

**Notice:** This course will be taught under stressful conditions because of Covid safety precaution mandates. Consequently, some of what is described below will be subject to change. Please consult St. Louis City's and SLU's webpages regarding changing policies on mask wearing, social distancing, and vaccination requirements. <https://www.slu.edu/health-advisory/messages/slu-reinstates-mask-mandate-july-2021.php>

**STATEMENT ABOUT THE COURSE**

*Law, Politics, and Regulatory Policy* is rooted in administrative law. Administrative law is one of the fastest growing areas in the public administration discipline, as well as in the field of law. The chief reason for this is simple. More experts in administrative law are needed to help various public and private organizations cope successfully with the mounting problems caused by the rapid growth of governmental regulatory policies over the past few decades. Administrative law is not an easy subject, mostly because it is a relatively new, unstable legal area undergoing rapid change since FDR's New Deal, although the pace has slowed in recent years. Basically, administrative law deals with the legal relationships between regulatory agencies and those they attempt to regulate. Judicial review of agency actions is a particular focus of administrative law since the courts often must decide whether governmental agencies have acted properly when flexing their regulatory muscle. A major focus of administrative law is procedural due process, not constitutional due process. Consequently, we will study how well agencies do in applying procedural due process when conducting agency work (e.g., when promulgating rules, holding hearings, and conducting administrative searches).

Unlike many areas of law, administrative law cannot escape politics since their regulatory decisions are inherently political. Typical case law involves the government as one of the parties in a lawsuit (e.g., FDA, FAA, EPA, USCIS, SEC, FCC, DHS) since often businesses and people contest regulations imposed on them by administrative agencies. Governmental regulations are almost always controversial since Republicans and Democrats have different views on the role governmental regulators should play. Agency administrators often see themselves caught between a rock and a hard place with some in Congress approving of their regulations with others wanting to strip them of specific regulatory powers. The Trump administration conducted an assault on the administrative state, trying to curb agency power and their regulatory clout in an effort to allow businesses to

operate without a regulatory burden. We will examine Trump's efforts to "deconstruct" the administrative state. President Biden has tried to return the administrative state to normality. We will examine what this means.

### **Class Dates and Time**

Classes will be held on Tuesday evenings from 7:15 to 10:00 pm, September 2 - Dec 14, 2021

### **Seminar Outline (Dates)**

August	31
August	7
Sept.	14
Sept.	21
Sept.	28
Oct.	5
Oct	12
discussion	
Oct.	19
Oct.	26
Nov.	2
Nov.	9
Nov.	16
Nov.	23
Nov.	30
Dec.	7

### **Topics**

Introduction to Seminar
Warren, Chapter 1
Warren, Chapter 2
Warren, Chapter 3
Warren, Chapter 4
Warren, Chapter 5
Warren, Catch up, reflections, questions and
Warren, Chapter 6
Warren, Chapter 7
Warren, Chapter 8
Warren, Catch up
Warren, Chapter 9, start oral reports
Warren, Chapter 10, coral reports
Assigned readings, oral reports; papers due
Last class, review; oral reports; papers due

### **Required Readings\***

Kenneth F. Warren, *Administrative Law in the Political System: Law, Politics, and Regulatory Policy*, 6<sup>th</sup> ed. (Taylor and Francis/Routledge Press, 2020). ISBN #: 978-1-138-35382-4

"Hand-outs" (e.g., cases, articles); cases from Nexis Uni

\*Note on required textbook readings. Most textbook chapters are long and tedious, averaging about 28 pages per week. After all, this is a law book. Law is a tedious subject. I want you to approach the readings in the following way. Read the chapters for general knowledge about what the chapter title and major subject headings address. Do not put off the readings until just before you come to class. Try to read them incrementally throughout the week. Take notes on the readings. Come to class being able to answer basic questions about what the chapter title and major subject headings convey. For example, if the chapter title is rulemaking, be able to tell me what rulemaking is. If a major subject heading is "notice and comment rulemaking," be able to tell me what notice and comment rulemaking is. If you know the basics of the chapter, you will be able to participate in a

meaningful discussion. This is essential to make seminars interesting and informative. This is not a lecture course, although I do plan to present, taking time to explain some chapter content, and answer questions you may have about this difficult subject area. Note below under Grading Policy that participation counts 35% of your course grade. This is a lot, but participation in seminar discussions is very important and demonstrates to me whether you have read and know the material reasonably well. Note that there are no exams, which is typical for seminar classes. You are graded on your participation, oral presentations, oral presentation of your seminar paper, and your seminar paper.

