

# Administrative Law

## SYLLABUS AND SCHEDULE | Fall Quarter 2015

### Course description

---

The course in Administrative Law provides students with broad exposure to the basic principles of administrative law and regulatory decision-making. At its core, this class provides the student with a new and different lens with which to view the process of policy-making and public administration, and that lens is “the law”. The course will look at the application of the law to policy-making, public administration, the regulatory process, the agency rulemaking process, investigations, and adjudicatory procedures. We will utilize traditional legal analysis as our analytical framework, we will use legal research tools to explore sources of law, and we will develop legal writing skills for communicating our legal arguments and analysis. By the end of the course, students will have gained a new perspective on public decision-making that incorporates important parameters and limitations imposed by the law.

#### Course information

Course code: PUBM 572  
Credits: 3  
Location: Pigott 205  
Class times: Wednesdays, 6:00 to 8:40 pm  
First session: Wednesday, September 23rd  
Last session: Wednesday, December 2nd  
Final/Midterm: Wednesday, December 9th

#### Instructor information

Instructor: Jim Blundell  
Phone: 206-890-3237  
Email: blundelj@seattleu.edu  
Please phone, text or email with any questions or to arrange an appointment. I check email regularly and make every effort to respond within 24 hours, and generally much sooner than that.

### Learning objectives

---

This course will help students:

1. Develop a working knowledge of the application of the law to the duties and decision-making of public administrators.
2. Develop an appreciation for the rule of law and its role in public administration and public decision-making.
3. Identify and analyze legal issues that arise in administrative and regulatory settings, and to develop an understanding of the possible solutions public decision-makers can use to resolve them.
4. Develop basic legal research, analysis and writing skills such that the student can begin to answer legal questions with relevant legal support.
5. Explain to an audience the significance of a legal issue, and its application, in terms that are clear, concise, accurate, and engaging.
6. Develop and practice persuasion and advocacy skills that enable the public decision-maker to succeed in the administrative and policy-making environment.

### Instructional methods

---

The value of this course depends heavily on your participation, and your meaningful participation will require preparation. Time spent in class is critical to your learning. The study of law lends itself to a combination of classroom methods: lectures, case law method, question and answer, the Socratic method, and open discussion. I will conduct class time using a combination of these methods. The case law and

Socratic methods, in particular, will require that you are prepared to discuss the reading assignments and answer questions about them.

## Graded assignments

---

### CLASS PREPARATION AND PARTICIPATION

You have an opportunity to earn 20% percent of your grade in this class by reading the assigned readings, preparing yourself to engage in classroom discussion, participating actively and effectively in class discussions, and collaborating in a meaningful way in group work. The bottom line: Speak Up! Effective participation involves making comments and asking questions that deepen our understanding of the course material, responding in a collegial way to others, staying focused in class and avoiding distractions. I'm serious about creating an environment in the classroom that is safe for free and open discussion.

You are expected to arrive for each class prepared to recite the facts, the legal question and the holding from each case assigned for that class, and to discuss the case in class. The assignments will include cases and explanations from the textbook, as well as cases and materials that will be available on my blog. You are expected to read, brief, and prepare for discussion each of the cases identified as "Cases to Brief and Present" in the assignment schedule below.

### MIDTERM EXAMS

You will take two Midterm exams in this course. These exams provide an opportunity to assess and demonstrate your knowledge of the substantive areas covered in the readings and in class. These exams are considered "take home" exams, meaning you are free to use your materials to answer the questions and prepare responses. You are, however, expected to do your own work on these exams so collaboration with others is not allowed. Each of the exams will be available to you for 30 hours. The exams will be distributed or made available on Canvas at 6:00pm on the day of the exam and will be due, on Canvas, the following day at 11:59 pm. The Midterm Exams will be administered on the following schedule:

	Available	Due	% of Grade
Midterm Exam #1	Friday, October 30th at 6:00pm	Saturday, October 31st at 11:59pm	20%
Midterm Exam #2	Wednesday, December 9th at 6:00pm	Thursday, December 10th at 11:59 pm	20%

### LEGAL MEMORANDUM

Fifteen-percent of your grade will be based on a brief Legal Memorandum. The specific assignments for the Legal Memorandum will be distributed at the end of the first class on September 23rd. I will also distribute a sample legal memo. The assignment will include an issue or topic, and a reference to a single legal opinion on the topic or issue. Your assignment will be to analyze and apply the principles from that opinion to the assigned facts and reach a legal conclusion on the assigned issues. The Legal Memorandum will be no more than 5 pages in length, 1 ½-spaced, using a 12 point font. The Legal Memorandum must be submitted online on Canvas by Friday, October 16th at 11:59pm. The Legal Memorandum is worth 15% of your final grade in the course.

