

Syllabus

Ken Nuger
Padm. 223
6 p.m. Monday
HGH 116
Spring, 2012

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Pol. Sci. 223: Law and Public Administration

This seminar concentrates on the legal and political processes that affect how government agencies adopt rules and regulations when implementing laws that affect society and agency personnel. This focus is fairly complex and requires analyzing several components of the administrative process including bureaucratic structures as well as historical, statutory and constitutional developments. The course will trace the process of administrative rule and order making while integrating other relevant factors such as information gathering, judicial review and administrative liability. We will examine public employee rights and current issues affecting administrative policymaking. Toward the semester's end, we shall attempt to reconcile and synthesize these several problem areas and explore theories that help fit the inherently undemocratic nature of administrative law into our constitutional democracy.

Texts

Hall, Daniel E., *Administrative Law: Bureaucracy in a Democracy*, 5th ed.

In addition to the text, cases and other relevant materials may be assigned as they become useful to our class.

Grading

There will be two exams, one midterm and a final. Each exam is worth 100 points. You will also write a research paper no less than 10 pages and not more than 15 pages, not including the title page and bibliography. The topic is your choice but must be integrally related to some aspect of administrative law. The paper is worth 50 points. The paper will be due no later than Monday, April 30th. If you turn in your paper late, you will automatically receive a 5 point penalty. While not a tangible aspect of your final grade, as this class is a seminar, thoughtful participation throughout the semester will make it easier for me to give you the benefit of the doubt on your final grade if you are in between two grades.

Attendance

Regular attendance is crucial for a seminar. While not graded, regular attendance exposes you to our material, allows you to ponder and discuss your perceptions, insights and questions with the class and generally allows you to further the intellectual complexity of our

class discussions. To the extent that I would be willing to give you the benefit of the doubt should your grade straddle two possibilities, regular attendance and participation will certainly speak in your favor. And, just for the record, it should go without saying that regular attendance will help you better learn the material and do better on the exams.

Makeup Examinations

Makeup examinations will be tolerated only in the event of personal illness or personal tragedy. The make up will be structured differently than the midterm and will be taken at a mutually agreeable time.

Miscellaneous grahdoo....

Please know that everything you read for the class and hear in lecture and discussion is fair game for our exams. Also note that much of what is discussed in lecture is material that you will not find in your readings. On another front, please try to not be tardy. Tardiness is generally rude and a disruption to the flow of the class. Of course an occasional tardiness may be inevitable but habitual tardiness will be so noted and hurt your cause when your final grade is determined. Also, please keep all graded work. If there is any question about what you earned on an exam or paper, you can clear up the discrepancy by showing me the graded work in question. Finally, please silence all electronic equipment like phones, pagers, etc., so they won't make disruptive sounds during class.

Final words

You will be expected to conduct yourself in a mature, responsible and most of all, creative manner. Ponder intensively! Question that with which you disagree. Discuss! Never assume without understanding. As John Stuart Mill insightfully pleaded more than a century ago:

No one can be a great thinker who does not recognize, as a thinker, it is his first duty to follow his intellect to whatever conclusions it may lead.

General Course Readings

Unit One: The growth of the administrative state.

Chs. 1, 2, 5 (to p. 119)

Themes of unit one:

What is bureaucracy? Is it compatible with democracy? What is positive freedom how is it different from negative freedom and how does positive freedom expands government's involvement in society? In the 20th century the administrative state and the powers it wields have grown considerably, so much so that the legislative and executive branches have tried to control the powers of the bureaucracy? How can they control the bureaucracy and how successful have they been? As we explore these ideas, we shall examine what formal and

informal powers the executive and legislative branches have to use to control bureaucratic power.

Unit Two: The process of administrative decision making.

Chs. 6 (start page 142), 3, 8, (non shaded text only), 9, (263-273, non shaded text only)

Themes of unit two:

What are the different permutations of administrative rules and orders? What are the processes to promulgate these various rules and to adjudicate, or issue orders? How do these processes serve to hold agency decisions to democratic principles?

Midterm

Unit Three: Collecting information and the 4th and 5th amendments

Ch. 7

Themes of unit three:

Agencies need information to make informed decisions. How do agencies collect information? What constraints are placed on agencies as they collect information in our society? What role does the Bill of Rights play in constraining agencies as they collect information about us? At the same time, what right does society have to access information about what government does and the information it collects?

Unit Four: Due Process, equal protection and privacy rights of public employees and agency clientele:

Ch 4

Themes of unit four:

Public employees have a unique relationship with their employer, the government. What rights do public employees have in their working relationship? What is due process of law? What are property and liberty interests in one's public employment and personal reputation? What must government do to terminate a public employee? We will also examine discrimination in public employment. Additionally, we shall examine what rights do agency clientele have when they are denied things they feel they are statutorily or constitutionally eligible to receive.

Unit 5: Government Liability

Ch 11

Themes of unit five:

Finally, we shall examine when the government, by virtue of its employee's negligent policy decisions and actions, can be sued. As part of this final theme, we shall examine what types of immunity government and its employees may have that shields them from negligence suits.

Unit 6, (Time permitting), Accountability through accessibility

Ch 10

Themes of Unit 6:

Various laws, such as the Freedom of Information Act and the Privacy Act, to name just two, allow the public to access agency information as well as some privacy from agency attempts to collect information about the public. We will discuss these laws and how they help the public hold agencies accountable.

In addition to the readings, we will read and engage in seminar style discussions of appropriate cases to augment our discussions that may come from sources other than the textbook.