



THE OHIO STATE UNIVERSITY

JOHN GLENN SCHOOL OF PUBLIC AFFAIRS

Public Affairs 6010:

The Legal Environment of Public Administration

4 Credits

Spring, 2017

Class Information

| Class Number | Days | Time | Room |
|---------------------|-------------|-------------|-------------|
| 5824 | T, R | 9:35-11:25 | Page 040 |

Contact Information

| Instructor / GTA | Office Hours | Office | Email | Phone |
|-------------------------|---------------------------|---------------|--|--------------|
| Landsbergen, David | T, 12-1, By Appointment | 310F Page | landsbergen.1 | 2-9577 |
| Young, Kim | W, 1-2:30, By Appointment | 350G Page | young.1807 | |

BACKGROUND

Influenced by recent technological achievements, popular wisdom describes our century as the "Information Age". But one of the most significant events of our age, the increasing growth and specialization of "human technologies" (i.e., bureaucracy) is often overlooked.

Essential to the success of all social systems, bureaucracies appear in Western, Eastern, and Third World countries and in the public, private, and nonprofit sectors. Public and private bureaucracy have grown and displaced other forms of organization because of their successful emphasis on efficiently organizing human effort.

The emphasis on efficiency, however, has clashed with the values of the American democratic tradition including individual rights and political accountability. Synthesizing the values of American democracy with the necessities of a bureaucratic government will be one of the ongoing challenges for modern society.

COURSE GOALS AND OBJECTIVES

This course builds upon the knowledge and skills learned in PA 6000: Public Policy Formulation and Implementation.

The goal of this course is to provide public managers with the necessary tools to work with the law.

Every day there is new law, yet public managers are often passively involved in its creation, interpretation, and implementation. As professionals with deep expertise and experience in their fields, public managers are especially well positioned to help realize the values enshrined in the [Ohio](#) and [U.S.](#) Constitutions through the law that is created and implemented.

This course is designed to address the following John Glenn College Learning Objectives:

- Policy 1 – Apply knowledge of the foundation of public affairs (law, policy, administration, and management) in appropriate contexts
- Policy 8 - Understand the legal foundations of policy and management in the public sector
- Policy 9 - Understand and apply legal reasoning
- Policy 10 – Know how to apply legal ideas and tools to advance the public interest

Objectives

More specifically, the objectives are:

- 1) First, we begin with the **jargon, concepts, and reasoning skills** necessary to work with the law and the legal profession. These basic foundational elements are necessary to having a “legal conversation.”
- 2) Building upon the jargon and concepts, we can now acquire a basic understanding of **how the American public law system operates and what the law requires of a public servant.**
- 3) Once we have an understanding of what the law requires of us, we can now begin to **creatively integrate those legal mandates with good management practice and the necessity of operating within a political environment.**
- 4) Having acquired a basic understanding of the law and how to integrate those legal mandates with managerial and political values, you now have a firm foundation upon which to **hold a positive, assertive attitude that public managers should work alongside lawyers and other stakeholders in the creation and implementation of law.**

Skills

In addition to the conceptual and attitudinal objectives, there are several skills you will gain by enrolling in this class:

- Be able to **recognize, and frame, legal issues and concerns** in fact patterns. This ability to frame a conversation and identify the issues will serve you well in your professional career.
- How to **talk with a lawyer**. It is vitally important that you learn how to use lawyers as a resource to help you get your work done.
- How to **read and interpret statutes**. Many people avoid reading statutes but they are what support and constrain the actions you can take.
- How to **read court opinions** and use **legal reasoning**. Court opinions are binding interpretations of your responsibilities under the law and they clarify what statutes mean.
- **How the “common law” works and learning the rudiments of legal research** including the use of basic legal research resources.
- The **basics of legal writing**, including writing clear legal language with a specific emphasis on writing rules.
- How to **avoid legal liability**. Public managers need to be innovative and to accept risk but they need to do so wisely.
- How to make an Open Record (Ohio) or Freedom of Information Act (Federal) **request for information**. This is an important skill for both citizens and civil servants who need to understand how to provide public information.

