

PA 752
Public Administration and the Law
Spring 2012

Professor Katherine C. Naff

835 Market, 515E

Class meetings: Tuesdays: 6:00-8:45

Phone: 415-817-4459

Class location: DTC 516

Fax: 415-817-4464

Office Hours: Tues.. 4:30-6:00 and by appointment

kcnaff@sfsu.edu

Objectives

The purpose of this course is to assess the legal framework which is the foundation for public administration in the United States today. It looks at how the legal system represents a context that public administrators deal with every day in their efforts to develop and carry out public policy and manage programs. Students will acquire the non-technical proficiency in constitutional law that is needed to be effective administrators.

While other courses focus on the role the legislature and executive play in setting public policy and overseeing its implementation, this course gives particular attention to the courts, and their crucial role in settling the disputes that arise when public administrators attempt to implement their mandates. Today the courts hold public administrators accountable and liable for knowing and protecting individuals' constitutional rights, whether those individuals are their employees, clients (even if those clients are prisoners) or the public. From that standpoint, it is essential that every public manager have at least some knowledge of constitutional law. However, this course will go beyond the basics by looking more closely at such significant constitutional doctrines such as equal protection and due process requirements, within the current context of public administration.

The course will further examine the administrative law that governs the constitution of public sector agencies, including their structure and decision making processes. Here we will examine such notions as rulemaking, "sunshine in government," adjudication, and the constraints placed on administrative discretion. We will also examine the significant role the courts, the unelected branch of government often play in setting public policy.

We will explore these themes through the required readings and assignments. The format and assignments for this class are designed to build the skills you need as public administrators. Since public administrators are not usually required to take written tests, none will be given in this class. However, public administrators **are** required to prepare for, attend, and actively participate in meetings with their colleagues and supervisors.

Therefore, an important component of this course is demonstrating that you have read the material required in advance, and have thought about it. Additional assignments will test your ability to conduct independent research, critically analyze and synthesize the information you attain, understand how to read statutes and court decisions and identify and articulate the central controversies that underlie them. You will be required to clearly and concisely present your findings both orally and in writing.

By the end of the course, the student should be knowledgeable about:

- # The American judicial system
- @ Fundamental constitutional rights and responsibilities
- @ The relationship among the executive, legislative and judicial branches of government
- # The system of administrative law that governs public administration
- @ How to read and interpret court opinions
- @ How to conduct basic legal research
- # How to present an argument in support of a position facing the courts in writing and orally

Required texts

Rosenbloom, David H., Rosemary O'Leary and Joshua Chanin. 2010. *Public Administration and the Law*. 3rd edition. Boca Raton, FL: CRC Press.

Warren, Kenneth F. 2011. *Administrative Law in the Political System*, 5th edition. 2011. Boulder, CO: Westview Press.

Please make sure you have the current edition of these books.

You will find excerpts of the judicial rulings we discuss on iLearn. But you should also become familiar with LexisNexis (available through SFSU library's website, use Legal tab) in order to find the full Court decisions that are relevant for papers you write, and for statutes we will discuss during the semester.

Other readings will be available on iLearn or from the library's Electronic Reserve. Readings may be added to the web page over the course of the semester, so rely on iLearn, rather than this syllabus, for an updated list of readings.

Assignments

Class participation. (10% of grade).

It is important that you demonstrate your ability to contribute to the discussion of the important subjects on our agenda, as you would if this were a discussion occurring at a meeting in the workplace. Expected contributions to the discussion include the following:

1. No later than noon of the day of each class session, use the I Learn forum feature to pose a question for discussion based on the assigned readings or cases, as well as your response to the central question: "What are the implications of today's readings/cases for public administrators?". To ensure you are not repeating a question already posed by a classmate, be sure to check to see what questions have already been submitted. If you have trouble with iLearn, e-mail the question to me. These are expected to be questions about issues that can be discussed; not questions about facts (although you can certainly raise those as well).
2. Participate actively in the discussion during the class session. This includes being able to respond to the questions posed by Kenneth Warren at the end of each of his chapters, when they are assigned.
3. Pose questions to students presenting oral arguments before the Supreme Court as if you were a justice hearing the arguments.