### **Grading Policy**

Participation	140	(35%)
Oral Presentation	40	(10%)
Seminar Paper	220	(55%)
Total Points	400	(100%)

### **My contact information**

My phone numbers: 314-977-3036 (my office); 977-3035 (department office); 314-963-0451 (home office) Note: Because of the Pandemic, you may have to call me at home instead of at my SLU office.

314-498-1923 (cell – I normally prefer to talk on landline phones to avoid the “dropped call” problem)

Office, McGannon Hall, Room 135

Office Hours: Due to the Pandemic, my office hours may be limited or canceled. However, I will likely be in my office immediately before and after seminar hours, so this may be an excellent time to talk to me. If you want to talk to me before or after class, please tell me so I will make sure I am in my office.

### **In-Class Activities**

In this seminar students will be expected to keep up with the assigned readings from week to week because intelligent class discussions cannot take place if students do not know the material well enough to discuss. Seminars are based on the Socratic method, so learning is enhanced through presenting and debating the subject matter. Each week one student will join me in presenting the topic and leading the discussion. Students will also be responsible for briefing one administrative law case per week. Each week we will discuss these briefs in class.

Each student will complete a term paper on any subject related to *Law, Politics, and Regulatory Policy*. The paper will be due starting on the second to last class to the last class. The paper needs to be 18-20 pages for the undergraduate section and 22-26 pages for the graduate section. The details of the seminar paper assignment will be explained in class.

## **Course/Learning Objectives**

Students are expected to learn the subject matter of *Law, Politics, and Regulatory Policy* (administrative law). Students are also expected to understand case law, specifically how administrative law principles, doctrines, and legal tests are applied to legal arguments. Additionally, students are expected to understand administrative law/decision-making in the context of the political system, understanding that legal demands often conflict with political demands and that political demands normally trump technical legal demands. One objective in this course is to help students prepare for law school. Reports by students who have gone to law tell me that they benefitted a lot from taking this course. Note, this course has been approved by SLU law for credit in their law school program and many SLU law students have taken this course. However, this course is also very valuable for non-law school students, especially because a major objective in this course is to teach students the very practical nature of administrative law. Knowing administrative law will help with navigating the complex government bureaucracy. Knowing your legal rights when confronting government bureaucracy is important if you want to deal successfully with government's administrative apparatus.

## **Modes of Assessment and Skills/Knowledge Being Assessed**

Student knowledge of the subject matter will be assessed on a weekly basis as students participate in seminar discussions. Students are expected to demonstrate knowledge of the material and be able to show a conceptual understanding of administrative law principles, doctrines, and case law. Because administrative law is a difficult subject and not commonly known until exposed to the materials, it is expected that students will struggle at first with the content, but will show progress in the understanding of the material over the course of the semester. Students will be assessed in their ability to apply administrative law doctrines, concepts, and legal tests/standards to cases that they will brief and discuss in the seminar. Students will also be assessed on their ability to show that they understand how administrative law is often compromised for the advancement of political objectives. Students will also be evaluated on their ability to apply what

they have learned about administrative law in their lengthy term papers where they must apply principles, doctrines, and case law to the development of their administrative law topic. The quality of their papers will be judged on not mere description of their topic, but on the quality of their analysis of the subject matter.

