

Administrative Law

Fall 2025 (5382 / 25593)

Tuesday & Thursday (6:00-7:30 pm)

LAW 310

Instructor Information

Professor

Brandon Duke (adjunct)

Email

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Office Hours

Tuesdays, 3:00-5:00 pm
or by appointment

General Information

Course Description

Administrative law covers two main areas. First, it looks at what federal agencies actually do—how they put national policies into action, mostly through things like administrative hearings or making rules (also called regulations). Second, it examines how these agencies interact with Congress, the President, and the federal courts. In this course, we'll touch on the first area, including the rules about how agencies make regulations and how laws are interpreted. But our focus will be on the second area: the relationships and boundaries between agencies and the other branches of government.

Together, we'll dive into questions about the kinds of power federal agencies have. For instance, when agencies make regulations, are they acting like lawmakers? If so, is that a problem, and is there a limit to how much power Congress can give them? Or, when agencies decide cases, are they acting like judges in a way that's not allowed? And when agencies use "executive power," how much control should the President have over them? Can Congress create agencies that are independent from the President? We'll also talk about when Due Process rights apply to agency actions, and whether Congress can block courts from reviewing what agencies do or when courts might not be able to review agency decisions at all.

Exam

The final exam will likely be a combination of multiple-choice questions (~40%), issue-spotting essays (~40%), and short answer questions (~20%). The exam will be open book and notes, but it is possible that you may have difficulty accessing your computer during the exam except for the exam software. Please note that this means that if you would like your casebook with you at the exam, I would recommend that you have a hardcopy. I reserve the right to change the exam format but will notify you in advance if I do so.

Class Participation

I plan on cold calling in class, but cold calling is not meant to trap or trick you. I hope by now you find the law fun (or at least that the law is worthy of an engaging conversation). Thus, I hope that you voluntarily participate in class as well. With that said, I understand that we all have busy lives and there may be times that for whatever reason you may not wish to be cold called on any particular day. If that is the case, please send me an email or text by **12:00 PM** the day of class to let me know. I reserve the right to cap the number of times someone may rely on this opt-out procedure.

Casebook & Course Materials

Required

- Ilan Wurman, Administrative Law Theory and Fundamentals: An Integrated Approach (Foundation Press, Third Edition 2025)
- Summer Update – 2025 (to be posted on course website)
- Handouts (to be posted on course website)

Course Website

Information and materials for class will be posted here: brandon-duke.com.

Additional Information

Honor Code Acknowledgment

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

Mental Health and Wellness Resources

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct

Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning,

assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website <https://uh.edu/accessibility/>, calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

The Center for Student Advocacy and Community (CSAC) is where you can go if you need help but don't know where to start. CSAC is a "home away from home" and serves as a resource hub to help you get the resources needed to support academic and personal success. Through our Cougar Cupboard, all students can get up to 30 lbs of FREE groceries a week. Additionally, we provide 1:1 appointments to get you connected to on- and off-campus resources related to essential needs, safety and advocacy, and more. The Cougar Closet is a registered student organization advised by our office and offers free clothes to students so that all Coogs can feel good in their fit. We also host a series of cultural and community-based events that fosters social connection and helps the cougar community come closer together. Visit the CSAC homepage or follow us on Instagram: @uh_CSAC and @uhcupbrd. YOU belong here.

Women and Gender Resource Center

The mission of the WGRC is to advance the University of Houston and promote the success of all students, faculty, and staff through educating, empowering, and supporting the UH community. The WGRC suite is open to you. Stop by the office for a study space, to take a break, grab a snack, or check out one of the WGRC programs or resources. Stop by Student Center South room B12 (Basement floor near Starbucks and down the hall from Creation Station) from 9 am to 5 pm Monday through Friday.

Recording of Class

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Resources for Online Learning:

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website (<https://uh.edu/power-on/learning/>). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

UH Email

Please check and use your CougarNet email for communications related to this course. Faculty use the CougarNet email to respond to course-related inquiries such as grade queries or progress reports for reasons of FERPA. To access your CougarNet email, login to your Microsoft 365 account with your CougarNet credentials. Visit University Information Technology (UIT) for instructions on how to connect your CougarNet e-mail on a mobile device.

