

PADM 223 – Law & Public Administration Section 01, Spring 2017 – Dr. James Brent

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Office Hours:
Mondays & Weds. 8:00 to 9:00 a.m.
Mondays 10:30 a.m. to 12:00 p.m.
Thursdays 4:30 to 6:00 p.m.

Course Learning Objectives

This course is designed to be an introduction to basic concepts of federal law as they most commonly apply to public administration professionals. Students who successfully complete this course should be able to demonstrate the following:

- ³⁵/₁₇ An understanding of the major constitutional principles that apply to administrative agencies, including issues of separation of powers, federalism, equal protection and due process
- ³⁵/₁₇ A familiarity with the main provisions of major federal statutes governing administrative agencies, including the Administrative Procedure Act of 1946
- ³⁵/₁₇ The ability to distinguish between rulemaking and adjudication, and to understand the different requirements of each
- ³⁵/₁₇ The ability to distinguish between formal and informal agency action, and to understand the different legal requirements of each
- ³⁵/₁₇ Knowledge of the leading U.S. Supreme Court cases related to administrative law
- ³⁵/₁₇ A familiarity with the availability of and the limits on judicial review of agency actions
- ³⁵/₁₇ An understanding of the legal rights and duties of agency employees
- ³⁵/₁₇ The ability to conduct basic legal research, including the ability to locate statutes, executive orders, agency regulations and judicial decisions

Textbook

Hall, Daniel L. (2014). *Administrative Law: Bureaucracy in a Democracy*. (6th ed.) Boston: Pearson. ISBN 978-0133493870

Elements of Your Grade

Your grade will be calculated on the basis of your performance on the following assignments:

Midterm #1 (February 23)	10%
Midterm #2 (April 6)	15%
Final Exam (May 18)	15%
First Draft of Paper (due April 20)	15%
Final Draft of Paper (due May 18)	20%
Memo to President Trump (due May 11)	10%
In-Class Presentation	5%
Participation	10%

The Exams – The exams will consist exclusively of essay questions. The second midterm and the final exam will not be cumulative.

The Research Paper – For your research paper, you will be asked to select an actual case decided by the United States Supreme Court involving a federal or state administrative agency since 2000 and to write about it. **The main issue in the case should be whether or not the administrative agency followed the correct *procedure*, and not whether the policy itself was correct.** Your paper should discuss the facts of the case, the relevant precedents, and the reasoning of the Court's decision as well as any concurrences or dissenting opinions. The first draft should be a minimum of 10 typed, double-spaced pages long and should use at least 10 sources, with a healthy serving of academic sources. The final draft should be at least 12 pages long and should use at least 12 sources. Points will be deducted for poor spelling and grammar, and papers submitted without attribution will be returned ungraded. Additional information about the paper assignment will be given in class.

Memo to President Trump – Undoubtedly, President Trump will be taking many actions that are controversial and which may strain the bounds of legality or constitutionality. You will be asked to write a 5-page memo to the President in which you provide him with legal advice as to whether one of actual or proposed actions regarding the bureaucracy is legal and/or constitutional, and if not, what would need to be done to bring the action into compliance with existing legal norms.

In-Class Discussion Presentation – Each student will be asked to make an in-class presentation and to lead discussion for approximately 15 minutes about the case that is the subject of their term paper. Discussion leaders should prepare and distribute to the class a short, written explanation of the facts of their case and the legal questions raised. In other words, you will essentially take over the class for 15-20 minutes to lead a discussion about your selected case and its outcome.

Participation – Students will be graded on the extent to which they participate regularly during in-class discussions. Your grade will be calculated based on the quantity of your participation, rather than its quality. Please note that while attendance is not a component of your grade, students who are absent cannot participate. Therefore, excessive absences will negatively affect your participation grade.

