

Administrative Law (Law 116-002)

Office: Hazel 322

Hours: Tues., 3:30 – 5:00 pm

E-mail: jrabkin@gmu.edu

Casebook: Cass, Diver et al., *Administrative Law*, 8th ed. (= CB); Other readings on TWEN

Learning outcomes: Understanding of constitutional constraints on administrative procedure from separation of powers and due process requirements; understanding of process requirements under Administrative Procedure Act; understanding of ongoing disputes regarding proper levels of judicial deference to agency determinations

PART I: THE CONSTITUTIONAL SETTING OF FEDERAL ADMINISTRATION

Jan 18: Introduction: Why administration?

CB 3- 15; 839-40

Dicey, Law of the Constitution; Ives v. So. Buffalo RR;

New York Central R.R. v. White

Jan 23: Legislative Control - I

CB 15 – 34 (esp. *Schechter, I.U.D., Mistretta, Whitman*);

Gundy v. U.S.; NFIB v. OSHA

Jan 25: Legislative Control – II

CB 33 – 60 (*Chadha, Seattle Audubon, Clinton*); 620 – 34 (*CFTC, Stern*);

NLRB v. Jones & Laughlin Steel Co.

Jan 30: Executive Control

CB 60 -92 (*Youngstown, Buckley, Myers, Humph's Exec, Bowsher*);
Op's of Early U.S. AG's; *Seila Law v CFPB*

Feb 1: Political Supervision

CB 93 – 115 (*Morrison, Free Ent Fund, U.S. Telecom*); 600-07
Nou, "Agency Self-Insulation" (browse)

PART II: ADMINISTRATIVE PROCESS

Feb 6: Licensing

CB 856 – 875 (*Ashbacker, Writers Guild, SW Cable, MCI*)
Munn v. Illinois

Feb 8: Rate Regulation

CB 876 – 884; *Chicago, Milwaukee, St. Paul R.R. v. Minn.*

Feb 13: Right to Due Process

CB 634 – 664 (*Goldberg, Roth, Arnett, Bishop, Cleveland*);
CB 417 – 421 (*Londoner, Bi-Metallic*)

Feb 15: Requirements of Due Process

CB 664 – 690 (*Mathews, Tumey, Ward, Gibson, Cinderella*);
CB 516 – 529 (*Nat'l Advertisers*); *U.S. v. Morgan I, IV*

Feb 20: Formal and Informal Adjudication

CB 691 – 711 (*Seacoast, Citizens, So Cal, Armstrong*);
CB 715 – 738 (*Portland, Assn of ALJs, Pension Benefit Guaranty*)

Feb 22: Choice of Policy-Making Instruments

CB 423 – 448 (*Storer, Petrol Refiners, Chamb of Commerce, Hecker*)

Feb 27: Agency Discretion

CB 449 – 478 (*Chenery II, Excelsior, Wyman-Gordon, Bell*);
Jackson dissent in *Chenery II*; CB 568 – 571 (*NRDC v NHTSA*)

Mar 1: Rule-making under APA

CB 479 – 515 (*Allegheny, Florida E.Coast, Choc. Mnfrs, L.I. Care, Nova Scotia, Home Box Office, Sierra Club, Volpe*)

Mar 6: Embellishing APA

CB: 530 – 568 (*NRDC, Vt. Yankee, Family Planning, Hoctor, Texas, Vigil*);
Washington v. Trump

PART III: THE LAW OF JUDICIAL REVIEW

Mar 8: Standards of Judicial Review

CB 117 – 133 (*Overton Park, Chenery I, Morgan*);
CB 244 – 264 (*Universal Camera, Biestek*)

Mar 20: Judicial Review of Policy

CB 134 – 174 (*State Farm, DoC, Fox, Encino, Mass*)
CB 264 – 273 (*I.U.D. v. API*)

Mar 22: Judicial Review of Questions of Law

CB 176 – 207 (*Hearst, Skidmore, Chevron, MCI, Babbitt, B&W, Mass, UARG*)
Am. School of Magnetic Healing v. McAnnulty

Mar 27: Limits of Deference

CB 207 – 243 (*Brand X, Mead, Arlington, Kisor*)
W.Va. v. EPA

Mar 29: Reviewability

CB 278 – 313 (*Norton, Chao, Johnson, Cuozzo, McNary*)

Apr 3: Committed to Discretion

CB 313 – 353 (*Webster, DoC, Heckler, Texas, Vigil*)
Am. Inst of Int'l Steel v. U.S.

Apr 5: Standing to Sue

CB 351 – 389 (*Data Processing, Lujan, Mass*)
Am Humanist Assn v Am Legion (Gorsuch opinion)

Apr 10: Timing of Judicial Review

CB 388 – 414 (*Abbott Labs, Toilet Goods*)
Sackett v. EPA; Chem. Waste Mngmt v. EPA

PART IV: SETTINGS OF DISPUTES

Apr 12: Enforcement

CB 739 – 785 (*Marshall, Ruckleshaus, Moog, Univ-Rundle, GE*)

Apr 17: Private Litigation and Regulatory Enforcement

CB 786 – 824 (*Bennett, Borak, Cort, Karahalios, Geier*)

Apr 19: Public Access

CB 887 – 929 (*Kissinger, Milner, Sears, Abramson, Reporters Com'tee*)

Apr 24: Diversity and Environmental Justice by Presidential Order

Biden Executive Orders

