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 cope successfully with the mounting problems caused by the rapid growth of governmental regulations over the past several decades.

Administrative law is not an easy subject, mostly because it is a relatively new, unstable legal area undergoing rapid change, although the pace has slowed in recent years. Basically, administrative law deals with the legal relationships between regulatory agencies and those they try 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 confronts new challenges. Recently, the Obama administration has faced acute domestic and foreign policy problems, as the United States tries to fight a sluggish economy at home and terrorists 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., the Affordable Health Care Act) have been challenged in the courts. We can anticipate that the implementation of the Affordable Health Care Act will become an administrative law “nightmare” because it is a very complex law that will press regulators to issue rules that will work well and survive legal and political challenges. 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
   E. Challenge to American Democratic Ideals
   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
   D. Making Rulemaking More Democratic
   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. Confining, Structuring, and Checking Discretion
E. Traditional and Non-Traditional Methods for Controlling Abuses of Discretion
G. 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. Case: *United States v. Mead Corporation* (2001)
G. 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. On Presidential Immunity
F. 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**

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<tr>
<th>Component</th>
<th>Points</th>
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<tr>
<td>Midterm</td>
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<td>Final</td>
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<tr>
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<td><strong>Total</strong></td>
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**Grading Scale** (Slight scaling may be used to adjust for overly high or low average class grades)

- A  93-100
- B+ 87-89
- C+ 77-79
- D  68-70
- A- 90-92
- B  83-86
- C  73-76
- F below 60
- B- 80-82
- C- 70-72

**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).

**COURSE EVALUATION**

During the last week of the semester, students will be reminded to complete an on-line course evaluation. Students will be notified when screens will be accessible for students to submit the evaluation.

**My Contact Information**

Office phone number: 314-977-3036 (also try 3035 for departmental secretary)
Home phone number: 314-963-0451 (call when very important)
E-mail: warrenkf@slu.edu
Office: McGannon Hall, Room 135  
Office Hours: T/TH 12:00 – 12:45; 2:00 – 2:30; and by appointment.

Americans with Disabilities Act

All provisions are honored by this instructor.  
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...  
8/24/2007

Academic Integrity and Honesty

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 your course instructor, who will investigate and adjudicate them according to the Policy on Academic Honesty of the College of Arts and Sciences. If the charges are found to be true, the student may be liable for academic or disciplinary probation, suspension, or expulsion by the University.

The statement below is adopted primarily from the Academic Integrity statement on page 58 of the 2005-2007 Undergraduate Catalog.

VIII. Academic Integrity and Honesty

The University is a community of learning, whose effectiveness requires an environment of mutual trust and integrity. Academic integrity is violated by any dishonesty such as soliciting, receiving, or providing any unauthorized assistance in the completion of work submitted toward academic credit. While not all forms of academic dishonesty can be listed here, examples include copying from another student, copying from a book or class notes during a closed book exam, submitting materials authored by or revised by another person as the student’s own work, copying a passage or text directly from a published source without appropriately citing or recognizing that source, taking a test or doing an assignment or other academic work for another student, securing or supplying in advance a copy of an examination without the knowledge or consent of the instructor, and colluding with another student or students to engage in academic dishonesty.

Any clear violation of academic integrity will be met with appropriate sanctions. Possible sanctions for violation of academic integrity may include, but are not limited to, assignment of a failing grade in a course, disciplinary probation, suspension, and dismissal from the University. Students should review the College of Arts and Sciences policy on Academic Honesty, which can be accessed on-line at http://www.slu.edu/colleges/AS/ under “Quicklinks for Students” or in hard copy form in the Arts and Sciences Policy Binder in each departmental or College office.

Course Objectives
Basically, I have a twofold objective in teaching this course. Firstly, I want students to learn a lot about the academic and practical field of administrative law. Secondly, I want students to develop a critical understanding of administrative law. That means I want students to learn to think in a conceptually scholarly way about various happenings and claims in administrative law. More specifically, I want students to be able to think critically about case law and the legal principles and doctrines that guide administrative law and judicial decisions.

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

Students will be assessed on their ability to learn and retain course materials, as well as on their ability to think critically about the subject matter, through a midterm and a final, a position paper, and their class participation. As the semester progresses, students should improve in their ability to think critically as they learn more about the subject matter and practice their ability to critique the materials (e.g., rules promulgated by administrative agencies, judicial decisions, the application of legal principles and doctrines) in class discussions.

**In-Class Activities**

In-class activities will consist of standard lectures combined with a lot of class discussions on issues pertaining to administrative law. Students will be expected to keep up with the reading assignments, especially the assigned cases and occasional articles from the Internet so that they can participate meaningfully in class discussions. Participation will constitute 40 points or 10% of a student’s final grade in this course.