

Administrative Law
Spring 2012 - Richards

The exam is closed book and notes. Put your exam number on each page of the examination if you are **handwriting** the exam. Put your exam number only on the first page of the paper exam if you are **using the computer**. Do not put your name or any identifying information other than your exam number on the examination. Read the entire exam before answering any questions. Make sure you have all the pages and that they are all different. Use no more than the space provided. **Do not write answers on the back.** (If you are using the computer, you may use the whole exam as note paper.) You may use the back for scratch paper. Each question has a **130**-word limit. If you are hand writing, do not use tiny writing to significantly exceed this limit. These are short answer questions, but not one-sentence answer questions. Read the question carefully and think about your answer before you start writing. **If you use the computer, make sure you number your answers to match the question numbers.**

Exams are to be turned in to my secretary in room 427. If you use the computer, you must still turn in your paper exam because we have a deferred exam. Check off your name on the list with my secretary as you turn in your exam. You should not discuss the exam questions with anyone who has not yet taken the exam.

1. What are the exclusive powers of the House of Representatives and of the Senate? What is the only joint power that does not require presentment to the president?

2. What is the modern test for whether the delegation of power to an agency has been properly done? If a statute exceeds this delegation, does the court treat it as an unconstitutional delegation or is there now another solution?

3. How is presidential control of independent agencies different from control over cabinet level agencies? (Remember OIRA and OMB review as well.)

4. What is the role of expertise in ALJ adjudications and how does this differ from Article III judges? (Hint – how do the judges function differently in dealing with expert information?)

5. What is separation of functions in administrative hearings and how does this improve the fairness of hearings?

6. What is the *Mathews* balancing test? How is this analysis different from the due process analysis in criminal cases?

7. How does the DAL legislation change the relationship between the agency and the ALJ, i.e., how is the LA system now different from the Federal system?

8. What is an action for mandamus and what are its limitations? Why was mandamus denied in *Bonvillian I*?

9. What factors do the courts consider when determining whether an interpretive rule is really a legislative rule, requiring notice and comment?

10. What are the requirements for proving proper notice of the contents of a rule? Be specific, using *Chocolate Manufacturers Ass'n v. Block* as an example.

11. How are the problems of bias and prejudice different in rulemaking as opposed to adjudications?

12. What is the special problem with redressability for procedural injuries? Do you have to show that the result would be different with the additional procedure?

13. How did *Mass. v EPA* get before the court and what legal question did the United States Supreme Court have to resolve?

14. *National Automatic Laundry* was a 1971 case. With the evolution of the law since then, what is another way of looking at the letter in that case which would make it easier to attack in court? (Hint – this was the opinion letter to the trade association.)

15. What are the APA requirements for exhaustion of remedies?

16. How does *Chevron* deference fit with the political control of agencies? How is this undermined by *Barnhart*?

17. How did *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971) change the understanding of committed to agency discretion? (Hint – what was the practical result for agency practice.)

18. What are the issues when an administrative search, such as a restaurant inspection, turns up evidence of an unrelated crime - say the health inspector finds the cook's cocaine stash?

19. If a document is covered by one of the nine FOIA exceptions, under what circumstances may the agency still release the document? What is necessary to assure that a document will not be released under FOIA?

20. What is the procedural prerequisite before going to court under the FTCA? What is the prescription/statute of limitations period for an FTCA claim? When can you go to court after filing your claim under the FTCA?

21. What made standing easier to show in *Friends of the Earth v. Laidlaw Environmental Services*, 528 U.S. 167 (2000)?