



Administrative Law: Readings

Jacksonville University College of Law

Fall 2025

Professor Nathan Richardson

Casebook is Hickman, Pierce, & Walker, *Federal Administrative Law* 4th ed.

Update is the 2025 update memo to the casebook, linked on the [course website](#).

Supplement is the course supplement, linked on the [course website](#).

Other readings linked directly.

Readings in gray are optional.

Note: This document is subject to change. Do not download it and expect it to remain unchanged all semester. I will make every effort to avoid changes after Friday of the preceding week, and to inform you in class or on Teams when I do make changes.

Note that this readings list WILL change during the semester; it is a living document. Bookmark it, but do not print it out and rely on it. I will make every effort to make any changes no later than Friday of the preceding week; if circumstances require changes within a week, I will let you know in class and via email.

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Unit A—Introduction and Themes

Core question: What is Administrative Law?

M, 8/11	A.1: Introduction to the Administrative State
	<i>Biden v. Nebraska</i> (Chief Justice Roberts' majority opinion)
	<i>Biden v. Nebraska</i> (Justices Kagan, Sotomayor, and Jackson, dissenting)
	Casebook pgs. 1-27
	Federalist #47 & #51, Supplement
	Landis, <i>The Administrative Process</i> , Supplement
	James Tierney/Philip Hamburger, <i>The Tyranny of the Administrative State</i> , Supplement
	Gillian Metzger, <i>1930s Redux: The Administrative State Under Siege</i> , Supplement
	Francis Fukuyama, <i>American Democracy Depends on the 'Deep State'</i> , Supplement
	<i>Selia Law v. CFPB</i> (J. Kagan, dissenting), Supplement
	James C. Scott, <i>The Trouble with the View from Above</i>
	Peter Strauss, <i>How the Administrative State Got to this Challenging Place</i>

Unit B—The Fourth Branch?

Core question: What are agencies, and how do they relate to other parts of government?

W, 8/13	B.1: Agencies and Congress: Non-Delegation
	U.S. Constitution, Article I, Sec. 1, Casebook Appendix A
	Casebook pgs. 29-32
	<i>Panama Refining Co. v. Ryan</i> , Casebook pgs. 32-37
	<i>A.L.A. Schechter Poultry Corp. v. US</i> , Casebook pgs. 37-42
	Casebook pgs. 42-46
	<i>The Benzene Case</i> , Casebook pgs. 46-52
	Casebook pgs. 52-58

	<i>Whitman v. American Trucking</i> , Casebook pgs. 58-63
	<i>Michigan v. EPA</i> , Casebook pgs. 63-68
	<i>Gundy v. United States</i> , Casebook pgs. 68-85
	Julian Davis Mortenson and Nicholas Bagley, Delegation at the Founding , pgs 2-5 (Introduction)
	Robert Verbruggen, The National Review, Is Most of Government Unconstitutional?
	<i>FCC v. Consumers' Research</i> , Update pgs. 7-9
M, 8/18	B.2a: Agencies and Court-like Functions
	<i>Crowell v. Benson</i> , Casebook pgs. 135-141
	<i>CFTC v. Schor</i> , Casebook pgs. 150-159
	<i>Granfinanciera v. Nordberg</i> , Casebook pgs. 160-168
	<i>SEC v. Jarkesy</i> , Update pgs. 10-18
	Christopher Walker, Yale JREG, What SEC v. Jarkesy Means for the Future of Agency Adjudication
	Casebook pgs. 168-177
W, 8/20	B.2b: Agencies and Congress: Other Means of Control
	<i>Pillsbury Co. v. FTC</i> , Casebook pgs. 178-185
	<i>INS v. Chadha</i> , Casebook pgs. 185-195
	<i>Bowsher v. Synar</i> , Casebook pgs. 195-205
M, 8/25	B.3: Agencies and the President: Hiring
	Federalist #70, Supplement
	Casebook pgs. 207-211
	U.S. Constitution, Article II, Casebook Appendix A
	<i>Buckley v. Valeo</i> , Casebook pgs. 212-219
	<i>Lucia v. SEC</i> , Casebook pgs. 220-224 (dissent & concurrence optional)

