

ADMINISTRATIVE LAW A509
Winter 2021 SYLLABUS
(On-Line)

Professor Sanne Knudsen
Email: sknudsen@uw.edu

Access and Accommodation

Your experience in this class is important to me. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law. If you have already established accommodations with Disability Resources for Students (DRS), please activate your accommodations via myDRS so we can discuss how they will be implemented in this course.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), contact DRS directly to set up an Access Plan. DRS facilitates the interactive process that establishes reasonable accommodations. Contact DRS at disability.uw.edu.

Religious Accommodations

“Washington state law requires that UW develop a policy for accommodation of student absences or significant hardship due to reasons of faith or conscience, or for organized religious activities. The UW’s policy, including more information about how to request an accommodation, is available at Religious Accommodations Policy (<https://registrar.washington.edu/staffandfaculty/religious-accommodations-policy/>). Accommodations must be requested within the first two weeks of this course using the Religious Accommodations Request form (<https://registrar.washington.edu/students/religious-accommodations-request/>).”

1. COURSE DESCRIPTION

Welcome to Administrative Law. In this course, we will learn the basic principles of administrative law. This includes learning about (1) *what agencies do*, including rulemaking, adjudicating, and making policy (2) *where agencies fit into our governmental system*, or how constitutional considerations and statutory issues that affect agencies, and (3) *what limits agency power*, or judicial review of agency action.

Administrative agencies dominate lawmaking today. Though in theory governmental agencies merely execute and implement laws, in reality their grasp is much broader. Administrative agencies also interpret the laws they execute, make and enforce their own rules, conduct investigations, impose penalties, and adjudicate disputes. As more law becomes statutory, agencies gain more power, and their authority—and the limits on that authority—become increasingly important. This is the reality of our administrative state: Agencies touch virtually every aspect of modern society. Thus, the procedures and rules that govern agencies also impact virtually every aspect of our lives.

The focus of the course is federal, not state, administrative law, though the former certainly often informs the latter. The course also focuses more on doctrine and practice than theory. The course's aim is to provide students with a general understanding of the key components of how administrative law operates, and how to use that law in dealing with agencies. In particular, at the end of this course, you should have a good understanding of:

- (1) Agency powers, including the role agencies play in our modern, constitutional form of government;
- (2) The limits of agency powers, including the ways in which courts do and do not constrain agencies through judicial review;
- (3) The Administrative Procedure Act and the requirements it imposes on agencies; and
- (4) Statutory interpretation, including its importance in administrative law, its pitfalls, and the tools used to perform it.

2. STRUCTURE OF COURSE: WHAT TO EXPECT WITH DISTANCE LEARNING

While this quarter marks your third go with remote learning in law school, I suspect it is still an adjustment from the in-person learning experience that we are all used to. While every instructor approaches the remote teaching a bit differently, I have chosen a course design that I believe meets the challenges and opportunities of remote learning. It has both synchronous and asynchronous components.

This is my second time teaching this course in an on-line version. The first time was Spring 2020 in an eight-week quarter. During the Spring, I found that many of the components I developed for on-line learning worked well, but I really wished that my students had a breather in the middle of the quarter to review and recharge from Zoom fatigue and the strenuous pace of the course (there is a lot of weekly reading and new content). So, lucky you, this quarter is 9 ½ weeks and it is perfectly suited for taking a break partway through and leaving time for review at the end. Never fear, though, you are receiving the content of a full quarter!

All that said, here is the structural plan for the course:

- **Eight Major Topics:** During the course of the quarter, I will teach 8 major administrative law topics in eight learning modules. I will teach each of these 8 core concepts in using a combination of asynchronous and synchronous teaching methods. More specifically, each week you can expect:
 - **(1) A Lengthy Reading Assignment:** Instead of breaking up reading into two assignments of the length you would ordinarily be assigned for each class session, I am going to assign one larger slug of reading per week. The reading forms the basis of the learning activities for the week. You can expect about 80 to 100 pages per week. (This is going to feel like a lot, but Lawson is fairly readable. He likes to tell a story about the development of these doctrines. It means lengthier reading, but also a more complete picture.)
 - **(2) A Panopto Foundational Lecture:** Each week you will be provided an approximately 2-hour recorded Panopto lecture that reinforces the reading and builds foundational knowledge. The lectures will be posted on CANVAS in the

Modules Tab: <https://canvas.uw.edu/courses/1440225/modules>. For each week, the lecture will be available no later than Tuesday morning. It can be watched on your own schedule, but you should try to do the readings and watch the lecture before Thursday's Zoom session. (Note: some of the Panopto lectures will exceed 2 hours so that we can stick with an eight-week module system and avoid additional class sessions).

