

Administrative law

834:606 Spring, 2003
Dr. Hull

It's not true that the only constants in life are death and taxes. The bureaucracy is also a constant - and it affects virtually every aspect of our lives. Think about it: One or another federal or state or municipal agency or board or commission or department determines whether-or-not you receive your student loan, disability check, subsidized housing, green card, zoning variation, immigration visa - whether or not you're entitled to a hearing if you are summarily fired or blackballed from state employment or called all sorts of bad names by your Rutgers professor.

Administrative agencies indeed constitute the "fourth branch" of government, despite the fact there's not a single reference to them in the U.S. Constitution. They function as quasi-legislative, quasi-judicial, and quasi-executive bodies. Their services are frequently indispensable, but given their power, oft-contested legitimacy, and hybrid status in our constitutional scheme, they also pose profound problems for a democracy dedicated to the separation of powers and public accountability.

An understanding of administrative law - how it functions, the extent to which it serves to check agency power and encourage procedural regularity --is thus indispensable for anyone contemplating a role in the public sector.

COURSE REQUIREMENTS:

Class preparedness....20%	Midterm exam.....20%
Class presentation.....30%	Final exam.....30%

A NOTE OF WARNING: Attendance is absolutely essential, and students will be docked one grade for every two absences (plus put in stocks and publicly humiliated).

HOW TO REACH ME: That's no problem, since I'm always lurking about. My office is 729 Hill Hall, and my e-mail is: eahull47@hotmail.com. I'll be available to chat before class on Mondays, by appointment, or whenever our paths cross.

BOOKS: (1) Cann, *Administrative Law* (2) Adams & Balfour, *Unmasking Administrative Evil*

Lesson One: Cann, "Democracy and Bureaucracy," pp. 3-18; Cann, Ch. Two, "Executive Control of Bureaucracy," pp. 19-50. **Brief:** *Wiener v. U.S.*; *Morrison v. Olson*.

Lesson Two: Cann, Ch. 3, "Legislative Control of Bureaucracy," pp. 51-80. **Brief:** *I.N.S. v. Chadha*; *Hampton v. U.S.*; *Ind'l Union Dept., AFL-CIO v. Amer. Petroleum Institute*.

Lesson Three: Cann, Ch. 4, "Control of Agencies by Default: The Courts and Administrative Law," pp. 94-140. **Brief:** *Allen v. Wright*; *Lujan v. Defenders of Wildlife*; *Traynor v. Turnage*; *Lincoln v. Vigil*; *Citizens to Preserve Overton Park v. Volpe*; *Nader v. Allegheny Airlines*; *Heckler v. Cheney*; *N.L.R.B. v. Hearst Publications*; *State Employees' Retirement System v. Ind'l Accident Comm'n*; *U.S. v. Nova Scotia Food Products*; *City of Los Angeles v. Lyons*.
Discuss First two chapters of Unmasking Administrative Evil; CLASS PRESENTATIONS.

LESSON FOUR: Cann, Ch. 5, "The Government and Information," pp. 141-192. **Brief:** *Marshall v. Barlow*; *Shapiro v. U.S.*; *F.T.C. v. American Tobacco Co.*;

Okla. Press Pub. Co. v. Walling; Wyman v. James; Nat'l Park and Conservation Assoc. v. Morton; Chrysler v. Brown; N.L.R.B. v. Sears, Roebuck & Co.; Dept. of Air Force v. Rose; In re F.T.C. Line of Business; Mich. V. Tyler; Dow Chemical v. U.S.; I.N.S. v. Delgado. **Discuss Chapter Three, Unmasking Administrative Evil; CLASS PRESENTATIONS.**

Midterm Exam

LESSON FIVE: Cann, Ch. 6, "Informal Agency Activity," pp. 193-216. **Brief:** *Fed. Crop Ins. Co. v. Merrill; Heckler v. Comm. Health Services; Wisc. V. City of New York.* **Discuss Chapters Four & Five, Unmasking Administrative Evil; CLASS PRESENTATIONS.**

LESSON SIX: Cann, Ch. 7, "Rulemaking and Adjudication," pp. 217-262. **Brief:** *S.E.C. v. Chenry Corp.; Bi-Metallic Investment Co. v. State Bd. of Equalization; Nat'l Muffler Dealers v. U.S.; Chevrfon v. Nat'l Resources Defense Council; Morton v. Ruiz; U.S. v. Storer Broadcasting.* **Chapters Six & Seven, Unmasking Administrative Evil; CLASS PRESENTATIONS.**

LESSON SEVEN: Cann, Ch. 8, "The Law and Public Employment," pp. 263-307. **Brief:** *Hale v. Walsh; Bd. of Regents v Roth; Pickering v Bd. of Educ.; Bishop v. Wood; Waters v. Churchill; Cleveland Bd. of Educ. v. Loudermill; Bd. of County Comm. v. Umbehr; Nat'l Treasury Employees Un. v. Con Raab.* **Discuss Mel Dubnick's Response to "Unmasking Administrative Evil" (to be supplied); CLASS PRESENTATIONS.**

LESSON EIGHT: Cann, Ch. 9, "Due Process of Law in Other Contexts," pp. 308-347. **Brief:** *Mathews v. Eldridge; Wisc. v. Constantineau; Paul v. Davis; Goldberg v. Kelly; Goss v. Lopez; Bd. of Curators v. Horowitz; Ingraham v. Wright; Collins v. City of Parker Heights; Walters v. Nat'l Ass. Of Radiation Survivors; Pac. Mutual Life v. Haslip; Foucha v. La.* **CLASS PRESENTATIONS.**

LESSON NINE: Cann, Ch. 10, "Suing the Government," pp. 348-390. **Brief:** *Alehite v. U.S.; U.S. v. Varig Airlines; Bivens v. Six Unknown Named Agents; Butz v. Economou; Owen v. City of Ind.; Scheuer v. Rhodes; Wood v. Strickland; Carlson v. Green; Bush v. Lucas; Pembauer v. Cincinnati; DeShaney v. Winnebago.* **CLASS PRESENTATIONS.**

Final Exam