

FLORIDA ADMINISTRATIVE LAW
LAW 6521
FALL 2022

COURSE SYLLABUS

Honorable J. Bruce Culpepper
(850) 566-1620 (cell)

Class Time and Location:

Fridays: 10-12 pm; Room HH 355B

Office Hours: Tuesdays, 5-6pm in HH 311; Thursdays, 3-4pm on Zoom (link on Canvas); or by appointment.

I. COURSE DESCRIPTION AND GOALS/OBJECTIVES

Florida Administrative Law is about state executive power, executive branch agencies, and the processes and standards applicable to the executive branch authority in the State of Florida.

This course will provide students with a comprehensive understanding of administrative processes established in Chapter 120, Florida Statutes (the Florida Administrative Procedure Act, or "APA"), as well as assist students to understand of the role of the APA in determining and protecting the substantive legal rights of persons and entities regulated by Florida executive branch agencies.

This course will examine the respective roles of the Florida Legislature in establishing statutory due process with respect to the exercise of delegated statutory authority by Florida executive branch agencies; the Florida executive branch agencies in enforcing and implementing that legislative delegated authority; and the Florida judicial system in protecting due process under the APA.

Finally, this course will introduce students to a practice in the field of administrative law in Florida.

A. Learning Outcomes:

After completing this course, students should:

1. Possess a fundamental understanding, and basic working knowledge, of the administrative processes established in Chapter 120, Florida Statutes, as well as the purpose of, and the standards applicable to, each of these processes.
2. Be able to identify the specific administrative processes in Chapter 120 that are pertinent to specific types of agency action, and to apply these processes in determining the available and appropriate administrative remedies and/or courses of action under Chapter 120, Florida Statutes.
3. Appreciation of the interrelation and respective roles of the Florida executive branch agencies, Florida Legislature, and Florida courts, and be able to apply this understanding to determine appropriate remedies and courses of action in the administrative context.

II. COURSE INFORMATION

A. Class Time and Location:

This course will meet from 10:00 a.m. to 12:00 p.m. on Fridays in HH-355B.

B. Course Credit: This course offers two (2) academic credit-hours.

C. Course Materials:

* Florida Administrative Law/LAW 6521 - Fall 2022 Semester - Statutes and Rules, Chapter 120, Florida Statutes (2021) and Uniform Rules of Procedure (Chapter 28, Florida Admin. Code), which is the required course booklet, and is available for purchase at College of Law Bookstore. This booklet contains the Florida Administrative Procedure Act (2021 codification), which we will use in every class starting with our second class meeting, as well as on the final exam.

* Cases and other materials will be posted for each week's class on our UF Canvas E-Learning ("Canvas") course site. These cases and other materials will serve as your "course book."

* Optional readings and resources posted on our Canvas course page.

D. Workload and Class Preparation:

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. Each of our class sessions is approximately 2 hours in length, requiring at least **4 hours of preparation** outside of class. Class assignments will be posted on our Canvas course site.

E. Course Website:

* A Canvas course site has been created for Florida Administrative Law, LAW 6512 (Fall 2022). To access it, go to <http://elearning.ufl.edu/> and log in, and find the course page for Florida Administrative Law, LAW 6521, or you can directly access the course site at: [Florida Administrative Law - Prof. Culpepper - LAW6521-0641\(14808\) \(instructure.com\)](http://FloridaAdministrativeLaw-Prof.Culpepper-LAW6521-0641(14808).instructure.com)

F. Course Communications, Assignments, and Announcements

The Canvas course site for Florida Administrative Law, LAW 6521, along with email, are the means by which I will formally communicate with you outside of class.

The class assignments, course-related announcements, assigned cases, and any supplemental or additional course materials will be posted on Canvas.

Therefore, please regularly check Canvas for these items. You will be alerted by email when I post class assignments, assigned cases, other class materials, supplemental course materials, and announcements.

I am also available on an informal basis by email at (*TBD*) or on my cell phone, 850-566-1620.

G. Instructor Availability and Office Hours

I have scheduled office hours for 12 noon to 2:00 pm on the Fridays (following our class time) in room 323-I. Additionally, I will work with you to schedule other appointment times, as necessary, by telephone or Zoom Conference, based on mutual availability.

