

**SYLLABUS POL 565/765
ADMINISTRATIVE LAW**



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Office: Tuesdays & Thursdays 4:00pm-6:00pm

Course Description

POL 565/765 Administrative Law (3): Nature of the powers vested in administrative agencies; the problems of administrative procedure; and the methods and extent of judicial control over administrative action.

Required Texts

Warren, Kenneth F., Administrative Law in the Political System. (Westview Press 2011).

Supplemental Texts

The following text books are on reserve at the Crabbe Library for two hours per checkout:

Szypszak, Charles, Understanding Law for Public Administration. (Jones and Bartlett Publishers 2011).

Cooper, Phillip J., Cases on Public Law and Public Administration (Thomson Wadsworth 2005).

Other materials will be available in the library and/or online.

Student Learning Objectives

Administrative Law meets the following learning objectives adopted by the Department of Government pursuant to the strategic plans of the College of Arts and Sciences and Eastern Kentucky University:

1. Knowledge and Understanding of Public Administration: Students will have knowledge and understanding of basic issues and techniques for public and non-profit sector management and administration in the general areas of organizational design and leadership, public policy analysis and program evaluation, ethics, human resources, budget and finance, and legal constraints and processes.
2. Understanding and Application of Research Methods: Students will understand and be able to apply current research and technology standards applicable to public policy analysis and program evaluation.
3. Communication and Critical Thinking: Students will develop and improve their skills in the areas of written and oral communication, team building, critical thinking, and public policy analysis.
4. Discuss concepts related to the structure, history, politics, and behavior of the administrative state.
5. To predict behavior of courts, legislative bodies, and executive officials in response to administrative agency actions.
6. To illustrate examples relating to the structure, history, politics, and behavior of the Administrative state.
7. To create ethical alternative solutions and structures for political and legal problems faced in the administrative state.
8. To critique the current administrative state and propose novel legal and political theories to improve the study and ultimate function of the administrative state.

Course Policies

Written Assignments

All written assignments, including in-class assignments, papers, and essay answers, will be graded on the basis of their organization, quality of analysis, accuracy, thoroughness, use or text, lecture, and other sources, grammar, and evidence of careful proofreading.

Late Assignments

All assignments must be turned in at the beginning of the designated class period or at such time specified on the assignment. There will be a **20 point penalty** for assignments turned in late via e-mail.

Academic Integrity Statement

Students are advised that EKU's Academic Integrity policy will be enforced in this course. The Academic Integrity policy is available at www.academicintegrity.eku.edu. Questions regarding the policy may be directed to the Office of Academic Integrity.

Plagiarism

Plagiarism is the failure to give credit for another author's ideas, thoughts, or language through proper documentation or citation. It also encompasses the failure to place quotation marks around any language taken from another source. Students should realize that any form of plagiarism (or other academic dishonesty) is considered a very serious violation of student ethical responsibility. Plagiarism may be penalized with failure in this course and referral to the University for Disciplinary Action.

Students with Special Needs

If you are registered with the Office of Services for Individuals with Disabilities, please obtain your accommodation letters from OSID and present them to the course instructor to discuss any academic accommodations you need. If you believe you need accommodation and are not registered with the OSID, please contact the Office in the Student Services Building Room 361 by e-mail at disserv@eku.edu or by telephone at (859) 622-2933 V/TDD. Upon individual request, this syllabus can be made available in alternative forms.

Laptop

Laptops, notebook computers and smart phones are permitted to be used in the classroom, but only for the purposes of a) note-taking or b) searching for relevant case law or other materials. Web browsing and game playing are strictly forbidden.

Evaluation Methods

Students will demonstrate learning through the following: participation, weekly assignments, research paper, oral presentation, and performance on exams.

Participation	10%
Weekly Assignments	20%
Research Paper	20%
Oral Presentation	10%
Midterm Exam	20%
Final Exam	20%

Evaluation Description

- **Participation (10%)** I have the following expectations of students: First, students will be expected to attend every class, except for when there is a family emergency or serious illness. When in class, students are expected to actively participate in the classroom discussion. Such discussion should be both well thought-out and respectful. The instructor reserves the right to request that students refrain from class discussion should they become discourteous or disrespectful to the professor or other students.
- **Weekly Assignments (20%)** Beginning the second session of the course, students will be required to either write a 1-2 page essay discussing the major themes in that week's reading or brief a case. Rather than summarizing the readings, the essay should analyze the readings main points. This may be accomplished by examining how administrative law in the American political system guided and restricted the actions of administrative agencies. In regards to legal briefs, students will be assigned a case to brief prior to its due date. I'll have a "How to write a legal brief" and examples for your review. The assignments are **due** on Tuesdays.
- **Research Paper (20%)** Students are required to write a **10-15 page** paper with at least 7 bibliographical sources. You're to analyze the impact that politics has on efforts of administrators to comply with administrative law requirements. Typically, laws has guided and restricted the actions of administrative agencies to make regulatory practices in line with due process standards. Examples of regulatory acts that mandate due process standards include the Americans with Disability Act, the Endangered Species Act, and Clean Air Act.
- **Oral Presentation (10%)** Each student will give an in-class presentation lasting approximately 10 minutes. The purpose of the presentation is to introduce the class to your paper's thesis and topic (e.g., rulemaking, adjudication, tort law, etc.) Your grade will reflect not only the content but the quality of questions and comments inspired by your presentation, so make your presentation interesting and informative.
- **Examinations (40%)** Students will have two written exams. These exams will be based on the course readings, learning objectives, and other assignments detailed in the course outline.