	<i>Morrison v. Olson</i> , Casebook pgs. 231-238
	<i>US v. Arthrex</i> , Casebook pgs. 243-269 n.2
	Sec. of Health and Human Services v. Braidwood (only syllabus required, opinions optional)
	Anne Joseph O'Connell, The Regulatory Review, Expert Officers Under Political Supervision
	Casebook pgs. 280-284
	Michael Macagnone, Roll Call, Once-routine US attorney nominations become embroiled in politics
	Video: Anne Joseph O'Connell on the New Jersey U.S. Attorney Matter
W, 8/27	B.4: Agencies and the President: Removal
	<i>Myers v. US</i> , Casebook pgs. 284-295
	<i>Humphrey's Executor v. US</i> , Casebook pgs. 295-299
	<i>Morrison v. Olson</i> , Casebook pgs. 238-243
	<i>Free Enterprise Fund v. PCAOB</i> , Casebook pgs. 306-322 (dissent optional)
	<i>Selia Law v. CFPB</i> , Casebook pgs. 322-341
	Update pgs. 2-7
	White House, Ensuring Accountability for All Agencies , Feb. 18, 2025
	Trump v. Wilcox
	American Federation of Government Employees v. Trump
W, 9/3	B.5: Agencies and the President: Synthesis
	Accounts of Presidential Policy Changes, Supplement
	Elena Kagan, Presidential Administration , or a summary of the paper .
	Casebook pgs. 351-357
	Executive Order 12866, Regulatory Planning and Review, Casebook pgs. 357-373

	Casebook pgs. 373-381
	White House, Fact Sheet: President Donald J. Trump Reins in Government Overreach and Begins Deconstruction of Unconstitutional Administrative State , Feb. 19, 2025
	White House, Continuing the Reduction of the Federal Bureaucracy , March 14, 2025
	White House, Ensuring Lawful Governance And Implementing The President's "Department Of Government Efficiency" Deregulatory Initiative , Feb. 19, 2025
	America First Policy Agenda: Dismantle the Administrative State
	Francis Fukuyama, Persuasion, What's Happening to the "Deep State"?
	Matthew Lawrence, Eloise Pasachoff, & Zachary Price, Appropriations Presidentialism
	GAO, Decision, Department of Health and Human Services—National Institutes of Health—Application of Impoundment Control Act to Availability of Funds for Grants

Assignment 1 (Optional)

Write an answer to the exam-style question [available here](#). Submit on Blackboard by close of business Monday, 9/15. Answers will be graded on a pass/fail/high pass basis. If you do not submit an answer, your grade for the assignments portion of the course will be based only on other submitted work.

Unit C—Administrative Procedure

Core question: How do agencies make policy?

M, 9/8	C.1: Agency Structure and Everyday Practice
	<i>Londoner v. Denver</i> , Casebook pgs. 385-386
	<i>Bi-Metallic v. State Board</i> , Casebook pgs. 386-392
	Boeing, the FAA, and the 737 MAX readings list
W, 9/10	C.1: Adjudication, Rulemaking, and Due Process

	<i>Goldberg v. Kelly</i> , Casebook pgs. 393-405
	<i>Wisconsin v. Constantineau</i> , Casebook pgs. 405-406
	<i>Board of Regents of State Colleges v. Roth</i> , Casebook pgs. 406-411
	<i>Perry v. Sinderman</i> , Casebook pgs. 412-416
	Casebook pgs. 430-434
	<i>Mathews v. Eldridge</i> , Casebook pgs. 434-445
	C.2: The APA: Formal and Informal Adjudication
	APA §551, §554-558, Casebook Appendix B
	Casebook pgs. 452-454
	<i>Dominion Energy Brayton Point v. Johnson</i> , Casebook pgs. 454-460
	<i>Citizens to Preserve Overton Park v. Volpe</i> , Casebook pgs. 460-464
	<i>Pension Benefit Guaranty v. LTV</i> , Casebook pgs. 464-468
	Casebook pgs. 469-470, 478-480
	<i>Nash v. Bowen</i> , Casebook pgs. 482-485
	Casebook pgs. 488-489
	C.3: Rulemaking, Adjudication, & Retroactivity
	Casebook pgs. 537-539
	<i>National Petroleum Refiners v. FTC</i> , Casebook pgs. 539-544
	Casebook pgs. 544-546
	<i>Heckler v. Campbell</i> , Casebook pgs. 548-552
	<i>SEC v. Chenery</i> , Casebook pgs. 559-566
	<i>Arizona Grocery Co. v. Atchison, Topeka & Santa Fe Railway</i> , Supplement
	<i>Bowen v. Georgetown University Hospital</i> , Casebook pgs. 567-573
	C.4: The APA: Formal vs. Informal Rulemaking
	APA §553, Casebook Appendix B