4. If you are unable to attend a class, you will be expected to contribute your thoughts about the reading by submitting written responses to at least four of the discussion questions posed by students for the discussion you missed. Post your responses on iLearn. When the Warren book is assigned, you should also respond to the questions he poses at the end of his chapters. Please type the latter and turn it in to me.

Style sheets for the following assignments are available on iLearn.

Written Brief (25% of grade).

At the first class meeting, I ask you to sign up to represent either the plaintiff or respondent in one of the more current cases noted on the class schedule. We will make these assignments on the first night of class. You will be expected to develop an argument supporting that position, based primarily on the arguments made by the justices (or judges). The briefs are due Feb. 28.

Oral Argument (10% of grade).

You will be required to present your argument to the Supreme Court justices (your classmates and me) in a "mock" Supreme Court session on the day scheduled in the syllabus. You should use the comments I make on your written briefs to improve the quality and comprehensiveness of your oral argument. You will present your oral argument on the date we discuss the case, as indicated on the class schedule.

Administrative Law paper (20% of grade)

This paper requires you to select one of four recent Supreme Court decisions involving administrative agencies' interpretation of statutes. You will be asked to determine how the justices have applied the *Chevron* doctrine (which we will discuss in class), as articulated in a 1984 decision, *Chevron U.S.A. v. Natural Resources Defense Council*. (That decision represents one of the most important decisions in administrative law). The paper is due Mar. 27.

Applying a Statute (10% of grade)

You will be given a factual situation and will be required to find the regulations and apply them to that situation. You will write a brief memo responding to certain questions about application of the regulations to the circumstances. The paper is due Apr. 17.

Paper on the Courts and Public Policy (25% of grade)

For this paper you will select a public policy that has been addressed either by executive order or statute (or both) and by the Courts. This paper will assess the impact each branch of government has had on the current interpretation and application of that policy. It will be primarily based on library research. A one page proposal for this paper (example of this is provided with style sheet) is due on Apr. 10, and the final paper is due on May 15.

Class Schedule

Note: **PAL** refers to the required text, *Public Administration and the Law*
AL refers to the required text, *Administrative Law in the Political System*
All other readings are available on iLearn.

When you need or want the full case decision, please use LexisNexis (available through SFSU library website.) If you have difficulty understanding case, ask for clarification in class. Do not worry about precedents or technical legal issues. The point is to understand the main issue in the case, points of disagreement among justices (where applicable) and how the issue was decided.

This is a preliminary list of readings. Please check iLearn for updates. Discussion questions should be posted on the iLearn forum by noon the day of the class meeting.

Date	Topic	Reading/Assignments
Jan. 24	Introduction & Overview	Rosenbloom, "PA's Legal Dimensions"
Jan. 31	Judicial Structure & Process	PAL 1, 7, 9 <i>Marbury v Madison</i> (1803) <i>Missouri v Jenkins</i> (1995) <i>Wyatt v Stickney</i> (1971) <i>Lawrence v Texas</i> (2003)
Feb. 7	Administrators' Accountability/Liability	PAL 8, AL 10 <i>Hariow v Fitzgerald</i> (1982) <i>Pembaur v City of Cincinnati</i> (1986) <i>City of Canton v Harris</i> (1989) <i>Harley v Schuylkill County</i> (1979) <i>Hope v Peizer</i> (2002) <i>Pearson v Callahan</i> (2009) <i>AShacraft v Iqbal</i> (2009) <i>Con nick v. Thompson</i> , (2011) <i>Los Angeles v. Humphries</i> (2010),
Feb. 14	Admin Law: Overview Guest Speaker: Barry Pearl	PAL 2, AL 1, 8, Rosen bloom
Feb. 21	Administrative Law: Origins & Requirements	AL 2, 3, 4 <i>Industrial Union Dept., AFL-CIO v. American Petroleum Institute</i> (1980) <i>NARA v. Favish</i> (2004)
Feb. 28	Admin Law: Rulemaking	AL 5, 6, 7 <i>Vermont Yankee Nuclear Power Corp. v NRDC</i> (1978) Written briefs due