G. University of Florida Policy on Accommodating Students with Disabilities

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester, as accommodations are not retroactive. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester.

This course does not have an exam, but questions about exam delays and accommodations can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

H. University of Florida Policy on Academic Misconduct

Academic honesty and integrity are fundamental values of the University of Florida community. Students are expected to understand and adhere to the UF Law Honor Code.

UF students are bound by The Honor Pledge, which states: "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: 'On my honor, I have neither given nor received unauthorized aid in doing this assignment.'" The Honor Code specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor.

The Student Honor Code is found at the following link:

[Student Honor Code and Student Conduct Code | SCCR \(ufl.edu\)](#)

The Student Honor Code Process is found at the following link:

[Student Honor Code | SCCR \(ufl.edu\)](#)

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/additional-information/honor-code-and-committee/honor-code>

III. COURSE POLICIES AND GRADING

A. Attendance/ Participation/ Decorum

Class attendance is required, subject to the University of Florida Attendance Policies established at:

[UF Law Student Handbook and Academic Policies - Levin College of Law](#)
[Levin College of Law](#)

Attendance will be taken at each class. A record of class attendance will be kept for each student. If you anticipate missing class, please notify me by email before class. If you have an unanticipated absence, please notify me as soon as possible regarding your absence.

Except for cases involving excused absences for the reasons set forth in the UF College of Law Attendance Policy (link above), which includes the observance of religious holidays, students who fail to attend 80% of the hours in which our course meets will result in ineligibility to receive credit for the course, and you will be dropped from the course.

You are expected to be prepared for class and to participate in class discussions, both voluntarily and when called on to contribute. As noted below, class participation is considered positively in determining your final course grade, up to half of a letter grade.

During class, your cell phones must be turned off or placed on "quiet" mode, and you are requested to please not make or receive telephone calls, send or receive text messages, or engage in internet surfing, social media use, instant messaging, playing games, checking email, or any other non-course related activity. These activities are a distraction to you, your fellow students, and the professor. Furthermore, they are discourteous and are a violation of University of Florida College of Law rules.

B. Grading Evaluation

Your course grade primarily will be determined based on a final examination, which is an essay/short answer format exam, and for which you may use your

computers. The exam is “open book” and you will be permitted to use your written outline, class notes and materials, cases, and statute and rules booklet.

Your course grade primarily will be determined based on a final examination, which is an essay/short answer format exam. A sample exam and outline of answers to the essay questions will be posted on our course's Canvas site and further details will be provided. and for which you may use your computers. The exam is “open book” and you will be permitted to use your written outline, class notes and materials, cases, and statute and rules booklet.

Class Component	Percent of Grade
Participation	10%
Final Examination	90%
TOTAL	100%

Class participation (which includes being prepared for class) is also factored in, up to half a letter grade, in determining your final course grade.

Per College of Law faculty policy, the mandatory mean grade for all course sections having over 15 students is 3.15 – 3.25, inclusive. Please refer to the College of Law's Academic Policies posted on the College of Law Office of Student Affairs webpage, linked here: [UF Law Student Handbook and Academic Policies - Levin College of Law](#)

Grade points are awarded according to the following scale:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

C. Final Exam Format and Schedule

The final exam for this course consists of two (2) essay questions consisting of fact patterns, applicable statutes and rules, and a series of short answer questions; and one "black letter law" question consisting of several short answer questions. It is open book and open notes. This means that you will be permitted to use your written outline; class notes and materials, including PowerPoint slides; cases; and statute and rules booklet. A sample exam and outline of answers to the essay questions will be posted on our course's Canvas site.

The final exam is scheduled for (*TBD*) (location to be announced). The exam is designed to take approximately three to three-and-a-half hours to complete.

D. Course Evaluation

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click here (<https://gatorevals.aa.ufl.edu/students/>) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>. Summaries of course evaluation results are available to students here: <https://gatorevals.aa.ufl.edu/public-results/>.

