

Administrative Process and Ethics
PAD 4604

Term: Fall 2002
Time: S (11:30 – 5:50 p.m.)
Instructor: Robert Meyers
Office hours: by appointment

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I. OBJECTIVES

The growth and transition of government by professional public administrators is one of the most important political developments in modern times. Public administrators are technical experts housed in bureaucracies that provide substantive services that the public demands and on which it has come to depend. Administrative law seeks to establish fairness in the operation of bureaucratic agencies and to minimize arbitrariness in their decision-making processes. Ethics, thus, become a vital component of the administrative process.

The field of administrative law deals with the basic issues concerning the relationship between professional public administration and democratic society, and these issues manifest themselves in very concrete terms. This course examines the processes through which government agencies make the rules that define public services and regulate the activities of society and its economy. The landmark cases and laws that determine the nature of those processes will be examined in detail. The extent to which ethics influences the decision-making of public officials and administrators will be studied as well.

Specific Course Objectives:

- To expose students to the principles of administrative procedure, procedural due process and regulatory procedures.
- To establish the level of control over bureaucratic discretion exercised by the executive, legislative and judicial branches.
- To review the elements of adjudication and rule-making and to establish the relative utility of each.
- To review and analyze case law associated with bureaucratic functions, with particular emphasis on the rule-making and regulatory processes.
- To identify and examine basic issues regarding the relationship between public administration and democratic theory.

Within these objectives students are provided with the ability to develop reasoned judgments and critical analysis about the administrative process and to present ideas and conclusions persuasively.

II. COURSE FORMAT

The format for this course will comprise both lecture and discussion. Students are expected to come to class prepared and are encouraged to actively participate. Since examination questions may come directly from classroom discussions, students must attend class regularly.

III. REQUIRED TEXTS

Text: Cann, S. *Administrative Law* (2nd edition) Sage Publishing Group, 1998

Handouts will be provided as well.

IV. STUDENT ASSESSMENT

Student performance will be assessed based on the following criteria:

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| Case briefs | 10% |
| Ethical Dilemmas (Case studies) | 10% |
| Debate (written and oral) | 20% |
| Examination #1 | 30% |
| Examination #2 | 30% |

DEBATES: Students will be required to participate in one debate during the semester. I will circulate the topics the first week of class. This exercise requires students to select a position, conduct research on the issue and participate in a debate on that topic at the assigned time. On average, each student should have enough material to make a fifteen (15) minute presentation and a rebuttal, if necessary. The written materials that students use as part of their presentations, along with a list of references, must be turned in to me to receive full credit for the debate.

CASE BRIEFS: All students are required to complete two case briefs. You simply need to supply me with the written case briefs by the last week of classes. You may brief any of the cases covered in the textbook. I will discuss the briefing format the first class.

CASE STUDIES: All students will be required to read all six case studies I will circulate in class and be ready to discuss these ethical dilemmas on September 28th and October 5th. In addition, students must select two of the six case studies and explain how you would resolve the dilemma that is presented in this case study. Your explanations must be in writing and should be turned in by the last week of class.

EXAMINATIONS: There will be two examinations given in this class; a mid-term and a final. The second examination is not cumulative. Both examinations will be objective in nature, consisting of definitions, short answers and at least one essay question. I will discuss the examinations in more detail later in the semester.

V. FLEXIBILITY CLAUSE

There may be times during the semester that the class is either progressing too slowly or too rapidly. If this were to occur, I will make the necessary adjustments and inform the students.

VI. GRIEVANCE PROCEDURE

If, at any time you feel that you have a reason to grieve a particular incident, the University provides such avenues to address your concerns. You should refer to your Undergraduate Student Handbook for such procedures.

VII. DISABLED STUDENTS

Every reasonable accommodation for qualified disabled students will be made for instructional and testing purposes. However, it is incumbent on the student to identify himself/herself to me early in the semester in order to make special arrangements.

COURSE SCHEDULE

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| August 24 | Connecting Law and Ethics Introduction to Legal/Judicial System Reconciling Democracy and Bureaucracy Case Briefing Cann, chapter 1 |
| August 31 | Growth of Administrative State/Delegation of Power Judicial Power/Judicial Review Cann, Chapters 2-4 |
| September 7 | Rulemaking Administrative Adjudications Cann, Chapter 7 Debates 1 & 2 |

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| September 14 | Informal Agency Action/Discretion Administrative Due Process Cann, Chapters 6, 9 Examination #1 Debates 3 & 4 |
| September 21 | Legal Issues in Public Employment Access to Government Information Cann, Chapters 5, 8 Debates 5 & 6 |
| September 28 | Suing Government Ethical Decision-Making Cann, Chapter 10 Debate 7 Case Studies 1-3 |
| October 5 | Ethics and the Public Official/Employee Codes of Conduct Handouts Case Studies 4-6 |
| October 12 | Emerging Trends Examination #2 |

Format for Case Briefs

A brief is merely a systematized method of gathering and presenting information on a specific case to allow it to be discussed in an organized manner and utilized as a tool for comparing and contrasting cases. Your case briefs should contain the following elements

Case name:

Name of the parties in dispute

Facts:

Present the relevant facts, those bearing upon or leading up to the issue(s)

Procedure:

Explain the procedure by which this legal controversy has reached the court that is rendering the opinion you are reading.

Issue:

A question or series of questions under consideration by the court

Holding:

The decision of the court or the answer to the question posed in the issue section

Reasoning:

The court's rationale as to why it arrived at this particular decision; in other words, its justification