Politics is about “who gets what, when and how.”
Lasswell (1951)

Policy Science is about “speaking truth to power.”
Wildavsky (1979)

“Scarcely any political question arises in the United States which is not resolved, sooner or later, into a judicial question.”
Alexis de Tocqueville, Democracy in America (1832)

This syllabus is subject to modification.

OVERVIEW
This course is the first in a series of courses over the next two years that provide students the opportunity to expand their foundational knowledge and advanced scholastic exposure to law and policy definitions and integrated application. This course also provides students the opportunity to expand their exposure to doctoral-level education including knowledge creation, publishing of scholarly and professional work, and developing the highest professional competence in law and policy subjects. Appropriate experiential learning, distinguished guest faculty, and lecturers are incorporated into the program.

As Alexis de Tocqueville observed in the 1820’s, lawyers comprise a natural aristocracy in a republic because there is no aristocracy of birth, no state church, and no central military force to make key decisions. Attorneys have always played an enormous role in shaping America’s ideological, economic and social structure. Law is not simply a set of formal rules; it is a battleground of social theory. Both civil and criminal legal doctrines evolve as society changes. This course contrasts several major schools of thought about the relationships between law, public policy and social experience. The differing assumptions about the law contained in formalism, legal realism, originalism, pragmatism, social choice theory, law and economics, Marxism, critical legal studies, communitarianism, conflict theory and natural law will continue to be examined in order to reveal their theoretical bases and policy-making implications. Each school of thought is presented with attention to how its scholars claim to know what they know, how its theories are created, tested, and evaluated, the range of issues that are regarded as fit to study, and how research agendas are set. We also continue to look in depth at several sociological perspectives on law and the origin of the notion that government should be constrained by law.
This course expands student knowledge pertaining to the complex interaction of various institutions impacting law and policy. Students are exposed to a practical overview for crafting effective strategies to advance public policy changes at the federal, state and local levels, using a range of legislative, litigation, and other policy tools. Through case studies from a variety of policy areas including civil and criminal justice, and inter-branch perspectives, this course considers what policy issues are best suited to be addressed at different levels of government (international, federal, state, or local) and how to make strategic use of different policy instruments (legislation, litigation, regulation, ballot initiatives, and other legal and policy instruments). The goal of this course is to expand the process of providing students with a framework for developing effective strategies to achieve desired policy change across a broad spectrum of issues, with particular emphasis to each student’s respective policy domain and doctoral thesis.

The educational goal of the policy portion of this course is for students to expand their exposure to the various multi-disciplinary skills found in positivist sciences, economics, research methodology, sociology, philosophy, critical thinking, and reflective self-understanding of the community writ large (the polity) and writ small (the policy community) to reach towards the aspiration of effectively ‘speaking truth to power’—even, or especially, unwelcome truths.

The educational goal of the law portion this course is for students to have the opportunity to be exposed to the complexity of legal institutions and enforcement, vel non, of policy, and that “law is not to be studied or practiced as if it were a discipline referenced only by its own norms. The fact that law is a derivative discipline; one which draws on other disciplines to explain how rules are developed, and should develop. The law is not received dogma, and it cannot be taught as such.” The Spirit of Renaissance, NYU Law School Magazine 45 (Spring 1993).

CLASS FORMAT

Though lectures are part of this course and program. This is not a traditional lecture-style course. This program is not structured like a Master’s-level program. This is a doctoral-level program. Socratic method, student presentations, structured and/or assigned discussion participation, asynchronous weekly online assignments and discussions, and various learning activities are utilized.

Doctoral students are required to complete all readings, and be prepared to participate in all class activities, including online weekly assignments and discussion boards. During the monthly weekend intensives, students are called on randomly to explain their view of the readings for the class and to provide their perspectives. Advance preparation and timely completion of all assignments is required and critical to student success.

Faculty recognizes that a significant amount of reading and writing are assigned each week and understand that this is a rigorous doctoral program. Faculty work with students to provide some flexibility for extenuating circumstances, but the demands and
requirements of this program are not flexible. You are responsible for allocating an appropriate amount of time to complete these assignments. This time simply must be allocated. Students must acquire knowledge and develop knowledge creation skills consistently during the entire two-year program. The work and learning is a constant endeavor during the two-years of the program and is not limited to the monthly intensives.

ONLINE COURSES ON BLACKBOARD
At the beginning of each term students log in to the College of Professional Studies Blackboard at https://cpsblackboard.neu.edu/webapps/login/
Your Blackboard login (username and password) is the same as your myNEU login.