### **Attendance Policy**

**Note:** Attendance is very important in seminars because participation in discussions is crucial. Of course, participation is a key element in determining your grade. To get credit for the course, students cannot have any more than two unexcused absences. Remember, missing one seminar constitutes missing one complete week of classes and probably the entire subject matter of one chapter in the book, so please try to come to all classes. Thanks.

### **Course evaluation**

During the last week of the semester, students will need to complete a course evaluation.

### **Academic Honesty Policy**

Students are expected to be honest in their academic work. The University reserves the right to penalize any student whose academic conduct at any time is, in its judgment, detrimental to the University. Such conduct shall include cases of plagiarism, collusion, cheating, giving or receiving or offering or soliciting information in examinations, or the use of previously prepared material in examinations or quizzes. Violations should be reported to me and will be investigated and adjudicated according to the Policy on Academic Honesty of the College of Arts & Sciences. If the charges are found to be true, the student may be liable for academic or disciplinary probation, suspension, or expulsion from the University.

(See <http://www.slu.edu.colleges/AS/academichonesty.html>)

### **Students with Special Needs - Disability Services Academic Accommodations**

Students with a documented disability who wish to request academic accommodations are encouraged to contact Disability Services to discuss accommodation requests and eligibility requirements. Please contact Disability

Services. located within the Student success Center, at Disability\_services@slu.edu or 314-977-3438 to schedule an appointment. Confidentiality will be observed in all inquiries. Once approved, information about academic accommodations will be shared with course instructors via email from Disability Services and viewed within Banner via the instructor's course roster.

The SLU administration sent out what should be included in the syllabus. I have tried to comply with all their syllabus expectations, but please find attached their long list of expectations in case I left anything else. It is filled with important contact information and links. In reading through it, you will see that I with my answer beside some of their questions.

## **Syllabus Expectations for Fall 2021**

### Required Syllabus Statements:

The Provost's Office maintains a list of required syllabus statements for all courses. The complete set of guidelines is available at <https://www.slu.edu/provost/faculty-affairs/teaching-resources-for-faculty/course-syllabus-information/index.php>

In addition to the usual required syllabus statements, there are new policies and new or updated syllabus statements in place for the fall 2021 semester. As you prepare your course syllabus, be sure that it includes the statements below. Links to the provost's website are below; the full text of each of these statements is provided at the end of this document, beginning on page 3. ● Academic Honesty Statement (required) ● Title IX Statement (required) ● Face mask policy (required; new for fall 2021) ● Attendance policy (required; temporary policy for fall 2021) ● Distance Education Etiquette (recommended; new for fall 2021)

### Additional Syllabus Considerations for Fall 2021

In addition to the required syllabus statements above, syllabi should address the items listed below. Sample syllabus language is provided; course instructors are encouraged to include these statements and may modify them as needed. Specific details policies may vary by course but should be clearly stated in the syllabus.

- How should a student report an absence?

Sample syllabus language: If you must miss class, please contact your instructor or teaching assistant by e-mail to inform them of your absence. Notification should be provided at least one hour before class, if possible. **My answer: any reasonable notice before class is encouraged, but sometimes this is impossible due to**

**circumstances such as sudden illness or an accident. Please notify me as soon as circumstances permit.**

● Will students who miss class be able to make up missed work? My answer: Students are expected to keep up with all class assignments and complete their project/paper on time. Students are allowed to miss a limited number of classes as explained in the section on Attendance Policy. A missed lecture is missed information. A missed seminar is not only missed information, but missed participation and a missed assessment opportunity for me. What else can I say? Missing a lecture class is less serious than missing a seminar. Seminars meet only once a week and participation is linked heavily to your grade. A missed seminar constitutes a whole week and normally means that you missed an entire chapter that would be discussed in class.

● How many classes can a student miss and still meet the course learning outcomes? **My answer: This is discussed under Attendance Policy.**

Sample syllabus language: If you miss more than two non-excused class periods, it may be necessary for you to drop the course. Please contact your instructor to discuss whether it is still possible for you to fulfill the learning outcomes of the course. If you are unable to fulfill the course learning objectives due to extensive absences, it may be necessary to request a course extension (incomplete grade) or a course withdrawal. Please consult your course instructor and Academic Advisor for assistance.