REQUIRED READINGS

Administrative Law: Bureaucracy in a Democracy, by Daniel Hall. (Hereinafter, “Hall”)

There is not much difference in cost between the 5th and 6th editions, so if you are looking the cheapest available textbook, you can choose between one of two editions:

1. *Administrative Law: Bureaucracy in a Democracy*. (2014) Daniel Hall, Boston, Mass: Prentice Hall, Inc. ISBN-13: **978-0-13-349387-0** (Paper).
2. *Administrative Law: Bureaucracy in a Democracy*. (2011) Hall, Daniel, Boston, Mass: Prentice Hall, Inc. ISBN-13: **978-0-13-510949-6** (Paper).

Students can access textbook information via the Barnes & Noble bookstore website: www.shopOhioState.com as well as from their BuckeyeLink Student Center. This information is disseminated by B&N to all area bookstores. You may buy from a store of your choice and/or shop for books (always use ISBN# for searches) on line.

Additional cases, both older landmark cases, and more recent cases, as well as other required readings will be provided through the course website on CARMEN:

<http://www.carmen.osu.edu/>

Once you have logged on to CARMEN you will see a link for this course. You will need to sign on to CARMEN using your OSU Internet name.

PRIOR COURSEWORK

Students in the JGCPA program are expected to have a basic familiarity with the American system of government including basic knowledge of the creation and operation of the Constitution, the Bill of Rights, the Executive Branch, and the role of the Judiciary. Your success in this course depends on you doing the necessary work to acquire that knowledge. Excerpts from Lowi & Ginsburg's [*American Government: Freedom and Power*](#) are available on the course website. To find the book in the library, use the LC call number [JK271.L68](#).

LEARNING RESOURCES

A number of learning resources are provided to you to help you learn and understand the material.

Flashcards

Online flashcards make it easier to learn the basic concepts and jargon (See Objective 1, above). Please review the handout that can be found on the course website on how to use this resource.

Podcasts

Podcasts of the classroom lectures and discussions will be made available. You can review these online or download them to your computer or iPhone. The podcasts will include the power point slides as well as the audio and video of both the instructor and the class.

The goal is to capture the whole classroom session so that you can find and review a specific portion of the class discussion to clarify your notes. You can also use it as part of your review for an examination.

Students report that podcasts are very useful in deepening their understanding of the class presentation and discussion. Please review the handout that can be found on the course website on how to use this resource.

Office Hours

Office hours are available by appointment. I also respond to emails, except for the weekends, within 24 hours. If my office door is not completely closed, feel free to drop-in.

Please note, that there is a high likelihood that if you have a question, others will have that same question. Discussion boards are sometimes a more effective way to deal with many questions because the whole class enjoys the benefit of your question and the response. If you do have a question, we encourage you to use the discussion board if it is appropriate and if you feel comfortable in posting your question there.

Discussion Boards

Discussion boards provide an opportunity to carry on the conversation outside the scheduled class time. They also provide another way to earn class participation points. The discussion boards are hosted on Carmen.

Study Groups

Take advantage of study groups in order to better understand the law and how it operates. There is a positive correlation between participation in study groups and final grades. A discussion board has been set up so that you can identify good study partners among both the day and the evening classes. Please see the handout for suggestions on how to select partners and run study groups.

GRADING

Assigned Course Grade (Percentage Points)

| | | | | | |
|----------|----|---------|----|------------|----|
| 94 - 100 | A | 80 - 82 | B- | 68 - 69 | D+ |
| 90 - 93 | A- | 78 - 79 | C+ | 64 - 67 | D |
| 88 - 89 | B+ | 73 - 77 | C | 63 & below | E |
| 83 - 87 | B | 70 - 72 | C- | | |

Grade Appeals

The assigned grade is designed to show the overall quality of work performed by each student. If you believe that any grade was not properly assigned you may write a letter explaining why you believe the grade was incorrectly assigned within one week of receiving the graded assignment back. Each appeal will be considered, and if a re-grade is performed, the entire assignment will be re-graded. The final grade may be greater, less, or equal to the original grade.

