

PUBA 625: Law, Economics, and Public Administration
(Meets Tuesdays, 6-8:30, Webster 203a)

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Hours: Tue & Thur 1-2
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Overview

This course addresses the legal and economic aspects of decisions addressed by public agencies every day. We begin by addressing the primary legal and economic rights that stand as the cornerstones of administrative law and policy. We then proceed to address in detail the manner in which public agencies in U.S. politics achieve their policy objectives.

Student Learning Outcomes

The course will introduce students to basic methods and issues of research in public administration. After successful completion of the course, students should be able to:

- Compare the relative advantages and disadvantages of different types of administrative procedures, including rulemaking, adjudication, and negotiation.
- Evaluate major constitutional, ethical, and practical issues associated with administrative processes.
- Identify appropriate economic principles relevant to administrative law and regulation, including property rights, barriers to entry, and common-resource (public goods) problems.
- Demonstrate ability to locate and utilize essential decision making documents produced by state and federal agencies.
- Communicate and justify research results to a professional non-technical audience, in oral and written form

This syllabus represents a provisional plan for the semester and is subject to reasonable changes by the professor.

Texts

Kerwin, (2003). *Rulemaking: How Government Agencies Write Law and Make Policy*, 3rd edition, CQ Press. ISBN:1-56802-780-X

The remainder of readings will be provided as photocopies or PDFs. We will draw several chapters from the following:

Cann. (2005.) *Administrative Law*, 4th edition, Sage Publications. Thousand Oaks: CA.
Katzmann. (1980). *Regulatory Bureaucracy*, MIT Press

Grades

As a seminar, your learning will be greatly enhanced by regular attendance, thorough preparation, and constructive dialogue with your peers about the topics each week. Accordingly, 20% of your grade will be based on your own class contribution. Each week, one of you will be required to have prepared more thoroughly, and to help shape and lead the discussion in ways that interest you and in ways that will best help your peers address the material.

Your learning will also be significantly bolstered if you spend a significant amount of time writing in-depth about a few of the topics that suit your interests. Therefore, 80% of your grade will be based on your written work. For the written portion of your grade, you may choose one of two options:

OPTION A: You will be expected to write a research paper about public administration decision making, due by May 1. Ideas for topics will be distributed the second or third week of the semester. To help ensure the paper develops into a quality effort, you will be expected to turn in portions of your paper in phases, according the schedule below.

January 30	proposal due (maximum 2 pages single spaced)
February 27	description of data collection and analysis.
April 18	first complete draft due
May 1	final draft due

The grade and feedback for your paper will be based on standard peer review criteria - importance of the research question, appropriate references to the literature, quality of the research design and analysis, and degree to which evidence compellingly supports the argument.

OPTION B: You will be expected to write a short (maximum 4 single spaced pages) critical essay about the readings for three separate weeks. In many cases, the articles are selected to present opposing viewpoints, and your argument will be in the vein of "X is wrong, Y is right", "X's argument is strongest in situation 1, Y's argument is stronger for situation 2", or some variant. For some weeks, the readings are less confrontational, and I encourage you to identify some important unanswered questions relevant to the reading and lay out an agenda for how we might try to answer those questions. In all cases, please consult with me about your basic argument. Essays are due one week after the readings for the week, so come to class prepared to discuss the reading and map out the essay that will be due the following week.

Tentative Schedule

Jan 23

Property Rights

- Scalia, Antonin. (1983). "The Doctrine of Standing as an Essential Element of the Separation of Powers." *Suffolk University Law Review*, 17: 881-97.
- Sunstein, Cass. (1992). "What's Standing after Lujan? Of Citizen Suits, 'Injuries' and Article III." *Michigan Law Review*, 91: 163-31.
- Fletcher, William A. (1988). "The Structure of Standing." *Yale Law Journal*, 98: 221-34.
- Nichol, Gene R. (1987). "Ripeness and the Constitution." *California Law Review* 72: 68-82.
- Stigler, George. (1971). "The Theory of Economic Regulation." *Bell Journal of*

- Jan 30 **Due Process Rights**
Mashaw, Jerry L. (1976). "The Supreme Court's Due Process Calculus for Administrative Adjudication: Three Factors in Search of a Theory of Value." *University of Chicago Law Review* 44: 28.
Thibaut, J. & L. Walker. (1978). "A Theory of Procedure." *California Law Review*, 66: 541-566.
Schuck, Peter H. (1984). "When the Exception Becomes the Rule: Regulatory Equity and the Formulation of Energy Policy through an Exceptions Process." *Duke Law Journal*, 163-300.
- Feb 6 **Economics of Compliance and Sanctions**
Glaeser, Edward, Simon Johnson & Andrei Shleifer. (2001). "Coase Versus the Coasians." *Quarterly Journal of Economics*, 116: 853-99.
Katzmann, chapters 3-6
- Feb 13 **Administrative Procedures Act**
Kerwin chapters 1&2
Shapiro, Martin. (1986). APA: Past, Present, Future. *Virginia Law Review*, 72: 447-492.
Sunstein, Cass R. (1986). "Factions, Self-Interest, and the APA: Four Lessons Since 1946." *Virginia Law Review*, 72(271): 291-92.
Cann chapter 7
- Feb 20 **Legal Opinions and Judicial Review**
Farina, Cynthia R. (1989). "Statutory Interpretation and the Balance of Power in the Administrative State," *Columbia Law Review*, 89: 452.
Howard, Robert M. & David C. Nixon. (2003). "Local Control of the Bureaucracy: Federal Appeals Courts, Ideology, and the Internal Revenue Service." *Washington University Journal of Law & Policy*, 13: 233-56.
- Feb 27 **Agenda Setting**
Nixon, manuscript
Kerwin, chapter 4
Katzmann chapter 9
- Mar 6 **The Comment Period and Legal Persuasion**
Kerwin chapter 5
Yackee, J. W., & Yackee, S. W. (2006). A bias towards business? Assessing interest group influence on the US bureaucracy. *Journal of Politics*, 68(1): 128-139.
- March 13 **Adjudication and Enforcement**
Warren, K. F. (2004). *Administrative law in the political system* (Chapter 7.p. 527). Westview Press.
- March 20 **Informal Command and Control Procedures**
Cann chapter 6
- Mar 27 *no class, spring break*
- April 3 **Market Mechanisms for Making Policy**
Hausker, K. (1992). The politics and economics of auction design in the market for sulfur

dioxide pollution. *Journal of Policy Analysis and Management*, 11(4): 553-572.
Joskow, P. L., Schmalensee, R., & Bailey, E. M. (1998). The market for sulfur dioxide emissions. *American Economic Review*, 88: 669-685.
Cramton, P., & Kerr, S. (2002). Tradeable carbon permit auctions: How and why to auction not grandfather. *Energy Policy*, 30(4), 333-345.

- April 10 Privatization
 Cass, R. A. (1987). Privatization: Politics, Law, and Theory. *Marq. Law Review*, 71: 449.
- April 17 Decision Making Competition
 Kerwin, chapter 6
 Katzmann chapter 10
- April 24 Information Availability
 Cann, chapter 5
 Wald, P. M. (1984). The Freedom of Information Act: A Short Case Study in the Perils and Paybacks of Legislating Democratic Values, *Emory Law Journal*, 33: 649.
- May 1 *last day*