INTRODUCTION AND OVERVIEW:

Administrative Law includes the study and practice of the so-called “Fourth Branch” of the US government—governmental agencies. In many ways, the “alphabet soup” of agencies (the FDA, the NRC, the EPA, the EEOC, etc) which oversee the distribution of public benefits and manage public assets are aspects of government which affect us most closely in our daily lives. To that end, it is crucial that lawyers understand how administrative law can be harnessed to set in motion and to restrain the power of our government in action. In so doing, we will draw from economics, social policy, civics, history, and current events.

This class focuses on the constitutional, statutory, and regulatory law creating, regulating, and flowing from governmental agencies. At its center is the Administrative Procedure Act (APA). The course necessarily raises issues of Constitutional Law, including federalism, delegation, and separation of powers. But because of the unique position occupied by agencies in our current system (some within certain branches of government, some “independent”, none specifically Constitutional), much of our focus will be on the hybrid nature of Administrative lawmaking—the quasi-legislative process of agency rulemaking, and the quasi-judicial process of adjudication.

STUDENT LEARNING OBJECTIVES:

At the completion of this course, students should be able to:

1. **Discuss** issues relevant to the exercise and limitation of power of federal agencies raised by a given set of facts.
2. **Identify** the Constitutional provision, statute, regulation and/or relevant case law rule(s) most applicable to solving a hypothetical;
3. **State** the relevant Constitutional provision, statute, regulation, and/or court decisional authority when solving a problem based on a given set of facts.
4. **Identify** the facts relevant to resolution of an Administrative Law issue and in support of an argument for a particular outcome to a problem presented,
5. **Apply** the relevant Constitutional provision, federal statute, regulation, and/or case law rule(s) to the relevant facts to solve or analyze a problem;

6. **Organize** the relevant facts to logically support the analysis required to argue for a particular outcome to a problem;

7. **State** a well-supported conclusion to a legal analysis of given facts;

8. **Determine and explain** whether a particular matter is administratively reviewable.

9. **Analyze** whether an agency action has exceeded its governing statutory authority or whether a court must defer to an agency determination of fact, law, or policy, based on a given set of facts.

10. **Present** the issues raised by, approach to, and arguments for and against the application of particular administrative law doctrines to a specific problem.

**CLASS ATTENDANCE AND PREPARATION:**
You are expected to attend every class, to be on time, to participate in class assignments and discussion, and to remain for the duration of class. In accordance with Law School policy, if you are counted as absent from more than 20% of class hours, you will automatically receive a “W/F” as a grade for the course. I may consider tardiness, unpreparedness, or early departure as an absence—at my sole discretion. This is a “no-fault” attendance policy — any and all absences, for whatever reason, are counted in accordance with the policies stated in the Student Handbook. If circumstances beyond your control prevent you from being prepared, please notify me before class begins. Each student is permitted one “free pass” for the semester, provided you notify me beforehand. Failure to be prepared and participate meaningfully in class discussions on a regular basis will have a negative impact on your grade.

**REQUIRED TEXT:**
Required Casebook: *Administrative Procedure and Practice: Problems and Cases* (5th ed 2014) by Funk, Shapiro & Weaver.

If you need further grounding in basic principles for this class, I recommend a West student hornbook: Principles of Administrative Law (2d ed 2014) by Keith Werhan.

**CLASS WEBSITE / TWEN:**
The West Education Network (TWEN) hosts a website for this class. Our TWEN site includes announcements, supplemental materials, web links, and a Discussion forum where you may ask questions and discuss class material. You are responsible to check TWEN twice weekly for any class updates. To log on to TWEN, go to [www.lawschool.westlaw.com](http://www.lawschool.westlaw.com), click on TWEN and then click on course link.

**GRADING:**

*Exam:*
Your grade this semester is based on one closed-book final examination worth 50% of your grade. Exam marks are based on careful consideration of anonymous written exam answers in the context of the class. As such, changing grades afterward based on students’ perception of their own answers or the consequences attaching to a poor mark is not appropriate. Although I will not negotiate grades, I am happy to discuss the reasons for a
grade on any exam question after the exams are marked. Just make an appointment after reading my comments on the exam.

Oral Presentation:
25% of your grade will be based on an oral presentation you make to the class which raises an issue of current interest or controversy implicating any US federal or state agency of your choice. The topic must be cleared by me. You will be expected to briefly outline the factual and legal nature of the issue and to suggest possible solutions or outcomes, based on your class materials and discussions. You will present the problem and your analysis to the class and lead a brief class discussion on the issues raised in the problem. Your presentation should take no more than 15-20 minutes. You will receive a separate rubric on the grading scheme for the presentations, as well as a schedule of presentation.

Class Participation / Problems:
Because our casebook and the class is heavily oriented towards problems and administrative practice, 25% of your grade will be based on my assessment of your participation in class discussions and working on problems assigned for class, whether those problems are assigned on an individual, small-group, or whole class basis. I am happy to discuss class participation grades outside of class time.

ASSIGNMENTS SYLLABUS:
The following is a general plan for the course, not a contract, and is subject to change as appropriate. I will vary the syllabus as appropriate to ensure that we cover material thoroughly. Changes will be announced in class or posted on TWEN. Assignments are broken down by WEEK.

1. Jan 12
   Introduction to Administrative Law and the Administrative Procedure Act (APA)

JAN 19 MLK Holiday—no school

2. Jan 26
   Rulemaking I
   CB: pp 62-96

3. Feb 2
   Rulemaking II
   CB: pp 97-139

4. Feb 9
   Presidential Control & Judicial Review
   CB: pp 625-634 & pp 145-187

5. Feb 16
   Adjudication I
CB: pp 189-240

6. Feb 23
   Adjudication II: Due Process & Judicial Review
   CB: pp 240-294

7. Mar 2
   Adjudication III & Non-Legislative Rules
   CB: pp 294-311 and 313-362

8. Mar 9
   Legislative Protections and Judicial Deference
   CB: pp 363-380; 384-406

MARCH 16-20 SPRING BREAK

9. Mar 23
   Reviewability and Exclusion from Judicial Review
   CB: pp 407-479

10. Mar 30
    Agency Actions and Causes of Action
    CB: pp 478-503
    Oral Presentations

11. Apr 6
    Timing: Finality/Exhaustion/Ripeness
    CB: pp 503-542
    Oral Presentations

12. Apr 13
    Agency Structure & Delegation of Power
    CB: pp 543-575
    Oral Presentations

13. Apr 20
    Inspections and Searches
    CB: pp 647-679
    Oral Presentations

14. Apr 27
    Catch up & Review
    Oral Presentations

EXAM TBA