Students are responsible for accessing the course on Blackboard regularly throughout each term to read and post to the discussion, access and upload written assignments, view supplemental readings, faculty announcements and other updates to the course.

DISCUSSION BOARD
Students engage in online discussions concerning readings and their applicability to individuals’ doctoral thesis domains on Blackboard. Faculty monitor on-line discussions and provide guidance and refinement as appropriate, but do not necessarily respond to specific individual posts. Faculty facilitation of on-line discussions is normally provided a few times each week. The discussion board is a mechanism for class discussion and students need to post as well as respond to colleagues’ posts. As a guideline students should strive to post and respond to at least two other posts each week to maintain satisfactory participation and contribution to the discussion.

TECHNICAL SUPPORT
24/7 CPS Blackboard Technical Support: 866-847-1573
Get immediate 24/7 technical support for the CPS Blackboard by calling 866-847-1573. You may also visit the support portal for answers to common questions, or email CPSBlackboard@neu.edu for help.

myNEU Account Support: 617-373-4357
For myNEU questions or assistance call the university help desk at 617-373-4357.

USE OF TECHNOLOGY IN THE CLASSROOM
Cell phone ringers must be turned off before entering the classroom.
Laptops are acceptable only for note taking only. Class sessions are a time for focus and clarity of mind. Laptops are not tolerated for any other purpose as this distracts fellow students and interferes with concentration and focus.

*No email, no web browsing, and no computer games of any sort are to be engaged in during class.*

### ACADEMIC HONESTY AND INTEGRITY STANDARDS

The University views academic dishonesty as one of the most serious offenses that a student can commit and imposes appropriate punitive sanctions on violators. Here are some examples of academic dishonesty. While this is not an all-inclusive list, we hope this will help you to understand some of the things instructors look for. The following is excerpted from the University’s policy on academic honesty and integrity; the complete policy is available at http://www.osccr.neu.edu/policy.html.

- **Cheating** – intentionally using or attempting to use unauthorized materials, information or study aids in an academic exercise. This may include use of unauthorized aids (notes, texts) or copying from another student’s exam, paper, computer disk, etc.
- **Fabrication** – intentional and unauthorized falsification, misrepresentation, or invention of any data, or citation in an academic exercise. Examples may include making up data for a research paper, altering the results of a lab experiment or survey, listing a citation for a source not used, or stating an opinion as a scientifically proven fact.
- **Plagiarism** – intentionally representing the words or ideas of another as one’s own in any academic exercise without providing proper documentation by source by way of a footnote, endnote or intertextual note.
- **Unauthorized collaboration** – Students, each claiming sole authorship, submit separate reports, which are substantially similar to one another. While several students may have the same source material, the analysis, interpretation and reporting of the data must be each individual’s.
- **Participation in academically dishonest activities** – Examples include stealing an exam, using a pre-written paper through mail order or other services, selling, loaning or otherwise distributing materials for the purpose of cheating, plagiarism, or other academically dishonest acts; alternation, theft, forgery, or destruction of the academic work of others.
- **Facilitating academic dishonesty** – Examples may include inaccurately listing someone as co-author of paper who did not contribute, sharing a take home exam, taking an exam or writing a paper for another student.

### ESSAY GRADING CRITERIA

**A Range Essay:**
The essay is of outstanding quality in all, or almost all, respects. It is both ambitious and successful. It demonstrates mastery of the “Elements of the Academic Essay” with grace and confidence. It includes:
• An interesting, arguable thesis that is sufficiently limited in scope, presented early and developed throughout the essay;
• A logical, progressive structure that takes the reader on a journey, developing, complicating, and expanding the initial thesis by considering counter-arguments; strong and clear links between points, and well-organized paragraphs;
• Sufficient, appropriate, and interesting evidence, presented in a readable and understandable way;
• Original and insightful analysis, that shows how the evidence supports the thesis, and that goes beyond summary or paraphrase;
• Sources that are deployed in a range of ways (to motivated and support the argument, provide key-terms, and so on), that have been selected carefully, and that are quoted and cited correctly; and
• A style that is both conversational and sophisticated; that uses diction appropriate to the subject matter and the audience; that engages and stimulates the reader.

A-/B+ Range Essay:
The essay nearly lives up to the above requirements, but in one or two minor ways it falls short of the ideal. For example, the prose may be occasionally awkward, or word choice may be imprecise at points, or one section of the argument may be less well-developed than the others.

