

# **Administrative Law**

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## **Final Examination**

May 3, 1999

### **Instructions**

1. This is a **CLOSED BOOK** examination. You may not consult any external source of information between the time you receive the exam and the time you turn it in. You are on your honor and are subject to the rules of the Law School Honor Code.
2. The exam consists of 7 numbered pages. Make sure none are missing.
3. There are 17 short answer questions, each worth 2 to 20 points, for a total of 99 points.
4. You have 3 hours to complete the exam.
5. You should answer each question based solely on the reading materials, lectures, and discussions in the course. When a question calls for a true-false response, you must choose one or the other and circle it. You can then justify or qualify your choice in the explanatory part of your answer.
6. Answer each question within the space provided. Work out your answer before you start writing. If you are typing or entering your answers on a computer, you need not retype the question. Simply type its number followed by an answer of appropriate content and length.
7. Good luck!

## Questions

1. Administrative law consists almost entirely of the law defining the procedures agencies must follow in making decisions. True or false, and why? (5 points)
2. Congress could, if it wished, vest the appointment of Supreme Court Clerks in the Vice President. True or false, and why? (3 points)
3. Regardless of the answer to Question 2, Congress could, if it wished, vest the power to remove Supreme Court Clerks exclusively in the Vice President. True or false, and why? (3 points)
4. What does it mean to say that a doctrine limiting the availability of judicial review is “prudential”? (5 points)

5. In deciding future cases concerning the allocation of decisional authority among the branches, it would be a mistake for the Supreme Court to rely on the type of analysis performed by Chief Justice Rehnquist in *Morrison v. Olson*. Agree or disagree, and why? (15 points) In answering this question you should be able to make four or five different types of arguments.





15. The Negotiated Rulemaking Act should be amended to make proposed rules developed by properly constituted stakeholder committees presumptively binding on administrative agencies. Thus agencies choosing not to promulgate such rules, or to make substantial changes in them, would be required to make an affirmative showing that the modification better meets their statutory mandate or better serves the public interest than the rule developed by the committee. Agree or disagree, and why? (10 points)

16. What was the biggest shortcoming of the administrative system that you learned about in this course? Explain why it is a shortcoming and how it could be improved. (10 points)

17. Agencies often have considerable discretion in formulating the policies they implement. Assume that they should exercise this discretion in the “public interest,” and that they should be evaluated in terms of how well they pursue the public interest. What are the defining characteristics that we should look for in assessing how well agencies pursue the public interest? Justify and explain your answer. (20 points)

**End of Exam**