

**Law, Politics and Regulatory Policy Seminar
POLS-4300; POLS-5300**

**Dr. Warren
Fall, 2018**

STATEMENT ABOUT THE COURSE

Law, Politics, and Regulatory Policy is rooted in administrative law. 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 simple. 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 regulatory policies over the past few decades. Administrative law is not an easy subject, mostly because it is a relatively new, unstable legal area undergoing rapid change since FDR's New Deal, although the pace has slowed in recent years. 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. A major focus of administrative law is procedural due process, not constitutional due process. Consequently, we will study how well agencies do in applying procedural due process when conducting agency work (e.g., when promulgating rules, conducting hearings, and conducting administrative searches).

Unlike many areas of law, administrative law cannot escape politics since their regulatory decisions are inherently political. Typical case law involves the government as one of the parties in a lawsuit (e.g., FDA, FAA, EPA, USCIS, SEC, FCC, DHS) since often businesses and people contest regulations imposed on them by administrative agencies. Governmental regulations are almost always controversial since Republicans and Democrats have different views on the role governmental regulators should play. Agency administrators often see themselves caught between a rock and a hard place with some in Congress approving of their regulations with others wanting to strip them of specific regulatory powers. Since Donald Trump has become president he has conducted an assault on the administrative state, trying to curb agency power and their regulatory clout in an effort to allow businesses to operate without a regulatory burden. We will examine Trump's efforts to "deconstruct" the administrative state.

Seminar Outline (Dates)

August	27
Sept.	1
Sept.	10
Sept.	17
Sept.	24
Oct.	1
Oct.	8
Oct.	15
Oct.	22
Oct.	29
Nov.	5
Nov.	12
Nov.	19
Nov.	26
Dec.	3
Dec.	10

Topics

Introduction to Seminar
Labor
Warren, Chapter 1
Warren, Chapter 2
Warren, Chapter 3
Warren, Chapter 4
Warren, Chapter 5
Warren, Chapter 6
Fall break
Warren, Chapter 7
Warren, Chapter 8
Warren, Chapter 9
Warren, Chapter 10, start oral reports
Warren, Chapter 11, oral reports
Warren, Chapter 11 oral reports
Seminar papers due, Last class day, Celebration

Required Readings*

Kenneth F. Warren, *Administrative Law in the Political System*, 5th ed. (Westview Press, 2011). Note, I am under contract to do a 6th edition. I will be in the middle of writing it during this semester. I will appreciate your comments on how I should revise this book, especially with an eye on reducing the page numbers by about 30%.

Hand-outs (e.g., cases, articles); cases from Lexis-Nexis legal or Nexis Uni.

*Note on required textbook readings. Most textbook chapters are long and tedious. After all, this is a law book. I want you to approach the readings in the following way. Read the chapters for general knowledge about what the chapter title and major subject headings address. Do not put off the readings until just before you come to class. Try to read them incrementally throughout the week. Take notes on the readings. Come to class being able to answer basic questions about what the chapter title and major subject headings convey. For example, if the chapter title is rulemaking, be able to tell me what rulemaking is. If a major subject heading is “notice and comment rulemaking,” be able to tell me what notice and comment rulemaking is. If you know the basics of the chapter, you will be able to participate in a meaningful discussion. This is essential to make seminars interesting and informative. This is not a lecture course, although I do plan on taking time to explain and answer questions you may have about this difficult subject area. Note below under Grading Policy that participation counts 35% of your course grade. This is a lot, but participation in seminar discussions is very important and demonstrates to me whether you have read and know the material reasonably well. Note that there are no exams, which is typical for seminar classes. You are graded on your participation, oral presentation of your seminar paper, and your seminar paper.

Grading Policy

Participation	140	(35%)
Oral Presentation	40	(10%)
<u>Seminar Paper</u>	<u>220</u>	<u>(55%)</u>
Total Points	400	(100%)

My contact information

My phone numbers: 977-3036 (office); 977-3035 (department office);
963-0451 (home office --- call here only when important)

Office, McGannon Hall, Room 135

Office Hours: Always immediately before and after seminar hours and by appointment or any time you can find me in my office. I will normally be in my office right before and after my MWF 1:10-2:00 pm class. I also can be reached by phone at the above numbers.

In-Class Activities

In this seminar students will be expected to keep up with the assigned readings from week to week because intelligent class discussions cannot take place if students do not know the material well enough to discuss. Seminars are based on the Socratic method, so learning is enhanced through presenting and debating the subject matter. Each week one student will join me in presenting the topic and leading the discussion. Students will also be responsible for briefing one administrative law case per week. Each week we will discuss these briefs in class.

Each student will complete a term paper on any subject related to *Law, Politics, and Regulatory Policy*. Although the paper will be submitted near the end of the semester, each

student will present an overview of his/her paper to the class and receive comments, which will hopefully help the student complete his/her term paper.

Course/Learning Objectives

Students are expected to learn the subject matter of *Law, Politics, and Regulatory Policy* (administrative law). Students are also expected to understand case law, specifically how administrative law principles, doctrines, and legal tests are applied to legal arguments. Additionally, students are expected to understand administrative law/decision-making in the context of the political system, understanding that legal demands often conflict with political demands and that political demands normally trump technical legal demands.

Modes of Assessment and Skills/Knowledge Being Assessed

Student knowledge of the subject matter will be assessed on a weekly basis as students participate in seminar discussions. Students are expected to demonstrate knowledge of the material and be able to show a conceptual understanding of administrative law principles, doctrines, and case law. Because administrative law is a difficult subject and not commonly known until exposed to the materials, it is expected that students will struggle at first with the content, but will show progress in the understanding of the material over the course of the semester. Students will be assessed in their ability to apply administrative law doctrines, concepts, and legal tests/standards to cases that they will brief and discuss in the seminar. Students will also be assessed on their ability to show that they understand how administrative law is often compromised for the advancement of political objectives. Students will also be evaluated on their ability to apply what they have learned about administrative law in their lengthy term papers where they must apply principles, doctrines, and case law to the development of their administrative law topic. The quality of their papers will be judged on not mere description of their topic, but on the quality of their analysis of the subject matter.

Attendance Policy

Note: Attendance is very important in seminars because participation in discussions is crucial. Of course, participation is a key element in determining your grade. To get credit for the course, students cannot have any more than three unexcused absences. Remember, missing one seminar constitutes missing one complete week of classes and probably the entire subject matter of one chapter in the book, so please try to come to all classes. Thanks.

Course evaluation

During the last week of the semester, students will need to complete a course evaluation.

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.colleges/AS/academichonesty.html>)

Students with Special Needs - Disability Services Academic Accommodations

Students with a documented disability who wish to request academic accommodations are encouraged to contact Disability Services to discuss accommodation requests and eligibility requirements. Please contact Disability Services, located within the Student success Center, at Disability_services@slu.edu or 314-977-3438 to schedule an appointment. Confidentiality will be observed in all inquiries. Once approved, information about academic accommodations will be shared with course instructions via email from Disability Services and viewed within Banner via the instructor's course roster.