

Syllabus

One of the most important effects -- and purposes -- of the Law is to organize the normative dimensions of Public Administration. Law in great part sketches what should be the roles of public administrators in governance. Furthermore, Law also regulates how government should be conducted, channeling the participation of the public and the actions of managers. Too often, political and administrative actors attempt to elude legal prescriptions in pursuit of managerial efficiency and policy objectives. The temporary benefits from quick action are often more than balanced by erosion in the public's trust of government.

Thus Law, especially Administrative Law, is a critical component of Public Administration. This fact has often been obscured by an obsession within the field for efficient management. Law guides the administrative process though some lament, especially those who emphasize management as an objective science, unduly circumscribes it. Furthermore, Law also structures the context in which administration takes place. The **Constitution** and its prescriptions for fundamental political and administrative machinery creates the setting, or conceptually, the sociopolitical space, in which the seemingly overwhelming sea of rules and regulations can be generated by all types of administrative agencies at all levels of government.

Focus

Administrative Law is the core of the course. Administrative Law is typically the non-**Constitutional** body of rules and prescriptions about how public administrators and agencies should act. In a few cases some concerns have become **Constitutional** issues, such as public access to agency documents. In the main, however, administrative law is a detailed body of judicial and statutory rules and prescriptions for public actors and agencies. The pervasive effects of the Administrative State can be ascertained by the increasing constitutional issues in Administrative Law.

Most textbooks concentrate on the national level of government. The concentration reflects the amount of material available on that level and the relative lack of such material on the other levels. Additionally, the other levels are marked by an incredible diversity in their Administrative Law. The diversity and lack of, if not inconsistency in, basic materials at other levels requires our attention be primarily focused on the national level. State and local levels will be examined primarily through student assignments as noted in the **Procedures section**, below. However, the course examines the material conceptually and the concepts are the same at all levels of government. Be aware that the national government was historically more professional than other levels. This sadly began to change with the Nixon administration's attempt to negate the policy and political roles of administrators. The circumscription was pursued by both the Carter and Reagan administrations in particular, leaving the federal government increasingly similar to state governments. The Bush administration has continued the policy.

As with any graduate course, the primary learning experience is theoretical, especially in how that theory can guide effective professional practice. In terms of content, the course looks at the evolution of the law generally, the development of the "Administrative State" and why Americans have had a difficult time reconciling the two. We will note how the reconciliation is influenced by culture, politics, economics and other perturbations in American society.

Primarily, we will study leading cases, discussing how the outcomes were effected by the noted variations.

Scope

Only American law is studied. Non-American law has a very different structure and process, the study of which is quite instructive. However, that study would inhibit learning American Administrative Law, the core of the course. Leading cases, especially at the national level, are the medium by which the American law will be explicated.

Current rules and prescriptions are of guiding concern. Not as specifics to be memorized but as normative dimensions to management and governance. History is important because past events determine in great part current law. However, the history of Administrative Law is examined only to the extent it relates to contemporary rules and prescriptions. Focus on the "why" of the rules and prescriptions; do not just catalogue these. Learning the "why" provides a base for strategic management and governance because you will understand better the complex dynamics that drive our Administrative State.

Most importantly, the theoretical focus is on the macro politics of Administrative Law. Thus, rules are studied not as legal prescriptions only but as part of the political process. In essence, the importance of the course to administrators - and students thereof - is not to master a body of the Law. The purpose is to understand what situations can take you to the judicial system, how administration fares there and, most importantly, who tends to win when administrators go to court. When you need legal advice go to the agency attorneys. In this course, you will learn how to avoid going to the judicial system if possible; how to minimize harm if you land there; and the general nature of the Law as well as the specific rules of Administrative Law.

Learning Objectives

Each course in a curriculum should advance your learning of a body of knowledge. In addition to the substantive knowledge, a professional degree program should inculcate a set of ethics, a code of conduct for those who are going to be professionals, and more importantly, a core set of values that structure the ethics. At the conclusion of your study of Administrative Law, you should:

1. understand the origins and development of our legal system;
2. apprehend the role of law in the profession of Public Administration;
3. grasp the nexus of politics, law and Public Administration;
4. appreciate the case method of settling disputes and its potential use in management; and
5. know the Constitutional foundations to Public Administration.