IV. FLORIDA ADMINISTRATIVE LAW - COURSE TOPICS/ READING ASSIGNMENTS (subject to the pace of the class)

1. Introduction to Florida Administrative Law and Florida's Nondelegation Doctrine

Florida Constitution: Article II, s. 3

Case:

Askew v. Cross Key Waterways, 372 So. 2d 913 (Fla. 1978)

2. Agencies Subject to Chapter 120, Florida Statutes

Statute: Section 120.52(1), Florida Statutes

Cases:

Booker Creek v. Pinellas Planning Council, 433 So. 2d. 1306 (Fla. 2d DCA 1983).

Florida Department of Insurance v. Florida Ass'n of Insurance Agents, 813 So. 2d 981 (Fla. 1st DCA 2002).

First Quality Home Care, Inc. v. Alliance for Aging, Inc., 14 So. 3d 1149 (Fla. 3d DCA 2009).

Couchman v. University of Central Florida, 84 So. 3d 445 (Fla. 5th DCA 2012).

3. Administrative Adjudication under ss. 120.569 and 120.57, F.S.

3(a). Agency Action and Clear Point of Entry to Request Administrative Hearing

Statute/Rule: Section 120.569(1) , Florida Statutes, Florida Administrative Code Rules 28-106.104, 28-106.111

Cases:

Capeletti v. Department of Transportation, 362 So. 2d 346 (Fla. 1st DCA 1978).

General Development Utilities v. Department of Env't'l Reg., 417 So. 2d 1068 (Fla. 1st DCA 1982).

Friends of the Hatchineha, Inc. v. Department of Env't'l Reg., 580 So. 2d 267 (Fla. 1st DCA 1991).

Gopman v. Department of Education, 908 So. 2d 1118 (Fla. 1st DCA 2005).

3(b). Requesting an Administrative Hearing

Statute/Rule: 120.569(2)(a), (2)(c), (2)(d), Florida Statutes; Rules 28-106.201, 28-106.2015, 28-106.205

Cases:

Manasota-88, Inc. v. Department of Env'tl Regulation, 417 So. 2d 846 (Fla. 1st DCA 1982).

Accardi v. Department of Env'tl Protection, 824 So. 2d 992 (Fla. 4th DCA 2002).

Cann v. Department of Children and Family Services, 813 So. 2d 237 (Fla. 2nd DCA 2002).

Brown v. Department of Financial Services, 899 So. 2d 1246 (Fla. 4th DCA 2005).

3(c). Standing to Request and Participate in Administrative Hearings

Statute/Rule: 120.569(1) , Florida Statutes; Rules 28-106.201, 28-106.205

Cases:

Agrico Chemical Co. v. Department of Env'tl Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981).

Village Park Mobile Home Owners Ass'n v. Department of Bus. Reg., 506 So. 2d 426 (Fla. 1st DCA 1987)

Boca Raton Mausoleum v. Department of Banking & Finance, 511 So. 2d 1060 (Fla. 1st DCA 1987).

Mid-Chattahoochee River Users v. Department of Env'tl Protection, 948 So. 2d 794 (Fla 1st DCA 2007).

W. Frank Wells Nursing Home v. Agency for Health Care Admin., 27 So. 3d 73 (Fla. 1st DCA 2010).

Florida Home Builders Ass'n v. Department of Labor, 412 So. 2d 351 (Fla. 1982).

3(d). Hearings Involving Disputed Issues of Material Fact under Section 120.57(1), F.S.

Statute/Rule: Sections 120.569 and 120.57(1), Florida Statutes, Rule Chapter 28-106, Part II

i. De Novo Proceeding, Burden of Proof, Standard of Proof, Evidence

Statute/Rule : Section 120.569(2)(f), (2)(g), (2)(h), (2)(j), 2(p); Section 120.57(1)(b), (1)(c), (1)(f), (1)(k), (1)(l); Rule 28-106.213

Cases:

Department of Transportation v. J.W.C. Co., 396 So. 2d 778 (Fla. 1st DCA 1981).

Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

Haines v. Department of Children and Families, 983 So. 2d 602 (Fla. 5th DCA 2008).

ii. Recommended and Final Orders: Findings of Fact and Conclusions of Law

Statute/Rule: Sections 120.569(2)(l), 120.57(1)(b), (1)(l) , (1)(k), Florida Statutes; Rules 28-106.215, 28-106.216, 28-106.217

Cases:

Heifetz v. Department of Business Regulation, 475 So. 2d 1277 (Fla. 1st DCA 1985).

