

POL 420/520-PUB 519 Law and Administrative Processes

University of Michigan-Flint
Mondays, 5:30-6:45 pm via Zoom
Fall 2020

Dr. Kimberly Saks McManaway
(she/her, Dr. McManaway, Dr. Saks McManaway, or Kim)

Department of Political Science/MPA Program
(248) 791-2520 (Google voice) kimsaks@umich.edu
Office Hours: Wednesdays, 4-5 pm and by appointment

Catalog Description: Legal foundations of public administration. Development of regulatory agencies, right to a hearing, delegation of power, judicial review, rulemaking and adjudication, efforts to reform administrative regulation, zoning and land use planning.

COURSE OVERVIEW AND INFORMATION

This course examines the constitutional and political foundation of regulatory agencies in the United States. Administrative and Political concerns will be explored. Topics such as rulemaking, adjudication, the Administrative Procedure Act, Freedom of Information and Judicial Review will be covered. This is a course that is largely about process that comes after laws are enacted and less about the substance of the laws themselves, though that is often key to understanding the procedures involved.

By the completion of this class students should:

- possess a significant awareness concerning the basis for administrative regulation as well as the political conflicts surrounding such processes
- be capable of informed analysis of current regulatory issues
- respect and comprehend the diversity of opinion about the role of regulatory policy in the U.S.

Required Texts:

- Jellum, Linda D. 2018. *Mastering Administrative Law*. 2d ed. Durham, NC: Carolina Academic Press.
- Readings on Blackboard

ASSESSMENT AND GRADING

GRADING OVERVIEW

Reaction Paper 1—Supplements and Safety	9/15	50 points	50
Reaction Paper 2—The Big Short	11/17	50 points	50
Case Study Assignments (2)	10/7 and 11/3	2 @ 50 points	100
Group Wiki entries	Ongoing Due 12/7/20	100 points	100
Agency Fair Presentation	12/7/20	50 points	100
Take Home Final Exam	12/15	100 points	100
Class participation	Ongoing	100	100
TOTAL POINTS AVAILABLE			600

ASSIGNMENTS IN DEPTH

There are three groupings of assignments:

1. **PAPERS**

- a. **Reaction Papers.** There will be two (2) reaction papers on different longer-format videos. The first, at the beginning of the semester, is a reaction to a Frontline (PBS) episode about dietary supplements. The second, toward the end of the semester, will be about the feature film *The Big Short* which details the financial crisis of 2008 as it relates to subprime mortgage lending. I'll post links where the film is available. Usually you can find it on at least one of the streaming services for free, but you may need to pay to rent it.

- b. **Case Study Assignments (2).** These assignments will be given on the date we work on a case exercise in class. The task will be tailored to the readings for that case study as well as our discussion and exercises in class. These are shorter (~5 page) papers that help solidify your learning on a subset of topics for that unit.
2. **AGENCY WIKI/AGENCY FAIR.** The Agency Wiki and the Agency Fair Presentation are all part of your semester-long project to learn a federal agency in-depth and determine its usefulness as an agency. This is a guided process and will be described in depth below and in subsequent documents as necessary. **I am allowing people to work in pairs or triads.** You are free to work alone, but you must make that decision before both or all three of you turn in your introductory surveys at the end of the first week. The wiki represents a group effort of the class to study the federal bureaucracy through several case studies. This also represents your “online” portion of the course for mixed mode purposes.
 - a. **Agency Wiki**—The Agency Wiki is a project we will be working on throughout the semester online. In this project, you will select one agency for which you will be reporting back to the class. You will have a weekly prompt that will ask you to find out information about the agency and write up a brief (one page or less) summary as a response. By the end of the semester, the goal is to have a resource to demonstrate the variety of agency activity. Wiki responses are due the Sunday evening following that week’s class. You will be graded twice during the course of the semester on your participation in this project. **Habitual lateness will lower your grade by up to 20%.**
 - b. **Agency Fair Presentation**—This project will have you advocating for an increase to your wiki agency’s funding in Congress for the next fiscal year. Based on your in-depth look at this agency throughout the semester and the information you have learned in class, your job will be to advocate for this agency’s funding future in a visual format. More information on the format of this presentation will be given out in October, but you are already doing the legwork for it now in the Wiki project. **NO LATE ASSIGNMENTS. Failure to turn in this assignment on time may lead to a failing grade.**
3. **FINAL EXAM.** Your final exam represents the culmination of your studies on the topic of administrative law. There will be two questions on the final exam. One will be the familiar format of the case study for our final case study on regulation. The other question will be more cumulative in nature. More information on this will be given out by the date designated on the syllabus. **NO LATE ASSIGNMENTS. Failure to turn in this assignment on time may lead to a failing grade.**