Lawyers come to think of administrative law and the administrative process as significant and worthy of study only in those areas where private interests think it worth their while to demand protection.

Procedures

With the exception of the introductory materials on the growth and evolution the Law and the Administrative State, the case method of instruction will be utilized. This method develops the ability of a student to stay "cool" under fire, a prerequisite for public administrators in an open society often characterized by transactional politics. (Transactional politics personify the infamous "you help me, I'll help you" school of organized backscratching. In such politics, the main course of action is the trading of favors and a focus on power.) As in law school, this means people will be called upon to present a case and engage in a Socratic dialogue around its various aspects. A form explaining how to "brief" a case is part of the reserved readings which are available on Blackboard. A brief is a summary of the case focused on its legal significance. For our purposes, we will add how the case contributes - or doesn't, as the case may be - to Public Administration. Students, therefore, are expected to read the cases before class and be prepared to discuss these. This form of class participation will be graded.

How to brief a case will be discussed. However, be aware that talking about it only provides some intellectual insight; most students only learn how after experiencing some difficult moments in class. Do not take these difficulties personally; that is, do not internalize them. If you do, they will become demons that can drive out thought and peace. Treat them as learning experiences and be better prepared for the next dialogue with the indefatigable professor. This advice, by the way, can be generalized. As a general guide it can be most helpful because in many instances public administrators are faced with difficult situations fraught with tension, adverse consequences no matter what strategy is selected and over which they have little, if any, control. No where is this more likely to be valid than in your dealing with the media. As they say in boot camp - "get used to it; it is how we do business."

Each student must present at least two (2) cases. Each student can pass if called upon to present a case, but only two (2) passes are permitted. Passing for the third time results in a loss of points for class participation. (It should be emphasized that though I do not deduct for missing class, you will lose credit if you are called upon but are absent. I call upon people in a truly random process prepared prior to class so you may be called upon if absent without excuse.) The material is difficult to learn without steady attendance. Lack of attendance is not an excuse for unpreparedness or poor work; nor is it an excuse for presenting less than two [2] cases.

Hopefully, this type of a class procedure will not forestall questions. Asking questions is one of the most effective ways to learn, especially in an arcane field with which you may have only superficial knowledge and little experience. After a dialogue over a case with a student is concluded, feel free to ask questions you may have from the case, the readings or from the dialogue itself.

The cases we will study are listed in the required reading sections of the **Order of Study** section below. The case names are *italicized* and the page number on which the case begins in the textbook is noted. Many of the cases in the case textbook are followed by "Notes." Many times these are not required reading. You may find it enlightening, however, to peruse these.

Reform in an etymological sense is the creation, transformation, or revival of forms for the expression and operation of social power. Reform in a basic or material sense is the use of new forms to redistribute or to create new centers of social power.

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Often, the particular case is placed in a legal context, updated or clarified. This type of information can be helpful in presenting the case, and in some instances, understanding it.

More importantly, some of the notes actually deal perceptively with the administrative and/or political aspects of the case. In many instances, the textbook talks about the nature of Public Administration and the **Notes** following cases can contain some interesting nuggets and insights in the Administrative State, sometimes even using that term. These will reward careful reading and the application of systematic thinking. Cases that illuminate the nexus of politics, Law and management are marked by an asterisk (*). **Notes** after these cases are especially recommended reading.

Each student will do a research paper. A student can choose between two (2) types of papers. One paper would select a state or local agency and examine five (5) recent cases involving the agency. Alternatively, a student may select a significant topic in Administrative Law and develop a typical research paper on it. For the first type of paper, examining cases of a state or local agency, recent is a relative term and means those cases dealing with aspects of Administrative Law most close to the current date. Some agencies have fewer cases than others. The findings are to be explicated in a word processed double-spaced paper of fifteen (15) pages or less. Fifteen (15) is a maximum limit not a target all must hit; excellent papers can be shorter. For the more typical research paper, twenty (20) pages is a limit. The papers are due the last class meeting. **LATE PAPERS LOSE POINTS!**

Each agency paper must cover the following points. Additional points can be studied. The exact order depends upon your needs, style and research design.