SCHEDULE OF TOPICS AND READINGS

Part 1 – Administrative Agencies & the Constitution

- January 26 Introduction to the Course
 A. The Syllabus
 B. You & Me
 Basic Concepts
 A. Legislative vs. Executive vs. Judicial Power
 B. Law vs. Facts
 C. Substantive vs. Procedural Due Process
 D. Statutory Interpretation vs. Constitutional Interpretation

- February 2 Basic Concepts (continued)
 A. Federalism
 B. Conducting Legal Research

 Administrative Agencies & the Legislature
 A. The Evolution & Nature of Administrative Agencies
 B. The Non-Delegation Doctrine
 C. The Legislative Veto
 D. Other Legislative Controls Over Agencies

READING: Hall, pp. 1-39 and pp. 115-129

- February 9 Administrative Agencies & the Executive
 A. Appointment and Removal of Officials
 B. Executive Oversight of Administration

READING: Hall, pp. 40-51

- February 16 Administrative Agencies & the Due Process Clause
 A. The Rulemaking-Adjudication Distinction
 B. The Due Process Revolution & Counter-Revolution
 C. The Meaning of Liberty & Deprivation
 D. The Process That is Due
 E. Search & Seizure

READING: Hall, pp. 69-92 and 176-204

FEBRUARY 23 – MIDTERM #1 – PRESENTATIONS BEGIN

- March 2 Administrative Agencies & the Equal Protection Clause
- A. The “State Action” Doctrine
 - B. The “Strict Scrutiny Test
 - C. Disparate Treatment vs. Disparate Impact
 - D. Affirmative Action

READING: Hall, pp. 93-110

Part 2 – Administrative Agencies & the Public

- March 9 Federal Statutes Regulating Administrative Agencies
- A. The Administrative Procedure Act (APA) of 1946
 - 1. Formal vs. Informal Proceedings
 - 2. Choosing Between Rulemaking and Adjudicating
 - B. Enabling Acts

READING: Hall, Chapter 3

- March 16 Agency Rulemaking
- A. Formal vs. Informal Rulemaking
 - B. Hybrid rulemaking & the *Vermont Yankee* decision
 - C. Exemptions from the Rulemaking Process

READING: Hall, Chapter 6

- March 23 Formal Adjudication
- A. Separation of Functions
 - B. Pre-hearing Procedures
 - C. The Hearing
 - D. After the Hearing

READING: Hall, Chapter 8

March 30 NO CLASS – SPRING BREAK!

April 6 **MIDTERM #2**

- April 13 Agency Accessibility to the Public
- A. Freedom of Information Act
 - B. The Privacy Act
 - C. Sunshine Acts

READING: Hall, Chapter 10

Part 3 – Administrative Agencies in Court

April 20 Other Major Federal Laws Affecting Administrative Agencies
 A. Anti-Discrimination Laws
 B. The National Environmental Policy Act of 1970
The Concept of Sovereign Immunity

April 27 The Availability & Timing of Judicial Review
 A. Sources of Judicial Review
 B. Unreviewable Actions
 C. Standing & Other Threshold Issues
 D. Scope & Standards of Review

READING: Hall, Chapter 9

May 4 Substantive Judicial Review
 A. Judicial Review of Agency Fact-Finding
 B. Judicial Review of Agency Interpretations of Enabling Acts
 C. Judicial Review of Agency Interpretations of Their Rules
 D. Judicial Review of Agency Decisions

May 11 Agencies & Their Employees
 A. The Federal Tort Claims Act
 B. Section 1983 Claims
 C. Official Immunity
 D. Your Rights as an Administrator

READING: Hall, Chapter 11

May 18 FINAL EXAM

University Policies

Per University Policy S16-9, university-wide policy information relevant to all courses, such as academic integrity, accommodations, etc. will be available on Office of Graduate and Undergraduate Programs' [Syllabus Information web page](http://www.sjsu.edu/gup/syllabusinfo) at <http://www.sjsu.edu/gup/syllabusinfo>