Kanter Real Estate v. Department of Environmental Protection, 267 So. 3d 483 (Fla. 1st DCA 2019).

Florida Power & Light Co. v. Siting Board, 693 So. 2d 1025 (Fla. 1st DCA 1997) .

Barfield v. Department of Health, 805 So. 2d 1008 (Fla. 1st DCA 2001).

3(e). Hearings Not Involving Disputed Issues of Material Fact under Section 120.57(2)

Statute/Rule: Section 120.57(2), Florida Statutes; Rule 28-106, Part III

Cases:

Spuza v. Department of Health, 838 So. 2d 676 (Fla. 2d DCA 2003).

4. Rulemaking and Rule Challenges

4(a). Definition of "Rule"

Statute: Section 120.52(16), 120.536, 120.54, Florida Statutes

Cases:

Department of Revenue v. Vanjaria, 675 So. 2d 252 (Fla. 5th DCA 1996).

Grabba Leaf, Inc. v. Department of Business & Professional Regulation, 257 So. 3d 1205 (Fla. 1st DCA 2018).

Department of Transportation v. Blackhawk Quarry, 528 So. 2d 447 (Fla. 5th DCA 1988).

Ocala Herlong v. Department of Transportation, Case No. 17-3348RU (Fla. DOAH Sept. 6, 2017).

4(b). Rulemaking under Section 120.54, Florida Statutes

Statute/Rule: Sections 120.536 and 120.54, Florida Statutes; Rule 28-103

4(c). Rule Challenges under Section 120.56, Florida Statutes

Statute/Rule: Section 120.56(1), (2), (3), and (4), Florida Statutes

i. Challenging Proposed and Existing Rules

Statute: Sections 120.52(8), 120.536, 120.56(1), 120.56(2), 120.56(3), Florida Statutes

Cases:

Southwest Florida Water Management District v. Save the Manatee Club, 773 So. 2d 321 (Fla. 1st DCA 594 2000).

Board of Trustees v. Day Cruise Association ("Day Cruise I"), 794 So. 2d 696 (Fla. 1st DCA 2001).

Board of Trustees v. Day Cruise Association ("Day Cruise II"), 798 So. 2d 847 (Fla. 1st DCA 2001).

Cortes v. Board of Regents, 655 So. 2d 132 (Fla. 1st DCA 1995).

Dravo Basic Materials Co., Inc. v. Department of Transportation, 602 So. 2d 632 (Fla. 2d DCA 1992).

ii. Challenging Agency Statements as Unadopted Rules

Statute/Rule: Sections 120.56(4) , 120.57(1)(e), Florida Statutes

Cases:

Ocala Herlong v. Department of Transportation, Case No. 17-3348RU (Fla. DOAH Sept. 6, 2017).

4(d). Standing to Challenge Rules under Section 120.56, Florida Statutes

Statute/Rule: Section 120.56(1) through (4)

Cases:

Ward v. Board of Trustees, 651 So. 2d 1236 (Fla. 1st DCA 1995).

Coalition of Mental Health Professions v. Department of Business Reg., 546 So. 2d 27 (Fla. 1st DCA 1989).

Jacoby v. Florida Board of Medicine, 917 So. 2d 358 (Fla. 1st DCA 2005).

5. Declaratory Statements; Variances and Waivers

5(a). Declaratory Statements: Section 120.565, Florida Statutes, Rule 28-105

Case:

Society for Clinical and Medical Hair Removal, Inc. v. Department of Health, 183 So. 3d 1138 (Fla. 1st DCA 2015).

5(b). Variances and Waivers: Section 120.542, Florida Statutes

6. Judicial Review of Agency Action under S. 120.68, F.S.

Statute/Rule: Section 120.68, Florida Statutes

6(a). Standing to Seek Judicial Review

Statute/Rule: Section 120.68(1), Florida Statutes

Cases:

FRS-Fast Reliable Seaway, LLC v. Board of Pilot Commissioners, 261 So. 3d 744 (Fla. 3d DCA 2018).

Florida Chapter of the Sierra Club v. Suwannee American Cement Co., 803 So. 2d 520 (Fla. 1st DCA 2001).