B Range Essay:
The essay is one that is ambitious but only partially successful, or one that achieves modest aims well. It exhibits one or more of the following features:
• A thesis that may be arguable but vague, uninteresting, or fragmentary; it may be implied rather than stated directly (or stated quite late); it may be dropped in places;
• A structure that proceeds logically most of the time or in general, but is periodically confusing due to missing links or large intellectual leaps; it might be overly predictable and undeveloped, with few complications; it may include disorganized paragraphs;
• Evidence that is generally solid but may be thin in places, or might be presented without analysis (as undigested quotations);
• Analysis that is at times insightful but sometimes either simply summary or entirely absent; that makes inconsistent or illogical connections between evidence and thesis;
• Sources that are quoted and cited correctly (for the most part) but are deployed in limited ways—as a straw person or a simple confirmation of the author’s viewpoint;
• A style that is clear but lacking in sophistication; or that is weighed down by inappropriately fancy diction; may demonstrate some errors in punctuation, grammar, spelling, and format.

B-/C+ Range Essay:
The essay, while still retaining the promise of an original and well-argued thesis, falls short in a number of ways. Perhaps the support for key assertions is inadequate, or an obvious counter-argument is ignored, or a major misstep in logic mars the coherency of the whole argument, or grammatical errors consistently mar the prose.

**C Range Essay:**
A C range essay has significant problems in articulating and presenting its argument, or seems to lack a central argument entirely. Its features include one or more of the following:

- **A thesis** that is vague, descriptive, or confusing; that has unintegrated parts; that is implied rather than stated directly (or stated too long); that is dropped in places;
- **A structure** that is confusing (making huge, unmotivated intellectual leaps) or predictable (a list or a “five paragraph” essay); that includes few complications or counter-arguments; that exhibits disorganized, often overly descriptive, paragraphs;
- Insufficient **evidence**, often presented without analysis as undigested quotations; may be taken out of context;
- **Analysis** that has moments of insight but is generally missing or simply summary and may include some misreadings;
- **Sources** that are not adequately situated or explained; that may be quoted and cited incorrectly; that are used simply as filler or as affirmation of the author’s viewpoint;
- **A style** that is difficult to read or overly simplistic; perhaps including errors in punctuation, grammar, spelling, and format.

**D Range Essay:**
A D range essay fails to grapple with either ideas or tests, or fails to address the expectations of the assignment. It features include:

- **A thesis** that is missing or purely descriptive (un-arguable), or that is a total misreading;
- **A structure** that is confusing, demonstrating little focused development; disorganized paragraphs; plot summary;
- **Evidence** that is scanty or absent; when present, it is chiefly undigested quotation and/or taken out of context;
- **Analysis** that is absent, based on misinterpretations of the evidence, or mere summary;
- **Sources** that are absent or, if present, are not adequately situated or explained, incorrectly quoted and/or cited, and/or used as filler;
- **A style** that is simplistic or difficult to read, and is probably riddled with technical errors.
FALL TERM MEETING DATES

September Intensive:
September 11-13, 2009

October Intensive:
October 9-11, 2009

November Intensive:
November 6-8, 2009

December Washington, D.C., Joint Intensive:
December 3-5, 2009

Please refer to each session’s schedule for details. Schedules are distributed in advance of each weekend intensive.

TEXTS

The following texts are distributed during the first introductory seminar session in July.

Law in Action, A Socio-Legal Reader by Macaulay, Friedman and Mertz

The Oxford Handbook of Public Policy by Moran, Rein & Goodwin

Making Policy, Making Law, An Interbranch Perspective by Mark C. Miller and Jeb Barnes

Agendas, Alternatives, and Public Policies by John Kingdon

FALL TERM 2009 READINGS:

Additional readings are posted on Blackboard. Students are responsible for accessing the course on Blackboard regularly to access supplemental readings, participate in discussion board posts, submit assignments, readings, and view faculty announcements and other updates to the course.