Important Dates for Student Progress

Midterm Exam: May 31st

Midterm Grades* Available: June 4th

Last Day to Withdraw without incurring a withdraw fee: May 24th

Research Paper Due: June 16th

Oral Presentations: June 21st

Final Exam: June 23rd

*Midterm grades will be based upon the Midterm Exam and other assignments graded and returned prior to

Course Outline

Topic

Reading

May 17th

Goals of the Class

Administrative law: An Introduction
Introduction to the Law and Courts
How to Read Legal Cases
How to Write a Legal Brief?
What is Rule of Law?

Warren, Chapter 1

Optional reading:

Szypszak, preface, etc. pp.xiii-xvii
Chapter 1 pp. 1-23

May 19th

Constitutional Principles

Judicial Review of Agency Behavior

Warren, Chapter 9

Warren, pp.339-342

Judicial Review, Separation of Powers, and Judicial federalism

Optional reading:

Szypszak, Chapter 2

Marbury v. Madison, 5 U.S. 137 (1803)

Griswold v. Connecticut, 381 U.S. 479 (1965)

Bowsher v. Synar, 106 S.Ct. 3181 (1986)

Humphrey's Executor v. United States, 295 U.S. 602 (1935)

Morrison v. Olson, 487 U.S. 654 (1988)

Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971)

Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519 (1978)

Youngstown Sheet and Tube v. Sawyer, 343 U.S. 579 (1952)

United States v. Mead Corporation, 533 U.S. 218 (2001)

May 24th
1st Weekly Assignment Due

Due Process, Equal Protection, & Civil Rights

Agency Hearings: How Fair Are They?

Warren, Chapter 7

Optional reading:
Szypszak, Chapter 3

Goldberg v. Kelly, 397 U.S. 254 (1970)

Matthews v. Eldridge, 424 U.S. 319 (1976)

Grutter v. Bollinger, 539 U.S. 306 (2003)

May 26th

Free Speech: Speech Regulation

An Administrative Challenge:
Balancing Societal and Individual Rights When Conducting Administrative Searches and Seizures

Warren, Chapter 11

Optional reading:
Szypszak, Chapter 4

Religious Freedom: Government Entanglement with Religious Practices

Texas v. Johnson, 491 U.S. 397 (1989)

Van Orden v. Perry, 545 U.S. 677 (2005)

Safford Unified School District #1 v. Redding, 555 U.S. ____; 129 S.Ct. 2633 (2009)

Rust v. Sullivan, 500 U.S. 173 (1991)

May 31st
2nd Weekly Assignment Due

Freedom of Information

Administering Public Policies:
Discretionary Agency Actions

Warren, Chapter 8

Optional reading:
Szypszak, Chapter 5

Public Records Laws

New York Times Co. v. United States, 403 U.S. 713 (1971)

Federal Communications

Commission v. Fox Television Stations, 129 S.Ct. 1800 (2009)

June 2nd

The Growth of Administrative Power and its Impact on the American System

Warren, Chapter 2

Skowronek, *Building a New American State* (reserve desk)

Nondelegation Doctrine

Hot Oil case: *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935)

Sick Chicken case: *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 995 (1935)

Whitman v. American Trucking Ass 'ns, Inc., 531 U.S. 457 (2001).

Supplemental reading:
Szypszak, Chapter 7

Take Home Midterm Examination
Chapters 1-2, 7-9, & 11 in Warren

None

June 7th

3rd Weekly Assignment Due

Administrative Law & Procedure
Rulemaking

Warren, Chapters 5 & 6

Ordermaking

Optional reading:
Szypszak, Chapter 11

Chevron U.S.A., Inc. v. Natural Resources Defense Council, 467 U.S. 837 (1984)

Motor Vehicles Mfrs. Ass 'n v. State Farm Mutual, 463 U.S. 29 (1983)

National Labor Relations Board v. Bell Aerospace Company, 416 U.S. 267 (1974)

Croley, *White House Review of Agency Rulemaking: An Empirical Investigation*, 70 *The University of Chicago Law Review* 821 (2003).

June 9th

Sovereign Immunity Doctrine
Question of Presidential Immunity

Warren, Chapter 10

Dolan v. United States Postal Service, 546 U.S. 481 (2006)

Nixon v. Fitzgerald, 457 U.S. 731 (1982)

Clinton v. Jones, 520 U.S. 681 (1997)
Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996)

Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356 (2001)

Optional reading:
Szypszak, Chapter 9

June 14th
4th Weekly Assignment Due

Employment
Protecting Administrators from
Undue Interference and Harassment

Warren, Chapter 4

Pay, Benefits, & Work Conditions
Sexual Harassment

Optional reading:
Szypszak, Chapter 8

Garcetti v. Ceballos, 547 U.S. 410
(2006)
Wiener v. United States, 357 U.S. 349
(1958)

June 16th

Public Ethics Law
Keeping Administrators Accountable

Warren, Chapter 3

Constitutions and Misconduct
Limitations on Participation

Optional reading:
Szypszak, Chapter 12

INS v. Chadha, 462 U.S. 919 (1983)
Rutan v. Republican Party of Illinois,
497 U.S. 62 (1990)

Research Paper is Due

June 21st
5th Weekly Assignment Due

Criminal Law & Procedure
Prosecution
Punishment
Habeas Corpus
Papachristou v. City of Jacksonville,
405 U.S. 156 (1972)
United States v. Agurs, 427 U.S. 97
(1976)

Optional reading:
Szypszak, Chapter 10

Oral Presentations

June 23rd

Final Exam
Chapters 3-6 & 10 in Warren

None