

**Poli 450 Law, Policy, and Regulation**  
**Spring 2019**  
**M, W, 9:35-10:50**  
**CCC 234**

Prof. John C. Blakeman

CCC 482

Ext: 4111

Office hours: Tuesday, Thursday 9:30-11am, and by appointment.

*e-mail: jblakema@uwsp.edu*

### **Course Outline and Objectives**

This course examines issues concerning administrative law, policy, and regulation in the United States. Administrative law is the body of law that regulates the regulators—that is, it governs how political institutions and bureaucratic agencies make, implement, and enforce public policy.

### **Learning Outcomes**

*Some of the learning outcomes for this course are:*

- students will learn to read and analyze closely and critically law cases decided by the Supreme Court and other courts;
- students will study legal cases and other materials to learn about doctrinal developments in American law and regulation;
- students will learn about the role of courts and judicial policymaking in interpreting and applying administrative law;
- students will gain an understanding of the basic elements of administrative law and regulation;
- students will learn how administrative law affects specific policy areas in American politics.

**Participation:** 25% your semester grade is based on participation in class. Your participation grade is based on rubric that weighs heavily attendance. Although there is no required attendance policy, poor attendance will ultimately affect up to 25% of your overall grade.

**This course often requires *active* participation from students, which means much of our time centers on classroom discussion. To facilitate discussion, I will, from time to time, call on people to participate. If this kind of classroom interaction isn't for you, then I suggest you drop the class.**

***Reading:*** *the readings for this course are extensive and consist mainly of legal cases organized topically around each of the administrative law areas studied this semester. You must be prepared to work in this class, and you must come to class prepared to discuss the assigned reading. Therefore, you must keep up with the reading assignments. If you cannot do the reading for each seminar, then do not take this class.*



***Bring your casebook with you to class!!!***

## Grading

Class participation	20%	Final Paper	25%
Regulation Response Paper	15%	Online Final Exam	25%
Federal Rules Memo	15%		

## Grade distribution:

A	94-100%	A-	90-93%		
B+	87-89%	B	84-86%	B-	80-83%
C+	77-79%	C	74-76%	C-	70-73%
D+	66-69%	D	60-65%	F	<60%

**CANVAS Learning Management System:** this semester we will use CANVAS instead of D2L.

## **Writing assignments**

There are THREE writing assignments in this course. The assignments are type of formative assessment in which you *apply* some of the things that you're learning in the course to specific problems, policies, and issues in law and regulation.

Assignment #1 is a paper in which you respond to the materials on regulation that we read and discuss early in the semester. The purpose of this assignment is for you to develop critical and analytical responses to theories of regulation. You will type your reaction paper directly into the CANVAS website. Minimum word count: 500 words.

Due Date: Friday, February 8, 12 noon.

Assignment #2 is memo that summarizes proposed changes to federal administrative rules under Title IX of the Education Act. The purpose of this assignment is to give you some familiarity with the federal rulemaking process, the Federal Register, and to help you develop the ability to read and summarize complex federal rules. Your paper will be uploaded to CANVAS.

Minimum word count: 1000 words.

Due Date: Friday, March 9, 12 noon.

Assignment #3 asks you to apply your knowledge about law and regulation to a regulatory issue. Information about this assignment will be distributed later. Your paper will be uploaded to CANVAS.

Minimum word count: 2000 words.

Due Date: Thursday, May 9, 12 noon.

## **Final Exam**

The final exam will be online in CANVAS and will be a summative assessment. That is, it will test you on in the information that you have learned this semester. The final will consist of two essay questions. It will be an open-book exam, so you may use your casebook and other course materials to answer the questions.

**Class Decorum:** academic success hinges upon a classroom environment that supports learning. To that end, I ask that all classroom disruptions be kept to a minimum.

**No Screens:** You may NOT use any device with a screen during class, unless you have my explicit permission to do so. In that circumstance, screens may only be used in class for course-specific objectives. Any other use is prohibited.

**Statement on Academic Integrity:** I take very seriously the issue of academic integrity—the idea that academic honesty is a vital part of higher education. For the UWSP policy on academic

integrity—what it is, and violations of it—I refer you to pages 5 and 6 of the Community Rights and Responsibilities Document given to all UWSP students. Academic misconduct in this course may result in sanctions, which may include (but are not limited to): a 0 on a specific assignment; a failing grade in the course; removal from the course.

**Student Privacy:** Federal law protects your privacy as a college student, which means your academic records generally cannot be released without your permission. Therefore, I cannot discuss your grades and classroom performance with your roommate, friends, and even parents.