SEPTEMBER 2009 READINGS

Text: Law in Action, A Socio-Legal Reader by Macaulay, Friedman and Mertz

- Chapter 3, The Impact of Society on Law 143-216
Making Policy, Making Law, An Interbranch Perspective by Mark C. Miller and Jeb Barnes

Agendas, Alternatives, and Public Policies by John Kingdon
Chapter 1 How Does an Idea’s Time Come?
Chapter 2 Participants on the Inside of Government
Chapter 3 Outside of Government, But Not Just Looking In
Chapter 4 Processes: Origins, Rationality, Instrumentalism, and Garbage Cans

The Oxford Handbook of Public Policy by Moran, Rein & Goodwin
- Chapter 5 Policy Analysis as Puzzle Solving
- Chapter 6 Policy Analysis as Critical Listening
- Chapter 7 Policy Analysis as Policy Advice
- Chapter 8 Policy Analysis for Democracy

Case Studies Readings:
Read cases 1 and 2 listed below. Case 1 is provided on blackboard. Be prepared to discuss in class.

Case 1.
1600 The Battle Over Clinton Health Care Proposal (Health & Healthcare Policy, Public Policy, Business-Government Relations)

This case provides a succinct account of the high profile failure of the Clinton Administration’s initiative to reorganize the US health care and health insurance system so as to provide universal coverage at the same time as controlling costs. The case traces the origins of the reform impetus and describes the structure and proposal of the Administration’s health care task force, chaired by First Lady Hillary Clinton and directed by Ira Magaziner. The case focuses, however, on the extent and nature of opposition to the plan, particularly from the business community, implicitly raising the questions of how the Administration might have handled matters differently and what factors whether substance or tactics or both allowed the opposition to be successful. The case is a vehicle, too, for discussion of the business-government relationship in the U.S. through its focus both on the nature of the US health insurance system (largely linked to private employment) and on the variety of business and interest groups within the US private sector. We will compare this case study with the current developments of the National Health Care debate.

Case 2.
Found in Making Policy, Making Law
- Chapter 8 The City of Boerne “The Tales of One City”
Case 1.

1870 Keeping a Campaign Promise: George W. Bush and Medicare Prescription Drug Coverage (Health Care Management, Campaigns and Elections, Health & Healthcare Policy, Electoral Politics, Public Policy)

In January 2003, President George W. Bush was finalizing a groundbreaking proposal for Medicare, the federal health insurance program for the elderly. Under the terms of the plan, Medicare would offer a major new benefit: prescription drug coverage—a long-sought but elusive goal for seniors and their advocates. By any measure, this would seem a surprising initiative coming from a politically conservative White House. If approved by Congress, the benefit would represent the largest expansion of Medicare, or of any federal entitlement program, since its enactment almost 40 years earlier. But the Bush proposal also represented a departure from the popular government insurance program—it aimed to inject market forces into Medicare by encouraging beneficiaries to enroll in government-subsidized private health plans that would compete directly with the traditional government-run, fee-for-service program. The drug benefit would be the chief inducement for seniors to make the switch to private plans.

For Bush, the stakes were high. During the 2000 presidential campaign, he had pledged to overhaul the Medicare program and to add prescription drug coverage. Seeking to deliver on that promise, Bush had put his Medicare proposal at the top of his domestic agenda for 2003. Even with its emphasis on market-driven solutions, the plan would have to win over conservative Republicans, who resisted the notion of expanding an already large and costly government program, especially in a time of soaring budget deficits. It was also likely to get a cool reception from most Democrats, who viewed private sector competition as the first step in the dismantling of Medicare as an entitlement program. Republicans had the upper hand: for the first time in decades, the GOP controlled not only the White House, but both chambers of Congress as well. But any tinkering with the...
existing program, which was highly popular with elderly voters, was a risky venture. Bush and his congressional allies would have to keep party members in line, or else find support among Democrats in order to get his ambitious Medicare plan signed into law.

This case and its sequel tell the story of the Bush administration’s efforts to craft a measure that would achieve its goals and to shepherd it through a balky Congress. Together, they allow for the exploration of campaign promises in general, and the Bush proposal in particular: What positive roles do these promises play in our political systems? What are the dangers and pitfalls? In advancing policy ideas, what are the respective merits of articulating a set of principles or of conveying a fully developed proposal? Students can be asked to assess the wisdom both of Bush’s campaign promise and of the White House’s strategy for pursuing it in the altered circumstances of a post-9/11 world.

