

# Public Administration and the Constitution

Winter 2020

## Faculty

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Office Hours: By Appointment

\*Appointments can be in person, over the phone

or online via Skype or Facetime



## Time

Tuesday 6-10pm PST

## Location

SEM 2 A2107

**Course Description:** This course considers the ways in which the U.S. Constitution shapes public administration. It examines the legal foundation of public administration, with special attention paid to the major constitutional principles that apply to administrative agencies. It also explores the dynamic relationship between the federal judiciary and civil servants. This course will instill in students the non-technical constitutional competence required to function effectively in modern administrative agencies.

## Learning Objectives

1. Define and understand the separation of powers, federalism, equal protection and due process
2. Identify the core areas of administrative law and explain how they apply to public administration
3. Develop a foundational understanding of how the federal judiciary influences public administration agencies processes

## Skill Objectives

1. Improve analytical and formal writing skills
2. Practice research skills
3. Practice presentation skills

## **Requirements**

You will be reading legal cases for this class. If you have trouble understanding a case, skim it or google around for a summary of the case. Do not be afraid to ask for clarification in class. The point of reading these cases is not the technical legal material, but the impact of the decision on public administration practice.

## **Assignments**

### **Case Memo**

Each student will present a legal case to the class and lead a brief class discussion. We will sign up for these on the first day of class.

**Directions:** Once assigned, each student is responsible for reading their case and writing a one-page memo (not including works cited), which is due on the day of their presentation. For guidelines on how to format a memo please use Purdue OWL:

[https://owl.purdue.edu/owl/subject\\_specific\\_writing/professional\\_technical\\_writing/memos/format.html](https://owl.purdue.edu/owl/subject_specific_writing/professional_technical_writing/memos/format.html)

The memo should summarize the facts of the case and why/how this affects public administration agencies.

### **Critical Analysis and Presentation**

**Length:** 10-12 pages, double spaced, not including a works cited

**Directions:** You will select a case decided by the United State Supreme Court involving a federal or state administrative agency decided 2010 and provide an evaluation of how the case contributes to the legal basis of public administration. You should include at least 10 sources (7 of which must be peer-reviewed).

#### **Areas to Include in Your Analysis:**

- Facts of the case
- Arguments for and against
- Concurrent and dissenting opinions

#### **Due Dates:**

- **Case Selection:** Week 3
- **Summary of the Facts of the Case:** Week 4
- **Summary of the Concurrent and Dissenting Opinions:** Week 6
- **Rough Draft (must be at least 9 pages):** Week 8

### **Visual Aids and Presentations**

**Presentation:** No more than 15 minutes. Highlight the main points and take away

messages of your analysis.

**Q and A Session:** I will facilitate a question and answer session with the class after the presentation is done. Have questions ready for the presenters.

**A visual aid is required** for the presentation. Consider using one or more of the following tools: slide show (powerpoint, prezi.com, haikudeck.com, projeqt.com), word cloud (wordle.net or woritout.com), website (wix.com or weebly.com), infographics (piktochart.com, thinglink.com, infoagr.am.com), animation (sparkol.com, powtoon.com), timeline (timetoast.com, dipity.com, tiki-toki.com). All photographs or graphs/charts should be cited with their source.

- Accessibility: contrast (dark background, light font), limit red and green (color blindness), font size, readability, universal design accessibility.  
<http://www.vetpd.qld.gov.au/resources/pdf/universal-design-checklist.pdf>

## **Required Readings**

All readings are posted on Canvas except for the course text, which is available at the Bookstore and the Evergreen Library.

Rosenbloom, D. H., Carroll, J. D., & Carroll, J. D. (2004). *Constitutional competence for public managers: Cases and commentary*. 2<sup>nd</sup> ed. Itasca, IL: F.E. Peacock.

## **Course Policies**

**Format:** Unless otherwise stated, all papers should be typed, double spaced, 12 point font, and follow APA format and citation style. [APA Style <http://www.apastyle.org/learn/index.aspx> Purdue Writing & Grammar Guide <http://owl.english.purdue.edu/>] All written work will be of high quality, grammatically correct, clear and without spelling errors.

Students may request resource writing assistance from faculty and/or the Graduate Writing Assistant. You can contact our graduate programs writing support at: EvergreenWritingAssistant@gmail.com. Additional writing resources can be accessed through the campus Writing Center:  
<https://www.evergreen.edu/writingcenter/resources>

**Participation & Attendance:** Students are required to attend each class meeting in its entirety. Participation includes focusing on class content, speaking in class and seminar, listening to others, taking notes, completing class interactive exercises, avoiding distractions, and listening to and dialoging with the guest speakers. If an

absence is unavoidable, seminar faculty should be notified prior to a class and/or seminar absence.

