

Administrative Law

University of Florida Levin College of Law

Professor Nathan Richardson

I. Basic Information

Professor:	Nathan Richardson
Class Schedule:	Thursdays 5:00-6:25PM Fridays 9:00-10:25 AM
Location:	Holland Hall 180
Required Books:	Hickman, Pierce, and Walker, <i>Federal Administrative Law</i> (4 th ed.)
Recommended Book:	Hickman, <i>Understanding Administrative Law</i>
Other Materials:	See readings list and course website
My Email:	nrichar8@ju.edu
Class Discussion:	Canvas
Office Hours:	Thursday, 4-5pm (in person), other times by appointment
Course Websites:	https://sites.google.com/view/ndr-courses/administrative-law

II. Course Description & Goals

Administrative Law is a course about the structure of the administrative state, its relations to the other branches of government and private citizens, and the constitutional, statutory, and common law rules that govern the substance and procedure of administration action and inaction.

In this course, students should expect to:

1. Develop a basic understanding of the administrative state - what an agency is, how it works, and how it creates law.
2. Learn how federal agencies themselves make and review decisions, and how to advocate on clients' behalf before agencies.
3. Learn how courts review agency decisions, and when they refrain from doing so.
4. Develop skills in reading and interpreting both statutes and administrative rules.

III. Course Materials and Technology

Readings for each class will be posted on list accessible from the course webpage, linked above.

Our casebook is Hickman, Pierce, and Walker, *Federal Administrative Law* (4th ed). In my view, textbooks for law school should be free and open-source if possible, and in any event far lower in cost than is typical for commercial casebooks. I regret that there is not yet an open-source or low-cost text for this course. I have no objection if you decide to share a book with another student. You may also choose to use the (typically much cheaper) 3rd Edition of the casebook, but do so with caution. I cannot give page numbers for the 3rd edition, and the courts have decided a number of important admin law cases since it was released in 2019 that you would be responsible for finding on your own (e.g. through Casetext). In any case, if the cost of the casebook is a significant barrier for you please let me know and I will work with you to find a solution.

Readings will also come from a PDF supplement linked on the class webpage. You can print this out if you like, though I will add material to it during the semester. The readings list will also link directly to some materials not in our casebook or supplement. If you have trouble accessing any of this material, let me know as soon as possible.

You should expect reading assignments to be finalized no later than Friday of the preceding week, and usually at least two weeks in advance. If I make any mid-week changes, I will let you know in class or via Slack.

Most readings are required, though some will be marked as optional. Optional readings may be discussed in class, but it's not necessary to read them in order to be adequately prepared for class, and no material that appears *only* in optional readings will be tested on the exam. That said, the optional readings are not trivial background material, or overwhelming in quantity. They are carefully selected and I think they'll help you understand the core material for which you will be responsible.

No further texts are required, though I recommend Hickman's *Understanding Administrative Law* for reference. You could buy this book, but it is not required and no readings from it will be assigned. Copies will be available from the library, or you might share a copy.

We will use Canvas for discussions outside of class. Slack and email will be my primary method of contacting you. You are responsible for checking your email and Slack messages regularly.

IV. Communication

I am available to answer questions related to the course and material at any time. Please do not hesitate to ask for help. Slack and email are the best ways to contact me. I will make every effort to reply to any messages within 24 hours, not including weekends or holidays.

Key materials for the course including this syllabus, reading lists, and supplemental materials are linked at the course website (see above). I recommend bookmarking that page.

Outside of class, I welcome both short questions and longer discussions about class and the material we cover. For longer discussions, or for discussions you would like to keep private, I will hold office hours in person and remotely (via Zoom). I will typically be in my office on Thursday afternoons and Friday mornings before class; however because I am only in Gainesville for part of the week, meetings on Zoom may better fit your schedule and mine.

Class meetings will be recorded as per law school policy.

V. Course Format

As noted, the primary mode of instruction in this course will be in-person, public health conditions and university guidelines permitting. Some meetings (up to 30%) may be conducted online or via asynchronous recording. Any such online or recorded meetings will be announced well in advance by email, on the readings list, and/or in class.