1217 Facing the Problem of Second-hand Smoke: The Office on Smoking and Health’s Decision (Health, Health Care Policy, Agenda Setting, Decision-making, Healthcare Management and Policy, Public Health, and Leadership)

In the late 1970s, anti-smoking efforts in the United States had stalled. The effects of the landmark 1964 Surgeon General's report linking smoking and lung cancer appeared to have leveled off. Officials at the Department of Health, Education and Welfare-chief among them Secretary Joseph Califano-were looking for ways to mount a new and effective anti-smoking effort. It was in that context that John Pinney, head of the Office of Smoking and Health, had to decide whether to try a dramatically new tack—whether to cite the health effects "second-hand smoke," or passive smoking, as the rationale for strict new smoking regulations, including a smoking ban on airlines. As common as such regulations have since become, the decision was an exceedingly difficult one at the time, this case reveals. It is designed to force consideration of when the timing is right to try to affect the public agenda, and what factors influence one's consideration about that timing. Taught in conjunction with readings from the well-known Agendas, Alternatives and Public Policy (Kingdon, John W., Boston, Little, Brown, 1964.)

**November 2009 Readings**

**Law and Policy**

**Text:**

*Law in Action, A Socio-Legal Reader* by Macaulay, Friedman and Mertz

- Chapter 3 The Impact of Society on Law 251-285

**Text:**

*Agendas, Alternatives, and Public Policies* by John Kingdon

Chapter 8 The Policy Window, and Joining the Streams 165-195

**Text:**

*The Oxford Handbook of Public Policy* by Moran, Rein & Goodwin

- Chapter 11 Agenda Setting 228-250
- Chapter 12 Ordering Through Discourse 251-268
- Chapter 13 Arguing, Bargaining and Getting to 269-295
Agreement

Case Study Readings:
Read Case 1 listed below, and provided on blackboard. Be prepared to discuss in class.

Case 1.
Cultural Lives of Cause Lawyers, “Cause Lawyers and Cracker Culture at the Constructive Edge, A Band of Brothers Defeats Big Tobacco.”

December 2009 Readings
Law and Policy

Text: 
Law in Action, A Socio-Legal Reader by Macaulay, Friedman and Mertz
  • Chapter 3 The Impact of Society on Law 285-327

Text: 
Agendas, Alternatives, and Public Policies by John Kingdon
Chapter 9 Wrapping Things Up 196-208
Chapter 10 Some Further Reflection 209-230

Text: 
The Oxford Handbook of Public Policy by Moran, Rein & Goodwin
  • Chapter 14 Policy Impact 296-318
  • Chapter 15 The Politics of Policy Evaluation 319-335
  • Chapter 16 Policy Dynamics 336-366
  • Chapter 17 Learning in Public Policy 367-388
  • Chapter 18 Reframing Problematic Policies 389-408

Lecture will review Washington D.C., Joint Intensive, and review experiential coverage of Distinguished Guest Faculty, Congress, Executive Branch and Judicial Branch insider views during the Joint Intensive.

FALL TERM 2009 ASSIGNMENTS

Assignment #1:

Discussion Board Post on Blackboard
Dr. Howard
Due on or before November 3, 2009
John Kingdon introduces a variety of frames for policy change that underlie contemporary American law and policy in *Agendas, Alternatives, and Public Policies*. 

On or before November 3, 2009 post your thoughts on the Kingdon readings and their applicability to your potential doctoral thesis topic, *vel non*, in the Discussion Board on Blackboard.

Read the Discussion Board posts and provide thoughtful responses to at least two of your colleagues’ posts.

Assignment# 2:

*Fall Term Law Essay and Fall Term 2009 Policy Essay*

Dr. Howard

**Drafts Due on or before November 20, 2009**

**Final Papers Due on or before December 10, 2009**

**Law Essay Assignment:**

Prepare a comprehensive essay on the law and society readings and their application to your doctoral thesis. Use the readings, case studies, joint D.C., Intensive, and lectures from this term, and incorporate content from your other core curriculum as appropriate.

- You are required to provide a draft paper incorporating the materials from September, October and November for review by the end on or before November 20, 2009.
- The final paper is due on or before December 10, 2009, after the December Joint Intensive in Washington, D.C.

**Policy Essay Assignment:**

Prepare a comprehensive essay on the policy readings, case studies, joint D.C., Intensive, and lectures and how these perspectives relate to your doctoral thesis. Please also incorporate the appropriate theoretical paradigms from the readings in Kingdon and lectures studied this term and apply to your doctoral thesis.

- You are required to provide a draft paper incorporating the materials from September, October and November review on or before November 20, 2009.
- The final paper is due on or before December 10, 2009, after the December Joint Intensive in Washington, D.C.

Submit your essays using the View/Complete Assignment link in the Assignments folder on Blackboard.