Date	Topic	Reading/Assignments
Mar. 6	Admin Law: Judicial Review	PAL 3, AL 9 <i>Chevron U.S.A. v. Natural Resources Defense Council</i> (1984) <i>Heckler v. Chaney</i> (1985) <i>Schweiker v Hansen</i> (1981)
Mar. 13	The Constitution and PA: Equal Protection	PAL 4 <i>Hawkins v Town of Shaw</i> (1971) <i>Craig v Boren</i> (1976) <i>Adarand v Pena</i> (1995) <i>U.S. v Virginia</i> (1995) <i>Zobei v Williams</i> (1982) <i>Shapiro v Thompson</i> (1969) <i>Grutter v Bollinger</i> (2003) <i>Gratz v Bollinger</i> (2003) <i>Johnson v California</i> (2005) <i>Parents Involved in Community Schools v Seattle</i> (with <i>Meredith v Jefferson County</i>) (2007)
Mar. 20	Spring Break	
Mar. 27	The Constitution and PA: Due Process, 'New Property' and Takings Clause	Yell et al. <i>Kolender v Lawson</i> (1983) <i>Cleveland Board of Education v Loudermill</i> (1985) <i>Cleveland Board of Ed v La Fleur</i> (1974) <i>Dolan v City of Tigard</i> (1994) <i>Goldberg v Kelly</i> (1970) <i>Keto v City of New London</i> (2005) <i>Mathews v Eldridge</i> (1976) Administrative Law Paper due
Apr. 3	The Constitution and PA: Substantive Rights	Cambron-McCabe <i>Elrod v Burns</i> (1976) <i>Rankin v McPherson</i> (1987) <i>Goldman v Weinberger</i> (1986) <i>Garceiti v Ceballos</i> (2005) <i>San Diego v Roe</i> (2004) <i>Thomas and Windy City Hemp Development Bd. v Chicago Park District</i> (2002) <i>Hastings Christian Fellowship v Martinez</i> (2009) <i>Borough of Duryea, PA v. Guarnieri</i> (2010) <i>Snyder v. Phelps</i> (2011) <i>Sorell v. IMS Health</i> (2011)

Date	Topic	Reading/Assignments
Apr. 10	Constitution and PA: 4th Amendment and Privacy	PAL 5, AL 11 <i>Delaware v Prouse (1979)</i> <i>New Jersey v TLO (1985)</i> <i>Vernonia School District 47J v Acton (1995)</i> <i>Atwater v City of Lago Vista (2001)</i> <i>Ontario v Quon (2010)</i> proposal for Courts and Public Policy paper due
Apr. 17	State Action, Privatization and Outsourcing	PAL 6 <i>Lebrón v National Railroad Passenger Corporation (1995)</i> <i>West v Atkins (1988)</i> <i>Board of County Commissioners, Wabausee County v Umbehr (1996)</i> <i>Richardson v McKnight (1997)</i> <i>DeShaney v Winnebago County DSS (1989)</i> <i>Brentwood Academy v Tennessee Secondary School Assn (2001)</i> <i>Correctional Services Corp. v Makesko (2001)</i> <i>Town of Castle Rock v Gonzales (2005)</i> <i>NASA v Nelson (2011)</i> Applying a statute paper due
Apr. 24	Constitutional Structure: Federalism	Christiansen and Wise <i>U.S. v Lopez (1995)</i> <i>Printz v U.S. (1997)</i> <i>Carbone, Inc. v Town of Clarkstown (1994)</i> <i>U.S. v Morrison (2000)</i> <i>Solid Waste Agency of No. Cook County v Army Corp of Engineers (2001)</i> <i>Gonzales v Raich (2005)</i> <i>Federal Maritime Commission v South Carolina State Ports Authority (2002)</i>
May 1	Constitutional Structure: Separation of Powers	Post <i>Immigration and Naturalization Service v Chad ha (1983)</i> <i>Morrison v Oison (1988)</i> <i>Local 2677, AFGE v Phillips (1973)</i> <i>Hamdi v Rumsfeld (2004)</i> <i>Free Enterprise Fund v. Public Company Accounting Oversight Board (2010)</i>
May 8	Special Topic: A Right to Welfare in the United States? Guest lecturer: Dr. Jennifer Shea	TBA

Date	Topic	Reading/Assignments
May 15	The Courts and Public Policy	<i>Courts and Public Policy Papers due</i>

Class Policies

- κ Attendance is crucial in this class; absences will be noted and no more than one will be accepted. All students are expected to be on time for class and stay for the entire length of class unless cleared with the professor in advance due to professional or other responsibilities elsewhere.

