

ADMINISTRATIVE LAW
Spring 2016
Tuesdays/Thursdays 9:45am-11:15am
Room TBA

Professor Jennifer Lee Koh
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COURSE DESCRIPTION

Welcome to Administrative Law! This course involves the study of administrative agencies. Whatever you decide to do with your law degree, whether you choose a litigation or transactional practice or even if you use your degree to go into business or become a government official, your clients and you are going to deal with government agencies at the federal, state and local level. Administrative agencies exert tremendous control over public and private enterprises of every variety, including employment, unemployment, retirement, health, communication, immigration, the environment, family relationships, and business competition, to name just a few areas of law. It should come as no surprise that in many ways, administrative agencies actually “govern.”

The course covers three main topics: (1) agency rulemaking, (2) agency adjudication, and (3) judicial review. The underlying themes of the course involve the procedural law regulating how government agencies make decisions, as well as the law related to how federal courts monitor decisions of agencies and hold them accountable. We will also touch upon legislative and executive oversight of government agencies, the central conundrums of governance (such as the tension between administrative efficiency and due process) as well as the importance of historical context. Although comparisons to state (in particular California) administrative law and policy will be raised from time to time, the primary focus of this class is on federal administrative law.

COURSE MATERIALS

The following is the course textbook:

Richard Henry Seamon, Administrative Law: A Context and Practice Casebook (2013)

The assigned readings should keep you sufficiently busy and I recommend that you read the assigned material several times before turning elsewhere. If you wish to read supplementary materials to better understand a topic, there are a number of Administrative Law treatises and hornbooks that summarize the law and concepts covered in class. Please come speak with me if you find yourself confused during the course, especially early on!

LEARNING GOALS

After completion of this course, you should be able to competently:

1. Understand, and think critically about, the principles and policies behind our current and past system of administrative law. As noted above, these principles and policies cut across a wide range of practice areas, and the course is geared towards helping you identify common themes and problems raised by the administrative state.
2. Apply principles of administrative law to hypothetical fact patterns (and eventually, to real-life practice after you graduate).
3. Understand the relevance of statutes, regulations, federal court caselaw, agency decisions and other forms of informal adjudication in administrative law.
4. Communicate, both orally and in writing, appropriate legal and factual arguments in support of each side of opposing positions that frequently arise in the administrative law context.
5. Demonstrate reliability, responsibility, good judgment, self-motivation, hard work, professionalism, courtesy, and critical self-reflection.

GRADING

Your grade will be based on the following:

- ***Class preparation and participation (10% of grade):*** Like the rest of the faculty, I expect you to come to class prepared. I value in-class contributions, and encourage volunteers in class. Professionalism in class, and online participation in the course's TWEN discussion forum also go towards your class participation grade.
- ***Team Contribution (20% of grade):*** Throughout the course you will be assigned problems and exercises to work on in teams that will be created during the first class. One half of the grade for this section will be assigned based upon the work that the team produces. The other half of this grade will be based upon your contribution to your team's efforts as set out in the evaluations submitted periodically by your team members and my observations during class sessions.
- ***Final Examination (70% of course grade):*** Three hours. The final exam will likely consist of a combination of essays, short answers, and true-false/multiple choice questions.

CLASS FORMAT, ATTENDANCE AND PARTICIPATION

Law teaching is a cooperative venture. I will commit to being prepared for class and will expect to have thoroughly read and reflected upon the assigned readings, notes and problems. I expect the same of you. This course will work best if our examination of the materials we will study includes a considerable amount of lively and thoughtful class discussion, in which every student participates. I will call on people in various ways, including cold-calling, and highly encourage volunteers. We will engage in a meaningful amount of group work and team-based learning.

Although I will be taking attendance, it is always your own responsibility to keep track of your absences. Absences, if at all occurring, should be reserved for exceptional circumstances. If you have missed or will miss class, please review a classmate's notes and the class Powerpoint slides and see me as soon as possible after the absence if you still have questions about the material. In accordance with the WSCL academic policy and as described in the Student Handbook, a student who misses more than 4 (four) 90-minute class sessions will be withdrawn from class.