Grade Components

| Component | Points | Date |
|------------------------------|---------------|--|
| Class Participation | 75 | |
| Class & Discussion Board | [50] | |
| “What is Interesting to You” | [25] | Sign up 1/17 in class |
| Mid-Term Examination | 150 | Tuesday, 2/28 |
| Final Examination | 175 | Monday, 5/1, 8-9:45 a.m. |
| Legal Writing Assignments | 100 | |
| 1. Public Records Request | (25) | Assigned: 1/12 Part 1: 1/26, 11:59 p.m. Part 2: 4/14, 11:59 p.m. |
| 2. “What Should We Do?” | (25) | Due: Ind. 1/31, Group 2/2 |
| 3. “Writing the Rules” | (25) | Due: 2/21, 11:59 p.m. |
| 4. “Do We Have the Power?” | (25) | Due: 4/13, 11:59 p.m. |
| Total Possible Points | 500 | |

Class Participation

Class and Discussion Board

Class participation is very important to this class. It is a public good.

| Points | Grade | Criteria |
|--------|-----------|--|
| 45-50 | A | Student frequently participates in class / discussion board |
| 40-44 | A- | Student regularly participates in class / discussion board |
| 30-39 | B+, B, B- | Student has participated in class in class / discussion board |
| 20-29 | C | Student attends classes but almost never volunteers to participate |
| 0-19 | D-E | Student infrequently attends class |

You can participate in class in many ways: 1) answering questions during class discussion; or 2) asking a question to clarify a point made during class discussion; or 3) volunteering a personal experience in class; or 4) participating in discussion boards; or 5) providing a comment on one of your peer's "What's in the News" postings.

"In-class discussion" (the 'Socratic method') is especially important to understanding the material in this course. We will look first for volunteers to discuss a case, but if there are no volunteers, we will call on individuals randomly. We tend to call on individuals that have not spoken recently. Think about when and how you may want to participate based upon your interest and understanding of the cases being discussed so that you control when you speak in class.

"What is Interesting in the News"

Everyone will sign up to present a legal news item that is interesting to them. You will post your review on the appropriate discussion board before class (24 hours) and then lead the class discussion for 10-15 minutes. Please see the handout for specific details and an example.

This assignment will get you into the habit of deepening your understanding of the concepts covered in the class by applying them to real life events. The second goal is to get you in the habit of reading the news with a "legal eye" so that you can maintain your proficiency in the law once you complete this course.

Examinations

Expectations

All students are expected to take the examinations on the scheduled dates. If there is a scheduling conflict, exceptions **must** be discussed with the instructor **well in advance** of the examination. In the unlikely event of an emergency, please call or email as soon as it is convenient to do so and we can make alternative arrangements.

Both the mid-term and final examinations will test on course objectives one - three. As for course objective four, vigorous class discussion will be the primary vehicle to exercise and test this attitude change.

Please come to the reviews with specific questions. Reviews assume that you have already covered the material and have specific questions about what you have already tried to understand. **Tell us what you don't understand or are confused about.** We will not provide a whole explanation on "Separation of Powers" or "Due Process."

Mid-Term and Final Examinations

The mid-term and final examinations will follow the same format. Please review last year's mid-term and final examinations. (Some questions you may not be able to answer as the course material varies from year-to-year.) The final examination is cumulative although more of the questions will be drawn from material after the midterm.

Legal Writing Assignments

There are important "legal writing" skills in working with the law. Most of you will need these skills at some point during your professional life. One skill is reading cases. A second skill is in learning how to read and interpret statutes and rules. We will practice these skills during most our class sessions.