- **(3) A Basic Quiz:** Each week I will post a basic quiz for you to take in CANVAS. The quizzes will be Multiple Choice or True/False. They are mainly intended to ensure you are grasping basic material from the readings and lecture.
- **(3) A ZOOM Session:** Each Thursday from 1:30 p.m. to 3:20 p.m. we will hold a Zoom Session to engage in additional applications and synthesis of the material. I will try to use my newly acquired tech skills to make this interactive. Please do the reading and listening to the recorded lecture before the ZOOM Session. Please refer to the separate section of this Syllabus for Zoom etiquette. You can generally expect the Zoom session to consist of roughly:
 - Synthesis – e.g. flowcharting, diagraming, discussion of more nuances in the material.
 - Hypotheticals – e.g. applications of the material, use of breakout rooms for smaller group learning, student participation
 - Current Events – e.g. the course will unfold as a new Presidential administration takes office. There will be lots to discuss!
 - Opportunity for Questions – e.g. more informal, less structured.
 - A Break – we will take a stretch break during class.
- **Office Hours:** I will hold weekly ZOOM office hours from 4:00 p.m. to 5:00 p.m. on Thursdays. These will be “drop-in,” which means anyone can join the Zoom Session and I will simply try to get to answering individual questions by taking turns. Pets welcome.
- **ALL recordings and materials are for the use of this class ONLY. You may not distribute them to anyone – in whole or in part – not that anyone would want to.**

3. GRADES & ATTENDANCE

Your grade will be based on the final exam, weekly quizzes, and class participation.

Final Exam (85 points): The Final Exam may be taken anytime during Exam Week. The exam will be a 4-hour exam and will be subject to the law school's rules and honor code. The exam

will be open book, open notes, open outline, and open internet (though you are not expected or even encouraged to do additional research). More details to follow on exam format and platform.

Weekly Quizzes (10 points): To reinforce course content as we move through it, to make sure that you are getting the basics (and staying modestly on track), I am asking you to take a weekly quiz. It will be a mixture of True/False and Multiple Choice and about 20 questions. For each of the 8 quizzes, you will receive ONE point for scoring greater than 70% of the total points. At the end of the quarter, you will receive TWO bonus points if your cumulative quiz score is greater than 80%. All quizzes must be taken Saturdays by NOON.

Class Participation (5 points): Class discussion matters to me because speaking skills are important in the practice of law – whether those skills are used in court, in presenting to clients, or in negotiating with other counsel. Your class participation will be judged by quality and willingness to participate. The emphasis is not on quantity. If you come prepared to discuss the material in each class and are engaged in the discussion (e.g. paying attention and contributing when appropriate, willing to entertain my questions when I call on you, camera on mostly unless you’ve made alternative arrangements with me), you should expect full credit in this area.

Please note! The last day of class will be Tuesday, March 9th. I will hold extra office hours on Thursday, March 11th to answer questions in advance of the exam. After that date I will no longer be available to answer questions, so please plan ahead so that you can get your questions answered.

Also, please note that I understand that we are operating in uncertain and trying times. So, as I said earlier, compassion and patience will be my guide. If you are having troubles keeping up with the course, please reach out to me. I can’t help you if I don’t know that you need help. Administrative law might not be the most exciting subject you will ever take (though it is my favorite), but it is important, and I do care about you learning the material.

4. REQUIRED TEXT & CANVAS WEBSITE

Text:

- The required casebook for this course will be the 8th Edition of *Federal Administrative Law* by Gary Lawson.

Course Website:

- I will maintain CANVAS website, available at <https://canvas.uw.edu/courses/1440225>
- CANVAS will be our touchstone for this quarter. In particular, every week, each of the tasks that you are being asked to complete (watch Panopto, take quiz, attend Zoom) will be itemized in the weekly module. Use this as your checklist for what you need to do for this class each week. The modules are available at: <https://canvas.uw.edu/courses/1440225/modules>
- All class announcements will be made through CANVAS. All supplemental readings and course slides will also be posted on CANVAS.

5. ZOOM SESSION ETIQUETTE

You probably know the drill by now, but here is some Zoom information and expectations for our class:

- **Zoom Account.** The UW IT people recommend that you set up a personal Zoom account through UW's Zoom account using the following link:
<https://itconnect.uw.edu/connect/phones/conferencing/zoom-video-conferencing/log-in/>
There is no charge for your Zoom account or Zoom access.
- **Reboot Computer.** Reboot computer before each online class. It will clear out programs operating in background and help ensure that you have a good video and audio connection.
- **Zoom Links.** Zoom links are available on the "Zoom" tab in CANVAS, as well as in the weekly CANVAS Module.
- **WIFI Signal.** Please make sure you are in a location where you will have a strong and dependable Wi-Fi signal. Please make sure, as well, that you are in a location suitable for a video class, with no or minimal background noise and distractions.
- **Early Is On-Time.** Log into Zoom a few minutes early to give yourself a moment to have tech trouble, to go retrieve a forgotten book, etc. Class begins promptly at 1:30 so try to show up in the waiting room by 1:25.
- **Faces Please!** I have a strong preference for you to keep your video camera on so we can see each other. But I understand that we all have moments or days when we just need the camera off, for whatever reason. Use your professional judgment on striking the right balance.
- **Mute Your Mic.** Keep your mic muted when not talking.
- **Chats.** I will not be able to follow the chats while also running the class.
- **Raise Hand.** If you have a question during class, or wish to speak, please click on the "Raise Hand" function on Zoom (usually located on the right side of your screen after you activate the "Chat" feature at the bottom of the screen). It's a small blue hand that you click on. That signals me that you want to speak, and I will try to call on you. Once called on, please unmute your microphone and speak. Then remember to mute when you are done.
- **Privacy.** The video feature means that everyone will be able to see you and wherever you are. Please dress appropriately for class, and make sure that there's nothing in the background that you do not want to share with others. Zoom has a feature that allows you to insert a faux background (e.g., the beach) in place of the real background wherever you are. It's fine to use that, if you wish. If anyone has privacy or other concerns, please let me know.

- **Recordings.** The Zoom sessions will be recorded and posted on CANVAS. This is in case you are ill or caring for someone who is ill. It is also in case you have tech difficulties. Mostly, the sessions are recorded so that you have an alternative to Netflix.

6. WEEKLY READING AND ASSIGNMENT CHECKLISTS

The following is an overview of the course in the form of weekly checklists and readings. You can keep track and complete the various assignments for each week in the “Modules” tab of CANVAS. The Modules tab is also where you will find the weekly Zoom session information.

The Modules Tab in CANVAS is located at: <https://canvas.uw.edu/courses/1440225/modules>

WEEK ONE – How Agencies Fit into Our System of Separated Powers: Legislative Control

- Read Lawson pp. 1-9; 90-126; 156-181.
- Panopto Lecture #1 – Legislative Control
- Zoom Session on Thursday, January 7 from 1:30 to 3:20 pm.
- Quiz #1 – Legislative Control, due Saturday January 9 by noon.

WEEK TWO -- How Agencies Fit into Our System of Separated Powers: Presidential Control

- Read Lawson pp. 191-279
- Panopto Lecture #2– Presidential Control
- Zoom Session on Thursday, January 14 from 1:30 to 3:20 pm.
- Quiz #2 – Presidential Control, due Saturday January 16 by noon.

WEEK THREE – The APA: Procedural Requirements for Rulemaking and Adjudication

- Read Lawson pp. 51-63; 321-328; 381-393; 484-525
- Panopto Lecture #3– APA Basics
- Zoom Session on Thursday, January 21 from 1:30 to 3:20 pm.
- Quiz #3 – APA Basics, due Saturday January 23 by noon.

WEEK FOUR – Informal Rulemaking and Exemptions

- Read Lawson pp. 393-484
- Panopto Lecture #4– Informal Rulemaking
- Zoom Session on Thursday, January 28 from 1:30 to 3:20 pm.
- Quiz #4 – Informal Rulemaking, due Saturday January 30 by noon.

WEEK FIVE – Judicial Review of Legal Conclusions: Basics

- Read Lawson pp. 527-530; 570-595; 605-623
- Supplemental Reading on CANVAS – Kisor v. Wilkie (2019)
- Panopto Lecture #5–Review of Legal Conclusions Basics
- Zoom Session on Thursday, February 4 from 1:30 to 3:20 pm.
- Quiz #5 – Review of Legal Conclusions Basics, due Saturday February 6 at noon

WEEK SIX – Judicial Review of Legal Conclusions: Depth

- Read Lawson pp. 627-658; 671-698; 718-735; 746-748
- Panopto Lecture #6–Review of Legal Conclusions Depth
- Zoom Session on Thursday, February 11 from 1:30 to 3:20 pm.
- Quiz #6 – Review of Legal Conclusions Depth, due Saturday February 13 at noon

WEEK SEVEN – Take a Break – February 14th to February 20th

WEEK EIGHT -- Judicial Review: A&C Review

- Read Lawson pp. 534-570; 748-806; 822-828
- Panopto Lecture #7–A&C Review
- Quiz #7 – A&C Review, due Saturday February 27 by noon.
- Zoom Session on Thursday, February 25 from 1:30 to 3:20 pm.

WEEK NINE – Barriers to Judicial Review

- Read Lawson pp. 1003-1004; 1018-1021; 1038-1078; 1116-1131; 1150-1161; 1171-1179
- Panopto Lecture #8–Barriers to Review
- Zoom Session on Thursday, March 4 from 1:30 to 3:20 pm.
- Quiz #8– Barriers to Review, due Saturday March 6 by noon.

WEEK TEN – Review

- No new reading
- Zoom Session on Tuesday, March 9th from 1:30 to 3:30pm.