

Administrative Law

Dalhousie Law School

Fall 2009

Instructor	William Lahey		
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Time and place	Wednesdays, 11:00-1:00, Room 104		
	Fridays, 10:00-12:00, Room 305		

Materials

Flood & Sossin, et al., *Administrative Law in Context* (Emond Montgomery 2008)

Administrative Law in Context Companion Website at either of the following addresses

<http://www.emp.ca/index.php/administrative-law-in-context-companion-website>

<http://www.emp.ca/index.php?option=content&task=view&id=220>

The cases that accompany the text can be downloaded from the Companion website. I will post any additional readings on the Blackboard website for the course or distribute them as handouts. You are responsible for downloading and printing the cases.

Course Description

Administrative law is the law of public administration. In this course (and in law school courses on administrative law generally) the focus is on one part of this vast body of law: the law of judicial review. This is the branch of law (largely common law) that deals with sub-constitutional judicial review of public decision-makers who are not courts and who are usually exercising statutory authority. It is closely related to but distinct from constitutional law in that it largely concerns the legality of decisions made under or pursuant to laws passed by legislatures, whereas constitutional law of course also applies to such decisions (depending on the circumstances) as well as to legislative decision-making itself. It is closely associated with every area of law in which legislation assigns responsibility for decision-making to an administrative agency, including environmental law, securities law, immigration and refugee law, labour law, entertainment law, natural resources law, human rights law, intellectual property law, health law, international trade law, and school law (to name a few). Topics in this branch of public law include the duty of fairness, the rule against bias, the standard of review, administrative discretion, remedies, and the interplay between the Charter and administrative law. We will also venture beyond the traditional confines of judicial review to explore its connections to

administrative regulation as a tool of governance, to the concept of the rule of law in the contemporary administrative state, and to administration rulemaking.

Evaluation

By CLOSED BOOK Examination: (students will be given the table of contents from the text book and the list of assigned cases and any legislation that is part of the scenario presented in a problem on which questions are posed)

Students may choose to write **either**:

- one 3 hour 100% exam on the full course (December 8), or
- two 1.5 hour exams, the first on introduction and procedural review (October 22, during class time) and the second on the introduction, substantive review and conclusion (December 8).

Notes: Students wishing to write the 2 exams **must sign up for this option by 1 p.m. on October 15, and having signed up, cannot withdraw. In both options, examination is closed book.**

Marks received on the October midterm exam will not be curved at that time. Instead, for consistency with those writing only in December, the raw October grade will be added to the raw December grade, and **all curving will occur in December.**

Intellectual Honesty and Discipline:

All students in this course should read:

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website; **and**
- the Law School policy on plagiarism, as set out in the law school regulations (available in hard copy from the Associate Dean's office and online at http://law.dal.ca/Current_Students), or the First Year Handbook (provided to all first year students and available from the Assistant Dean's Office).

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

Pandemic H1N1 Influenza Advisory in relation to Academic Continuity

In the event of an escalation of the pandemic H1N1 influenza virus, the University may need to authorize Academic Units to change elements of class schedules and/or evaluation plans as outlined in course syllabi. Any change is intended to support the primary goal of reducing the risk of spreading a pandemic influenza among students, faculty and staff.

Although it is difficult to predict the severity of the pandemic, the University is committed to minimizing the impact on student's academic progress. Therefore, every effort will be made to provide students with options for continued learning and for continued fair evaluations.

Changes may include but are not limited to:

- Adjustments to course assignments;
- Changes to the dates of exams;
- Arrangements for alternative evaluations for students affected by H1N1 influenza virus;
- Adjustments to work terms;
- Modification of marks awarded for participation;
- Adjustments to attendance policies.

Any alternative plan made in individual courses may be superseded by University-wide or Government measures to reduce the spread of the pandemic H1N1 influenza virus.

SCHEDULE (TENTATIVE)

	Textbook	Website
September 11	Chapter 1: Introduction	Crevier, Baker, s. 96 of Constitution Act 1867
Sept. 16	Chapter 2: Tools and Chapter 3: Remedies	McKinnon
Sept 18	Chapter 3: Remedies	McDonald, Harelkin, Federal Court Act, Domtar
Sept. 25	Chapter 4: Rule of Law	Roncarelli (chapter 10 edit), Imperial Tobacco
September 30, October 7, 9	Chapter 5: Fairness Chapter 16: Advocacy	Nicholson, Cardinal, Inuit Tapirisat, Homex, Canada Assistance Plan, Baker, Blencoe
October 14, 16	Chapter 6: Independence, Impartiality and Bias	Ocean Port, Consolidated Bathurst, Geza
October 21, 23	Chapter 7: Charter	Singh, Slaight, Suresh, Multani
October 28	50% Exam*	
October 30	Possible Practitioners Forum	
Nov. 4, 6 and 13	Chapter 8: Standard of Review I	CUPE, Southam, Pushpanathan, Ryan, Dunsmuir, Lake, Khosa
Nov. 18, 20	Chapter 9: Standard of Review II	Bibeault, Mossop, Corn Growers, Barrie Utilities, Starson
Nov. 25, 27	Chapter 10: Discretion	Roncarelli, Baker, Suresh
December 2	Chapter 13: Rulemaking & Regulations	Thorne's Hardware, Enbridge, Thamothers
December 4	Review	

* Review class will be organized to take place between Oct. 23 and 28.