

Spring 2023
MPA Public Law
April 14-16; 6pm – 9:00pm Friday; 9am – 5pm Saturday; 9am – 5pm Sunday
Location: TBD
Adjunct Faculty: Grace O’Connor, J.D.
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“Office hours” by appointment

Spring 2023 Public Law Syllabus

DESCRIPTION

“Courts ought not enter this political thicket.” So said former U.S. Supreme Court Justice Felix Frankfurter on the topic of voting rights. What role do courts play in shaping policy decisions? What role should they play? What limits apply to the reach of the judiciary? These questions will form the basic framework of this introductory, 2-credit spring elective. Law and policy are two sides of the same coin—you can't make one without the other. Agency and non-profit administrators interface with the law every day, including litigation impacting program mission. This introductory course seeks to give MPA students a basic understanding of the role the judicial branch plays in the business of governing. We will study the roots of judicial power, as well as how agencies in the executive branch get the authority to do what they do--i.e., an introduction to constitutional law. Overall, we will explore the civil (and occasionally criminal) justice system with the idea that a better understanding of our third branch of government makes us better citizens and better leaders.

LEARNING OBJECTIVES

1. Gain a basic knowledge of how legal system works, including how agency rules are challenged.
2. Understand how regulations are created, implemented, and interpreted.
3. Acquire basic comfort with reading judicial decisions and legal briefing.

READINGS & LISTENINGS TO COMPLETE BEFORE CLASS

Please read the Reading & Discussion Questions before starting a reading or listening assignment; the questions may help orient you.

NOTE: For all assigned court decisions, read all opinions where applicable (e.g. majority, concurrence, dissent). **Do not** read headnotes or syllabus – just read the opinions themselves. Also, please don’t agonize if the opinions are dense and hard to wade through. Try you best, and come with questions.

1. Listen (38 mins): More Perfect, Season 1, Episode 5: Kitten Kick the Giggly Blue Robot All Summer <https://www.wnycstudios.org/podcasts/radiolabmoreperfect/episodes/giggly-blue-robot>
2. Listen (44 mins): More Perfect, Season 1, Episode 2: The Political Thicket <https://www.wnycstudios.org/podcasts/radiolabmoreperfect/episodes/the-political-thicket>
3. Read: Article, Faced With Legal Puzzles. . . (available on Canvas)
4. Read: Article, My Judicial Detachment (available on Canvas)
5. Read: Letter from the Washington State Supreme Court (available on Canvas)
6. Listen (31mins): KNKX interview with WSSC Justices re letter: <https://www.knkx.org/other-news/2020-06-11/letter-from-supreme-court-we-all-bear-responsibility-for-ongoing-injustice>
7. Read: Court Decision, State v Blake (available on Canvas)
8. Listen (22 mins): Strict Scrutiny, Season 3, Episode 58: Just How Bad is the Supreme Court's EPA Decision? <https://crooked.com/podcast-series/strict-scrutiny/>
9. Read: Court Decision, *Chevron U.S.A. v. Natural Resources Defense Council*, 468 U.S. 1227 (1984) (available on Canvas)
10. Read Court Case: Ass'n of Wash. Business v. Dept. of Ecology, 195 Wn.2d 1, 455 P.3d 1126 (available on Canvas)
11. Skim: Chapter 34.05 RCW (Washington State Administrative Procedures Act);
12. *The Rise and Rise of the Administrative State*, Gary Lawson, *Volume 107 Harvard Law Review*, beginning p. 1231 (1994) (available on Canvas)

ASSIGNMENTS

- 1) Reading & Discussion Questions. You will not turn your answers in for review, but please take some time to consider and think about the questions. If writing helps you think through them, feel free to write your answers, though it is not necessary. However, everyone should be prepared to share your answer to at least one question (your choice as to which question) during class time over the weekend.

Due: April 14, 2023 at the beginning of class

- 2) Position Paper. Consider the question at the heart of The Political Thicket episode of More Perfect – ought courts enter into the political thicket? Think about instances we’ve discussed over this weekend where courts have seemingly waded into policy-making. Choose one instance to write about. Did the court overstep, in your view? Or did it act within its boundaries? What options were available to it that it did not but could have exercised? Are there any actions the parties in the case could have taken (or not taken) to avoid litigation? Your paper should be 3-5 pages, 12 pt. font, and supported by textual citation to the readings that are applicable to your thesis.

Due: April 30, 2023 by midnight

WEEKEND SCHEDULE

****** Schedule is subject to change! Please pay attention to emails or other notifications!!**

Day & Topics/Activities

Friday April 14, 2020 – 6:00pm to 9:00pm

- Court Authority
- Intro to How Courts Make Decisions
- Basic Federalism 101

Saturday April 15, 2023 – 9:00am to 5:00pm

- Judicial Review
- Budget/Policy Impact of Court Decisions
 - Case Study: State v. Blake
 - Guest: Department of Corrections Staff, TBD
- Executive Orders/Federalism Revisited

Sunday April 16, 2023 – 9:00am to 5:00

- Rule Drafting
- Rule Challenges/Judicial Review of Rules
 - Case Study: Assn. of Wash. Businesses v. DOE
 - Guest: TBD
- Draft-A-WAC Activity

Housekeeping:

Participation & Attendance: Students are required to attend each class meeting in its entirety. Participation includes focusing on class content, speaking in class and small groups, listening to others, taking notes, completing class interactive exercises, avoiding distractions, and listening to and engaging with the guest speakers. If an absence is unavoidable, please notify me prior to a class and/or seminar absence. *After one 2 hour absence, make-up work may be assigned at my discretion, case-by-case. Makeup work must be completed by the deadline assigned to ensure full receipt of course credit. After an absence or absences totaling 6 hours you may be*

denied full credit. Finally, if you do miss a class or portion thereof, you are still expected to do the reading for that class meeting and turn in any assignments that were due that class date.

Late assignments: Turning in assignments late is unacceptable. However, if there is an unavoidable need to turn in an assignment late, please contact me via email no later than the original assignment due date to discuss options. Parameters are left to my discretion on a situation-by-situation basis. Late assignments must be completed by the revised due date to ensure full receipt of course credit.

Credit: Students will receive 2 graduate credits at the completion of the quarter if all course requirements have been satisfactorily completed to meet course objectives. Partial credit will be awarded at my discretion. Incompletes will not be awarded. ***Plagiarism (i.e., using other peoples' work as your own) will result in total loss of credit for the class and may result in expulsion from the MPA program.*** Failing to complete one or more assignments or multiple absences may constitute denial of total credit. Unexcused absences or lack of academic work may result in no credit at my discretion. Students will also be evaluated based upon their progress towards the learning goals that will be assessed from classroom, seminar, and assignment performance. Decisions for no credit will be made when necessary, based on absence or failure to meet academic course requirements.

Evaluation: Written self-evaluations **are required** for credit at the end of the quarter. Faculty evaluations are greatly appreciated and encouraged.