Purpose: The course analyzes the legal framework for contemporary public management in the United States. It covers the principles of federal constitutional and administrative law that govern public administrators' decisions, actions, and operations. It shows how and why legal requirements must be integrated into general administrative processes, practices, and systems. It provides students with the non-technical constitutional competence welcomed by the U.S. Office of Personnel Management and required by the federal courts. Attention is devoted to the fit between and U.S. constitutional/administrative law and contemporary administrative practice, including collaborative governance and public-private partnerships. Although the course deals with U.S. law, many of the issues discussed are pertinent to other political and administrative systems. Similarly, the course content is relevant to nonprofit management in the U.S. because it explains how public agencies are empowered and constrained by law. Several of the cases and issues analyzed involve public employment, but the course does not focus specifically on public sector human resource management law.

Reading Materials:
1. D. Rosenbloom, J. Carroll, and J. Carroll, Constitutional Competence for Public Managers: Cases and Commentary (Thomson Custom Publishing, 2010 or later). ISBN varies yearly. All editions of this book are identical except for the cover and ISBN; all the cases in this book are also posted on Blackboard. It will be convenient, but not necessary to purchase this book.
3. The following are U.S. Supreme Court decisions. Excerpts are posted on Blackboard. Those seeking the full text of these cases should be able to obtain them in any substantial university library or law library, including AU’s Law and Bender Libraries, as well as at http://www.findlaw.com/casecode/ and click on Supreme Court under "Popular Federal Resources."

>Agency for International Development v. Alliance for Open Society International 570 U.S.— (2013); (133 S.Ct. 2321)
>Atwater v. City of Lago Vista 532 U.S. 318 (2001)
>Correctional Services Corp. v. Malesko 534 U.S. 61 (2001)
> Fisher v. University of Texas at Austin 570 U.S.— (2013); No. 11-345 (Supreme Court)
> Gonzales v. Raich 545 U.S. 1 (2005)
> Solid Waste Agency of Northern Cook County v. Army Corps of Engineers 531 U.S. 159 (2001)
> Town of Castle Rock v. Gonzales 545 U.S. 748 (2005)
> U.S. v. Windsor 570 U.S.— (2013); No. 12-307 (Supreme Court)

**Additional Resources:**

**Requirements:**
Informed class participation and final examination. Each participant will present one side of a legal case to the class. **All readings must be completed before the class for which they are assigned.** If you have trouble understanding a legal case, skim it and ask for clarification in class. Do not get hung-up on precedents or technical legal material and language. The course is concerned with the impact of law on public administrative practice, not parsing precedents, statutory construction, and lawyering. An optional in-class midterm examination will be given on October
28. The final examination is required, cumulative, open-book, and in class.

**Grading:** Class participation, 30%; midterm, 35% for those taking it; final, 35% for those who take the midterm, 70% for others.

1. **August 26: Introduction and Overview: The Legal Framework of U.S. Public Administration**
   This session presents an overview of how and why law and the courts became central to the practice of public management in the U.S.
   Optional Reading:
   Rosenbloom, "Public Administration's Legal Dimensions" (Blackboard)

**September 2: Labor Day (class does not meet)**

2. **September 9: At Your Own Risk! Constitutional Torts**
   This session is devoted to public administrators' liability for violations of individuals' federally protected constitutional rights. The session demonstrates that reasonable knowledge of constitutional law is a job requirement for public managers at all levels of government in the U.S. The problematic fit between public administrative doctrine and constitutional theory is analyzed.
   Reading:
   1. *Constitutional Competence*, Foreword and text of chapters 1 & 2
   2. *Constitutional Competence*, chapter 9 (omit case 9.1; read case 9.2 Missouri v. Jenkins, p. 204)
   3. Additional cases:
      - *Harlow v. Fitzgerald* (p. 51)
      - *Pembaur v. City of Cincinnati* (p. 53)
      - *City of Canton v. Harris* (p. 56)
      - *Harley v. Schuylkill County* (p. 59)

   This session is necessary background for understanding how the federal courts operate. It considers their political roles, decisionmaking, and doctrines of justiciability, with an emphasis on the judiciary's impact on public administration. The political divisions on the current Supreme Court and their consequences are analyzed.
   Reading:
   1. *Constitutional Competence*, chapter 9 (omit case 9.1; read case 9.2 Missouri v. Jenkins, p. 204)
   3. *Administrative Law for Public Managers*, chapter 2 and pp. 139-155; chapter 2 is an overview of the constitutional law that is relevant to the course.
   Refer back to the material that pertains to each class on the
constitutionalization of public administration and the classes on the separation of powers and federalism.

4. Additional cases:
   Lawrence v. Texas (2003) (Blackboard)
   U.S. v. Windsor (2013) (Blackboard)

This session analyzes the structure, application, and importance of equal protection doctrine in contemporary public administration. Some of the material will probably spill over into the next session—read cases 7.4 and 8.3 last.