1. Background of Agency
2. Major Policies Implemented
3. General Structure
4. Legal Issues
5. Resolution of Issues
6. Impacts of resolutions on the Agency, particularly its management

Some topics for the second type of paper, a more traditional research paper, are:

1. Confinement, Interrogation, Terrorism and International Law
2. Patents and Inventions, particularly in computer technology and pharmaceuticals
3. Deregulation of an industry, such as financial institutions

Lawyers come to think of administrative law and the administrative process as significant and worthy of study only in those areas where private interests think it worth their while to demand protection.

4. Patriot Act and its renewal
5. War powers of the President

These are only examples. Other topics can be selected but need to be cleared with the instructor.

Doctoral students will also write four (4) think papers. A fifth (5th) think paper is optional. If a student writes a fifth paper, the lowest of the five (5) grades on think papers will be discarded. Think papers should explore the connections between Public Administration and Law *conceptually*. A *Think Paper* is an intellectual exercise of examining a concept and its utility or disutility for understanding and/or explaining a phenomenon of interest. In essence, you play with a thought. For example, you may want to remark how muddled the concept of "law" is. A *Think Paper* permits you to examine the nature of the concept and its utility for understanding or explaining some aspects of Public Administration. The *Paper* needs no specific library or other research nor does it need footnotes. Each *Think Paper* should be no longer than three (3) pages in length and word processed with double spacing.

The final examination will be a take-home varietal due the date listed below in the **Assignments to be Handed-in** and **Critical Dates** sections. As with the papers, **LATE EXAMINATIONS LOSE POINTS!**

Doctoral students have the option to replace the Final Examination with an in-depth critique of a recent book in the area of Law and Public Administration. Critique is more than a review. Critical examination demands evaluating the book, both intrinsically and in terms of what it adds, or doesn't add, to the field.

Honor Code

The Public Administration Program in the Levin College does not have a formal **Honor Code**. Often, a program requires students to sign such a **Code** which details the ethics that should guide behavior of both Faculty and students. In this course, we will adhere to the following **Honor Code**. Any questions about the **Code** should be asked prior to engaging in any behavior that one thinks may be under its provisions. The students and Professor will enforce an **Honor Code** that includes but is not limited to the following:

1. Each student shall treat all students and their opinions with respect.
2. Each student shall diligently complete all assignments.
3. A student shall do his or her own work. Any work taken from others will be correctly foot-noted and acknowledged.

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4. All problems with any aspect of the class or with any other student shall be reported to the Professor in a timely fashion.
5. The Professor shall clearly state course goals and how these relate to professional needs.
6. The Professor shall treat all students in a similar and just fashion, varying any treatment to meet course goals and/or the specific needs of a student.
7. The Professor shall timely return all assignments, complete with explanation of why they received the grades they did.
8. The Professor will answer all relevant and appropriate questions and be available to meet with students at stated times.

Punishment for failure to comply with the above provisions will be fair, formal and clear. In the case of rule 3, conscious plagiarism, the unacknowledged use of another's materials as one's own with the intent to do so, **will result in a F for the course**. The punishment reflects the nature of the crime; it is repugnant to personal, academic and professional integrity.

Grading

Each paper that is turned in will be returned. The paper will have two (2) types of comments. One type will be at the end of the paper and summarize the main reasons for the grade. Another type will be in the margins, recording reactions to particular parts of the paper. These second type of comments may congratulate for an insight, criticize a lapse in logic or just note that a point is interesting. These comments may or may not affect the grade. In addition, you will see the following abbreviations, usually above bracketed ({ }) words or phrases - *sp.* for a misspelling and *ww* indicating a wrong word was used. If a paper is submitted electronically, the grade will be at the top center of the file and comments will be in brackets, []. The file will have comments at the end explaining the grade. Comments may be in the body of the paper also. Just search for brackets and you will see all comments. As I have a home computer network, papers may be submitted from any popular word processor.

