Introduction to the Course: Bureaucratic policymaking touches on virtually every facet of law and policy that we encounter in our daily lives. With the growth of the American administrative state, in particular since the New Deal, and our expectations of what the government ought to provide, we have also witnessed a vast increase in reliance upon bureaucracies to carry out the policies passed by the legislature. This raises important questions about representation and administration in modern American politics. Given this increasingly prominent role of administrative agencies in the United States separation-of-powers (SOP) setting, this course is aimed at studying the growth of the US administrative state, the structure of the bureaucracy and the policy implications that emerge from its organization and discretion, as well as how these administrative agencies interact – sometimes constrained, other times empowered – with courts, Congress, the president, and interest groups as they work to implement significant matters of public policy. The course is aimed at providing students with the political and legal rationales underlying the American bureaucracy’s historical foundations and procedures employed in making policy decisions. Thus, there will be considerable attention to agencies’ roles in the US separation-of-powers system, as well as evaluating the politics and organization within those agencies. We will evaluate the conditions under which these other institutional actors are more versus less successful in influencing agencies (in terms of bureaucratic structure, political environment, ideology, legislation), and the features of agencies that provide it with political insulation (as well as the limits of that agency autonomy).

This is a very reading-intensive course. As it will be evaluating, in addition to the historical development of the executive branch, empirical and strategic literature on executive branch politics, the course will include a number of readings for which some background in statistics and game theory would be helpful, but not required. This is a substantive rather than a methods course, so we will not be solving/focusing on the technical aspects of the models, though we will be discussing their main findings.

Required Textbooks:

There are five required textbooks for the course, which will be available for purchase as well as put on reserve:


The remainder of the course readings (articles, book chapters, cases) will be made available online. Administrative Law and Process In a Nutshell is a reference text on administrative law and procedures, which may be helpful but is not required.

**Course Requirements:**

Two short papers (3-5 pages): 15% each

- Short paper 1: Identify a federal agency in the United States government, and discuss its origins and bureaucratic structure. Discuss why it was founded and organized that way, what its main policy responsibilities are, and who has led the agency over time. If it no longer exists, discuss why it was shut down.

- Short paper 2: Discuss the logic behind congressional delegation to agencies, and how it applies to policymaking in an area of your choosing (e.g., environment, health care, financial regulation) with respect to its advantages and disadvantages (e.g., expertise, interest group influence, etc.).

Long paper (15-18 pages): 30%

- Choose a federal agency (it can be the one from your short paper or can be different) and identify a significant rule that it promulgated. Discuss the statutory authority that the agency invoked in promulgating that rule, and the history behind its formation/what led up to it. What were the key events that preceded its being drafted? Who were the key players in shaping the content of the rule? What were the main sources of contention among the relevant institutional actors and and how were they resolved? Finally, discuss the response to the rule’s promulgation with respect to congressional, interest group (e.g., litigation), presidential, and/or judicial attention in the way of support or criticism (even potentially overturning), and any characteristics of the rule or SOP environment that might have provoked that response (e.g., being very sweeping, being more responsive to certain industries, divided government).
You may provide in advance a paper summary (1-2 pages) with the opportunity for feedback before writing the full paper, or discuss during office hours your proposed paper, though drafts themselves will not be reviewed in advance.

Final exam: 30%

- The final exam will consist of a mix of IDs and short answer questions, and one longer essay (with two options from which to choose). Papers may be submitted via email before class or submitted as hard copies during class.

Attendance and participation: 10%

**Final Course Grading:** The final grade for the course will be assigned based on the following scale:

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**Policy Regarding Late Assignments:** It is imperative that students turn in work at the specified deadlines. Failure to do so will result in a third letter grade reduction per day late unless you have requested and received an extension in advance (granted for medical or family emergencies only). Work will not be accepted at all more than one week late unless said extension was granted in advance. All students must sit for the final exam at the assigned day and time, with the only exception of university-approved absences.

