

PADM 223 – Law & Public Administration

Section 01, Spring 2018 – Dr. James Brent

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Office Hours:
Mondays: 4:30 to 6:00 p.m.
Tues. & Thurs: 9:00 to 10:30 a.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:

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

Rosenbloom, David H. (2013). *Administrative Law for Public Managers*. (2nd ed.) New York: Routledge. ISBN 978-0813348810

Elements of Your Grade

Midterm #1 (February 26)	10%
Midterm #2 (April 9)	15%
Final Exam (May 21)	15%
Case Briefs (3 x 5%)	15%
Memos to President Trump (3 x 10%)	30%
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.

Case Briefs -- You will be asked to complete three (3) case briefs from readings in the Hall textbook. The identity of the cases and information on how to brief a case will be given in class.

Memo to President Trump – President Trump has taken -- and undoubtedly will continue to take -- many actions that are controversial and which may strain the bounds of legality or constitutionality. You will be asked to write three 3-page memos 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. Two of these memos will be on topics chosen by me. One memo will be on a topic chosen by you, with my approval.

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 or controversy that is the subject of their chosen President Trump memo.

Participation – Participation is crucial to student success, particularly in a small class such as this one. 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 29

Basic Concepts

- A. The Syllabus
- B. Legislative vs. Executive vs. Judicial Power
- C. Law vs. Facts
- D. Substantive vs. Procedural Due Process

READING: Rosenbloom, Chapter 1; Hall, Chapter 1, pp. 70-72

February 5

Basic Concepts (continued)

- A. Statutory Interpretation vs. Constitutional Interpretation
- B. Federalism -- **Hall, pp. 17-38; Rosenbloom, pp. 35-43**
- C. Conducting Legal Research -- **Rosenbloom, Chapter 7**

February 12

Administrative Agencies & the Legislature - Rosenbloom, pp. 19-35

- A. The Evolution & Nature of Administrative Agencies
- B. The Non-Delegation Doctrine -- **Hall, pp. 115-129**
- C. The Legislative Veto -- **Hall, pp. 47-50**
- D. Other Legislative Controls Over Agencies

Administrative Agencies & the Executive -- Hall, pp. 38-47

- A. Appointment and Removal of Officials
- B. Executive Oversight of Administration

February 19

Administrative Agencies & the Due Process

- A. The Rulemaking-Adjudication Distinction
- B. The Due Process Revolution & Counter-Revolution
- C. The Meaning of Liberty & Deprivation -- -- **Hall, pp. 72-82**
- D. The Process That is Due -- **Hall, pp. 82-93**

FEBRUARY 26 – MIDTERM #1

March 5

Administrative Agencies & Due Process (continued)

- E. Search and Seizure -- **Hall, pp. 176-202**

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 12 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 19 Agency Rulemaking
- A. Formal vs. Informal Rulemaking
 - B. Hybrid rulemaking & the *Vermont Yankee* decision
 - C. Exemptions from the Rulemaking Process

READING: Hall, Chapter 6; Rosenbloom, Chapter 3

March 26 -- NO CLASS -- SPRING BREAK!

- April 2 Formal Adjudication
- A. Separation of Functions
 - B. Pre-hearing Procedures
 - C. The Hearing
 - D. After the Hearing

READING: Hall, Chapter 8; Rosenbloom, Chapter 4

April 9 **MIDTERM #2**

- April 16 Agency Accessibility to the Public
- A. Freedom of Information Act
 - B. The Privacy Act
 - C. Sunshine Acts

READING: Hall, Chapter 10; Rosenbloom, Chapter 5

Part 3 – Administrative Agencies in Court

- April 23 Other Major Federal Laws Affecting Administrative Agencies
- A. Anti-Discrimination Laws
 - B. The National Environmental Policy Act of 1970
 - C. **Presentations Begin**

- April 30 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, pp. 243-279; Rosenbloom, pp. 151-178

- May 7 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

READING: Hall, pp. 280-294

- May 14 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 21 FINAL EXAM

University Policies

General Expectations, Rights and Responsibilities of the Student

As members of the academic community, students accept both the rights and responsibilities incumbent upon all members of the institution. Students are encouraged to familiarize themselves with SJSU's policies and practices pertaining to the procedures to follow if and when questions or concerns about a class arises. See University Policy S90-5 at <http://www.sjsu.edu/senate/docs/S90-5.pdf>. More detailed information on a variety of related topics is available in the SJSU catalog, at <http://info.sjsu.edu/web-dbgen/narr/catalog/rec-12234.12506.html>. In general, it is recommended that students begin by seeking clarification or discussing concerns with their instructor. If such conversation is not possible, or if it does not serve to address the issue, it is recommended that the student contact the Department Chair as a next step.

Dropping and Adding

Students are responsible for understanding the policies and procedures about add/drop, grade forgiveness, etc. Refer to the current semester's Catalog Policies section at <http://info.sjsu.edu/static/catalog/policies.html>. Add/drop deadlines can be found on the current academic year calendars document on the Academic Calendars webpage at http://www.sjsu.edu/provost/services/academic_calendars/. The Late Drop Policy is available at <http://www.sjsu.edu/aars/policies/latedrops/policy/>. Students should be aware of the current deadlines and penalties for dropping classes. Information about the latest changes and news is available at the Advising Hub at <http://www.sjsu.edu/advising/>.

Consent for Recording of Class and Public Sharing of Instructor Material

University Policy S12-7, <http://www.sjsu.edu/senate/docs/S12-7.pdf>, requires students to obtain instructor's permission to record the course and the following items to be included in the syllabus:

- “Common courtesy and professional behavior dictate that you notify someone when you are recording him/her. You must obtain the instructor's permission to make audio or video recordings in this class. Such permission allows the recordings to be used for your private, study purposes only. The recordings are the intellectual property of the instructor; you have not been given any rights to reproduce or distribute the material.”
 - It is suggested that the greensheet include the instructor's process for granting permission, whether in writing or orally and whether for the whole semester or on a class by class basis.
 - In classes where active participation of students or guests may be on the recording, permission of those students or guests should be obtained as well.
- “Course material developed by the instructor is the intellectual property of the instructor and cannot be shared publicly without his/her approval. You may not publicly share or

upload instructor generated material for this course such as exam questions, lecture notes, or homework solutions without instructor consent.”

Academic integrity

Your commitment, as a student, to learning is evidenced by your enrollment at San Jose State University. The University Academic Integrity Policy S07-2 at <http://www.sjsu.edu/senate/docs/S07-2.pdf> requires you to be honest in all your academic course work. Faculty members are required to report all infractions to the office of Student Conduct and Ethical Development. The Student Conduct and Ethical Development website is available at <http://www.sjsu.edu/studentconduct/>.

Campus Policy in Compliance with the American Disabilities Act

If you need course adaptations or accommodations because of a disability, or if you need to make special arrangements in case the building must be evacuated, please make an appointment with me as soon as possible, or see me during office hours. Presidential Directive 97-03 at http://www.sjsu.edu/president/docs/directives/PD_1997-03.pdf requires that students with disabilities requesting accommodations must register with the Accessible Education Center (AEC) at <http://www.sjsu.edu/aec> to establish a record of their disability.