All papers are to be word processed.

The course grade is a weighted average with the weights assigned as noted below. The paper and class participation receive letter grades. Letter grades are translated into numeric scores for calculating the final average according the first scale below. Final numeric averages are translated back into letter grades according to the second scale below. Note that plus and minus grades are recorded and official.

Be aware that averages are rounded at ".5" Thus, an "89.5" is an "A-" and an "89.4" is a "B+."

Class Participation (two [2] Case Presentations)	20%
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Paper on Agency and 5 Recent Cases or topic paper	30%
Final Examination	50%

Doctoral Students

Same grading as above, except for:

Think Papers, 5% each	20%
Final Examination or Book Critique	30%

Scale 1

A+ = 99, A = 95, A- = 91, B+ = 89, B = 85, B- = 81, C+ = 79, etc.

Scale 2

92.5 and above = A, 89.5 - 92.4 = A-; 86.5 - 89.4 = B+, 82.5 - 86.4 = B; 79.5 - 82.4 = B-; 76.5 - 79.4 = C+, 72.5 - 76.4 = C; 69.5 - 72.4 = C-; etc.

Texts

There are two (2) required textbooks for the course as well as reserved readings. The textbooks are in the CSU Bookstore. Used copies may be available. The reserved readings are available on Blackboard, a web based application available through the CSU website. All assignments are to be submitted via Blackboard. They will be returned through Blackboard. Blackboard has an E-Mail component and it is a useful way to contact both the professor and other students.

Jerry L. Mashaw, Richard A. Merrill and Peter M. Shane, **Administrative Law: The American Public Law System** (5th edition)

David Rosenbloom, **Administrative Law for Public Managers**

Office Hours

I have scheduled office hours on Tuesdays. I will be available from 2:00 to 6:00 PM in the adjunct and emeritus faculty office. The Urban Affairs Building is the western most building of the University on Euclid Avenue, across 18th Street from the Cleveland- Marshall College of Law. If this is not a convenient time and place, we may be able to set another time and place.

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Electronic Mail

My E-Mail address is *l.keller@csuohio.edu*. CSU has not only program recommendations for E-Mail but also provides access to the Internet. Check with the Information Services and Technology (IS & T) Office for information.

Assignments to be Handed-in

Think Papers (5), conceptual explorations of the connections between Public Administration and Law of three (3) pages or less; first paper due the fourth class meeting, 10 February, and then every three (3) weeks thereafter. The fifth paper is optional and if written, the lowest think paper grade will be discarded. ***Doctoral Student Assignment only***

Paper, State or Local Agency and five (5) recent court cases on the agency's administrative process, fifteen (15) pages or less, due Tuesday, 5 May; or

Research Paper, major topic in Administrative Law, in lieu of agency paper above, twenty (20) pages or less, due Tuesday, 5 May

Final Examination, take-home, each question has its own page limitations for answers, due Wednesday, 13 May

Critical Dates

First Day of Class - Tuesday, 20 January Last Day to Withdraw - Friday, 3 April

Last Day of Class - Tuesday, 5 May Paper due - Tuesday, 5 May

Think Papers (5), first one due - 10 February Second **Think Paper** - 3 March

Third **Think Paper** - 24 March Fourth **Think Paper** - 14 April

Fifth and final **Think Paper** - 5 May No Class - Spring Break, 17 March

Final Examination Distributed to Class - Tuesday, 21 April

Completed **Final Examination** Due - Wednesday, 13 May by 6:00 PM

Order of Study

Part I: The Development of the Law

The Lord giveth and the Lord taketh away...

Topic 1 The Context of the Common Law
Olde England was Merry for the Few!

Required Reading

Barbara Tuchman, **A Distant Mirror: The Calamitous 14th Century**, chapters 1 and 2.

Topic 2 The Making of the Law
Lawyers were Born and Made!

