

Administrative Law

Cases and Materials

EIGHTH EDITION

The Late Charles H. Koch Jr.

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We dedicate this edition to the memory of Charles H. Koch, Jr., the first author of this casebook and the creator of the Wine Trade Commission.

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Preface

Administrative law is tremendously exciting. The administrative process affects each of us every day, probably in more ways than we can recognize or count. The car we drive, the fuel it uses, the air we breathe, the water we drink, the drugs we take, and so much more reflect the complex interaction among the elected branches of government, agency employees, the judiciary, and a seemingly infinite number of private interest groups. Indeed, the administrative process is the way that more than 300 million people make the collective decisions that shape virtually every aspect of our lives.

The characteristics that make administrative law exciting also make its study a daunting task. Any body of law governing such a complex and dynamic process must itself be complex and dynamic. While the safety of our tires or our children's toys are intensely practical concerns, administrative law is by necessity not only complicated, but highly abstract. Administrative law practitioners must know not only the statutes and regulations of the particular agencies with which they deal, but also the general principles of administrative law that apply across the board.

While we cannot hope to teach the details of the nation's regulatory and administrative programs, we can impart the principles that govern the interpretation and implementation of the various statutes through which Congress has created the programs of the administrative state. Whether dealing with the Clean Air Act, the Federal Trade Commission Act, the Social Security Disability benefits program, or the many state-level programs such as workers compensation, the lawyer must pay close attention to the language of those statutes — both the substantive mandates and the procedural requirements. In addition, the administrative law practitioner must understand how the Constitution applies to administrative agencies and the requirements of the Administrative Procedure Act and other generally applicable statutes, from information disclosure to administrative procedures to judicial review.

This casebook approaches this complexity and abstraction at a highly practical level. It employs a “simulation” involving the creation of a new agency, the Wine Trade Commission. Students will follow two central characters, both newly-minted lawyers (one in the agency, one representing the regulated industry), through the implementation of a new regulatory program. This approach facilitates learning administrative law in various ways. First, it presents the issues from the point of view of those who actually practice administrative law — an intensely practical perspective that is easy for students to grasp. This provides a firm foundation from which to grapple with the many highly theoretical concepts of the field. Second, it reveals how

cases and principles governing other agencies apply as well to this new regulatory body. An opinion dealing with the Nuclear Regulatory Commission, for example, must be used by the characters (and the students) in designing rulemaking for the fictitious agency. Third, the practical orientation helps the student understand that the administrative process involves more than a body of highly theoretical propositions or technical legal details. It is a deeply human enterprise in which success derives as much from careful management as from expert legal analysis.

We hope you will enjoy this approach to a fascinating topic. No doubt clever students will take the opportunity to suggest a wine tasting to accompany the academic enterprise. With the passing of Professor Koch in 2012, Professors Jordan, Murphy, and Virelli are honored to continue and build upon his legacy in this path-breaking approach to teaching administrative law. We raise our glasses to his memory.

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