**Communication:** I will use UWSP e-mail as the main means of communicating with the class. I expect you to monitor your university e-mail account frequently.

### ***Reading:***

Most readings are from the casebook listed below. Some cases and other documents are in D2L, as listed in the syllabus.

TEXTRENTAL: Administrative Law and Politics: Cases and Comments, 5<sup>th</sup> ed. (Congressional Quarterly/SAGE Press, 2016).

All readings and cases are required. The page numbers listed in the syllabus cover the introductory commentary for each section and the start of each case.

NOTE that the course is organized differently than other courses you've taken. Each date or set of dates will focus on administrative law issues, broadly defined. The cases listed under each section are the cases you are responsible for reading. Not all cases will be covered in class, but you are expected to know each case listed. You will have the opportunity to demonstrate your knowledge of the cases in class discussions, exams, and the written paper.

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## *January*

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- 23 Introduction
- 28 Lecture: The History of Federal Regulation  
Chapter 1, pages 2-23.
- 30 Theories and Approaches to Regulation

REQUIRED readings in CANVAS:

Stephen Breyer chapter "Regulation and Its Reform"

Cass Sunstein chapters "Why Regulate?" pages 11-31; and "The Functions of Regulatory Statutes."

George Stigler, "The Theory of Economic Regulation."

Bruce Yandle, "Bootleggers and Baptists."

John Adler, et al., "Baptists, Bootleggers, and Electronic Cigarettes."

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## February

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4 Theories and Approaches to Regulation; reading as above

**FRIDAY February 8: Response paper due in CANVAS by 12 noon.**

6/11 The Federal Regulatory Process

Readings in CANVAS

Congressional Research Service Report: The Federal Rulemaking Process: An Overview (2013)

Congressional Research Service Report: Counting Regulations: An Overview of Rulemaking (2016)

Regulation and Title IX

Casebook: 237-245: “Dear Colleague Letter” from Dept of Education

CANVAS: Dept of Education proposal to amend regulations implementing Title IX, November 29, 2018. Federal Register Vol. 83, No. 230. Pages 61462-61479.

13/18 The Origins and Meaning of Administrative Law

Chapter 2 pages 25-31, 45-48.

Cases:

*Morgan v U.S.*

*Goldberg v. Kelly*

*Mathews v. Eldridge*

20/25/27 Constitutional Framework for Administrative Law

Chapter 3, pages 52-79; 84-86; 92-93.

Cases:

*Munn v. Illinois*

*Lochner v. New York*

*NLRB v. Jones & Laughlin Steel*

*Dolan v. City of Tigard*

*Kelo v. City of New London*

*Mistretta v. U.S.*

*Supreme Court Raisin Case (Horne v. Dept of Agriculture) IN CANVAS*

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## March

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**FRIDAY March 8: Paper #2 due in CANVAS at 12 noon.**

4/6 The Statutory Authority of Agencies

Chapter 4

Cases:

*INS v. Chadha*

*NAACP v. Federal Power Commission*

*ATMI v. Donovan*

*Chevron v. NRDC*

*FDA v. Brown & Williamson*

*Christopher v. SmithKline Beecham*

*Vance v. Ball State*

- 11/13 Information and Administration  
Chapter 5  
Cases:  
*Wyman v James*  
*Marshall v. Barlow's Inc*  
*Dow Chemical Co v. U.S.*  
*INS v. Lopez-Mendoza*  
*Dept of the Air Force v. Rose*  
*Milner v. Dept of the Navy*  
*US Dept of Justice v. Reporters Committee*  
*Common Cause v. NRC*

*Lakeland Enterprises of Rhinelander v. Chao (handout)*

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## March 18/20 Spring Break

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- 25/27 Informality and Formality in Administrative Law  
Chapter 6, all pages.  
Cases:  
*Bi-Metallic Investment Co v. State Board of Equalization*  
*Board of Curators of Univ of Missouri v. Horowitz*  
*Federal Crop Insurance Program v. Merrill*

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## April

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- 1/3 Elements of Administrative Hearings  
Chapter 7, all pages except 225-232.  
Cases:  
*Marathon Oil v. EPA*  
*Walters v. National Association of Radiation Survivors*  
*Mazza v. Cavicchia*  
*Gibson v. Berryhill*  
*Cinderella Career and Finishing Schools v. FTC*  
*Ventura v. Shalala*  
*Materials on Title IX, Sex Discrimination*