6(b). Standards of Judicial Review

Statute/Rule: Section 120.68(7), Florida Statutes

7. Exhaustion of Administrative Remedies

Case: Key Haven v. Board of Trustees, 427 So. 2d 153 (Fla. 1983).

8. Optional Florida Administrative Law Resources

I will post on Canvas, and from time to time, articles on Florida administrative law topics from various publications, including the Florida Law Review, the Florida Bar Administrative Law Section's Newsletter, and The Florida Bar Journal. Optional reading will be posted in a separate module on our Canvas site, and I will alert you by email and/or announcement on Canvas, that such materials have been posted.

V. FLORIDA GOVERNMENT RESOURCES ONLINE

MyFlorida.com

<http://www.myflorida.com/>

State Government Bodies

<https://dos.myflorida.com/library-archives/research/florida-information/government/state-government-bodies/>

A. Florida Executive Branch

State Agency Homepages List

<https://dos.myflorida.com/library-archives/research/florida-information/government/state-resources/state-agency-homepages/>

Division of Administrative Hearings

<http://www.doah.state.fl.us/ALJ/>

Florida Administrative Code/Florida Administrative Register

<https://www.flrules.org/>

Office of the Governor of Florida

<http://www.flgov.com/>

Executive Orders

[Executive Orders \(flgov.com\)](#)

Regulation and Rulemaking

http://floridahasarighttoknow.myflorida.com/regulation_rulemaking

The Governor and Cabinet

<http://www.myflorida.com/myflorida/cabinet/>

Office of the Attorney General of Florida

Attorney General Homepage

<http://myfloridalegal.com/>

Open Government

<http://www.myfloridalegal.com/pages.nsf/Main/314BA231F89C0C8A8525791B006A54E2>

Attorney General Opinions

<http://www.myfloridalegal.com/pages.nsf/Main/4FF72ECF62927EEA85256CC6007B4517>

B. Florida Legislature

Florida Legislature - Online Sunshine

<http://www.leg.state.fl.us>

Florida Constitution

<http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Ta>

b=statutes

Florida Statutes (2020 - 1997)

<http://www.leg.state.fl.us/statutes>

Laws of Florida (2022 — 1997)

<http://laws.flrules.org/>

Joint Admin Procedures Committee (JAPC)

<http://www.japc.state.fl.us/>

JAPC State Government Links

<http://www.japc.state.fl.us/Pages/Links.aspx>

Chapter 120 Legal Research (JAPC)

<http://www.japc.state.fl.us/Pages/Research.aspx>

Office of Program Policy Analysis & Government Accountability

<http://www.oppaga.state.fl.us/>

Government Program Summaries — Programs by Agency

<https://oppaga.fl.gov/ProgramSummary/AgencyList>

State of Florida Government Organizational Chart

<https://oppaga.fl.gov/ProgramSummary/OrgChart>

C. Florida State Courts

Florida Courts

<http://www.flcourts.org/>

Supreme Court of Florida

<http://www.flcourts.org/florida-courts/supreme-court.shtml>

District Courts of Appeal

<http://www.flcourts.org/florida-courts/district-court-appeal.shtml>

VI. INTELLECTUAL AND VIEWPOINT DIVERSITY ACT GUIDANCE

A. Recording of "Class Lecture"

A Student may record a class lecture for three specified purposes as outlined in section 1004.097, Florida Statutes:

- * For the student's own personal educational use; or
- * In connection with a complaint to the University where the recording is made; or
- * As evidence in, or in preparation for, a criminal or civil proceeding.

Students may audio or video record a class lecture for a class in which the student is enrolled. Students do not need advance permission, or to provide notice, to record.

B. "Class Lecture" Definition and Exclusions

A "class lecture" is defined as an educational presentation delivered by faculty (instructor of record) or guest lecturer, as part of a University of Florida course, intended to inform or teach enrolled students about a particular subject. "Lecture" is inclusive of faculty-led discussions that are integrated into the educational presentation.

A "class lecture" does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

C. Publication of Class Lecture

A recording of a class lecture may not be published without the consent of the lecturer.

"Publish" is defined as sharing, transmitting, circulating, distributing, or providing access to a Recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. A recording, or transcript of the recording, is considered to be published if it is posted on or uploaded to, in whole or part, any media platform, including but not limited to social media, book, magazine, newspaper or leaflet.

A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.