The class will be divided into on-call groups (sometimes called “panels”). Each group will be assigned class meetings during which they are “on call”. Students on call will be responsible for answering questions and leading the class through the material. While all students are responsible for assigned reading (and may be called on in class), I expect those on call for a given meeting to read particularly closely, and to spend extra time thinking about the reading and how it relates to other material we have studied. Students on call should think of themselves as a team—those on call are welcome to collaborate before class. However, each student is responsible for all of the reading. Note that our discussions will often reference material covered earlier in the course, and will sometimes include in-depth discussion of material we did not finish in our previous meeting. Students on-call should therefore not assume that their responsibility is limited to material assigned for the day.

Because I realize that life happens, you may take up to two passes per semester from your on-call obligations. If you need to be absent or will be in class but cannot be adequately prepared, simply let me know (via email or Slack) at the latest one hour before class and I will be sure not to call on you that day. I will not honor passes unless I have advance notice—once you are called on in class, you may not retroactively use a pass. If you cannot give one hour notice because an emergency occurs close to class time that would be an acceptable reason to miss a professional obligation (e.g. a family or medical event), please let me know as soon as possible.

In the interest of public health, absences due to illness are always excused, and do not require use of a pass (though I still request that you let me know as far in advance as possible). *Please do not come to class if you are unwell.*

I reserve the right to deny use of a pass for any reason, though the only reason I am likely to do so is if granting a pass would make a substantial portion of the class unavailable, increasing the burden unfairly on those students not using a pass. If this occurs at all, it is at the end of the semester or possibly when major assignments are due in other courses. If you know you will need to use a pass, let me know as early as possible to avoid such problems.

This on-call system is subject to change if there is substantial disruption due to COVID or other events during the semester. If that occurs, I will work with you to develop a fair alternative that allows meaningful opportunity to participate in collective learning.

If you have questions about this policy or anticipate an extended absence, please let me know. Help is available if physical or mental health issues prevent you from attending class or keeping up with the material.

VI. Attendance

All students are expected to attend class, personal and public health permitting. This course is collaborative, and absence affects your classmates as well as you. Law school policy on missed classes takes precedence over my policies. Please familiarize yourself with these policies in the Student Handbook. Frequent absence or tardiness will substantially affect the participation component of your grade. I reserve the right to take attendance at each class, or to refuse entry to tardy students. Note that viewing recordings does not count as attending a course meeting.

That said, I do not expect perfect attendance from every student. If you cannot be in class, use a pass. I also reemphasize that any absences from in-person class meetings related to illness are *encouraged*, and I will personally ensure that they do not affect your grade.

Having stated the general expectation of attendance, there is no need to contact me to tell me that you will not be in class or to explain reasons for missing class, except in the cases described above (using one of your two passes on days you are on-call, or an extended absence from class).

VII. Coursework and Grades

Coursework for this class consists of reading and other class preparation, in-class oral participation, occasional written assignments or problem sets, and a final exam. Students should expect to spend at least two hours outside of class reading and preparing for every hour of class.

Grades in this course will be determined based on three components. A final exam will count for 65% of your grade. Problem sets or practice questions assigned during the semester will count for 10% of your grade. Participation will count for the remaining 25% of your grade. Note that this participation component is larger than many other courses—see below for details on how you will be evaluated.

Final Exam: The final exam will consist of multiple choice and essay questions. It will be an open-book, open-note, in-class exam administered at the time set by the registrar.

Practice Questions: Periodically during the course I will assign practice questions or problem sets (e.g. practice exam questions). Collectively, performance on these assignments will make up 10% of your grade. Unless otherwise specified, these assignments must be completed individually, not collaboratively.

Participation: This course will use a modified Socratic system. Participation grades will be based on quality of contributions, not quantity. This includes contributions in all class meetings and on Slack chat, but will primarily be driven by your participation during your on-call days. Quality contributions are not those that are “right” but rather those that demonstrate command of the reading material, curiosity, and creative or in-depth thinking. The very best contributions do this and help other students. Conversely, the best ways not to receive participation credit are to miss class or be unprepared. Put simply, do the reading, show up to class, and join the conversation, and you will do well.

