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PSC 461.01: Administrative Law

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PSC 461
Administrative Law
Fall 2003

Administrative law is the part of constitutional law that deals with the work of public administrators. Its principles are closely related to the doctrines of separation of powers and due process. The traditional divisions of administrative law are the delegation doctrine (the relationship of an agency to the legislature), judicial review (the relationship of an agency to the courts), rulemaking (the procedures an agency follows when it makes law), and adjudication (the procedures an agency follows when it resolves disputes). Newer concerns of administrative law are public access to the records of agencies and the informal discretion of bureaucrats.

Text: Steven Cann, Administrative Law, 3rd edition.

Grade: 1 st examination	- 30% (60 points)
2 nd examination	- 30% (60 points)
3 rd examination	- 30% (60 points)
Discussion	- 10% (20 points)

A = 180-200 points
B = 160-179 points
C = 140-159 points
D = 120-139 points
F = 0 -119 points

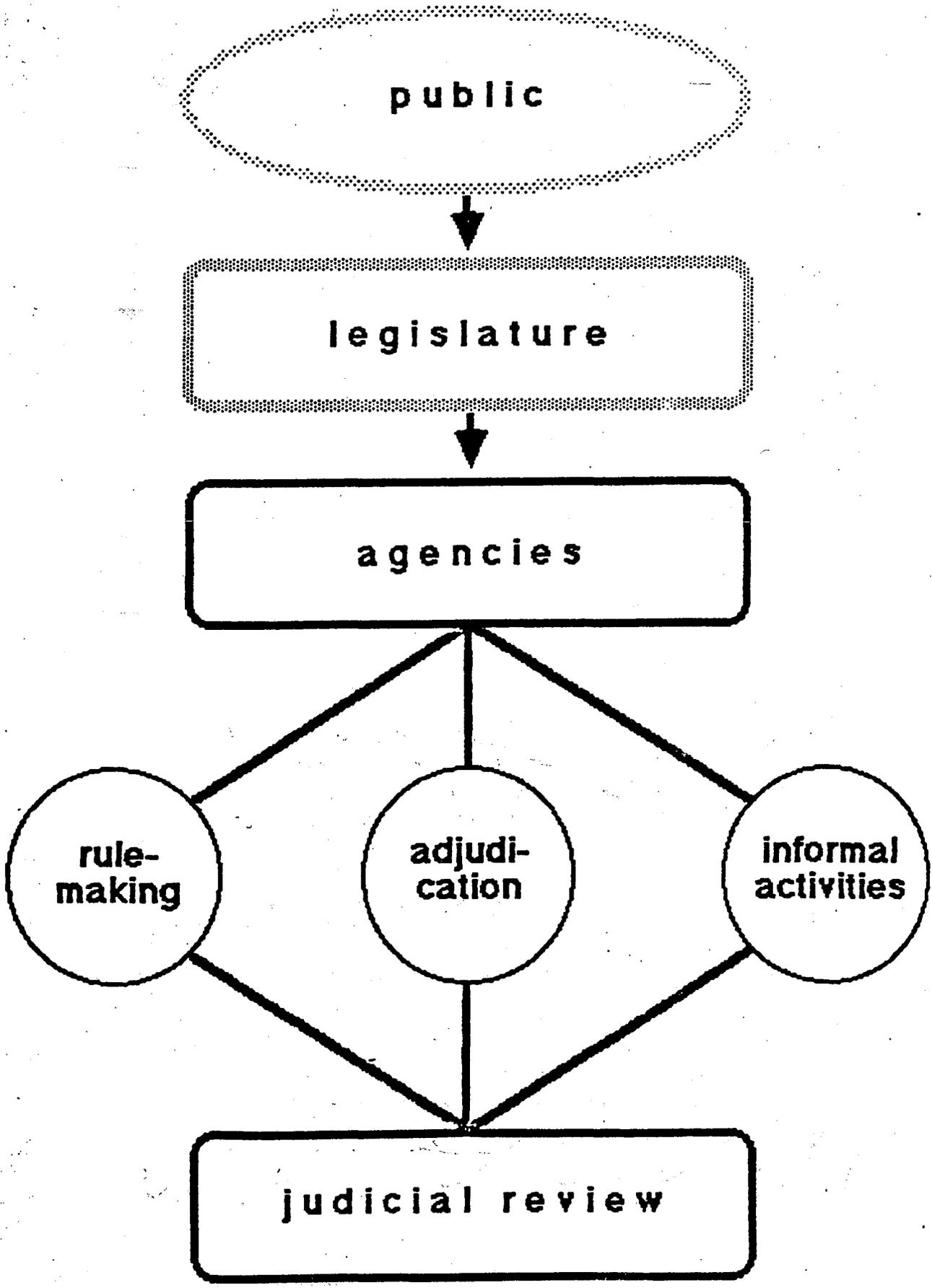
Reading: 7 to 10 pages per class meeting