Attendance and Participation—All attendance in this course is virtual via the Zoom application. Zoom can be accessed via web browser or downloaded onto your device. We will use the same Zoom room for each class session so you can bookmark the link. It will be provided in Blackboard under Course Information. Your attendance in each session is a minimum and will not garner you full credit. Instead, you must provide meaningful feedback and points of discussion on readings and core concepts.

- **A note about cameras and audio:** If you need to turn the audio and camera off to attend to something, please do that but jump back on when you can. Regardless of whether you are there visually for me to see or not, I expect your full participation. That might mean using the chat feature or participating in small group discussions that we use throughout the course of the semester.
- **A second note about Zoom:** Many of us have kids and pets and they usually do not care whether you’re on a video call or not and may interrupt. It happens. If you can, mute your video and audio and take care of the issue and come back. No need to mute if they’re just coming by for a quick visit, though. In fact, if you have a pet and you don’t show it to me at least once this semester, I will be very sad.

Accessibility and Accommodations

The University of Michigan–Flint strives to make learning experiences as accessible as possible and complies with Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act. The university provides individuals with disabilities reasonable accommodations to participate in educational programs, activities, and services. Students with disabilities requiring accommodations to participate in class activities or meet course requirements must self-identify with Disability and Accessibility Support Services as early as possible at (810) 762-3456 or dassflint@umich.edu. The office is located in 264 University Center, inside the CAPS Office. Once your eligibility for an accommodation has been determined you will be issued an Accommodation Letter. Please present this letter to each faculty member in each class at the beginning of the term, or at least two weeks prior to the need for the accommodation (test, project, etc.).

Religious/Cultural Observance

Persons who have religious or cultural observances that coincide with this class should let the instructor know in writing (by e-mail for example) as soon as possible. I strongly encourage you to honor your cultural and religious holidays! However, if I do not hear from you by January 30, I will assume that you do not have any such conflicts.

Inclusion, Names, and Pronouns

All people have the right to be addressed and referred to appropriately. Moreover, as public service professionals, practicing professional courtesy and cultural sensitivity are important aspects of respect and integral to a functioning society. I will gladly honor your chosen pronouns and name, and I will enforce the use of these pronouns and name in our class interactions. Please advise me of this preference early in the semester so that I may make appropriate changes to my records. You can also change your pronouns and name in Wolverine Access, using the Gender Identity tab under Student Business. I will do my best to address and refer to all students accordingly and create a supportive learning environment for all.

- Side note: you can change how your name appears in Zoom. This will be helpful in facilitating inclusion for all if you update your name. Thanks!

For the record, you can call me Dr. McManaway, Dr. Saks McManaway, Professor Saks McManaway. My pronouns are she/her.

TECHNOLOGICAL REQUIREMENTS. At a minimum, you will need the following to participate in this course:

- **Reliable internet access** to view lectures, download reading materials, upload assignments (including video assignments) and take reading quizzes. You'll need access to Blackboard and Email for all of this.
- **Access to Zoom.** Go to <https://its.umich.edu/communication/videoconferencing/zoom> for more information. Zoom is free to all UM faculty, staff, and students.
- **Word processing (MS word preferred) and PDF software.** Readings on Blackboard will be posted in PDF format.

TIME MANAGEMENT IN THIS COURSE

Because this is an online course, there are additional considerations related to time management that are relevant to your success. Here are a few takeaways:

1. **Pace your learning.** Read before class (as much as you can, even if you can't read it all) and be prepared to take good notes. I'll record the class sessions so you can rewatch as needed but the first time through is usually best. There will be a learning curve for us all as we do this so...
2. **Pack your patience.** My kids' principal uses this phrase and it both frustrates me and illuminates what I need to do. Make sure you give yourself plenty of time to get the work done but also realize when you need a break. This is especially true in this environment.

3. **Do not leave things to the last minute.** The biggest reason for this is that technology sometimes fails us. Waiting until 11:59 pm the night an assignment is due is just a bad habit that can get you in trouble.