Required Reading

Catherine Drinker Bowen, **The Lion and the Throne: The Life and Times of Sir Edward Coke**, chapter 6.

Keeble v. Hickeringill and "Note: Earlier English Reporters," in Casner and Leach, **Cases and Text on Property**, pp. 15 - 19.

Topic 3 Legal Reasoning
Oh, can a Lawyer Scheme...

Required Reading

Edward H. Levi, **An Introduction to Legal Reasoning**, pp. 1 - 27.

William N. Hohfeld, **Fundamental Legal Conceptions as Applied in Judicial Reasoning**, chapter 1. (optional reading for those with an interest in the arcane)

Regina v. Ojibway

Topic 4 The Rise of Administration and Administrative Law
Bureaucrats and Lawyers Unite!

Required Reading

Louis Jaffe and Nathaniel Nathanson, **Administrative Law**, 2nd ed., pp. 3 - 38.

Jerry Mashaw, "Recovering American Administrative Law: Federalist Foundations, 1787 - 1801," **Yale Law Journal** 115: 1256-1344.

David Rosenbloom, **Administrative Law for Public Managers**, Chapter 1 (hereinafter Rosenbloom).

Jerry L. Mashaw, Richard A. Merrill and Peter M. Shane, **Administrative Law: The American Public Law System** (5th edition) [hereinafter Mashaw], *Preface to the Fifth Edition*, pp. v - vii; Chapter 1, pp. 1 - 58.

Topic 5 The Issues in American Administrative Law
Can Government survive the People? Vice versa?

Required Reading

Rosenbloom, Chapters 4 and 5.

Part II: American Administrative Law

And during the travel, Moses generated rules and regulations...

A. Delegation

How many Guards are needed to guard the Guards?

Topic 6 Who can Empower Whom and for What?
Is there life after Judicial Review?

Required Reading

Rosenbloom, chapter 2.

Mashaw, pp. 154 - 181.

Amalgated Meat Cutters v. Connally, 337 **F. Supp.** 737, p. 65.

[A word for the wise and engaged student. You will find it a very worthwhile endeavor to read the supplemental materials before and following the cases. Some will be required reading and listed on the **Syllabus**. All are rewarding reading.]

Sun Ray Drive-in Dairy, Inc. v. Oregon Liquor Control Commission, 16 **Or. App.** 63, 517 **P2d** 289, p. 78.

Whitman v. American Trucking Association, Inc., 531 **U.S.** 919, p. 83.

Immigration and Naturalization Service v. Chadha, 462 **U.S.** 919, p. 95.

Commodity Futures Trading Commission v. Schor, 478 **U.S.** 833, p. 115.

The importance of a technique in transforming American life could roughly be measured by the quantity of lawyerly energies it called forth. It is not surprising, then, that while the century after the Civil War produced few legal classics and not many great American judges, there was a bumper crop of rich and famous American lawyers.

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U. S. Department of Agriculture v. Murry, 413 U.S. 508, p. 128.

Public Citizen v. Young, 831 F.2d 1108, p. 139.

Topic 7 Political Control of Administration
Who can rein in the clerks?

Required Reading

Mashaw, pp. 182 - 189.

Buckley v. Valeo, 424 U.S. 1, p. 190.

Bowsher v. Synar, 478 U.S. 714, p. 202.

Humphrey's Executor v. U. S., 295 U.S. 602, p. 220.

Morrison v. Olson, 487 U. S. 654, p. 231.

Mashaw, pp. 255 - 267.

Environmental Defense Fund v. Thomas, 627 F. Supp. 566, p. 288.

Topic 8 Administrative Process and the Constitution - Some History
When may the Citizen contest the Clerk?

Required Reading

* *Londoner v. Denver*, 210 U.S. 373, available on the Internet
(see <http://www.supremecourtus.gov/> for how to obtain opinions)

* *Bi-Metallic Investment Company v. State Board of Equalization of Colorado*, 239 U.S. 441,
available on the Internet.