	Casebook pgs. 573-575
	<i>US v. Florida East Coast Railway</i> , Casebook pgs. 575-581
	Casebook pgs. 581-583
	<i>Vermont Yankee Nuclear Power v. NRDC</i> , Casebook pgs. 583-589
	ICF, The Reg Map (review and use for reference, don't memorize)
	<i>Shell Oil Co. v. EPA</i> , Casebook pgs. 590-596
	<i>Portland Cement v. Ruckelshaus</i> , Casebook pgs. 596-601
	<i>US v. Nova Scotia Food Products</i> , Casebook pgs. 607-613
	EPA, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (provided as an example of a rulemaking; do not read for substance)
	C.5: Exemptions from APA Rulemaking Procedures
	Casebook pgs. 634-636
	<i>Mack Trucks v. EPA</i> , Casebook pgs. 636-641
	<i>Little Sisters of the Poor v. Pennsylvania</i> , Casebook pgs. 642-651
	Center for Biological Diversity v. EPA (focus on Section C of the opinion)
	Casebook pgs. 651-654
	<i>Mendoza v. Perez</i> , Casebook pgs. 654-657
	Casebook pgs. 658-659
	<i>American Mining Congress v. MSHA</i> , Casebook pgs. 660-666
	C.6: Ex Parte Contacts & Bias
	<i>Pacific Gas & Electric v. Federal Power Commission</i> , Casebook pgs. 667-672
	<i>Community Nutrition Institute v. Young</i> , Casebook pgs. 672-675
	Casebook pgs. 675-677
	Note on Ex Parte Contacts in Formal Proceedings, Supplement
	<i>Professional Air Traffic Controllers Org. v. Federal Labor Relations Auth.</i> , Supplement

	<i>Sierra Club v. Costle</i> , Casebook pgs. 613-622
	<i>Ass'n of National Advertisers v. FTC</i> , Casebook pgs. 623-633
	C.7: Estoppel and Information
	(Readings for this class meeting come from another casebook, excerpted in PDF)
	<i>Schweiker v. Hansen</i> , PDF Excerpt pgs. 415-417
	<i>OPM v. Richmond</i> , PDF Excerpt pgs. 417-424
	PDF Excerpt pgs. 631-644
	PDF Excerpt pgs. 644-646, 651-653
	PDF Excerpt pgs. 658-660

Assignment 2

Read the fact pattern and provide answers to Multiple Choice Questions 2, 5, and 6 *only* from the 2020 Fall Final exam, [available here](#). Your answers should choose one of the multiple choice options and briefly (no more than a few sentences) explain each answer. Email responses to me before class on 2/21.

Unit D—Judicial Review of Agency Action

Core question: How and when do courts decide whether what an agency has done is legal?

	D.1: Questions of Fact
	APA §701-706, Casebook Appendix B
	<i>United States v. Fifty-Three Eclectus Parrots</i> , Supplement
	Videos: 1) This Beautiful Parrot May Be the World's Smartest Bird 2) Electus Parrot Singing
	<i>Universal Camera v. NLRB</i> , Casebook pgs. 501-509
	<i>Bistek v. Berryhill</i> , Casebook pgs. 518-527
	<i>Ass'n of Data Processing Serv. Orgs. v. Board of Governors of the Federal Reserve</i> , Casebook pgs. 528-533
	Casebook pgs. 533-535

	D.2: Questions of Policy & Agency Reasoning
	Casebook pgs. 677-679
	<i>Citizens to Preserve Overton Park v. Volpe</i> , Casebook pgs. 460-464 (review)
	<i>National Tire Dealers v. Brinegar</i> , Casebook pgs. 680-686
	<i>Motor Vehicle Manufacturers' Ass'n v. State Farm</i> , Casebook pgs. 686-697
	<i>FCC v. Fox</i> , Casebook pgs. 698-711
	Casebook pgs. 711-713
	D.3: Questions of Law
	Casebook pgs. 711-713
	<i>NLRB v. Hearst Publications</i> , Casebook pgs. 723-729
	<i>Skidmore v. Swift</i> , Casebook pgs. 730-735
	<i>Chevron v. NRDC</i> , Casebook pgs. 739-747
	D.4: Chevron's Two Steps
	Casebook pgs. 747-757
	Casebook pgs. 757-761
	<i>Babbitt v. Sweet Home Chapter of Communities for a Great Oregon</i> , Casebook pgs. 783-793
	<i>FDA v. Brown & Williamson</i> , Supplement (dissent optional)
	<i>Michigan v. EPA</i> , Casebook pgs. 63-67
	Casebook pgs. 829-831, 837 n.3-841
	Spring Break (no class)
	Spring Break (no class)
	D.5: Chevron's Scope: Step Zero?
	Recording of this class
	<i>US v. Mead</i> , Casebook pgs. 849-862
	Casebook pgs. 869-870

	<i>NCTA v. Brand X</i> , Casebook pgs. 871-881
	<i>City of Arlington v. FCC</i> , Casebook pgs. 894-911 (focus on Chief Justice Roberts' dissent)
	D.6: Major Questions
	Casebook pgs. 911-912
	<i>King v. Burwell</i> , Casebook pgs. 912-916
	<i>West Virginia v. EPA</i> , Casebook pgs. 916-938
	Nathan Richardson, Antideference: COVID, Climate, and the Rise of the Major Questions Canon
	Biden v. Nebraska (Justice Barrett's concurring opinion)
	Beau Baumann, Yale Notice & Comment, Let's talk about that Barrett concurrence (on the "contextual major questions doctrine")
	Alliance for Fair Board Recruitment v. SEC (Skip Section II, focus on Sections III.A.3-4)
	Beau Baumann, Yale Notice & Comment, Volume IV of The Major Questions Doctrine Reading List

Assignment 3

Read the fact pattern and answer Question #2 from the 2020 Spring final exam [available here](#). I encourage you to write out a full answer to the question, but for purposes of this assignment an outline of your answer is sufficient.