- κ All assignments must be turned in on time. Points will be subtracted for assignments that are turned in late.

- κ Plagiarism is prohibited. Whenever words are taken directly from another author without quotation marks and direct attribution to the author, it constitutes plagiarism which is a serious and punishable offense at this university. Please ensure that your papers are written in your own words, that ideas and facts taken from others are clearly attributed to them, and that anything taken verbatim from another source is enclosed in quotation marks. Citations can take the form of footnotes or in-text references, but there should be a full bibliographic reference somewhere in the document. In the case of a direct quotation, the citation should include the page number where the quote was found as well. Direct quotes from another author should be used sparingly, and only when the point you are making is stated best by using someone else's words. Students caught plagiarizing will receive no credit for that assignment.

- κ Academic misconduct is not tolerated. Cheating and plagiarism are contrary to the mission of the university and are never tolerated. Students who display inappropriate conduct, including cheating and plagiarism, may be subject to disciplinary action as provided in Title 5, California Code of Regulations. Any student may be expelled, suspended, placed on probation, or given a lesser sanction for discipline problems. The Student Discipline Officer, housed in the Dean of Students Office, is responsible for administering the Student Disciplinary Procedures for the California State University and should be contacted for further information.

College Policies

Final Exam: According to Academic Senate policy F76-12 a time period is set aside at the end of each semester for a formal examination period. All classes are expected to meet during the final examination period whether an examination is given or not. The final examination schedule is published each semester in the Class Schedule.

http://www.sfsu.edu/~acadres/final_exams/finals12.htm

CHHS Withdrawal Policy: The last day to drop a class is February 3rd, 2012 at midnight. From February 4th-April 20th 2012 you must submit a withdrawal petition. Withdrawal from a class after February 3rd, 2012 will be considered for serious and compelling reasons only and must have accompanying documentation. The following reasons are not considered serious and compelling: Changing your major, poor performance, class not required for graduation/major, or more time needed for other classes. If you wish to withdraw from class due to unexpected changes in your work schedule, illness or family emergencies, documentation will be required, along with a copy of unofficial transcripts. If you are

requesting a withdrawal, bring your petition and appropriate documentation to the instructor. From April 21st - May 11th, 2012 you may not withdraw from a class or the University, except in the case of a serious documented illness or verified accident.

CR/NC Option: March 16th, 2012 (by midnight) is the last day to request the CR/NC option. The Associate Dean will not approve requests for changes if you miss this deadline.

Late Add Policy: The period to add classes via permit numbers is January 23rd- February 3rd (midnight), 2012. The period to add classes by Exception (2nd set of permit numbers) is February 4th-17th, 2012. It is your responsibility to procure a late permit number from your instructor and add the class. Faculty cannot add you into a class. After February 17th, 2012 a CHHS Late Add Justification Form and an Add Form must be signed by your instructor, Chair and CHHS Associate Dean to add. This will be approved only if there was an administrative error.

Check your registration through MySFSU: Sign up for CR/NC, drop and add classes by the appropriate deadline online through MySFSU. ALWAYS check your registration after making any changes and BEFORE deadlines to be sure you are registered properly for your classes. This is a student responsibility. Deadlines for all registration procedures, including withdrawals and requests for credit/no credit, are listed in the class schedule and will be strictly adhered to by the instructor, the Department Chair and the Associate Dean of College of Health & Human Services.

This can be viewed on the Registration Calendar at the following website:
<http://www.sfsu.edu/~admisrec/reg/regsched122.html>

Disability Programs and Resource Center: Students with disabilities who need reasonable accommodations are encouraged to contact the instructor. The Disability Programs and Resource Center (DPRC) is available to facilitate the reasonable accommodations process. The DPRC, located in SSB 110, can be reached by telephone at 415-338-2472 (voice/TTY) or by e-mail at dprc@sfsu.edu.