After one 4-hour absence per quarter, make-up work may be assigned. Makeup work must be completed by the end of the quarter in question for course credit. After reoccurring absences (being late to class; regularly missing more than one class), you may be denied credit. Finally, if you do miss a class, you are 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**. If there is an unavoidable need to turn in an assignment late, the student should contact me via email no later than the original assignment due date to discuss options. Late assignments must be completed by the revised due date to ensure full receipt of course credit. I will not give feedback on late assignments.

**Credit:** Students will receive 4 graduate credits at the end of the course if all requirements have been satisfactorily completed. Students will be evaluated based upon their progress towards the learning objectives, assessed from classroom, seminar, and assignment performance.

Plagiarism (i.e., using other peoples' work as your own) may result in total loss of credit for the class and may result in dismissal from the MPA program. See the [MPA Handbook](#) and [College statement on academic honesty](#) for more information.

Failing to meet course requirements (ex. not completing one or more assignments, completing one or more assignments late, or multiple absences) may constitute denial of total credit at the discretion of the faculty. Students at risk of losing credit will receive written notification prior to the end of the quarter.

**Evaluation:** A written self-evaluation and faculty evaluation are required for credit. All final evaluations are to be submitted via our online evaluation system no later than one week after the last class. Evaluation conferences may occur in person or over the phone.

**Multiculturalism & Diversity:** Faculty and students will actively work towards contextually weaving multiculturalism and diversity throughout our learning as related to readings, lectures, seminar, and group projects. In a learning community students and faculty share the responsibility for the teaching and learning

environment. Multiculturalism and diversity is to be understood as: aiming to promote constructive community discourse about issues of culture, power, and differences.

**Holidays for Reasons of Faith or Conscience:** Please inform me in writing within the first two weeks of class if you will miss specific class sessions because of holidays of faith or conscience, or for an organized activity conducted as part of a religious denomination, church, or organization. Students are entitled to up to two days of excused absences per academic year for holidays for reasons of faith or conscience or for organized activities conducted under the auspices of a religious denomination, church, or religious organization. I will offer you reasonable accommodations, and the absence(s) will be excused. For more information, please refer to the Evergreen policy at: <https://www.evergreen.edu/policy/religious-observance>.

**Technology Use & Learning Styles:** We all have different ways of learning. Faculty will actively work towards providing information in multiple formats: tactile, auditory, visual, experiential, etc. However, these are limited to means appropriate for the classroom environment. Surfing the internet, checking social media, reading e-mail, playing with cell phones are not appropriate behaviors in a learning community. I reserve the right to ask for no technology in the classroom if it becomes a distraction. Also, please shut your laptops when we have guest speakers.

**Reasonable Accommodations** will be provided for any student who qualifies for them through a working relationship with Access Services. To request academic accommodations due to a disability, please contact the office of Access Services for Students with Disabilities (867-6348 or 6364). If the student is already working with the office of Access Services the faculty should have received a letter clearly indicating the student has a disability that requires academic accommodations. If any student has a health condition or disability that may require accommodations in order to effectively participate in this class, please do the following: Contact faculty before class and Contact Access Services to receive a letter of accommodation. Information about a disability or health condition will be regarded as confidential. Please refer to TESC's [Students with Disabilities Policy](#).

**Permission to Record Lecture, Workshop and Other Similar Discussion:**

If a participant in class would like to obtain an audio or video recording of another participant in class speaking, discussion, lecture or other related communications

in class, and this falls beyond the scope of ***Reasonable Accommodations***, then this participant would need written permission, via email or other acceptable forms of documentation, and would need to give a reasonable time period in advance of the recording; usually a week (5 business days) and written consent would need to occur before the recordings begin.

**Conduct & Conflict Resolution:** Discuss any problems involving others in the learning community directly with the individuals involved (so long as the concerned party feels safe doing so). Possessing respect for others is fundamental to an open, free, and educational dialogue. All students are expected to support and contribute to a well-functioning MPA classroom and learning community. Behavior that disrupts the learning community may be grounds for disciplinary action, including dismissal from the MPA program. All students will be held accountable for maintaining the highest of academic standards.