There is a second set of skills that you will be graded on. These skills build upon the first set of skills. Please see the specific details in the class handout for each assignment.

The first assignment (Public Request for Information) is assigned early in the course to provide you the maximum opportunity to receive a response to your public request by the end of the course.

Information is increasingly becoming an important currency in governing. As a citizen, you will need this skill in order to obtain public information. As a future civil servant, this exercise will provide you with an opportunity to think about how to provide this important service to a citizen, and more importantly, how government will operate in the future when more information is provided to the citizen.

The second assignment (“What Should We Do?”) asks you to review common law and come to a conclusion on what implications the law has for you. You will deepen your understanding of the common law and you will also have a chance to work with some of the tools important to finding and researching the law.

The third assignment (“Writing the Rules”) is to learn how to write a law. We often criticize laws for how difficult they are to understand. This exercise will show that writing rules is a difficult exercise. This practical exercise will also bring into sharp relief the multiple dimensions that have to be considered in writing law: e.g., the decision as to how vague or specific the language needs to be, how to avoid creating loopholes, and how much degree of discretion / direction should be given to the implementer.

The fourth assignment (“Do We Have the Power?”) extends the skill you developed in the second assignment. Throughout the course we have repeatedly read statutory language to see if we have the power to do something. In this assignment, we learn about some new legal research tools to find the important statute so that you can determine whether an agency has the authority to do something.

Policy on Use of Computers and Smartphones in the Classroom

Computers are very useful for taking notes and doing impromptu research during the class session. It is obvious, however, when you are using social media, checking your email or the latest sports scores on your computers or your smart phones. It is distracting to the instructor and your fellow students. Class participation points will be deducted when this occurs. Please do not put us in the awkward situation of having me remind you of this policy.

Academic Integrity

In accordance with Faculty Rule 3335-5-487, all instances of alleged academic misconduct must be reported to the department chairperson and the Committee on Academic Misconduct (<http://oaa.osu.edu/coam.html>).

The Ohio State University and the Committee on Academic Misconduct (COAM) expect that all students have read and understand the University’s [Code of Student Conduct](#) and that all students will complete all academic and scholarly assignments with fairness and honesty. Failure to follow the rules and guidelines established in the University’s *Code of Student Conduct* may constitute “Academic Misconduct.” Sanctions for the misconduct could include a failing grade in this course and suspension or dismissal from the University.

In the Ohio State University’s [Code of Student Conduct](#), Section 3335-23-04 defines academic misconduct as: “Any activity that tends to compromise the academic integrity of

the University, or subvert the educational process.” Examples of academic misconduct include (but are not limited to) plagiarism, collusion (unauthorized collaboration), copying the work of another student, and possession of unauthorized materials during an examination. Ignorance of the University’s [Code of Student Conduct](#) is never considered an “excuse” for academic misconduct.

If you have any questions about the above policy or what constitutes academic misconduct in this course, please contact me.

Mental Health Statement

You may experience a range of issues that can cause barriers to learning, such as strained relationships, increased anxiety, alcohol/drug problems, feeling down, difficulty concentrating and/or lack of motivation. These mental health concerns or stressful events may lead to diminished academic performance or reduce a student’s ability to participate in daily activities. The Ohio State University offers services to assist you with addressing these and other concerns you may be experiencing. If you or someone you know is suffering from any of the aforementioned conditions, you can learn more about the broad range of confidential mental health services available on campus via the **Office of Student Life Counseling and Consultation Services (CCS)** by visiting ccs.osu.edu or calling 614-292-5766. CCS is located on the 4th Floor of the Younkin Success Center and 10th Floor of Lincoln Tower. You can reach a counselor when CCS is closed at 614--292--5766 and 24 hour emergency help is also available through the 24/7 National Suicide Prevention Hotline at 1--800--273--TALK or at suicidepreventionlifeline.org. Also, the OSU Student Advocacy Center is a resource to help students navigate OSU and to resolve issues that they encounter at OSU - visit <http://advocacy.osu.edu/>

Glenn College Diversity Values Statement

The Glenn College is committed to nurturing a diverse and inclusive environment for our students, faculty, staff, and guests that celebrates the fundamental value and dignity of everyone by recognizing differences and supporting individuality. We are dedicated to creating a safe space and promoting civil discourse that acknowledges and embraces diverse perspectives on issues and challenges that affect our community.