* *Morgan v. United States*, 298 U.S. 468, available on the Internet.

* *Morgan v. United States*, 304 U.S. 1, available on the Internet.

* *Goldberg v. Kelly*, 397 U.S. 254, p. 322.

The individualist may have imagined that in his [sic] economic life he was the person that God and his own will had made. But in fact he was a juristic creature of the Law that happened to prevail in his epoch. For as Ernst Barker has said: "It is not the natural ego that enters a court of law. It is a right-and-duty bearing person, created by the law, which appears before the law." Walter Lippman

Mathews v. Eldridge, 424 U.S. 319, p. 337.

Board of Regents of State Colleges v. Roth, 408 U.S. 564, p. 354.

Perry v. Sinderman, 408 U.S. 593, p. 360.

Cleveland Board of Education v. Loudermill, 470 U.S. 532, p. 367.

Topic 9 The Administrative Procedures Act - Interpretation of Adjudicatory Rights
Who stated Legislators must use English?

Required Reading

* *Universal Camera Corporation v. National Labor Relations Board*, 340 U.S. 474, available on the Internet.

* *United States v. Florida East Coast Railway Company*, 410 U.S. 224, p. 387.

Califano v. Yamaski, 442 U.S. 682, p. 395.

Richardson v. Perales, 402 U.S. 389, p. 413.

Mashaw, pp. 423 - 434.

Nash v. Califano, 613 F^{2d} 10, p. 443.

Heckler v. Campbell, 461 U.S. 458, p. 451.

Air Line Pilots Association v. Quesada, 276 F^{2d} 892, p. 460.

Mashaw, pp. 470 - 473.

Topic 10 Procedures for producing Rules
To do? To do or die? To sit?

Required Reading

National Petroleum Refiners Association v. Federal Trade Commission, 482 F^{2d} 672, p. 475.

Mashaw, pp. 488 - 493.

Pacific States Box and Basket Company v. White, 296 U.S. 176, p. 493.

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Automotive Parts & Accessories Association v. Boyd, 407 F2d 330, p. 500.

National Tire Dealers and Retreaders Association, Inc. v. Brinegar, 491 F2d 31, p. 512.

Motor Vehicle Manufacturers Association of the United States, Inc. v. State Farm Mutual Insurance Company, 463 U. S. 29, p. 520.

United States v. Nova Scotia Food Products Corporation, 568 F.2d 240, p. 535.

* *Vermont Yankee Nuclear Power Corporation v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, p. 550.

* *Sierra Club v. Costle*, 657 F2d 298, p. 563.

Association of National Advertisers, Inc. v. FTC, 627 F2d 1151, p. 577.

American Mining Congress v. Mine Safety and Health Administration, 995 F2d 1106, p. 587.

Mashaw, pp. 598 - 602

* *Securities and Exchange Commission v. Chenery Corporation*, 332 U.S. 194, p. 602.

Morton v. Ruiz, 415 U.S. 199, p. 612.

Mashaw, pp. 623 - 641.

Topic 11 Appeals to the Third Branch from the Fourth Branch The Judge and the Administrative State

Required Reading

Mashaw, pp. 779 - 784.

* *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U. S. 402, p. 784.

* *Chevron, USA., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, p. 795.

United States v. Mead Corp., 533 U.S. 218, p. 802.

Mashaw, pp. 823 - 825.

The individualist may have imagined that in his [sic] economic life he was the person that God and his own will had made. But in fact he was a juristic creature of the Law that happened to prevail in his epoch. For as Ernst Barker has said: "It is not the natural ego that enters a court of law. It is a right-and-duty bearing person, created by the law, which appears before the law." Walter Lippman

* *National Labor Relations Board v. Hearst Publications, Inc.*, 322 **U.S.** 111, p. 825.

Mashaw, pp. 840 - 845.

Industrial Union Department, AFL-CIO v. American Petroleum Institute, 448 **U.S.** 607, p. 846.

Mashaw, pp. 864 - 878.

Johnson v. Robison, 415 **U.S.** 361, p. 878.

