PADM 5130: PUBLIC AGENCY LAW

“The bureaucracy is expanding to meet the needs of the expanding bureaucracy.”
- Unknown

Fall 2015
M/W/F

Instructor: Daniel Manne
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Office Hours: TBD and by appointment

Course Description:
The Constitution of the United States has changed very little in past two centuries, but the size and function of government have radically expanded. More people work for the federal government today than lived in the territorial United States when the Constitution was ratified. Most of these federal employees serve in public administration – the bureaucracy. Administrative decisions affect our daily lives in countless ways, including food safety, weather forecasting, internet speed and availability, and trash collection to name a few. This course examines different countries’ approaches to addressing the legal aspects of public administrative agencies with regard to their purpose, operation, rule-making, and ethics.

Course Content:
This course will address the purpose of public agencies generally and the legal aspects of their creation and operation. Issues covered include the basis for agency authority, agency powers and their limits, administrative independence, agency organization, budgeting, public and political accountability, and administrative ethics. The course focuses on the legal problems and the possible solutions, using rules from the U.S. and other countries as examples.

Learning Goals:
• Students will demonstrate understanding of the legal source of public agency authority.
• Students will apply course material highlighting administrative legal problems.
• Students will demonstrate the ability to comprehend, analyze, and compare different approaches to combating legal and ethical issues faced by public agencies.
• Students will draw from multiple sources of law to predict the legal outcomes of contemporary regulatory controversies.
• Students will demonstrate the ability to compare and contrast different approaches to regulatory enforcement and the source of legal authority required for each.
• Students will demonstrate the ability to spot legal and ethical issues, propose and analyze potential solutions, and provide the legal basis for their proposed policy.
Class Text:

- Susan Rose-Ackerman, Peter Lindseth *Comparative Administrative Law* (2011).

Additional readings will be posted to Blackboard.

Written Work:

This course will require three (3) short papers of no more than six (6) pages each. Papers will be turned in using Blackboard. I’m always happy to grant extensions when requests are timely, but late papers will be marked down at my discretion.

Academic Integrity:

Each student in this course is expected to abide by the Cornell University Code of Academic Integrity (available here). All work submitted for credit will be the student's own work. Plagiarized assignments will receive an automatic zero. Penalty for violation of this Code can also be extended to include failure of the course and University disciplinary action.

Class Participation:

This course will be more interesting and educational if there is strong student participation. Students should come to class prepared for discussions. Questions are always welcome and are regularly solicited. Chances are, if you have a question, you’re not the only one. If some students are uncomfortable with extemporaneous participation, I will provide an opportunity for a few individuals to offer prepared presentations. If you’d like to make a presentation, please let me know.

Exams:

This course will include both a mid-term and final exam. Both exams will be take-home and will consist of short-answer and essay questions.

Grades:

Final grades will be based on the following rubric:

- Class participation/Attendance .................. 15%
- Papers .................................................. 30% (10% each)
- Mid-Term ............................................. 20%
- Final ..................................................... 35%

Disclaimer:

I reserve the right to alter class policies at any time with notice. Feedback is both welcome and encouraged throughout the semester. Please do speak up if you have thoughts or suggestions as to how things could be improved.
**Tentative Class Schedule:**

August 26: Introduction to the American System of Government  
- Civics Primer Handout  
- U.S. Constitution

Week of August 31: The Rise of the Modern Administrative State  

**No Class September 7: Labor Day**

September 9, 11: Situating Bureaucracy in Different Legal Systems  

Week of September 14: Independence, Accountability, and Expertise I  
- ROSE-ACKERMAN: pp 185-204, 205-224.  
- Robert Elgie, *Why Do Governments Delegate Authority to Quasi-Autonomous Agencies?*

Week of September 21: Independence, Accountability, and Expertise II  

Week of September 28: Transparency and Policy-Making  
- Bertot, et al., *Using ICTs to Create a Culture of Transparency.*

Week of October 5: Administrative Procedure  

**No Class October 12: Fall Break**

October 14, 16: Judicial Review I  

**Midterm Due: October 18, before midnight.**

Week of October 19: Judicial Review II  
- ROSE-ACKERMAN: pp 426-448, 482-487.

Week of October 26: The Public-Private Border  
- Ronald Moe, *The Limits of Privatization.*
Week of November 2: Regulatory Capture
  • Ross Eckert, *The Life Cycle of Regulatory Commissioners.*
  • Andrew Baker, *Restraining Regulatory Capture.*

Week of November 9: Administrative Ethics
  • Terry Cooper, *Big Questions in Administrative Ethics.*

Week of November 16: Public Sector Whistleblowing
  • Daniel Manne, *When Snowden Spilled His Guts.*
  • Brown et al., *Best-Practice Whistleblowing Legislation for the Public Sector.*

November 23: TBA

**No Class November 25, 27: Thanksgiving Break**

Week of November 30: Catch-up, Wrap-up, & Review