The procedure to resolve conflict is outlined in the MPA Student Handbook:  
<https://www.evergreen.edu/mpa/studenthandbook/conflictresolution>

Included on this page is the Evergreen State College Conflict Resolution Process Matrix.

**We will abide by the [social contract](#):** WAC 174-121-010 College philosophy.

**We will abide by the [student conduct code](#) (including academic integrity and plagiarism):** Chapter 174-123 WAC, Student Conduct Code & Grievance/Appeals Process

**We will abide by the [non-discrimination policies and procedures at TESC](#)**

**Guest Policy:** Guests are welcome to visit our learning community during class time and seminar meetings with discretionary approval from course faculty in advance of the requested visit. It is the host student's responsibility to contact the faculty with details about the requested guest visit and await approval. Guests must abide by all social contract conduct code, and nondiscrimination policy guidelines as aforementioned in this syllabus.

**Inclement Weather:** In the event of bad weather or emergencies students should check with for announcements of campus closures. Students can call the main campus line 867-6000 to get the latest news regarding a campus closure or delay.

Faculty may decide to cancel a class meeting even if campus is open and we will send an all-class email prior to 3:00 pm the day of class. Students are responsible for checking email and ensuring viable transportation options are available to them <https://evergreen.edu/emergencyresponse>

**Communicating:** Email and Canvas are our primary means of communication. Students are responsible for checking their Evergreen email and Canvas regularly.

**Winter 2020 Schedule (Faculty May Alter Schedule)**

DATE	TOPIC	READINGS	ASSIGNMENTS DUE
<b>Week 1 Tuesday 1/07/20</b>	<b>Historical Overview of Administrative Law in the US</b>	More Perfect: <a href="#">Kittens Kick The Giggly Blue Robot All Summer</a> (podcast)	
<b>Week 2 Tuesday 1/14/20</b>	<b>The Need for Constitutional Competence</b>	<i>Constitutional Competence</i> , Preface and text of chapters 1 & 2 Cases <ul style="list-style-type: none"> <li>• 2.1 <i>Harlow v. Fitzgerald</i> (p. 51)</li> <li>• 2.2 <i>Pembaur v. City of Cincinnati</i> (p. 53)</li> <li>• 2.3 <i>City of Canton v. Harris</i> (p. 56)</li> <li>• 2.4 <i>Harley v. Schuylkill County</i> (p. 59)</li> </ul> <i>Hope v. Pelzer</i> , 536 U.S. 730, 122 S. Ct. 2508, 153 L. Ed. 2d 666 (2002).	
<b>Week 3 Tuesday 1/21/20</b>	<b>Federalism</b>	<i>Administrative Law for Public Managers</i> , pp. 35-43 The Most Perfect Album: <a href="#">Episode 3</a> (podcast) <i>Constitutional Competence</i> Cases <ul style="list-style-type: none"> <li>• 1.4 <i>U.S. v. Lopez</i> (p. 32)</li> <li>• 1.5 <i>Printz v. U.S.</i> (p. 36)</li> <li>• 1.6 <i>Carbone, Inc. v. Town of Clarkstown</i> (p. 40)</li> </ul> <i>U.S. v. Morrison</i> , 529 U.S. 598 (2000) <i>Gonzales v. Raich</i> , 545 U.S. 1 (2005)	Case Selection

<b>Week 4</b> <b>Tuesday</b> <b>1/28/20</b>	<b>Separation of Powers</b>	<i>Administrative Law for Public Managers</i> , pp. 22-35 Beermann, J. M. (2011). <a href="#">An Inductive Understanding Of Separation Of Powers.</a> <i>Constitutional Competence Cases</i> <ul style="list-style-type: none"> <li>• 1.1 <i>Immigration and Naturalization Service v. Chadha</i> (p. 20)</li> <li>• 1.2 <i>Morrison v. Olson</i> (p. 25)</li> <li>• 1.3 <i>Local 2677, American Federation of Government Employees v. Phillips</i> (p. 30)</li> </ul> <i>Hamdi v. Rumsfeld</i> , 542 U.S. 507(2004) <i>Hamdan v. Rumsfeld</i> , 548 U.S. 557(2006)	Summary of the Facts of the Case
<b>Week 5</b> <b>Tuesday</b> <b>2/04/20</b>	<b>Judicial Structure and Process</b>	<i>Constitutional Competence</i> , chapter 9 <i>Cases</i> <ul style="list-style-type: none"> <li>• 9.2 <i>Missouri v. Jenkins</i>, p. 204</li> </ul> <i>Lawrence v. Texas</i> , 539 U.S. 538 (2003) <i>Citizens United v. Federal Election Commission</i> , 558 U.S. 50 (2009)	
<b>Week 6</b> <b>Tuesday</b> <b>2/11/20</b>	<b>Equal Protection</b>	<i>Constitutional Competence</i> , text of chapters 4 and 8 <i>Cases</i> <ul style="list-style-type: none"> <li>• 4.4 <i>Hawkins v. Town of Shaw</i> (p. 100)</li> <li>• 4.3 <i>Craig v. Boren</i> (p. 98)</li> <li>• 5.3 <i>Adarand v. Pena</i> (p. 121)</li> <li>• <i>Grutter v. Bollinger</i>, 539 U.S. 306 (2003)</li> <li>• <i>Gratz v. Bollinger</i>, 539 U.S. 244 (2003)</li> <li>• <i>Kristin M. Perry et al. v. Arnold Schwarzenegger et al.</i>, U.S. District Court for the Northern District of</li> </ul>	