Reading:
1. Constitutional Competence, text of chapters 4 and 8
Cases:
   4.4 Hawkins v. Town of Shaw (p. 100)
   4.3 Craig v. Boren (p. 98)
   5.3 Adarand v. Pena (p. 121)
   7.3 U.S. v. Virginia (p. 167)
   7.4 Zobel v. Williams (p. 170)
   8.3 Shapiro v. Thompson (p. 187)
2. Additional cases:
   Fisher v. University of Texas at Austin (Blackboard)

5. September 30: Constitutionalization of Public Administration II: Due Process, the "New Property," and the "Takings" Clause
This session analyzes the structure and importance of constitutional procedural and substantive due process in the context of contemporary public administration. It also reviews the Fifth Amendment's "Takings" clause.

Reading:
1. Constitutional Competence, text of chapter 6
Cases:
   5.1 Kolender v. Lawson (p. 114)
   6.1 Cleveland Bd. of Ed. v. Loudermill (p.134)
   6.2 Cleveland Bd. of Ed. v. La Fleur (p. 137)
   8.1 Wyatt v. Stickney (p. 181)
   8.4 Dolan v. City of Tigard (p. 191)
2. Additional cases:

6. October 7: The Constitutionalization of Public Administration III: Substantive Rights
This session examines the structure and importance of First Amendment rights as well as the application of "unconstitutional conditions" analysis in the context of
contemporary public administration. Some of the material dealing with religion may spill over to the next class (cases 7.1, 7.2, 8.2).

Reading:
1. *Constitutional Competence*, text of chapters 5 and 7

Cases:
5.2 *Elrod v. Burns* (p. 116)
6.3 *Rankin v. McPherson* (p. 141)
7.1 *Goldman v. Weinberger* (p. 158)
7.2 *Church of Lukumi Babalu Aye v. Hialeah* (p. 162)
8.2 *Sherbert v. Verner* (p. 183)

2. Additional cases:
   - *Thomas and Windy City Hemp Development Bd. v. Chicago Park District* (2002) (Blackboard)

7. October 14: The Constitutionalization of Public Administration IV: Fourth Amendment Privacy
This session examines the structure, application, and importance of Fourth Amendment privacy rights in the context of public administration. It reviews the constitutional problems posed by street-level administrative discretion.

Reading:
1. *Constitutional Competence*

Cases:
4.1 *Delaware v. Prouse* (p. 90)
4.2 *New Jersey v. TLO* (p. 94)
6.4 *Vernonia School District 47J v. Acton* (p. 144)

2. Additional cases:
   - *Atwater v. City of Lago Vista* (2001) (Blackboard)

8. October 21: State Action, Privatization, Outsourcing, Nonprofit Concerns
This session considers constitutional constraints on privatization, public-private partnerships, outsourcing (competitive sourcing), and the federal legal framework for nonprofits.

Reading:
1. *Constitutional Competence*, chapter 3

Cases:
3.1 *Lebron v. National Railroad Passenger Corporation* (p. 69)
3.2 *West v. Atkins* (p. 71)
3.3 *Board of County Commissioners, Wabaunsee County v. Umbehrr* (p. 74)
3.4 *Richardson v. McKnight* (p. 77)
9.1 *DeShaney v. Winnebago County. DSS* (p. 201)

3. Additional cases:

9. October 28: Optional Midterm Examination
   The exam is open-book, in class, non-collaborative. The midterm comprises 35% of the final grade of those taking it. The final exam is cumulative over the entire course.

    This session analyzes the relationship between the Commerce Clause and the Tenth Amendment. It also considers the administrative consequences of the states' sovereign immunity under contemporary Eleventh Amendment and judicial interpretation.
    Reading:
    1. *Constitutional Competence*
       Cases:
       1.4 *U.S. v. Lopez* (p. 32)
       1.5 *Printz v. U.S.* (p. 36)
       1.6 *Carbone v. Town of Clarkstown* (p. 40)
    2. Additional cases (read in the order below):
       - *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers* (2001) (Blackboard)
       - *Gonzales v. Raich* (2005) (Blackboard)

    This session deals with the scope of presidential and congressional authority over federal administration.
    Reading:
    1. *Constitutional Competence*
       Cases:
       1.1 *Immigration and Naturalization Service v. Chadha* (p. 20)
       1.2 *Morrison v. Olson* (p. 25)
       1.3 *Local 2677, AFGE v. Phillips* (p. 30)
    4. Additional cases:
This and the next session examine the development of federal administrative law, its underlying values, and its requirements for representation, public participation, transparency, and dispute resolution. Emphasis is placed on rulemaking, freedom of information and "sunshine," adjudication and conflict resolution, and judicial review of administrative discretion.
Reading:
2. *Administrative Law for Public Managers*, chapters 1, 3-5
3. Additional cases:
   - *Industrial Union Department, AFL-CIO v. American Petroleum Institute* 448 U.S. 67 (1980) *(This can be found on Blackboard under Admin. Law Cases)*
   - *Sackett v. EPA* (2012) (Blackboard)

Reading:
1. *Administrative Law for Public Managers*, pp. 156-170
2. Cases *(These cases can be found on Blackboard under Admin. Law Cases)*:
3. Additional case:

14. December 2: Spillovers, Review, Conclusions
This session is devoted to covering any material on the syllabus not reached previously, a student driven review of course materials, and conclusions about the legal basis of public administration and contemporary public administrative practice.
Reading:
1. *Administrative Law for Public Managers*, chapter 7

15. December 9: Final Examination *(in-class, open-book)*
The School of Public Affairs requires course syllabi to state that all work must comply with American University's Academic Integrity Code (consult www.American.edu).