If you need request permission to drop this course retroactively after the last day to drop a course without a W, you will need to submit both Form #40 Petition for Revision of Academic Record and Form #44 Academic Records Revision: Drop/Withdrawal from Course(s) for approval. Please contact your Academic Advisor if you need assistance completing these forms.

Full Text of Syllabus Statements Provided by the Provost

### Academic Integrity

Academic integrity is honest, truthful and responsible conduct in all academic endeavors. The mission of Saint Louis University is “the pursuit of truth for the greater glory of God and for the service of humanity.” Accordingly, all acts of falsehood demean and compromise the corporate endeavors of teaching, research, health care, and community service through which SLU fulfills its mission. The University strives to prepare students for lives of personal and professional integrity, and therefore regards all breaches of academic integrity as matters of serious concern. The full University-level Academic Integrity Policy can be found on the Provost's

Office website at: [https://www.slu.edu/provost/policies/academic-and-course/policy\\_academic-integrity\\_6-26-2015.pdf](https://www.slu.edu/provost/policies/academic-and-course/policy_academic-integrity_6-26-2015.pdf).

Additionally, each SLU College, School, and Center has its own academic integrity policies, available on their respective websites.

## Disability Accommodations

Students with a documented disability who wish to request academic accommodations must formally register their disability with the University. Once successfully registered, students also must notify their course instructor that they wish to use their approved accommodations in the course.

Please contact Disability Services to schedule an appointment to discuss accommodation requests and eligibility requirements. Most students on the St. Louis campus will contact Disability Services, located in the Student Success Center and available by email at [Disability\\_services@slu.edu](mailto:Disability_services@slu.edu) or by phone at 314.977.3484. Once approved, information about a student's eligibility for academic accommodations will be shared with course instructors by email from Disability Services and within the instructor's official course roster. Students who do not have a documented disability but who think they may have one also are encouraged to contact to Disability Services. Confidentiality will be observed in all inquiries.

Note: due to accreditation requirements, regulatory differences, and/or location-specific resources, the School of Law, the School of Medicine, and SLU Madrid have their own standard language for syllabus statements related to disability accommodations. Faculty in those units should seek guidance for syllabus requirements from their dean's office.

## Title IX

Saint Louis University and its faculty are committed to supporting our students and seeking an environment that is free of bias, discrimination, and harassment. If you have encountered any form of sexual harassment, including sexual assault, stalking, domestic or dating violence, we encourage you to report this to the University. If you speak with a faculty member about an incident that involves a Title IX matter, that faculty member must notify SLU's Title IX Coordinator and share the basic facts of your experience. This is true even if you ask the faculty member not to disclose the incident. The Title IX Coordinator will then be available to assist you in understanding all of your options and in connecting you with all possible resources on and off campus.



Anna Kratky is the Title IX Coordinator at Saint Louis University (DuBourg Hall, room 36; [anna.kratky@slu.edu](mailto:anna.kratky@slu.edu); 314-977-3886). If you wish to speak with a confidential source, you may contact the counselors at the University Counseling Center at 314-977-TALK or make an anonymous report through SLU's Integrity Hotline by calling 1-877-525-5669 or online at [https://www.lighthouse-services.com/\\_StandardCustomURL/LHILandingPage.asp](https://www.lighthouse-services.com/_StandardCustomURL/LHILandingPage.asp). To view SLU's policies, and for resources, please visit the following web addresses: <https://www.slu.edu/here4you> and <https://www.slu.edu/general-counsel>.

**IMPORTANT UPDATE:** SLU's Title IX Policy (formerly called the Sexual Misconduct Policy) has been significantly revised to adhere to a new federal law governing Title IX that was released on May 6, 2020. Please take a moment to review the new policy and information on the following web address: <https://www.slu.edu/here4you>. Please contact the Anna Kratky, the Title IX Coordinator, with any questions or concerns.