### FINAL PAPER

Your final writing assignment in this class will be to write a Final Paper. The Final Paper Assignment and Rubric will be distributed in class on October 21st. The Final Paper will be a 10- to 12-page legal research and analysis paper involving a current legal question. The Final Paper will be due on Wednesday, November 24th at 11:59 pm. The Final Paper will be worth 25% of your final grade in the course.

*Outline of Final Paper:* I would like to provide as much early input on your work on the Final Paper as possible. To this end, you will be expected to submit an outline of your paper before the Final Paper is due. This preliminary work on an Outline is an opportunity for you to organize your thoughts about the assignment, refine your ideas for the paper before you begin substantial research and writing, and to get feedback from me. The Outline is due on Friday, November 6th at 11:59 pm. In addition, if you would like feedback from me on your draft paper, before working toward your final version, please feel free to contact me. I'm more than willing to work with students on this and any assignment, to the extent reasonable.

### **FORMATTING YOUR ASSIGNMENTS**

It is important that your work is clearly presented and easy to read. This will enable me to return your work more quickly. Please submit all written assignments in the following format:

- Word processed
- 12-point sans serif font, such as Calibri, Geneva, Helvetica, Lucida, Tahoma, Verdana, etc.
- 1-inch margins
- Left aligned
- 1 ½ spaced
- Black ink

### **ASSIGNMENT GRADE WEIGHTS**

Your final grade in this course will be based on the following components and assignments, and their assigned grade weight:

<b>ASSIGNMENT</b>	<b>WEIGHT</b>	<b>DUE DATE</b>
Class Preparation and Participation	20%	Each class session
Legal Memorandum	15%	October 16th at 11:59pm (available Sept. 23rd)
Midterm #1	20%	October 31st at 11:59 pm (available Oct. 30th)
Legal Paper Outline		November 6th at 11:59pm
Legal Paper	25%	November 24th at 11:59pm
Midterm #2	20%	December 10th at 11:59pm (available Dec. 9th)

### **SUBMITTING YOUR ASSIGNMENTS**

All assignments must be submitted to me online on the Canvas website for our course. If you are unable to submit an assignment using the Canvas website for technical reasons, you may submit the assignment to me in person before the deadline. If you are unable to submit the assignment either on Canvas or in person, please email me your assignment.

### **ASSIGNMENT DEADLINES**

In this class, you are expected to conduct yourselves in a professional, courteous, and well-organized manner. This helps give Seattle University graduates a reputation as excellent and reliable colleagues, and in turn it means that your degree is worth more in a competitive marketplace. One of the most important ways you will demonstrate these behaviors in class is by ensuring that your work is always on time.

Assignments must be submitted by their deadlines and will generally be graded and returned with comments within one week. It is essential that you plan ahead for all eventualities to ensure that none of your work is late.

Any assignment submitted after the deadline is late. A penalty of one (1) point will be assessed for each

day (24 hours) the assignment is late. The penalty will be temporarily suspended, however, for the first 24 hours after the assignment is due. In other words, if the assignment is submitted within the first 24 hours after the assignment is due, the one-point penalty is suspended and NOT imposed. If the assignment is submitted within the second 24 hours after the assignment is due, 2 points will be deducted from the total points. If the assignment is submitted within the third 24-hour period after the assignment is late, 3 points will be deducted. And so on.

If you are completely unable to fulfill course requirements because of extenuating circumstances, please notify the instructor on or before the date the assignment is due and provide relevant supporting documentation (e.g. doctor's note, note from counselor).

An agreement to receive an Incomplete (I) grade may be negotiated if your circumstances do not allow you to finish the course on time. The Incomplete Removal Policy of the University is available on the Office of the Registrar web site at [www.seattleu.edu/registrar/Policies.aspx](http://www.seattleu.edu/registrar/Policies.aspx).

