

PREFACE TO THE 11TH EDITION

Administrative law continues to be one of the most dynamic, interesting, and impactful areas of the law. Since the last edition, the U.S. Supreme Court continues to be active in re-envisioning the relationship between administrative agencies and the judicial branch. In many respects, the Court has engaged in a wholesale reexamination of interpretive norms that have largely existed since the introduction of the Administrative Procedure Act in 1946. The process is ongoing but this edition attempts to capture the current state of development, including the key cases from the 2025–2026 term.

More specifically, this edition has, in Chapter 1, a section on forum and judge shopping, the process by which lawyers attempt to select a court they consider will be more likely to provide a favorable decision. Chapter 1 also deals with nationwide injunctions and the efforts by the Supreme Court to use a separation of powers analysis to increase executive control over independent agencies. Chapter 2, among other topics, addresses the continued development of the “major questions” doctrine and includes the Supreme Court’s opinion in *Learning Resources, Inc. v. Trump*, applying the doctrine to the President’s use of tariffs.

Reflecting the growing importance of whistleblowers to the investigatory function at a number of agencies, Chapter 3 adds a section addressing certain statutory rights and protections for these individuals, including in some cases the ability to receive a payment following a successful enforcement action. The discussion of rulemaking in Chapter 4 includes a section on the application of the First Amendment to compelled disclosure. Whether disclosure to investors or warning labels for consumers, agencies often mandate disclosure in the commercial space. The First Amendment has become an increasingly important limitation on what agencies can do in this space.

We continue to be guided by Bernard Schwartz’s thinking on administrative law, as evidenced by his text and his many articles on the subject. As mentioned in a prior preface, Bernard Schwartz was dedicated to the advancement of administrative law. This casebook contains bits and pieces of his work in virtually every facet of administrative law, demonstrating his enormous commitment and contribution to its development. While it may not have started as such, his casebook eventually came to be a showcase for his thinking on administrative law. We have endeavored to preserve the casebook as a legacy and testament to the force of his ideas on this subject. The following tributes to Bernard Schwartz attest to his extraordinary life in the law: Symposium, *The Life and Legacy of Bernard Schwartz*, 34 *Tulsa L.J.* 651-711 (1999); *In Memoriam: Bernard Schwartz*, 33 *Tulsa L.J.* 1041-1096 (1998); Bernard Schwartz, 73 *N.Y.U. L. Rev.* 701 (1998).

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