

Summer 2020

MPA Public Law

July 24 – 26 **VIA ZOOM** 6pm – 9:00pm Friday; 9am – 5pm Saturday; 9am – 5pm Sunday

Location: Zoom

Adjunct Faculty: Grace O'Connor, J.D.

oconnorg@evergreen.edu

“Office hours” by appointment

### **Summer 2020 Public Law Syllabus**

#### **Description:**

“Courts ought not enter this political thicket.” So said former U.S. Supreme Court Justice Felix Frankfurter on the topic of voting rights. But what if the court is the last line between minority rights and the tyranny of the majority? What if the court is the last branch left to police the reach of the executive? Should it do so? These questions will form the basic framework of this introductory, 2-credit summer elective. Law and policy are two sides of the same coin—you can't make one without the other. Agency and non-profit administrators interface with the law every day, including litigation impacting program mission. This course seeks to give MPA students a basic understanding of the role the judicial branch plays in the business of governing. We will study the roots of judicial power, as well as how agencies in the executive branch get the authority to do what they do--i.e., an introduction to constitutional law. Overall, we will explore the civil (and occasionally criminal) justice system with the idea that a better understanding of our third branch of government makes us better citizens and better leaders.

#### **Learning Objectives:**

1. Gain a basic knowledge of how legal system works, including how agency rules are challenged.
2. Understand how regulations are created, implemented, and interpreted.
3. Acquire basic comfort with reading judicial decisions and legal briefing.

#### **Materials (Available on Canvas)**

Note: For all court opinions, read all opinions where applicable (majority, concurrence, dissent). Do not read headnotes or syllabus – just read the opinions themselves

1. Chap. 2, 3, Jay Feinman, *Law 101: Everything You Need to Know About American Law*, 5<sup>th</sup> Edition
2. *The Rise and Rise of the Administrative State*, Gary Lawson, *Volume 107 Harvard Law Review*, beginning p. 1231 (1994)

3. Listen: More Perfect (podcast) Season 1, Episode 5: Kitten Kick the Giggly Blue Robot All Summer <https://www.wnycstudios.org/story/giggly-blue-robot>
4. Listen: More Perfect, Season 1, Episode 2: The Political Thicket <https://www.wnycstudios.org/story/the-political-thicket>
5. *Trueblood* District Court Findings of Fact and Conclusions of Law
6. *Trueblood* Ninth Circuit decision
7. *Trueblood* 9<sup>th</sup> Cir. Oral Argument [http://www.ca9.uscourts.gov/media/view\\_video.php?pk\\_vid=0000008698](http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000008698)
8. Read: Article, Faced With Legal Puzzles. . .
9. Read: Article, My Judicial Detachment
10. Chapter 34.05 RCW (Washington State Administrative Procedures Act); Chapter 42.56 RCW (available on the legislature's website, [www.leg.wa.gov](http://www.leg.wa.gov), Laws and Agency Rules Tab)
11. Read Court Case: Ass'n of Wash. Business v. Dept. of Ecology, 195 Wn.2d 1, 455 P.3d 1126
12. Watch: Oral Argument on Court Case, available at <https://www.tvw.org/watch/?eventID=2019031166>
13. Read: RNC v. DNC
14. McEwan v. Inslee

### **Writing Assignment:**

Write a three to five page, 12 pt. font, double-spaced reaction to Lawson's article, taking a pro or con position to his thesis. **Due:** July 24, 2020 by 6pm.

Note: An additional writing assignment may be assigned.

### **Schedule:**

**\*\*\*\* Schedule is subject to change at any time! Please pay attention to emails or other notifications!!**

**Friday July 24, 2020 – 6pm to 9:00pm**

<b>Topics</b>	<b>Pre-Reading/Pre-Work</b>	<b>Activities</b>
<b>The judicial branch</b>	<p>Read: <i>Law 101</i>, Chapter 2</p> <p>Read: <i>Law 101</i>, Chapter 3 to page 63 only.</p> <p>Listen: More Perfect (podcast) Season 1, Episode 5: Kitten Kick the Giggly Blue Robot All Summer  <a href="https://www.wnystudios.org/story/giggly-blue-robot">https://www.wnystudios.org/story/giggly-blue-robot</a></p> <p>Read Article: Faced With Legal Puzzles. .</p> <p>Read Article: My Judicial Attachment</p>	<p>6pm to 9pm: Zoom Lecture and Discussion: Court Authority &amp; How Courts Make Decisions 101; Basic Federalism 101</p>