		California. No. C 092292 (Proposition 8 Case)	
<b>Week 7 Tuesday 2/18/20</b>	<b>Due Process, “New Property,” &amp; the “Takings Clause”</b>	<p><i>Constitutional Competence</i>, text of chapter 6</p> <p>Cases</p> <ul style="list-style-type: none"> <li>• 6.1 <i>Cleveland Bd. of Ed. v. Loudermill</i> (p.134)</li> <li>• 6.2 <i>Cleveland Bd. of Ed. v. La Fleur</i> (p. 137)</li> <li>• 8.1 <i>Wyatt v. Stickney</i> (p. 181)</li> <li>• 8.4 <i>Dolan v. City of Tigard</i> (p. 191)</li> </ul> <p><i>Goldberg v. Kelly</i>, 397 U.S. 254 (1970) (Read Goldberg before reading Mathews)</p> <p><i>Mathews v. Eldridge</i>, 424 U.S. 319 (1976)</p> <p><i>Kelo et al. v. City of New London et al.</i>, 545 U.S. 469 (2005)</p>	Summary of the Concurring and Dissenting Opinions
<b>Week 8 Tuesday 2/25/20</b>	<b>Substantive and Procedural Rights</b>	<p><i>Constitutional Competence</i>, text of chapters 5 and 7</p> <p>Cases</p> <ul style="list-style-type: none"> <li>• 5.2 <i>Elrod v. Burns</i> (p. 116)</li> <li>• 6.3 <i>Rankin v. McPherson</i> (p. 141)</li> <li>• 7.1 <i>Goldman v. Weinberger</i> (p. 158)</li> <li>• 7.2 <i>Church of Lukumi Babalu Aye v. Hialeah</i> (p. 162)</li> <li>• 8.2 <i>Sherbert v. Verner</i> (p. 183)</li> </ul> <p><i>Van Orden v. Perry</i>, 545 U.S. 677 (2005)</p> <p><i>McCreary County v. ACLU of Kentucky</i>, 545 U.S. 845 (2005)</p> <p><i>Berghuis v. Thompkins</i>, 130 S.Ct. 2250 (2010)</p>	<b>Bring a paper copy</b> of the rough draft of the critical analysis paper to class for peer review
<b>Week 9 Tuesday 3/03/20</b>	<b>State Action, Privatization, and Outsourcing</b>	<p><i>Constitutional Competence</i>, text of chapter 3</p> <p>Case</p> <ul style="list-style-type: none"> <li>• <i>Lebron v. National Railroad Passenger Corporation</i> (p. 69)</li> </ul>	

		<ul style="list-style-type: none"> <li>• 3.2 <i>West v. Atkins</i> (p. 71)</li> <li>• 3.3 <i>Board of County Commissioners, Wabaunsee County v. Umbehr</i> (p. 74)</li> <li>• 3.4 <i>Richardson v. McKnight</i> (p. 77)</li> <li>• 9.1 <i>DeShaney v. Winnebago County. DSS</i> (p. 201)</li> </ul> <p><i>Brentwood Academy v. Tennessee</i>, 531 U.S. 288 (2001)  <i>Correctional Services Corp. v. Malesko</i>, 534 U.S. 61 (2001)</p>	
<b>Week 10 Tuesday 3/10/20</b>	<b>Presentations</b>		Critical Analysis Paper