## Required readings and materials

---

1. Harrington, Christine B. and Carter, Lief H. (2014). *Administrative Law and Politics; Cases and Comments* (5th ed.). Thousand Oaks, CA: CQ Press. (ISBN 978-1452240404).
2. *Online Materials*. Additional required reading materials will be available online on the instructor's blog, *jb on the law*. You can find the blog at: [j2blundell.wordpress.com](http://j2blundell.wordpress.com). Navigate to the tab labeled "Admin Law Course Materials".

## Class communication

---

Our primary method of communication, outside of class time, will be on the Canvas site. Canvas will be used for announcements, updates, discussions, graded assignments, grading, reading assignments, course administration, schedule, etc. Please be sure to check the Canvas site often for announcements and updates. Also, check your alert settings on Canvas to ensure that you receive email alerts for all of these communications and at the correct email addresses. We will also communicate by email, but primarily for direct, one-on-one communications.

## General course and university policies

---

### SUPPORT FOR STUDENTS WITH DISABILITIES

If you have, or think you may have, a disability (including an "invisible disability" such as a learning disability, a chronic health problem, or a mental health condition) that interferes with your performance as a student in this class, you are encouraged to arrange support services and/or accommodations through Disabilities Services staff located in Loyola 100, (206) 296-5740. Disability-based adjustments to course expectations can be arranged only through this process.

### CLASSROOM NORMS

You are expected to:

1. Engage in classroom discussion, in a respectful, thoughtful, reflective, and analytical manner, in order to foster meaningful and relevant learning opportunities.
2. Complete all written assignments, presentations, and reading assignments on time.
3. Understand and honor the academic honesty and integrity policy by submitting original work, free from plagiarism.

## **MISSED CLASSES**

You are expected to attend all class sessions and inform the instructor in advance of any unavoidable absences. Your classroom participation grade can be negatively affected by your absence. You are expected to attend a minimum of 80% of our scheduled classes in order to receive credit for this course. If you expect to be absent or to be late, please e-mail me beforehand (or as soon as possible).

If for any reason you do miss a class, be sure to obtain notes from one of your peers to catch up. If, after going over those notes and checking the readings for the class, you still have questions, please arrange to speak with me to discuss. Remember to bring those notes with you so that we can work on your specific, focused questions.

## **CELL PHONES, LAPTOPS, AND RECORDING DEVICES**

So that we can all stay focused and get the most from our time in class, all cell phones—including my own—must be turned off except by prior agreement. For instance, if you're the primary caregiver for someone, a relative or close friend of someone who's critically ill in hospital, or an expectant birth partner, please let me know so that we can make a suitable arrangement.

Please be respectful of other students' time and commitment to their studies by not breaching this policy so that I don't have to confront you on it. If your phone does accidentally go off, I expect you to turn it off immediately, and not answer the call.

## **ACADEMIC POLICIES ON THE REGISTRAR WEBSITE**

Be sure that you understand the University's academic policies, as well as all other policies posted on the Registrar's website at [www.seattleu.edu/registrar/academics/performance/](http://www.seattleu.edu/registrar/academics/performance/).

### *ACADEMIC INTEGRITY POLICY*

The faculty of the Institute of Public Service is very serious about enforcing the University's Academic Integrity Policy. Among the most common violations of the policy are plagiarism and other forms of cheating. The Academic Integrity Policy defines plagiarism as follows:

The unacknowledged use of the work or intellectual property of other persons, published or unpublished, presented as one's own work. Examples of plagiarism include, but are not limited to, copying, paraphrasing, summarizing, or borrowing ideas, phrases, sentences, paragraphs, or an entire paper from another person's work without proper reference and/or acknowledgement . . . . A student does not need to have intended to plagiarize; the unacknowledged use of another's work is sufficient.

### Seattle University Policy #2011-3

Masters of Public Administration students are subject to all standards, processes and penalties outlined in the University's Academic Integrity Policy #2001-3. Violation of the plagiarism provisions of Policy #2011-3 by any MPA students is covered by Policy #2011-3. The Institute of Public Service imposes the following additional penalties in cases involving plagiarism by an MPA student:

- An MPA student found guilty of a first offense of plagiarism will be subject to punishment ranging from receiving no credit for a particular assignment to receiving an F in the course.
- An MPA student found guilty of a subsequent offense of plagiarism will be subject to dismissal from the MPA program.
- Any violation of the policy will be reported to the IPS director and the dean's office.