- 8/10 Rulemaking  
Chapter 8, all pages except 273-283.  
Cases:  
*U.S. v. Florida East Coast Railway*  
*Natural Resources Defense Council v. U.S. Nuclear Regulatory Commission*  
*Vermont Yankee Nuclear Power v. NRDC*  
*Motor Vehicles Manufacturers Assoc. v. State Farm*

- 15/17 Enforcement of Administrative Decisions  
Chapter 9, all pages except 305-313.  
Cases:  
*Environmental Defense Fund v. Ruckelshaus*  
*Gwaltney of Smithfield v. Chesapeake Bay Foundation*  
*Massachusetts v. EPA*
- 22/24 Judicial Review  
Chapter 10, all pages  
Cases:  
*Abbott Laboratories v. Gardner*  
*Association of Data Processing Services v. Camp*  
*U.S. v. Students Challenging Regulatory Agency Procedures*  
*Clapper v. Amnesty International*  
*Citizens to Preserve Overton Park v. Volpe*  
*Heckler v. Chaney*  
*Universal Camera v. NLRB*  
*Huzaifa Parhat v. Robert Gates*
- 29 Government Liability  
Chapter 11  
*Indian Towing v. U.S.*  
*Griffin v. U.S.*  
*Allen v. U.S.*  
*DeShaney v. Winnebago Co. Dept of Social Services*  
*County of Sacramento v. Lewis*
- Dalehite v. U.S. (Texas City disaster case)*

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## May

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- 1 Govt Liability
- 6/8 Case Study on Title IX Regulations and Cases  
Cases to be assigned in CANVAS.

**THURSDAY May 9: Paper #3 due in CANVAS by 12 noon.**

# GRADING Rubrics

## Participation Rubric

*Your participation grade in this class will be based on the following rubric.* Students are expected to participate regularly in class discussions. Participation is to be based on *quality and quantity*. If you don't come to class, you obviously cannot participate. Given that you will be graded on your participation in a somewhat spontaneous atmosphere of seminar discussion, the following general rules apply for participation grades.

NOTE: I will frequently refer to the text during class. You are expected to have your textbook with you for reference.

	<b>Excellent (A to B+)</b>	<b>Satisfactory (B to C)</b>	<b>Unsatisfactory (C- to F)</b>
<b>Attendance</b>	<b>Attendance is consistent, on time</b>	<b>Attendance is relatively consistent</b>	<b>Poor attendance and/or late to class consistently.</b>
<b>Engagement</b>	<b>Student shows consistent and ongoing engagement with the class and course materials.</b>	<b>Student shows general interest in course and materials</b>	<b>Student does not show interest or engagement with course and materials.</b>
<b>Preparation</b>	<b>Student shows clear and excellent familiarity with course materials and is prepared for discussion.</b>	<b>Students shows general familiarity with course materials and is nominally prepared for discussion</b>	<b>Student does not show familiarity with materials, or preparation for discussion.</b>
<b>Demeanor</b>	<b>Student shows respect for diversity of opinions in class.</b>	<b>Not applicable</b>	<b>Student does not show respect for diversity of opinion in class.</b>

# Final Exam Rubric

Criteria	▽ A Excellent	▽ A-/B+	▽ B	▽ B-/C+	▽ C	▽ C-/D
▼ Demonstrated knowledge of the main principles and arguments of relevant readings and cases	Excellent knowledge of the main principles and arguments of readings cases		Shows good knowledge of the readings or cases		Shows minimal knowledge of the readings or cases	Shows little to no knowledge of the readings or cases
▼ Ability to integrate and use case selections in a coherent argument	Excellent ability to integrate and use cases in a coherent argument		Good ability		Average ability	Poor use of cases; argument is incoherent
▼ Ability to distinguish between the cases	Excellent demonstrated ability		Good demonstrated ability		Average ability	Unable to distinguish between cases
▼ Essay shows that the author has a thorough understanding of the assigned materials	Demonstrates thorough understanding		Demonstrates good understanding		Average understanding	Author does not show an understanding of the cases
▼ Essay shows that the author can write critically and analytically about the materials	Excellent writing abilities		Good writing abilities		Average	Essay does not demonstrate critical and analytical writing
▼ Well organized, coherent essay that addresses the specific question(s).	Excellent essay organization and coherence. Questions are addressed in full.		Good essay organization and coherence. Questions are generally addressed in full.		Average essay organization and coherence. Questions are not addressed in full.	Poor essay organization and coherence. Questions are not addressed in full.