EXPECTATIONS

This is an upper level undergraduate and graduate level course. I expect work commensurate with the level of the course. That means that you should be prepared to engage in a not insignificant amount of reading and writing. Our time in the virtual classroom will be spent highlighting key concepts and interacting with the material. I expect **all students** regardless of level of study to take personal responsibility for their work, including participation in class sessions. I am always available to meet during office hours or answer questions via email to help you meet the objectives of the course and your own academic and professional goals.

I do have some more specific expectations that you should know from the outset:

1. I expect you to **PARTICIPATE** and do so **RESPECTFULLY**. Believe it or not, we tend to cover topics that can be somewhat controversial. Your opinion is valid, and you should feel free to share it as long as you do so respectfully and appropriately.
2. I expect you to be **ACADEMICALLY HONEST** and refrain from **PLAGIARISM**. Cheating and plagiarism are not tolerated and may lead to your failing this course. Plagiarism is the taking of credit for someone else's work or ideas, submitting a piece of work which is not entirely the student's own work without fully and accurately attributing those same portions to their correct source. If you are unsure whether something violates the University's policies or my policies on academic honesty, talk to me first. You will not be penalized for asking. The Group Wiki project presents a unique and somewhat difficult area for maintaining academic integrity. Make sure that you are citing anything that is not of your own creation.
3. I expect you to **MAINTAIN CONTACT VIA EMAIL** and **REGULARLY CHECK BLACKBOARD** for any addendums, news, class changes or cancellations and the like. I also expect that you are fluent enough in Blackboard that you can and shall submit all assignments through Blackboard. If you wish to email a *backup* copy, you may. However, I will be grading the Blackboard submission and failure to submit through Blackboard may result in your losing points or not having an assignment graded.

Likewise, there are things that you can and should expect from me, namely:

1. You can expect me to come to class prepared to discuss the scheduled material as well as current events that involve our material and subject matter.
 - a. If you want to stay up to date on current events relevant to this course, one way is to follow me on Twitter (**@profmcanaway**). I do tend to follow back if I know it is a student.
2. You can expect me to make time for you outside of course in a reasonable manner upon request either in person or by email.
 - a. **Note about email responses:** give me at least 24-48 hours to respond. If you email me over the weekend, I may not reply until Monday. If you have not received a reply within four days, please re-send the email. There are times when emails get buried due to volume or because our email system is finicky. This helps me make sure that we're all on the same page.
3. You can expect me to make every effort to return assignments as soon as possible so you know where you stand in this course.
4. You can expect me to try my best to make this course interesting, relevant and worth your time.
5. You can expect me to answer your questions that I can about the course and relevant material and that if you have a question I cannot answer right away, to attempt to find an answer for you.

Basic Needs Policy

Your safety and wellbeing are more important than anything in this class. Please feel free to reach out to me if you need to talk. Any student who faces challenges securing food, housing, or personal safety is strongly encouraged to reach out to the Dean of Students for support. Trust me, there are a lot of resources out there for you. If you feel comfortable, please notify me as well. This will enable me to provide any resources that I can. There is a list of links at the end of this syllabus. When in doubt, contact the Dean of Students. If you want help contacting the DOS, Dean Julie Snyder, let me know and I can send an introductory email.

Self-care is an important need we all have right now. I encourage you to find ways in the first couple of weeks of class that you can incorporate self-care into your schedule so that you do not burn out.

CAMPUS RESOURCES

While college can be a fun and exciting time in life, it can also have its fair share of ups and downs that make it more difficult. There are a variety of campus resources that may be able to help you if you're having a rough time. Please utilize these resources if you need them. That's what they're there for.

Resource	Concern	Contact
Disability and Accessibility Support Services	For help with accommodations or help determining if you need accommodations related to a disability.	264 University Center dassflint@umich.edu 810-762-3456
Counseling and Psychological Services (CAPS)	Free and confidential counseling, and therapy for students as well as workshops on topics such as stress management, time management, and healthy relationships.	264 University Center 810-762-3456
Center for Gender and Sexuality	The Center for Gender and Sexuality (CGS) focuses on supporting all students, faculty, and staff to deepen and enrich awareness on all issues related to gender and sexuality.	213 University Center CGS.umflint@umich.edu 810-237-6648
Intercultural Center	Advancing social justice and intercultural understanding at the University of Michigan-Flint by promoting belonging, advocacy, and co-curricular education.	115 University Center UMFlintICCStaff@umich.edu 810-762-3045
Student Veterans Resource Center.	Provides academic support to the veteran community, including assistance with use of veteran's benefits for education and other resources.	131 University Pavilion dept.svrc@umflint.edu 810-424-5589
International Center	A dedicated resource for students, scholars, faculty, and visiting academics who come to our campus from around the world.	219 University Center ic@umflint.edu (810) 762-0867
Dean of Students Office	The Office of Student Conduct and Community Standards promotes and supports a civil, healthy, and safe campus community through the standards outlined in the Code of Student Conduct. Report an incident of hazing, sexual assault, bias, or other issue/concern.	375 University Center (810) 762-5728