Webcams

Access to a webcam is required for students participating remotely in this course. Webcams must be turned on (state when webcams are required to be on and the academic basis for requiring them to be on). (Example: Webcams must be turned on during exams to ensure the academic integrity of exam administration.)

Security Escorts and Cougar Ride

UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called “Cougar Ride” that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.

Use of Artificial Intelligence (AI)

You may use AI-generated text tools for all purposes in this course except during the final exam. If you use AI-generated text, you must indicate and explain any use beyond grammatical and stylistic suggestions.

Syllabus Changes

Please note that the instructor may need to make modifications to the course syllabus. Notice of such changes will be announced as quickly as possible through email, posted on the course website, and discussed in class.

Course Schedule

Class	Date	Topic(s)	Reading(s)
Class 1	August 26	Part I: Overview & Introduction <u>Overview of Administrative Law</u> <u>Brief History of Administrative Law</u>	CB 7-17 (skim) CB 22-33, 48-50, 55-59 CB 1409 (Art. II § 1 ¶ 1) CB 1411 (Art. II §§ 2-3)
Class 2	August 28	Part II: Legislative Power <u>Congressional Delegation I</u> ▪ Early Cases ▪ Delegation or Nondelegation the Founding ▪ <i>Panama Refining</i> ▪ <i>Schechter Poultry</i>	CB 581-612 HO: Delegation at the Founding
Class 3	September 2	<u>Congressional Delegation II</u> ▪ <i>Yakus</i> ▪ <i>The Benzene Case</i> ▪ <i>Mistretta</i> ▪ <i>Whitman Trucking</i>	CB 612-41
Class 4	September 4	<u>Congressional Delegation III</u> ▪ <i>Gundy</i> ▪ <i>FCC v. Consumer Research</i> ▪ Debating Delegation	CB 641-62 SU 1-15 CB 662-79 (skim)
Class 5	September 9	<u>Major Question Doctrine I</u> ▪ <i>NFIP v. OSHA</i> ▪ <i>West Virginia v. EPA</i>	CB 458-93
Class 6	September 11	<u>Major Question Doctrine II</u> ▪ <i>Biden v. Nebraska</i> ▪ Debating Major Questions Doctrine	CB 493-529
Class 7	September 16	<u>Separation of Powers</u> ▪ <i>INS v. Chadha</i> ▪ <i>Bowsher v. Synar</i>	CB 679-710
Class 8	September 18	Part III: Executive Power <u>The Executive Power</u> ▪ Executive Power not Royal Prerogative ▪ The Executive Power Clause <u>Appointments I</u> ▪ <i>Lucia v. SEC</i> ▪ <i>[Gulf Coast Racing v. HISA]</i>	CB 711-30
Class 9	September 23	<u>Appointments II</u> ▪ <i>Morrison v. Olson</i> ▪ <i>Edmond v. United States</i> ▪ <i>Kennedy v. Braidwood</i> ▪ “Acting” Executive Officials	CB 730-55 SU 15-23 HO: A.J. O’Connell, <i>Actings</i> , 120 Colum. L. Rev. 613 (2020)
Class 10	September 25	<u>Removal I</u> ▪ <i>Myers v. United States</i> ▪ <i>Humphrey’s Executor</i>	CB 755-814