Although I permit laptops in class, they must be used for classroom purposes only. Using the Internet, chat, Facebook, Twitter, Pinterest, games, or any other electronic device for any other purpose is strictly forbidden and may result in the suspension of laptop privileges for the entire class.

APPOINTMENTS AND OFFICE HOURS

I will hold office hours regularly during the week, but will schedule these office hours after the first week of classes. You can also schedule an appointment by contacting me directly at jkoh@wsulaw.edu. I am happy to discuss the course, career paths, law school, triathlon and half-marathon training, yoga, good eats, immigration, or anything else of interest to you. Please also feel free to come by when my door is open.

BLACKBOARD

I will post class-related material, assignments and announcements on Blackboard, the online program administered by Lexis. I will also post Powerpoint notes from class *after class* on Blackboard. Please be sure that you are registered to use Blackboard. If you have any questions about using this program, or to get registered, please contact the library. They can be reached at (714) 459-1111 or via email.

DISABILITY SERVICES STATEMENT

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in

acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Second Floor Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law's Policy against Discrimination and Harassment.

SYLLABUS

I have provided the topics, assignments, and reading that I expect to cover for the first part of the semester. **I will update the syllabus as the semester progresses.** Keep in mind that it is difficult to anticipate how long it will take to discuss each topic and occasionally we may spend more time on a topic than initially anticipated.

The casebook has a 2015 supplement, which I have posted on Blackboard. Please be sure to reference the supplement for updates and changes to the casebook, where noted on the syllabus.

The casebook has a number of exercises designed to help you apply and understand the material. **Unless otherwise specified, you should come to class having prepared your answers to the Chapter Problems and Exercises in the textbook.** In general, the Professional Development Exercises are highly recommended, but not required, although I may assign the exercises from time to time (and will tell you when they are being assigned).

Class (Date)	Topic	Reading	Assignment or Other Notes
1 (1/19)	Welcome to Administrative Law; Administrative-Law Problem Solving	Chapters 1-2 (pp. 5-60)	Bring a printout of the website homepage for an administrative agency that interests you; be prepared to share one thing about that agency with the class.
2 (1/21)	Statutory Research and Analysis in Administrative Law	Chapter 3 (pp. 43-60)	
3 (1/26)	Administrative Procedure Acts; Federal Supremacy & Cooperative Federalism	Chapter 4-5 (pp. 61-113) & supplement	Come to class prepared to share an example of an agency rule
4 (1/28)	Intro to Rulemaking; The Distinction between Legislative Rules and Non-Legislative Rules;	Chapter 6-7 (pp. 117-146) & supplement	
5 (2/2)	Agency Rulemaking Power;	Chapter 8 (pp. 147-165) & supplement	
6 (2/4)	Limits on Agency Rulemaking Power	Chapter 9 (pp. 167-189) & supplement	
7 (2/9)	The APA as a Source of Procedural Requirements for Agency Rulemaking;	Chapter 10 (pp. 191-224) & supplement	
8 (2/11)	Types of Rulemaking under the APA; Informal Rulemaking	Chapter 11, start of Chapter 12 (pp. 225-251)	

Class (Date)	Topic	Reading	Assignment or Other Notes
9 (2/16)	Informal Rulemaking;	Chapter 12 (pp. 226-287) & supplement	
10 (2/18)	Formal Rulemaking; Hybrid Rulemaking; Legal Effect of a Valid Legislative Rule When Published	Chapters 13, 14, and 16 (skip Chapter 15) (pp. 289-304; 319-342) & supplement	
11 (2/23)	<i>*End of rulemaking. No midterm, but we will likely hold a simulation/review/catch-up class 2/23 before moving on to agency adjudication (...to be followed by judicial review! Woohoo!)</i>		

Syllabus to be updated as the semester progresses