REASONABLE ACCOMMODATION POLICY

The University strives to make all learning experiences as accessible as possible. If you anticipate or experience academic barriers based on your disability (including mental health, chronic or temporary medical conditions), please let me know immediately so that we can privately discuss options. To establish reasonable accommodations, I may request that you register with Student Life Disability Services. After registration, make arrangements with me as soon as possible to discuss your accommodations so that they may be implemented in a timely fashion. SLDS contact information: slds@osu.edu; 614-292-3307; slds.osu.edu; 098 Baker Hall, 113 W. 12th Avenue.

Class Schedule - Spring, 2017, Day In-Class Section

| Dates | | Sessions | Hall | Additional Cases and Readings ¹ | #. Assignments, (Class Exercise), Guest Speakers ² | |
|-----------|----|--------------------------|---------|--|---|--|
| 1/10,12 | 1 | Welcome | 1 | <i>How to Brief A Case, Gray Zone</i> | / 1. Assign - Public Records Request; Online Pre-Assessment by Friday, 1/13, 11:59 pm | |
| 1/17,19 | 2 | Constitutional Law I | 4.1-4.2 | <u>Wood, Heffron & McFeeley (and Outline), Pickering</u> | "What is Interesting to You?" Circulate sign-up sheet / | |
| 1/24,26 | 3 | Constitutional Law II | 4.3-4.7 | <u>Mathews</u> | / 1. Due – Public Records Request, Part 1 | |
| 1/31 2/2 | 4 | Bureaucracy & Democracy | 2 | | 2. Due - "What Should We Do?" / (Discuss in class on R) | |
| 2/7,9 | 5 | Discretion | 3 | <i>Howard</i> | Midsemester Assessment of Course / (Class exercise - How to Talk with a Lawyer) | |
| 2/14,16 | 6 | Delegation | 5 | <u>Benzene, Kent, EDF</u> | | |
| 2/21,23 | 7 | Rulemaking / Exam Review | 6 | <u>MVMA</u> | 3. Due - "Writing the Rules" / (Discuss in class on R) | |
| 2/28 3/2 | 8 | Midterm / Ethics | | | / Susan Willeke, Ohio Ethics Commission | |
| 3/7,9 | 9 | Judicial Review | 9 | <u>Johnson, Overton Park</u> | | |
| 3/13-3/17 | 10 | Spring Break | | | | |
| 3/21,23 | 11 | Liability | 11 | <u>Dalehite</u> | | |
| 3/28,30 | 12 | Formal Adj. | 8 | | | |
| 4/4,6 | 13 | ADR / Investigations | 7 | | Maria Mone, Esq., Glenn College / | |
| 4/11,13 | 14 | Investigations / Privacy | 7 | Landsbergen & Ramanathan | / 4. Due – "Do We Have the Power?" (4/13) 1. Due - Public Records Request, Part 2 (Due on Friday, 4/14) | |
| 4/18,20 | 15 | Accessibility | 10 | <u>Wilson-Simmons</u> | In - class course evaluations | |
| 4/28 | | Final Exam Review | | Review LAST year's Grading Template | Friday, 7-8 p.m., Page 040 | |
| | | Final Exams | | Monday, May 1, 8:00-9:45 a.m. | | |

¹ This column lists additional cases that are available on Carmen. Be sure to check the Study Guide for specific information on the list of cases that we will discuss in class and the important concepts to focus on.

² / - Is the separator between content on the Tuesday (before separator) / Thursday (after separator) for the day class for that week