points
Final 140 points
Editorial 40 points
Class participation 80 points
Total 400 points

ATTENDANCE POLICY
Administrative Law is not an easy subject to understand, especially for students missing a significant number of classes. Therefore, I am imposing an attendance policy. Students cannot cut more than seven (7) classes and receive credit for this course, excluding excused absences (e.g., medical problems with a note from a doctor). This is a very small class, so a lot of small group interactive discussions will take place to help you understand administrative law. Such interaction should help you understand administrative law quite fast since you will have the opportunity to ask me any questions that you may have and get immediate feedback.

Academic Honesty Policy
Students are expected to be honest in their academic work. The University reserves the right to penalize any student whose academic conduct at any time is, in its judgment, detrimental to the
University. Such conduct shall include cases of plagiarism, collusion, cheating, giving or receiving or offering or soliciting information in examinations, or the use of previously prepared material in examinations or quizzes. Violations should be reported to me and will be investigated and adjudicated according to the Policy on Academic Honesty of the College of Arts & Sciences. If the charges are found to be true, the student may be liable for academic or disciplinary probation, suspension, or expulsion from the University.

See: http://www.slu.edu/college-of-arts-and-sciences-home/undergraduate-education/academic-honesty

**Students with Disabilities**

Students with disabilities need to make arrangements with the Disabilities Coordinator, 977-8885, DuBourg, Room 36. The Americans with Disabilities Act will be honored completely.

https://mail.slu.edu/cgi-bin/webmail.cgi?cmd=item-32&utoken=warrenkf40svd.slu.edu3...
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**Grading Scale**

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**Course Objectives**

Basically, I have a threefold objective in teaching this course. First, I want students to learn about the institution and practices of the administrative law. Secondly, I want to include a diversity component to make students understand how much administrative law has done to advance diversity in American society through helping ensure that procedural due process is upheld when implementing the Voting Rights Act, American With Disabilities Act, Equal Opportunity, etc. Thirdly, I want students to learn to think critically about the administrative law and the pros and cons of our various governmental regulations.

**Modes of Assessment and Skills/Knowledge Being Assessed**

Student knowledge and critical thinking skills pertaining to the administrative law will be assessed through a midterm and final exam, a position paper, and through their input in class discussions. I will look at not only a student’s factual knowledge of the administrative law subject matter, but how sophisticated their conceptual or critical thinking skills are in addressing the subject matter of this course, especially in evaluating the weight of the arguments presented in the court cases we will review and brief.
**In-Class Activities**

In-class activities will consist of standard lectures combined with a lot of class discussions on topics related to the administrative law. Students will be expected to keep up with the reading assignments and to complete assigned case briefs. Participation will constitute 20% of a student’s final grade in this course because we will have many class discussions.