Administrative Law  
Law 6400 – Section 12  
Fall 2018  

SYLLABUS

Professor: Jonathan R. Siegel  
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Office Hours: Tuesdays and Wednesdays, 2:15 - 3:15 p.m.  

Class Schedule: Tuesdays, Wednesdays, and Thursdays, 11:00 - 11:55 a.m. Classes will begin promptly at the appointed time.

Required Texts:  
1. Hickman & Pierce, Federal Administrative Law (2d ed.)  
2. Supplementary Materials (available from the Records Office or my website)

Assignments: An initial list of reading assignments is attached. You should read each assignment before the class in which the assigned material is discussed, think carefully about the reading, and be prepared to participate in class discussion. The assignment numbers do not necessarily correspond to class periods; you will know which assignment you should be on from announcements made during class. However, if at the end of a class we have made substantial progress on the reading assigned so far and no announcement is made, read the next assignment. For the first class, please read assignments 0 and 1 (that’s “1” not “I”).

Requirements: The requirements for all students are: read the assignments in a timely fashion, attend class, participate in class discussion, and take the final exam. Grades will be based primarily on the exam, with classroom participation also considered. Students who are excessively absent will not receive a positive class participation adjustment and may receive a negative class participation adjustment or a grade of No Credit. There is no penalty for isolated absences and students need not seek permission for such absences.

Taping of Classes: All requests regarding class taping must be made through the Office of Student Affairs. Students should not ask me about taping of classes. I will not approve taping if the Student Affairs Office has denied it or has referred a
student to the professor for permission. I will usually approve taping when the Student Affairs Office has determined that the taping request falls within the Law School’s class taping policy. Taping of classes by students is not permitted. I am always happy during my office hours or by other appointment to discuss any topics a student may have missed.

Class Participation: Students will be called on at random during class. Volunteer participation is also encouraged. Students should be prepared to participate each day.

Electronic Devices: All cell phones and other devices that might make noise must be turned off (or otherwise set so as not to make noise) during class. The “vibrate” setting is allowed. Computers that play music or other sounds on start-up may not be started once class has begun. Students whose devices violate this rule may be asked to leave the classroom.

The use of computers to take notes in class is permitted. Students should, however, be aware that studies suggest that taking notes by hand promotes better learning and that students who take notes by computer should particularly avoid attempting to transcribe the class. See, e.g., Susan Dynarski, Laptops Are Great. But Not During a Lecture or a Meeting, N.Y. Times, Nov. 22, 2017, and studies cited therein.

The use of computers during class for any purpose besides taking notes, such as playing games, accessing the Internet, or reading or sending messages, is distracting to other students and is therefore prohibited. Students who use computers in class must agree to this condition and are on their honor to comply with it.

The use of electronic means to transmit answers to students being asked questions during class is prohibited. Violation of this rule constitutes academic dishonesty.

The use of computers in taking the final examination is strongly encouraged. Students who choose to handwrite their exam are cautioned that words that are not readily legible may be disregarded.

Communication: I sometimes send important messages relating to the course to students by e-mail. This may occur before the first day of class. Students are responsible for checking their official GW e-mail accounts daily throughout the term.

Examination: The examination will be open book. It may contain a mixture of essay and multiple choice questions.

Student Names: During the first week of class, I will ask students what they would like to be called. Until then, I will call on students using the “known as” names that
students have provided to the Records Office, for those students who have provided one, and otherwise by students’ official, registered names. Students who would like to be called on by a different name may notify me in advance by e-mail.

Learning Outcomes: A student who completes this course should have knowledge and understanding of the workings of U.S. federal administrative agencies. Students should understand how such agencies fit into the constitutional structure of the United States government; the procedures by which such agencies carry out their basic functions, particularly rulemaking and adjudication; and the procedures governing judicial review of agency action.

**READING ASSIGNMENTS -- Part 1**

The initial list of reading assignments follows. Further reading assignments will be distributed as the term progresses. Further supplementary materials may also be distributed.

Abbreviations used below:

- HP  Hickman & Pierce, *Federal Administrative Law* (2d ed.)
- SM  Supplementary Materials
- APA  Administrative Procedure Act (see HP App. B)

I. Introduction And Overview

0. Background

*Read this syllabus,* particularly the introductory material that precedes the reading assignments. The syllabus contains important information that you are responsible for knowing.

It will be assumed many times during the course that you are familiar with the Constitution of the United States. Your knowledge from Constitutional Law should be sufficient. If you have not looked at the Constitution in a while, however, you might wish to refresh your memory of it, particularly the following:

- Article I, §§ 1, 6, 7, and 8
- Article II, § 1, cl. 1
- Article II, §§ 2, 3, and 4
- Article III, §§ 1 and 2
- Amendments V, X
- Amendment XIV, § 1

1. SM 1-6
   HP 1-7, 10 (last ¶) - 15 (skip *Citizens for Responsibility and Ethics in Washington*)
   Optional: HP 15-22
II. What Are Administrative Agencies—And Who Controls Them?

A. Congress and the Administrative Agencies

Nondelegation Doctrine

2. HP 23 - 37, but when reading HP 34, insert SM 7
3. HP 37 - 55, 60-66 (1st ¶)

Statutory Precision

4. HP 84-91

Delegation of “Judicial” Power

5. HP 91-105
6. HP 105-121

Congressional Control Techniques

7. HP 121-135
8. HP 135-154

Presidential Control of Agencies – Appointments

9. HP 155-171
10. HP 171-193

Presidential Control of Agencies – Removal

11. HP 217-232
12. HP 232-246

Presidential Control of Agencies – The Directive Power

13. HP 247-275