* *Webster v. Doe*, 486 **U. S.** 592, p. 895.

Dunlop v. Bachowski, 421 **U.S.** 560, p. 914.

Heckler v. Chaney, 470 **U. S.** 821, p. 922.

American Horse Protection Association, Inc. v. Lying, 812 **F2d** 1, p. 934

* *Dalton v. Specter*, 511 **U.S.** 462, p. 948

Mashaw, pp. 955 - 961.

Abbott Laboratories v. Gardner, 387 **U.S.** 136, p. 961.

Toilet Goods Association v. Gardner, 387 **U.S.** 158, p. 968.

Darby v. Cisneros, 509 **U.S.** 137, p. 988.

Mashaw, pp. 993 - 1001.

Association of Data Processing Service Organizations v. Camp, 397 **U.S.** 150, p. 1001.

National Credit Union Administration v. First National Bank and Trust, 522 **U.S.** 479, p. 1007.

* *Sierra Club v. Morton*, 405 **U. S.** 727, p. 1015.

Federal Election Commission v. Akins, 524 **U.S.** 11, p. 1025.

Lujan v. Defenders of Wildlife, 504 **U. S.** 555, p. 1057.

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Friends of the Earth, Inc. v. Laidlaw Environmental Services, 528 U.S. 167, p. 1074.

Topic 12 Information and the Agency
Gathering Information on the Citizen and the Corporation

Required Reading

University of Pennsylvania v. Equal Employment Opportunity Commission, 493 U.S. 182, p. 658.

Mashaw, pp. 665 - 687.

Marshall v. Barlow's, Inc., 436 U.S. 307, p. 687.

National Labor Relations Board v. Sears, Roebuck and Company, 421 U.S. 132, p. 717.

National Labor Relations Board v. Robbins Tire & Rubber Company, 437 U.S. 214, p. 743.

Chrysler Corporation v. Brown, 441 U.S. 281, p. 753.

Department of Defense v. Federal Labor Relations Authority, 510 U.S. 487, p. 765.

Topic 13 Government and Immunity
No Sue the Uncle Sam?

Required Reading

United States v. Mitchell, 463 U.S. 206, p. 1089.

United States v. S. A. emprsa de Viacao Aerea Rio Grandense (Varig Airlines) et al., 467 U.S. 797, p. 1101.

Gregoire v. Biddle, 177 F^{2d} 579, p. 1133.

Barr v. Matteo, 360 U.S. 564, p. 1135.

Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, p. 1144.

Butz v. Economou, 438 U.S. 478, p. 1158.

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Topic 14 Private Rights, Public Law
Sue the Bas....

Mashaw, pp. 1181 - 1187.

J. I. Case v. Borak, 377 **U.S.** 426, p. 1187.

Cort v. Ash, 422 **U.S.** 66, p. 1193.

Cannon v. University of Chicago, 441 **U.S.** 677, p. 1198.

Alexander v. Sandoval, 532 **U.S.** 275, p. 1209.

Maine v. Thibontot, 448 **U.S.** 1, p. 1223.

Mashaw, pp. 1226 - 1235.

Pennhurst State School and Hospital v. Halderman, 451 **U.S.** 1, 1235.

Mashaw, pp. 1244 - 1249.

Gonzaga University v. John Doe, 536 **U.S.** 273, p. 1249.

Nader v. Allegheny Airlines, Inc., 426 **U.S.** 290, p. 1268.

Mashaw, pp. 1280 - 1283

Alexis Geier v. American Honda Motor Company, Inc., 529 **U.S.** 861, p. 1284.

Topic 15 Future and Discretion
Balancing on a Moving Beam

Richard J. Pierce, Jr., Sidney A. Shapiro and Paul R. Verkuil, **Administrative Law and Process**, chapters 1 and 2.

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The importance of an technique in transforming American life could roughly be measured by the quantity of lawyerly energies it called forth. It is not surprising, then, that while the century after the Civil War produced few legal classics and not many great American judges, there was a bumper crop of rich and famous American lawyers.

Daniel J. Boorstin