## Grading procedures and policies

---

### COURSE GRADE

Your final grade in this course will be based on your performance on the six graded assignment components described above. Each of the six components will be worth 100 points and the grade on each assignment will be weighted, for purposes of calculating your final grade, according to the weights identified above. At the end of the quarter, the points scored on each assignment will be weighted and a final point total out of 100 will be calculated. The final points will then be converted to a final letter grade, using this grade conversion table:

100 - 94 = A	86 - 83 = B	76 - 73 = C	66 - 63 = D
93 - 90 = A-	82 - 80 = B-	72 - 70 = C-	62 - 60 = D-
89 - 87 = B+	79 - 77 = C+	69 - 67 = D+	59 or less = F

### PREPARATION AND PARTICIPATION GRADING

As mentioned, your active participation in this class is critical to your learning and that of your colleagues, including me. I expect that you will actively participate in the learning process during discussion, case recitation, interactive lectures, and small-group work. At a minimum, active participation requires regular and attentive class attendance. I will maintain a record of your class attendance. If the lack of attendance or attentiveness becomes a problem, this will likely affect your grade negatively.

### GRADING RUBRICS

A grading rubric will be available for each of the graded assignments.

### Student responsibilities for learning

---

You can expect to devote an average of two hours outside of class to the subject matter (readings and preparation, as well as substantive assignments and participation exercises) for every hour in class. As this is a three-credit class, you can reasonably expect an average of 6 hours of homework each week. I have tried to ensure that the workload is evenly distributed throughout the course, but if you find you have less than the normal amount of work one week, I suggest you read ahead for future classes.

Please refer to other course policies on attendance, participation, missed classes, and assignment deadlines earlier in this syllabus.

### Schedule of reading assignments

---

The following schedule of reading assignments is offered as a guide to the topics and subjects in the course and an indication of the flow of coursework. The schedule of weekly reading assignments in this course does not lend itself to a firm, pre-established schedule, and the learning objectives will be maximized by a certain dose of flexibility. Although the following schedule is offered as a reliable indicator of the flow of topics and assignments, the actual reading assignments for each upcoming week will be set at the end of each class session.

	Subjects	Reading	Cases to Brief and Present
<b>Week #1 – 9/23/15</b>	Introduction and Course Overview Introduction to Administrative Law Delegation of Authority Reading and Briefing Judicial Opinions	<u>Harrington:</u> • Chapter 1, pp. 2-23 • Chapter 2, pp. 25-37; 44-48 • Chapter 3, pp. 84-93  <u>Online:</u> • <i>Whitman v. American Trucking Assoc.</i> • <i>Primer #1: How to Read &amp; Brief Opinions</i>	• <i>Mistretta v. U.S.</i> • <i>Whitman v. Amer. Trucking Assoc.</i>
<b>Week #2 – 9/30/15</b>	Separation of Powers Constitutional Authority of Agencies Statutory Limits on Agencies Legal Analysis	<u>Harrington:</u> • Chapter 4, pp. 95-101 • Chapter 3, pp. 52-70  <u>Online:</u> • <i>Youngstown Sheet &amp; Tube v. Sawyer</i> • <i>Primer #2: Legal Analysis</i> • Optional: <i>McCleary v. State</i>	• <i>Youngstown Sheet &amp; Tube v. Sawyer</i> • <i>Lochner v. New York</i> • <i>NLRB v. Jones &amp; Laughlin Steel</i>
<b>Week #3 – 10/7/15</b>	Constitutional Limits on Agencies • Due Process • Takings Rule of Law	<u>Harrington:</u> • Chapter 2, pp. 37-44 • Chapter 3, pp. 71-83  <u>Online:</u> • <i>Lingle v. Chevron</i> • Stein, <i>The Rule of Law</i> • <i>Primer #3: Legal Citations</i> • Optional: <i>Horne v. Dept. of Agriculture</i>	• <i>Mathews v. Eldridge</i> • <i>Lingle v. Chevron</i>
<b>Week #4 – 10/14/15</b>	Agency Investigations Access to Public Records Open Public Meetings	<u>Harrington:</u> • Chapter 5, pp. 141-163  <u>Online:</u> • <i>MRSC Knowing the Territory, Chs. 6 &amp; 7</i> • <i>Hearst Corp. v. Hoppe</i> • <i>Eugster v. City of Spokane</i>	• <i>Marshall v. Barlow's Inc.</i> • <i>Hearst Corp. v. Hoppe</i> • <i>Eugster v. City of Spokane</i>
<b>Week #5 – 10/21/15</b>	The Administrative Hearing	<u>Harrington:</u> • Chapter 7, pp. 204-235 (skip text version of <i>Cinderella</i> ) • Optional: Ch. 7, pp 236-249  <u>Online:</u> • <i>Cinderella Career &amp; Finishing Schools v. FTC</i>	• <i>Walters v. Natl. Assoc. of Rad. Survivors</i> • <i>Cinderella Career &amp; Finishing Schools v. FTC</i>