Submit answers to me by email before 10am on Monday 3/25.

Unit E - Availability and Timing of Review

Core question: When (if at all) will courts review agency action?

	E.1: Reviewability & Agency Discretion
	APA §701-706, Casebook Appendix B (review)
	Casebook pgs. 967-968
	<i>Johnson v. Robison</i> , Casebook pgs. 969-971

	<i>Block v. Community Nutrition Inst.</i> , Casebook pgs. 972-977
	<i>Bowen v. Michigan Academy of Family Physicians</i> , Casebook pgs. 977-984
	<i>Citizens to Preserve Overton Park v. Volpe</i> , Casebook pgs. 984-989
	<i>Webster v. Doe</i> , Casebook pgs. 993-1001
	<i>Lincoln v. Vigil</i> , Casebook pgs. 1001-1006
	<i>Heckler v. Chaney</i> , Casebook pgs. 1013-1021
	<i>American Horse Protection Ass'n v. Lyng</i> , Casebook pgs. 1021-1026
	E.2: Timing: Finality, Ripeness, & Exhaustion
	Casebook pgs. 1027-1029
	<i>Bennett v. Spear</i> , Casebook pgs. 1034-1037
	<i>Army Corps of Engineers v. Hawkes</i> , Casebook pgs. 1037-1042
	Casebook pgs. 1042-1044
	<i>Abbott Labs v. Gardner</i> , Casebook pgs. 1044-1050
	<i>National Org. of Veterans' Advocates v. VA</i> , Casebook pgs. 1051-1055
	<i>McKart v. US</i> , Casebook pgs. 1067-1072
	<i>McCarthy v. Madigan</i> , Casebook pgs. 1072-1081
	Casebook pgs. 1082-1085
	E.3: Standing I: Constitutional Standing
	<i>Ass'n of Data Processing Service Orgs. v. Camp</i> , Casebook pgs. 1099-1103
	<i>Allen v. Wright</i> , Casebook pgs. 1103-1106
	<i>FEC v. Akins</i> , Casebook pgs. 1106-1113
	<i>TransUnion v. Ramirez</i> , Casebook pgs. 1114-1132
	Erwin Chermersky, NYU L Rev, What's Standing after TransUnion Co. v. Ramirez? (2021)
	E.4: Standing II: Injury in Fact and Environmental Standing
	<i>Lujan v. National Wildlife Federation</i> , Casebook pgs. 1133-1138

	<i>Lujan v. Defenders of Wildlife</i> , Casebook pgs 1138-1149
	<i>Steel Co. v. Citizens</i> , Casebook pgs. 1149-1153
	<i>Friends of the Earth v. Laidlaw</i> , Casebook pgs. 1153-1160
	Pamela King, Greenwire, Why the latest abortion pill ruling has enviros rolling their eyes
	<i>Massachusetts v. EPA</i> , Casebook pgs. 1160-1173
	D.7: Chevron's Fate & Interpretation of Regulations
	<u>these readings subject to change</u>
	<i>Auer v. Robbins</i> , Casebook pgs. 938-947
	<i>Kisor v. Wilkie</i> , Casebook pgs. 949-966
	Christopher Walker, Notice & Comment, What Kisor Means for the Future of Auer Deference: The New Five-Step Kisor Deference Doctrine
	<i>Baldwin v. United States</i> , J. Thomas, dissenting from denial of certiorari, Supplement
	Buffington v. McDonough , J. Gorsuch, dissenting from denial of certiorari
	Nathan Richardson, Deference is Dead. Long Live Chevron
	Read at least one essay from The George Mason Law Review's Chevron on Trial Symposium Issue
	Videos: Chevron On Trial: The Supreme Court and the Future of Agency Authority and Expertise
	E.5: Standing III: Statutory Standing & Review
	Casebook pgs. 1173-1176
	<i>NCUA v. 1st Nat'l Bank</i> , Casebook pgs. 1173-1176
	<i>Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak</i> , Casebook pgs. 1181-1185
	Jonathan Adler, Can Emergency Room Doctors Sue the FDA for Failing to Regulate Mifepristone More Aggressively?
	Practice Exams

Assignment 4

Read the fact pattern and answer Question #1 from the 2020 Spring final exam [available here](#) (the same exam and fact pattern you used for Assignment 3). Answers may be in outline or full prose form.

Submit answers to me by email before 10am on Wednesday, 4/10.