**Saturday July 25, 2020 – 9am to 5pm**

<b>Topic</b>	<b>Pre-Reading/Pre-Work</b>	<b>Activities</b>
Rule Drafting Rule Challenges	<p>Skim Part III of RCW 34.05 (Rule-Drafting)</p> <p>Skim Part IV and V of RCW 34.05 (Adjudication &amp; Judicial Review)</p> <p>Read Court Case: Ass’n of Wash. Business v. Dept. of Ecology, 195 Wn.2d 1, 455 P.3d 1126</p> <p>Watch: Oral Argument on Court Case, available at <a href="https://www.tvw.org/watch/?eventID=2019031166">https://www.tvw.org/watch/?eventID=2019031166</a></p> <p>Read Article: Lawson, <i>The Rise and Rise of the Administrative State</i></p>	<p><b>9:00am to 10am:</b> Zoom Lecture and Discussion: Intro to W-APA Rule Making</p> <p><b>10am-10:15am -</b> Break</p> <p><b>10:15am to 11am:</b> Small Group breakout on Zoom - Draft-A-WAC! Activity w/ instructor drop-in</p> <p><b>11:30am – 12pm:</b> Zoom class Discussion of draft a WAC (pick spokesperson)</p> <p><b>12:00pm to 1:00pm</b> – Lunch Break.</p>

		<p><b>1:00pm to 2:00pm –</b> Zoom Lecture and Discussion: Judicial Review</p> <p><b>2:00pm to 2:15pm –</b> Break</p> <p><b>2:15pm to 3:30pm –</b> Zoom Guest: Emily Nelson, AAG</p> <p><b>3:30pm – 3:45pm –</b> Break</p> <p><b>3:45pm – 5pm –</b> Zoom discussion. Judicial Review cont'd, Review, Sunday Preview</p>
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**Sunday, July 26, 2020 – 9am to 5pm**

<b>Topic</b>	<b>Pre-Reading/Pre-Work</b>	<b>Activities</b>
<p>Courts in the Political Fray? <i>Budget/Policy Impacts, Executive Orders, Voting Rights</i></p>	<p>Skim District Court Conclusions of Law and Findings of Fact COLs&amp; FOFs</p> <p>Read: Ninth Circuit Decision in Trueblood v. DSHS</p> <p>Listen: More Perfect – The Political Thicket: <a href="https://www.wnycstudios.org/story/the-political-thicket">https://www.wnycstudios.org/story/the-political-thicket</a></p> <p>Read: RNC v. DNC</p> <p>Read: McEwan v. Inslee</p>	<p><b>9:00am to 10:00am:</b> Independent Work – Watch or Listen to Trueblood Ninth Circuit Case <a href="https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000008698">https://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000008698</a> (You may need to cut and paste this link).</p> <p><b>10:00am to 11:15am:</b> Zoom Guest Speakers, Amber Leaders, Governor's Office, &amp; Nick Williamson, AAG</p> <p><b>11:15am to 11:30am:</b> Break</p> <p><b>11:45am to 12:15:</b> Zoom Discussion on Courts and Budget</p>

		<p><b>12:15pm to 1:15pm:</b> Lunch Break</p> <p><b>1:15pm to 2:00pm:</b> Zoom Lecture and Discussion on Executive Orders</p> <p><b>2:00pm to 2:15pm:</b> Break</p> <p><b>2:15pm to 3:15pm:</b> Zoom Guest Speaker, Kathryn Leathers, Governor's General Counsel (<i>TENTATIVE</i>; independent work on your own will be assigned instead if necessary)</p> <p><b>3:15pm to 3:30pm:</b> Break</p> <p><b>3:30pm to 5:00pm:</b> Zoom Discussion, Wrap-Up</p>
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### **Housekeeping:**

**Participation & Attendance:** Students are required to attend each class meeting in its entirety. Participation includes focusing on class content, speaking in class and small groups, listening to others, taking notes, completing class interactive exercises, avoiding distractions, and listening to and engaging with the guest speakers. If an absence is unavoidable, please notify me prior to a class and/or seminar absence. *After one 2 hour absence, make-up work may be assigned at my discretion, case-by-case. Makeup work must be completed by the deadline assigned to ensure full receipt of course credit. After an absence or absences totaling 6 hours you may be denied full credit.* Finally, if you do miss a class or portion thereof, you are still expected to do the reading for that class meeting and turn in any assignments that were due that class date.

**Late assignments:** Turning in assignments late is unacceptable. However, if there is an unavoidable need to turn in an assignment late, please contact me via email no later than the original assignment due date to discuss options. Parameters are left to my discretion on a situation-by-situation basis. Late assignments must be completed by the revised due date to ensure full receipt of course credit.

**Credit:** Students will receive 2 graduate credits at the completion of the quarter if all course requirements have been satisfactorily completed to meet course objectives. Partial credit will be awarded at my discretion. Incompletes will not be awarded. Full loss of credit decisions will be

made by the faculty. ***Plagiarism (i.e., using other peoples' work as your own) will result in total loss of credit for the class and may result in expulsion from the MPA program.*** Failing to complete one or more assignments or multiple absences may constitute denial of total credit. Unexcused absences or lack of academic work may result in no credit at my discretion. Students will also be evaluated based upon their progress towards the learning goals that will be assessed from classroom, seminar, and assignment performance. Decisions for no credit will be made when necessary, based on absence or failure to meet academic course requirements.

**Evaluation:** Written self-evaluations **are required** for credit at the end of the quarter. Faculty evaluations are greatly appreciated and encouraged.