If you think of a resource I should list here in future semesters, please let me know.

I have every reason to believe you'll be very successful this semester. Let me know if there is anything that I can do to help make that success a reality.

Fall 2020 Schedule—POL 420/520—PUB 519

This is subject to change. Any updates will be posted on Blackboard under Course Information and announced.

Week	Date	Topic and Asynchronous Content <i>(To be completed individually)</i>	Synchronous Content <i>(Monday @ 5:30 pm via Zoom)</i>	Assignments <i>(Assigned and due each week)</i>
1	8/31/20	<p><u>Introductions and Origins</u> Read:</p> <ul style="list-style-type: none"> - Barbash and Paul, “The Real Reason the Trump Administration is Constantly Losing in Court” (BB) - MAL, Ch. 1 <p>Watch <i>Frontline: Supplements and Safety</i> (link on BB)</p>	Introduction to course and main concepts	<p>Assigned:</p> <ul style="list-style-type: none"> - Reaction Paper 1 assigned (due 9/13/20 @ 11:59 pm via BB) - Wiki Assignment Distributed <p>Due:</p> <ul style="list-style-type: none"> - Intro survey (with Wiki agency selection) due 9/6/20 @ 11:59 pm
2	9/7/20	<u>NO CLASS--Labor day</u>	No synchronous class—continue readings and working on Reaction Paper 1	<p>Assigned:</p> <ul style="list-style-type: none"> - Wiki agency assignments finalized and distributed by 9/10/20 <p>Due:</p> <ul style="list-style-type: none"> - None
3	9/14/20	<p><u>Rulemaking, pt. 1—Overview</u> Read:</p> <ul style="list-style-type: none"> - MAL, Ch. 2 	An overview of the rulemaking process	<p>Assigned:</p> <ul style="list-style-type: none"> - <i>Nothing</i> <p>Due:</p> <ul style="list-style-type: none"> - Reaction Paper due 9/15/20 @ 11:59 pm - Wiki Prompt 1 (9/20 @ 11:59 pm)
4	9/21/20	<p><u>Rulemaking, pt. 2—Deference to the Agency</u> Read:</p> <ul style="list-style-type: none"> - <i>Chevron USA Inc. v. NRDC</i> (1984)(BB) - <i>Auer v. Robbins</i> (1997)(BB) - <i>Kisor v. Wilkie</i> (2019) readings (BB) - <i>Dept. of Commerce v. NY</i> (2019) readings (BB) 	Why do we give agencies deference in interpretation and when does that deference stop?	<p>Assigned:</p> <ul style="list-style-type: none"> - <i>Nothing</i> <p>Due:</p> <ul style="list-style-type: none"> - Wiki prompt 2 (9/27 @ 11:59 pm)