Class	Date	Topic(s)	Reading(s)
Class 11	September 30	<u>Removal II</u> <ul style="list-style-type: none"> ▪ <i>Free Enterprise Fund v. PCAOB</i> ▪ <i>Seila Law v. CFPB</i> ▪ <i>Collins v. Yellen</i> ▪ <i>Trump v. Wilcox</i> 	CB 814-64 HO: <i>Trump v. Wilcox</i> (FTC) HO: <i>Trump v. Boyle</i> (CPSC)
Class 12	October 2	<u>Presidential Direction & Control</u> <ul style="list-style-type: none"> ▪ Kagan, Presidential Administration ▪ Wurman, The Original Presidency ▪ [Executive Order Cases] 	CB 864-75 CB 26-49 HO: [Executive Order Cases]
October 7		No Class	
Class 13	October 9	Part IV: Judicial Power <u>Agency Adjudication</u> <ul style="list-style-type: none"> ▪ <i>Chenery v. SEC (Chenery II)</i> ▪ Formal Adjudication Procedures ▪ <i>Overton Park</i> ▪ <i>Pension Benefits Guaranty Corp. v. LTV Corp.</i> 	CB 241-74 CB 279 (note 1)
Class 14	October 14	<u>Limits on Agency Adjudication</u> <ul style="list-style-type: none"> ▪ <i>Atlas Roofing</i> ▪ <i>Jones & Laughlin</i> ▪ <i>Northern Pipeline</i> 	CB 1411-12 (Art III ¶¶ 1-3) CB 899-938
Class 15	October 16	<u>The Seventh Amendment</u> <ul style="list-style-type: none"> ▪ <i>CFTC v. Schor</i> ▪ <i>Stern v. Marshall</i> ▪ <i>SEC v. Jarkesy</i> 	CB 1417 (7th amend.) CB 939-78
Class 16	October 21	<u>Agency Reasoning</u> <ul style="list-style-type: none"> ▪ <i>MVMA v. State Farm</i> ▪ <i>Fox Television</i> ▪ <i>DHS v. Regents</i> ▪ <i>FCC v. Prometheus Radio</i> 	CB 1440 (APA § 706) CB 287-335
Class 17	October 23	<u>Agency Factfinding</u> <ul style="list-style-type: none"> ▪ <i>Universal Camera v. NLRB</i> ▪ <i>Allentown Mack v. NLRB</i> ▪ <i>ADAPSO v. Federal Reserve</i> 	CB 335-56
Class 18	October 28	<u>Legal Questions & Statutory Interpretation</u> <ul style="list-style-type: none"> ▪ <i>Loper Bright Enterprises v. Raimondo</i> ▪ Sunstein excerpt 	CB 381-411 HO: <i>NRC v. Texas</i>
Class 19	October 30	Part V: Due Process <u>When Does Due Process Apply?</u> <ul style="list-style-type: none"> ▪ <i>Londoner / Bi-Metallic</i> ▪ <i>Goldberg v. Kelly</i> ▪ <i>Constantineau / Davis</i> ▪ <i>Roth / Sindermann</i> 	CB 980-1008

Class	Date	Topic(s)	Reading(s)
Class 20	November 4	<u>What Process is Due?</u> <ul style="list-style-type: none"> ▪ Due Process Revolution ▪ <i>Mathews v. Eldridge</i> ▪ <i>Cleveland Bd. of Ed. v. Loudermill</i> ▪ [2025 Due Process Orders] 	CB 1008-35 HO: [TBD]
Class 21	November 6	Part VI: Reviewability <u>Causes of Action I</u> <ul style="list-style-type: none"> ▪ Non-APA Causes of Action ▪ Presumption of Review ▪ Zone of the Interests 	CB 1037-82
Class 22	November 11	<u>Causes of Action II</u> <ul style="list-style-type: none"> ▪ <i>FDA v. R.J.R. Vapor Co.</i> <u>Preclusion of Review</u> <ul style="list-style-type: none"> ▪ <i>Johnson v. Robison</i> ▪ <i>Block v. Community Nutrition Institute</i> ▪ <i>Bowen v. Mich. Acad. of Family Physicians</i> 	SU 23-31 CB 1082-96
Class 23	November 13	<u>Standing</u> <ul style="list-style-type: none"> ▪ <i>Lujan v. Defenders of Wildlife</i> ▪ <i>Mass. v. EPA</i> ▪ <i>ET v. Paxton</i> ▪ Third Party Standing 	CB 1097-1133 HO: <i>ET v. Paxton</i> HO: <i>Tiede v. Collier</i>
Class 24	November 18	<u>Timing of Review</u> <ul style="list-style-type: none"> ▪ <i>Bennet v. Spear</i> ▪ <i>Sackett v. EPA</i> ▪ Exhaustion ▪ <i>Abbott Laboratories v. Gardner</i> 	CB 1146-58 CB 1179-92
Class 25	November 20	<u>Universal Injunctions & Vacatur</u> <ul style="list-style-type: none"> ▪ <i>Trump v. CASA</i> ▪ <i>Corner Post</i> (Kavanaugh, J. concurring) 	CB 1248-82 (skim) SU 31-43 CB 1282-88
November 25		No Class	

Final Exam & Review Schedule

Final Exam Review

Review Session: TBD

Pre-Exam Office Hours: TBD

Final Exam

TBD