

## Administrative Law

Professor Margaret Woo  
Northeastern University School of Law

Summer Quarter 2010  
Mondays: 12:00 – 1:30 p.m.  
Wednesdays: 12:00 – 1:30 p.m.

### Required Text:

Mashaw, Merrill, and Shane, *Cases and Materials on Administrative Law - The American Public Law System*, 6th ed. (2009)

### Course Requirements:

This course will conclude with a final exam. In addition, you will be given two short written assignments early in the quarter. Finally, you are encouraged to participate thoughtfully in class discussion.

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"Administrative law is not for sissies."

(Antonin Scalia, Judicial Deference to Administrative Interpretations of Law, 1989 DUKE L.J. 511.)

Whatever your intended area of practice, you are likely to encounter what has been called "the fourth branch of government." Administrative agencies exert tremendous control over public and private enterprises of every variety, including employment, unemployment, retirement, health, communication, immigration, the environment, family relationships and corporate competition, for examples.

Governmental decision-makers in this vast range of fields are largely unelected and unknown. This course will introduce you to the many legal devices and doctrines designed to constrain agency officials in their daily practice of governance. It will invite you to locate the proper bounds on agency power and describe the appropriate role of unelected policy-makers in a democratic system. The course will also confront some of the central conundrums of governance, such as the tension between administrative efficiency and due process, as well as consider -the importance of historical context, for example, in our era of "the end of big government."

Your careful consideration of these issues as we proceed through the material will substantially deepen your understanding of administrative law doctrine. The goal of this course is not only to introduce you to this doctrine, but also to contribute to your preparation to practice in a complex system with the benefit of a sophisticated view of administrative power.

## Assignment

## Topic

CB 1-31	Introduction
CB 72-107	Administration and the Legislature: Enabling Legislation; the Nondelegation Doctrine
CB 107-140	Administration and the Legislature: Legislative Veto; Irrebuttable Presumptions; Legislative Precision; the de minimis exception
CB 185-210	Administration and the Executive: Power to Appoint
CB 254-274, 278-287 Admin law research assignment (handout)	Administration and the Executive: Authority to Direct Public Policy
CB 308-325 (to end of list), 332-339, 347-355;	Administration and the Courts: What may Administrators Adjudicate: When is Process Due?
CB 360-396	Constitutional Due Process; The Demise of Right/Privilege Distinction
CB408-417, 423-436, 448-455, also APA sections 553, 554, 556 & 557	Statutory Hearing Rights: Rulemaking and Adjudication Distinguished
CB 467-480, 490-500; Clean Air Act Handout	Statutory Hearing Rights: Rulemaking and Adjudication Distinguished; Administrative Rulemaking (video)
CB 507-527, 554-562, 567-573	Administrative Rulemaking Process
CB 581-617, 621-631 Legislative Drafting Exercise (handout)	Administrative Rulemaking Process: bias & prejudgment in rulemaking
CB, 798-804, 812-830;	Judicial Review: Scope of Review (presumptive but limited; interpretations of law; findings of fact)
Legislative Drafting	Legislative Drafting

CB 894-905 (end of n.2), 916-926,	Judicial Review: Availability of Review (statutory preclusion; committed to agency discretion)
CB 930-939, 943-952, 955-964	Judicial Review: Availability of Review (Agency Inaction)
CB 982 994, 997-1009,1014-1019	Judicial Review: Timing (finality, ripeness & exhaustion)
CB 1025-1035, 1039-1047	Judicial Review: Standing (zone of interest)
CB 1047-1064, 1069-1075	Judicial Review Standing (injury; associational standing)
CB 1075-1097, 1102-1110	Judicial Review: Standing (causation & redressability)