In my experience, participation grades are only modestly correlated with exam performance. In other words, even if you are struggling with the material, preparing well and participating in class can meaningfully help your grade (as well as help you understand the material better). On the other hand, mastering the material may not be enough to achieve top marks in the class—you must also come to class and participate.

VIII. Standards & Expectations

As your professor, I promise to do my best to help you learn the material, to treat you fairly and with respect, and to make myself available to you—by email/chat as well as during office hours (and other times by appointment). I also promise to make the course requirements and my policies clear—though I reserve the right to change this syllabus at any time, I will notify you in advance if I do so.

In return, I expect you to attend class (to the extent your health and public health conditions during an ongoing pandemic allow), to work hard, be bold and respectful in class, help your classmates, and comply with the UF Student Honor Code.

Late work will not be accepted without prior authorization. I reserve the right to refuse requests for time extensions.

Presenting the work of others as your own, attempting to gain an unfair advantage over classmates, and other dishonest behavior are unacceptable and will be handled according to the policies in the Academic Integrity Pledge. Plagiarism detection software may be used on written work.

Any act of academic misconduct in this course will result in an F for the assignment involved, as well as further penalties consistent with the UF Student Honor Code.

The university is committed to a campus environment that is inclusive, safe, and respectful for all persons. To that end, all course activities will be conducted in an atmosphere of friendly participation and interaction among colleagues, recognizing and appreciating the unique experiences, background, and point of view each student brings. You are expected at all times to apply the highest academic standards to this course and to treat others with dignity and respect.

Two core values, inquiry and civility, govern our class. **Inquiry** demands that we all cultivate an open forum for exchange and substantiation of ideas. Strive to be creative, to take risks, and to challenge our conventional wisdom when you see the opportunity. **Civility** supports our inquiry by demanding respect for the voice, rights, and safety of others. The legal profession sets a high standard for both, even if it has not always met those standards. Nevertheless I expect you to respect these values in our course, just as I hope you will in your careers. One part of respecting these values is respecting the health and safety of your classmates and community, as discussed above.

IX. Health and Resources

Your studies, including this course, are important. But your health comes first. If struggles with physical or mental health make it difficult or impossible for you to keep up with the course, help is available. The same is true for any circumstances which make you feel unsafe, or financial circumstances that prevent you from getting enough food or having a stable place to live. Though I am not a medical professional, I will help however I can.

Asking for help is a sign of strength, not weakness. Students who need immediate help should contact the Counseling and Wellness Center, (352) 392-1575 or Student Health Care Center, (352) 392-1161. If you or someone you know is in crisis, please contact umatter@ufl.edu, (352) 392-1575 (available 24/7), or visit the U Matter, We Care website to refer or report a concern and a team member will reach out to the student in crisis.

X. Other Policies

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at [this link](#).

Administrative Law: Readings

University of Florida Levin College of Law

Fall 2023

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Casebook is Hickman, Pierce, & Walker, *Federal Administrative Law* 4th ed.

Supplement is course supplement, linked on the [course website](#).

Other readings linked directly.

Readings in gray are optional.

Note: This document is subject to change. Do not download it and expect it to remain unchanged all semester. I will make every effort to avoid changes after Friday of the preceding week, and to inform you in class or on Teams when I do make changes.

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[Unit E - Availability and Timing of Review](#)

Unit A—Introduction and Themes

Core question: What is Administrative Law?

	A.1: Introduction to the Administrative State
	Biden v. Nebraska (Chief Justice Roberts' majority opinion)
	Biden v. Nebraska (Justices Kagan, Sotomayor, and Jackson, dissenting)
	Casebook pgs. 1-27
	Federalist #47 & #51, Supplement
	Landis, <i>The Administrative Process</i> , Supplement
	James Tierney/Philip Hamburger, <i>The Tyranny of the Administrative State</i> , Supplement

	Gillian Metzger, <i>1930s Redux: The Administrative State Under Siege</i> , Supplement
	Francis Fukuyama, <i>American Democracy Depends on the 'Deep State'</i> , Supplement
	<i>Selia Law v. CFPB</i> (J. Kagan, dissenting), Supplement
	James C. Scott, The Trouble with the View from Above
	Peter Strauss, How the Administrative State Got to this Challenging Place