<b>Week #6 – 10/28/15</b>	Rulemaking	<u>Harrington:</u> <ul style="list-style-type: none"> <li>• Chapter 8, pp. 252-272</li> <li>• Optional: Ch. 8, pp. 272-280</li> </ul> <u>Online:</u> <ul style="list-style-type: none"> <li>• <i>Perez v. Mortgage Bankers Association</i></li> <li>• <i>Michigan v. EPA</i></li> <li>• <i>Primer #4: Legal Research and Writing</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Perez v. Mortgage Bankers Association</i></li> <li>• <i>Michigan v. EPA</i></li> <li>• <i>Motor Vehicles Mfrs. Assoc. v. State Farm</i></li> </ul>
<b>Week #7 – 11/4/15</b>	Informal Administrative Decisionmaking Enforcement Non-Enforcement	<u>Harrington:</u> <ul style="list-style-type: none"> <li>• Chapter 6, pp. 184-201</li> <li>• Chapter 9, pp. 284-313</li> </ul> <u>Online:</u> <ul style="list-style-type: none"> <li>• Optional: <i>Texas v. United States</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Bi-Metallic Investment v. State Bd. of Equal.</i></li> <li>• <i>Board of Curators v. Horowitz</i></li> <li>• <i>Gwaltney v. Chesapeake Bay Foundation</i></li> </ul>
<b>11/11/15 – VETERANS DAY HOLIDAY – NO CLASS</b>			
<b>Week #8 – 11/18/15</b>	Intro to Judicial Review Statutory Interpretation	<u>Harrington:</u> <ul style="list-style-type: none"> <li>• Chapter 4, pp. 101-121</li> <li>• Optional: Ch. 4, pp. 121-139</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Chevron v. NRDC</i></li> <li>• <i>FDA v. Brown &amp; Williamson</i></li> </ul>
<b>Week #9 – 11/24/15 (Makeup)</b>	Judicial Review Continued	<u>Harrington:</u> <ul style="list-style-type: none"> <li>• Chapter 10, pp. 315-354</li> <li>• Optional: Ch. 10, pp. 354-358</li> </ul> <u>Online:</u> <ul style="list-style-type: none"> <li>• <i>City of Arlington v. FCC</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>City of Arlington v. FCC</i></li> <li>• <i>Heckler v. Chaney</i></li> <li>• <i>Universal Camera Corp v. NLRB</i></li> </ul>
<b>11/25/15 – THANKSGIVING HOLIDAY – NO CLASS</b>			
<b>Week #10 – 12/2/15</b>	Government Liability and Immunity Public Employment	<u>Harrington:</u> <ul style="list-style-type: none"> <li>• Chapter 11, pp. 362-366</li> <li>• Chapter 12, pp. 387-416</li> <li>• Optional: Ch. 11, pp. 366-384; Ch. 12, pp. 416-420</li> </ul> <u>Online:</u> <ul style="list-style-type: none"> <li>• <i>King v. City of Seattle</i></li> <li>• <i>J&amp;B Development v. King County</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>King v. City of Seattle</i></li> <li>• <i>J&amp;B Development v. King County</i></li> <li>• <i>Cleveland Bd. of Education v. Loudermill</i></li> </ul>
<b>Scheduled Final (Midterm #2) – 12/9/15</b>			