

Administrative Law (116-001) — Spring 2015 (3 cr)

Professor Ross E. Davies (rdavies@greenbag.org; 703-993-8049)

Classes: Tuesdays and Thursdays, 10 to 11:15 a.m. in Room tba. Note: The course is scheduled for 10 to 11:15 a.m., but we will extend every class session to 11:25 to make up for the fact that we will not meet during the week of March 24. Office hours by appointment.

Required reading: Peter L. Strauss et al., Gellhorn and Byse's Administrative Law (11th ed. 2011). Do not try to get by with an old edition. This one is truly new and improved.

Purpose and sketch of the course: A law school class in "Administrative Law" is like an undergraduate course in "Art" or "History" or "Science." The topic is so wide and so deep and so tied up with other things in so many ways that any teacher who claims to fairly cover the subject in one course is self-deceiving or other-deceiving or both (as is any student who claims to have learned the subject that way). So, we must begin by specifying what small parts of the elephant that is administrative law we will study, and the short answer is: we are going to focus mostly on agency rule-making and adjudication (before spring break), with some coverage of judicial review of agency action (after spring break). Why those areas? Mostly because they are fundamental to thinking about (and, eventually, practicing in) administrative law, and because I think that given enough knowledge of those areas, Mason Law students (and grads) can figure out how to deal with the rest of the elephant in the future. Everything — everything! — in this course will be a gross oversimplification (mostly based on good examples and useful commentary) of law and life in the administrative state. The idea is to give you a sense of the lay of the land and enough bits and pieces of the details to enable you to navigate intelligently on your own. That is why I like our casebook — it is deep and serious and yet focused and not overblown. The biggest compromise-by-abbreviation we will make (as will become obvious below) is to survey many important and thrilling constitutional law issues (in some other perfectly reasonable versions of the adlaw course these occupy a huge of chunk of time and an even huger chunk of the interest of the instructor, so do not be surprised if your experience differs a bit from that of some adlaw students elsewhere) on day one, respectfully but speedily.

Administrative law is a fascinating subject. You are going to like it, I am sure. And if you take it seriously you will find it to be both intellectually challenging and (eventually) professionally useful. And fun, especially if you keep up with the reading.

Assignments: Please do the assigned reading (numbers = casebook pages) and come to class prepared to discuss it. You are responsible for the assigned pages, and for material in the appendix that is cited in the assigned reading. Assignments are subject to change based on the pace of the course and the whim of the instructor. After the first week, our routine will be to spend Tuesdays on a mixed lecture and Q&A about the assigned reading (basically, marching our way through the assignment to make sure the basics are sharp in people's minds), and Thursdays working together to plumb the depths of some of the interesting problems that you and I see in the assigned reading. So, finish the weekly reading by Tuesday. The first week will be pretty much all lecture on Tuesday and all walk-through on Thursday.

Jan. 6: 548-924 (Just kidding. I will lecture on some of the material covered in Part 3 of the Casebook, and on a few other topics. All you will need to know about this for the exam is what gets said in the classroom. Still, it will be easier to follow what I say if you have at least paged through Part 3. That said, though, I would hate for anyone to ruin their winter break by outlining all that stuff. There really is no need for it. Just spend an hour or two looking through it. Really.)

Jan. 8: 2-30.	Feb. 10 & 12: 203-258	Mar. 31 & Apr. 2: 1014-1077
Jan. 13 & 15: 32-65	Feb. 17 & 19: 259-320	Apr. 7 & 9: 1078-1131
Jan. 20 & 22: 66-108	Feb. 24 & 26: 320-371	Apr. 14 & 16: 1132-1186
Jan. 27 & 29: 109-143	Mar. 3 & 5: 371-434	Apr. 28: exam (noon)
Feb. 3 & 5: 143-202	Mar. 17 & 19: 926-1013	

Grades: There will be a final exam. It will be 100% of your grade. It will be a combination of multiple-choice questions and short essays. There will be no surprises for people who do the reading and attend the classes, and pay attention to both.

Intellectual property: The instructor owns all course content, regardless of form. You may share copies of that content with classmates during the course, but other than that you must keep all of it in any format to yourself forever.