Administrative Law (Law 255)  
Prof. Jeff Dobbins  
jdobbins@willamette.edu  
Office: Room 460 (503-370-6652)  
Office hours: W 11a-12:30p, Th 12:30-2p, & by Appt.  

SYLLABUS & FIRST ASSIGNMENT

Required Materials:  
When necessary, I will post supplemental material on the class’s WISE website; all students should register accordingly at http://wise.willamette.edu (click on Login at top).

Learning Outcomes:  
By the conclusion of this class, students will have learned about the major legal problems and processes associated with federal and state administrative law. Students will understand the place of administrative agencies within the federal and state governments, as well as how constitutional, statutory and regulatory provisions guide those entities’ relationships with each other and the American public. Students will learn how to apply and interpret statutes and rules, and will understand the basic forms and processes of administrative adjudication.

Assessment:  
Grades are based on student performance on the 3-hour final exam, which is open note and open book on terms to be discussed later in the semester. I may add an additional current events component, but that will comprise 20% or less of the total grade (and I will inform you of this by the end of January). Note the possibility of grade additions / reductions per the below.

Attendance & Participation:  
The law school attendance policy applies. However, your presence in and preparation for class will affect your eligibility (and whether you ultimately receive) a half-point grade increase (i.e., B to B+) or decrease (i.e., B- to C+) for class participation (or the lack thereof). Unless you take a "pass" (see 2. below) I expect everyone to be prepared and to participate in the discussion. I regularly give “bumps” for participation, so why not try?

1. Attendance. You are eligible for a half-point grade increase for participation only if you miss fewer than four classes. Even then, such an increase is awarded only for exceptional participation. If you miss four or more classes, you are no longer eligible for the half-point increase (though your participation is always greatly appreciated!). Unique exceptions can be managed by Dean MacAlpine.

2. Preparation. Come prepared for every class. If you are called upon and not prepared, your grade may be reduced by a half grade. You may have up to three “free passes” if you inform me, by note or email, more than 5 minutes before the beginning of the class that you are unprepared (no explanations necessary). If I get a note I won’t expect your participation. Free passes are not affected by absences; you can miss three classes and then take three free passes and still receive an increase in your final grade (though if you take that many passes you’d best be quite exceptional!).

Laptops:  
You can use your laptops as you see fit, but you should not use them in a manner that distracts your classmates. If I find that happening I will ask you to desist, with repeated violations potentially affecting your grade.
Feedback and Office Hours:
I welcome feedback at any time (anonymous or otherwise) about the amount and nature of work in the class, about what topics you do and don’t understand, as well as about my own approach in trying to teach those topics. While I will answer the occasional email (and I will often do so by providing you with an answer but cc’ing the entire class), I am available to talk at almost any time.

First Assignment (Jan. 9)

Text (in the bookstore): M. Asimow & R. Levin, Asimow and Levin's State and Federal Administrative Law, 4th (West, American Casebook Series) (2014). Yes, you need that version. You should be sure to login to the WISE website for the class, where I will post many materials that we will use. We will begin with a brief introduction to the administrative process in the context of the presidential transition.

1/9 Read the following:
- Asimow & Levin, 1-14 (note: for Weds. 1/11, we will read pp 15-37)
- Fisher, “Trump Faces Legal Challenges in Dismantling Obama’s Legacy, Forbes, Nov. 10, 2016. (online, or on WISE)
- Michaels, Administrative Checks and Balances in a Trump Administration, Just Security.org (Nov. 11, 2016) (online, or on WISE) (see also subsequent post, “Businesslike Government, Presidential Power, and the Erosion of the Civil Service”)
- Walker, Dear Trump Transition Team: Some Thoughts on Administrative Law, Yale Journal on Regulation, Notice & Comment Blog (Nov. 10, 2016) (online, or WISE)
- Skim ABA Section of Admin. Law & Regulatory Practice, A Report To The President-Elect of the United States (October 26, 2016) (online or on WISE)

Discussion:
1) What opportunities and limits does the new Administration face in seeking to use administrative powers to change existing policies – or to advance new ones?
2) Why does our system have administrative agencies? What purpose do they serve that other more “traditional” branches of our government do not (or cannot)?
3) Shouldn’t Congress be in charge of this process? What would the benefits and costs be of assigning Congress responsibility to fully control administrative programs by statute?
4) Would it be legitimate for the new administration to change administrative policies and to cite “a new political situation” as justification for the change? Should courts accept such an argument as justification for supporting new policies?
5) Should courts approach interpretation of the regulations differently than they approach interpretation of statutes or the constitution?
6) What is the purpose of the document accompanying the rule? Given what you see, how useful / effective were comments provided to the agency during the comment period?
7) What branch of government do the agencies belong to?
8) The president is the elected leader of the United States and the Executive Branch. What control should he have (or not have) over the head of the EPA or SEC, not to mention over line employees within those agencies. Should the president be able to simply dictate the outcome of administrative processes?
9) What legal options should be available to parties affected by possible administrative changes? Who should be able to challenge them, and what arguments might they raise? What role should reliance have on the legal status of those affected by administrative changes?

Reading Chart: See Reading Chart for assignments for the remainder of the semester.