

Preface to Seventh Edition

If you are like us when we were law students, you enrolled in a course on administrative law without knowing exactly what the course would be about or understanding what an administrative agency is. The mysteriousness is understandable. Administrative law is like the air we breathe: invisible yet pervasive. Administrative agencies affect so many areas of our lives that we take them for granted. They are part of the atmosphere of modern life, and, like the physical atmosphere, they are necessary (at least in some form) to sustain modern life, but they get little attention from most people. Nonetheless, law students need to learn about them because most lawyers must deal with them.

The near-invisibility and pervasiveness of administrative agencies make administrative law an exciting and challenging subject to learn. Just as students of science learn that the air is made up of many different elements that serve various life-sustaining functions, students of administrative law learn that “the bureaucracy” is made up of many different administrative agencies that serve various governmental functions. Nonetheless, just as all types of physical matter are subject to laws of science (such as the law of gravity), administrative agencies are governed by principles of administrative law. Unfortunately, just as seemingly simple laws of science have hidden complexities, seemingly straightforward principles of administrative law can be difficult to apply in particular situations.

Indeed, administrative law is an especially challenging subject because you must learn both the similarities, as well as differences, in the way government agencies operate. All agencies, for example, must obey the U.S. Constitution, as well as the statutes that create them. The Constitution stays the same, of course, regardless of the agency, but the statute that creates one agency will differ from the statute that creates another agency. In a course on administrative law, you will learn legal principles that are broadly applicable to many or most government agencies. To do so, however, you will study material, including judicial opinions, statutes, and regulations that deal with particular agencies. It can be difficult—but it is critically important—to distinguish the broadly applicable principles from the principles that just apply to a particular agency. For that reason, in a course on administrative law, even more so than in other law school courses, you must be able to see the forest as well as the trees.

This book will help you do that. In the 22 years since the first edition, thousands of law students have used this book. The need for a seventh edition is a result of student demand. The first two chapters give you a lay of the land by providing an overview of (1) what the subject of administrative

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law is all about, (2) what administrative agencies are, and (3) how they fit into the government structure. Later chapters go into detail about the two major activities in which administrative agencies engage: rulemaking and adjudication. Following the chapters on rulemaking and adjudication are two chapters that will give you a detailed and carefully organized picture of a subject that is near and dear to the hearts of administrative law professors: judicial review of agency action. Finally, we discuss two additional agency activities that are covered in some courses on administrative law: information gathering and information disclosure. We have organized the book as a whole, as well as each chapter, to supply you with a detailed map of the administrative law terrain that should be useful in virtually every administrative law course that uses one of the national casebooks.

In addition to helping you see the big picture, this book is designed to help you understand the details. In every chapter, we discuss each topic in enough depth to facilitate a sophisticated understanding of the topic. These discussions include descriptions of all of the major, relevant decisions of the U.S. Supreme Court (through June 2024), as well as descriptions of the major doctrinal approaches taken by lower federal courts. Our discussion of each topic is followed by examples that enable you to test your understanding of the topic, and by explanations of the examples that, we hope, will deepen your understanding of the topic. Many of these examples are based on actual cases that have been decided by federal courts. This format will bring the sometimes abstract principles of administrative law down to earth.

You can use this book either to prepare for class or to prepare for exams, or for both purposes. The chapters are self-contained, and each chapter is carefully organized to enable you to quickly and easily to locate the topics that you cover in your course. Thus, you do not need to read the book from cover to cover, nor do you need to read the chapters in the order in which they are presented. In particular, you can read our general discussion of a topic to clear up things that remain unclear from class or your casebook, or to review topics at the end of the semester. You can also, during or at the end of the semester, consult the examples and explanations for the topics covered in your course to make sure that you have a handle on that topic or to get additional, concrete illustrations of topics. We hope you find this book helpful. We welcome your comments and suggestions for improvement.

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