

ADMINISTRATIVE LAW
LAWS 2000 (Four credits)
SYLLABUS – Fall 2018
Professor Sheila Wildeman

Contact information:

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Office hours: Tues 11:00 – 12:30 or by appointment (send me an email)

Email communication with students: Any emails sent to students will use their dal.ca email address and will have the re line: **Admin Law**. Please read these. Students will be deemed to have received course information sent by email.

Web page: All readings except those from the course text will be posted on the brightspace site, accessible through MyDal.

Class time / location: Weds 2:30-4:20 (104) Fri 10:00-11:50 (104)

Materials:

1. Flood & Sossin, *Administrative Law in Context*, 3rd ed (Emond Montgomery 2018).
2. *Administrative Law Casebook* (Wildeman), Vols I - III (electronic – posted on website)
3. Additional materials, including problems and old exams, may be posted on the course website. I will bring these to your attention as we go.

You are responsible for downloading and printing the casebook from the course website if you wish to have a printed copy.

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: There are three options for evaluation, described below. Each option includes an exam component. All exams in this course will be **OPEN BOOK**.

Evaluation options

Students may choose to write **either**:

- one 3 hour exam on the full course (**Weds., Dec. 19**, 9:30 a.m.), or
- two 1.5 hour exams, the first on **Weds Oct 24** during class time, and the second on **Weds., Dec. 19**, 9:30 a.m. The first exam may address **any of the materials from class 1 until the mid- term is written (i.e., the introductory materials as well as the materials on substantive review, including intersection of constitutional and administrative law)**. The second exam may address the materials **from classes 1-6 (Introduction to the Admin State & to Judicial Review) in addition to those following the mid-term exam**.

Marks received on the midterm exam will not be curved at that time. Instead, for consistency with those writing the 100% final exam only, the raw midterm grade will be added to the raw midterm exam grade, and **all curving will occur at the end of the term**.

Optional evaluation component (includes prison law option – more details about which will be provided in class): In addition to selecting between the one-exam and two-exam model, students may elect to complete an optional “field work” assignment, worth 30% of the final mark if this is to the student’s benefit. (That is, students will write either the 100% or the two 50% exams, and will have their marks adjusted upwards if the optional assignment brings the final mark up). The assignment involves observing a tribunal process, doing some case-based research on the tribunal’s decisions and any relevant judicial review decisions, speaking with tribunal members or other local experts, and then writing a paper addressing the relevance to that tribunal context of one or more administrative law topics we study in this course. More details to be provided following the first class. *Students must advise me of whether they are electing to take this option by the date of the mid-term exam.*

Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center (AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law 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 and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies.