Writing: Each student enrolled in PSC 300, 400, or 596 will complete two technical writing projects and an annotated bibliography. Written work will be graded for content (clarity and validity) and writing quality (grammar, diction, syntax, and logical organization).

Format: Students are expected to complete reading assignments and participate in class discussion. Class discussion will concentrate on case principles, evolution of doctrine, and practical problems. The instructor will be discussion leader and will lecture as required.

Examination: The first two examination dates will be October 6 and November 14. The third examination, which will cover material from the second test to the end of the course, is scheduled for Thursday, Dec. 18 at 8:00 AM. Each examination will use definition questions to test knowledge of key principles and doctrines and short-essay questions to test analytical reasoning.

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Annotated Bibliography Project

Write a short paragraph on each of the following 14 administrative law sources which discusses the work's purpose and organization and gives a concrete example of how a public administrator would use a specific part of the source. All of the works are found in the UM law library; most are available in the Mansfield Library. Many of the Montana works can be accessed through links at www.lawlibrary.state.mt.us. Other public-domain works are available on the Internet at various locations

1. Session Laws of Montana (1) (2)
2. Montana Code Annotated (1) (2)
3. Montana Reporter (1) (2) or State Reporter (2)
4. Pacific Reporter (2)
5. Administrative Rules of Montana (1) (2)
6. United States Statutes at Large (1) (2)
7. United States Code (1) (2) or United States Code Annotated (2)
8. U.S. Reports (1) (2) or Supreme Court Reporter (2) or Lawyers' Edition of the U.S. Supreme Court Reports (2)
9. Federal Register (1) (2)
10. Code of Federal Regulations (1) (2)
11. American Jurisprudence (2) or Corpus Juris Secundum (2)
12. K. Davis, Administrative Law Treatise, 3rd edition (1994) (2)
13. Montana Administrative Procedure Act (MCA, 2-4-101) (1) (2)
14. Administrative Law Review (2)

(1) Available in the Mansfield Library.

(2) Available in the Law Library

Draft Administrative Rules Project

Problem. The institutional setting is the Montana Board of Land Commissioners (MBLC). Assume that you work for the Board and the Board has given you the assignment of implementing the rulemaking authorization in MCA 76-12-112 (attached). Accordingly, you are to draft for public hearing proposed rules governing natural areas on school trust lands from the perspectives of fee generation, recreational use, and conservation.

Work product. The work product is a draft of proposed rules concerning which the MBLC, prior to adoption, will hold a public hearing. Your product should be approximately three manuscript pages (double-spaced, standard margins) and formatted as legislative rules. The draft rules should cover one of the following four topics: (1) over-night camping in natural areas; (2) water recreation in natural areas; (3) winter recreation in natural areas; or (4) hiking and nature viewing in natural areas. Assume that all of these topics are within the MBLC's authority. Also assume that the MBLC's principal charge is generation of recreational fees. A "real" package of draft rules would include an introductory section concerning statutory authorization and intent, but this section is not part of your assignment. In your draft rules, use "may" for the permissive and "shall" for the mandatory and use active instead of passive voice.

Sources. The following sources could be of use to you: interviews with employees of state agencies; pertinent sections of Administrative Rules of Montana, Code of Federal Regulations, and Montana Code Annotated; and a variety of studies and reports concerning natural resource management. Your work product may be derivative, but it may not be a verbatim lifting of existing state and federal regulations.