Week	Date	Topic and Asynchronous Content (To be completed individually)	Synchronous Content (Monday @ 5:30 pm via Zoom)	Assignments (Assigned and due each week)
5	9/28/20	<u>Rulemaking Pt. 3—Case study: CBD Oil and the FDA</u> Read: <ul style="list-style-type: none"> - FDA hearing announcement - Hsu, “Ads Pitching CBD as a Cure-all” NYT (BB) - FDA, “What you need to know...”(BB) - Kosecki, ‘Is CBD Legal?’ CNET (BB) 	Case Study session on CBD oil and rulemaking. Will directly lead into CS1 assignment.	Assigned: <ul style="list-style-type: none"> - Case Study 1—CBD Oil (due WED 10/7 @ 11:59 pm) Due: <ul style="list-style-type: none"> - <i>Nothing</i>
6	10/5/20	<u>Adjudication, Pt. 1—Overview</u> Read: <ul style="list-style-type: none"> - MAL, Ch. 3 	An overview of adjudication	Assigned: <ul style="list-style-type: none"> - <i>Nothing</i> Due: <ul style="list-style-type: none"> - Case Study 1 (WED, 10/7 @ 11:59 pm) - Wiki Prompt 3 (10/11 @ 11:59 pm)
7	10/12/20	<u>Adjudication, Pt. 2—Due Process in Adjudication</u> Read: <ul style="list-style-type: none"> - MAL, Ch. 4 - <i>Goldberg v. Kelly</i> (1970) (BB) - <i>Matthews v. Eldridge</i> case study (BB) 	Due process as an element of adjudication and a requirement for agencies	Assigned: <ul style="list-style-type: none"> - <i>Nothing</i> Due: <ul style="list-style-type: none"> - <i>Nothing</i>
8	10/19/20	<u>Adjudication, Pt. 3—Case Study: The Future of Civil Adjudication</u> Read: <ul style="list-style-type: none"> - Shane, “Trump’s Quiet Power Grab” (BB) - Call for Comments and selected replies (BB) - EO 13924 (5.19.20)—Regulatory Relief to Support Economic Recovery - Other readings on new EO (BB) 	Case Study session on the Trump administration’s recent orders relating to the adjudication functions of federal agencies	Assigned: <ul style="list-style-type: none"> - Case Study 2—The Future of Adjudication (11/3 @ 11:59 pm) Due: <ul style="list-style-type: none"> - Wiki Prompt 4 (10/25 @ 11:59 pm)
9	10/26/20	<u>Enforcement</u> Read: <ul style="list-style-type: none"> - MAL, Ch. 7 - Readings on Affirmatively Furthering Fair Housing Rule Watch: <ul style="list-style-type: none"> - Enforcement videos on BB 	An overview of enforcement activities	Assigned: <ul style="list-style-type: none"> - <i>Nothing</i> Due: <ul style="list-style-type: none"> - Case Study 2—The Future of Adjudication (11/3 @ 11:59 pm)

Week	Date	Topic and Asynchronous Content (To be completed individually)	Synchronous Content (Monday @ 5:30 pm via Zoom)	Assignments (Assigned and due each week)
10	11/2/20	<u>A Special Case: the US Postal Service</u> - Readings on BB	Discussion of recent developments related to the USPS and their practical and political implications	Assigned: - <i>Nothing</i> Due: - Wiki Prompt 5 (10/8 @ 11:59 pm)
11	11/9/20	<u>The Financial Crisis: The Role of Credit Rating Agencies and their Regulators</u> Read: - Rom, "The Credit Rating Agencies and the Subprime Mess: Greedy, Ignorant, and Stressed?" (BB)	<i>No virtual class on 11/9/20</i>	Assigned: - Reaction Paper 2—The Big Short (due 11/17/20 @ 11:59 pm) Due: - <i>Nothing</i>
12	11/16/20	- Diomande et al—"Why US Financial Markets Need a Public Credit Rating Agency" (BB) Watch: - The Big Short (rent/stream online) by 11/16/20 for class	Discussion on The Big Short and Role of Credit Rating Agencies	Assigned: - <i>Nothing</i> Due: - Reaction Paper 2—The Big Short (11/17 @ 11:59 pm)
13	11/23/20	<i>NO CLASS—THANKSGIVING RECESS</i>	<i>No virtual class on 11/23</i>	Assigned: - <i>Nothing</i> Due: - <i>Nothing</i>
14	11/30/20	<u>Final Distributed, Wrap Up</u>	Wrap up of loose ends from content, distribute final exam and discuss expectations	Assigned: - Final Exam (due 12/15 @ 11:59 pm) Due: - <i>Nothing</i>
15	12/7/20	<u>Agency Fair</u> - Method TBD	Students will present their agencies to the class and ask for their support in funding them for the next fiscal year (with bonus extra credit for the agency with the most support)	Assigned: - <i>Nothing</i> Due: - Final Wiki Edits Due 12/7/20 @ 11:59 pm - Agency Fair Presentation Due 12/7/20 @ class time
Final Exam Due 12/15/20 @ 11:59 pm NO LATE SUBMISSIONS EXCEPT WITH PRIOR WRITTEN APPROVAL OF INSTRUCTOR				

Final drop deadline without a petition (10/23/20)—Note, financial penalties, including loss of tuition dollars, may apply. Check Registrar's website. Grades due 12/22/20 @ 10 am to Registrar's office.