All members of the academic community should able to engage fully in the academic opportunities and services provided, regardless of disability status, and to that end accommodations to this course can be made if necessary. Please feel free to discuss with me any concerns you may have.

**Statement on Academic Integrity:** It is expected that all students will work in accordance with the student honor code. Thus, plagiarism, cheating, and receiving unauthorized assistance with the work in this course will not be tolerated. Should a student violate academic integrity in this class, the matter will be reported to the university administration.

**Course Outline:**

*Note: Readings subject to change. I will highlight during class the readings of most importance for the purposes of lecture and assignments, and which ones are recommended.*

**Week 1:** Introduction and Overview. Rational Choice Theory and Principal-Agent Models of Delegation.
• Schepsle, Kenneth A. & Mark S. Bonchek. *Analyzing Politics: Rationality, Behavior, and Institutions*. Ch. 1, 2, 12, 13.


**Week 2: Political Origins of the Administrative State.**


**Week 3: Personnel and The Civil Service.**

• *Gailmard & Patty*, Chapter 4: The Federal Civil Service.

• Ingraham, Patricia W. “The Federal Public Service: The People and the Challenge.” In *The Executive Branch*.


• *Wilson*, Chapter 8: People.


Week 4: The New Deal and Federal Administration.

- Eisner, Chapter 4: The New Deal: Relief, Recovery, and Regulatory Change.
- Cushman, Barry. Rethinking the New Deal Court, Ch. 12: The Struggle with Judicial Supremacy.
- Optional: Cushman, Barry. Rethinking the New Deal Court, Chapter 2: Judging the New Deal Court Judging.

Week 5: Post-War Federal Administration.

- Campbell, Colin. “The Complex Organization of the Executive Branch: The Legacies of Competing Approaches to Administration.” In The Executive Branch.
• Melnick, R. Shep. “Pollution Deadlines and The Coalition for Failure.” The Public Interest, (Spring, 1984)


• Tushnet, Mark V. The New Constitutional Order, Ch. 2: The Supreme Court of the New Constitutional Order.


Week 6: Determinants of Bureaucratic Discretion.


• Clean Air Act of 1963


• Gaimard & Patty, Chapter 3: Expertise and Deference.


• Wilson: Ch. 7: Constraints

• Optional: Dickinson, Matthew J. “The Executive Office of the President: The Paradox of Politicization.” In The Executive Branch.

• Optional: Gailmard & Patty, Chapter 2: Developing Administrative Expertise.

Week 7: Agencies and Interest Groups


• Wilson: Ch. 4: Beliefs


Week 8: Delegation I: Congress and Bureaucracy.


• Melnick, R. Shep. Between the Lines, Chapter 1: Statutory Interpretation in American Politics, Chapter 2: The New Political Context

• Weingast, Barry. “Caught in the Middle: The President, Congress, and the Political-Bureaucratic System.” In The Executive Branch.

• Wilson, Chapter 13: Congress

Week 9: Delegation II: Congress, Bureaucracy, and Courts.


• Wilson, Chapter 15: Courts, Chapter 20: Bureaucracy and the Public Interest


Week 10: Introduction to Rulemaking.


**Week 11: Rulemaking Oversight.**


• *Kerwin*: Chapter 6: Oversight of Rulemaking


**Week 12: OIRA.**

• Executive Order 12,866 (issued in 1993 by President Clinton)


**Week 13: Participation in Rulemaking.**


• Kerwin: Chapter 5: Participation in Rulemaking


**Week 14: Wrap up. Reach of Bureaucratic Power in SOP system.**

• Preventing Regulatory Capture: Special Interest Influence and How to Limit It (Daniel Carpenter & David Moss, eds.). Chapter 14: Courts and Regulatory Capture (M. Elizabeth Magill), Chapter 15: Can Executive Review Help Prevent Capture? (Richard Revesz)
