

American Democracy and the Policymaking Process
Prof. Steve Jackson
Syllabus
January 7, 2013

This is a course on the policy making processes in the United States Government. It will serve as a window through which to view basic issues in American democracy from macro-explanatory questions (such as, What are the factors which cause issues to arise on the institutional agendas of Congress, executive Agencies, and the Supreme Court?) to micro-normative questions (such as, What ought to be the limits on the behavior and obligations for action of legislators, regulators, lobbyists and other participants in the policy-making process?). Policymaking proceeds through predictable stages starting with agenda-setting, proceeding through legitimation, moving to implementation, entering into evaluation, and culminating in a possible return to agenda-setting.

In general, we will proceed through the stages of the policymaking process, asking three questions at each stage: What happens? Why does it happen? And what should happen? In addressing each of these questions, we will be setting contemporary answers to these questions in historical context, and examining systematic differences across policy types.

In elaborating these questions and searching for answers, we will develop two fundamental themes:

- 1) “Where you stand depends on where you sit.” Credited to Robert McNamara who, as Defense Secretary during the Cuban Missile Crisis, sought to make sense of the different views brought to the table by the EXCOM assembled by the President to manage the crisis. In the context of understanding the policy process, there are two dimensions of location whose impact on perspective we will explore. On the one hand, participants in the process in Washington, DC systematically differ in their descriptions, explanations, and normative evaluations from scholars studying the process, and of course, different kinds of participants differ from other kinds (e.g., legislators from lobbyists). On the other hand, scholars from different disciplines also differ systematically in their descriptions and explanations and, usually implicitly, in their normative evaluations (political scientists vs. economists vs legal analysts).
- 2) “The devil is in the details.” Originating, perhaps, in Flaubert’s “The good God is in the details.” the Satanic variant suggests the possibility of a fundamental misunderstanding if details are not scrutinized sufficiently. We will examine details in the policy-making process in three ways which will distinguish this course from a typical public policy course. a) First, we will recognize that the final product of the policy-making process is often a written document, whether it is a law, a regulation, an Executive Order, or a decision of the Court. We will take the words in those documents seriously, relating them to the process which produced the document. b) Second, by taking the question of normative evaluations as the third, rather than the first, question, we will find that the normative questions – both systemic and individual – are more complicated than often portrayed. And c) Third, students interning within or near the world of policy will bring their own observations as participants to the discussion, as well. As we probe the details of those views, we will find utility in drawing upon multiple perspectives in understanding the process.

How will we organize and conduct the course?

1) By dividing each class into two segments. In the first segment, we will discuss the main points in the reading, historical context, and current development in politics and policy. In the second segment, we will relate issues from the readings to policy decisions on which students will focus their research for the semester, and/or to their internship experiences.

2) By requiring each student to pick a federal law or regulation or policy decision passed within the last five years (approximately), and, focusing in on particular provisions as the semester progresses, to write a research paper on the policy process which produced that legislation or regulation. The paper will be completed in parts, with writing assignments during the semester which ask the student to apply the facts, ideas, concepts which we are discussing in class to the particular law or regulation. Many of those assignments can be submitted in outline form rather than in essay form, if a student so chooses.

Requirements of the course:

A) completion of all reading assignments prior to the class for which they are assigned;

B) active participation in class discussions and exercises;

C) a final exam on the readings for the course (for undergraduates only);

D) completion of:

i) a one page writing assignment describing a law or regulation or policy decision on which the student wishes to focus;

ii) three one-two page outlined writing assignments (agenda-setting, formulation and legitimation), applying the concepts and findings we have discussed in class to their own topic and drawing upon the material in the Peters text and other readings where appropriate (may be completed in essay form, if so desired);

iii) a partial rough draft of 5-10 pages which begins turning outlines into essay form; and

iii) a final paper, consisting of a compilation of the four prior writing assignments, elaborated from outline to full essay form, and an additional eight-ten pages of evaluation and assessment of both the policymaking process and the resulting policy decision.

Due dates and points for each component of the course are detailed here:

[Note: O/E refers to Outline/Essay forms for the respective assignments]

| | Points | Session Due | Date Due, 11:59pm | Form | Length |
|--------------------------------|--------|-------------|----------------------|---------------------|---------------------------|
| Participation (Law/UG) | 35/20 | | | | |
| Final Exam (Law/UG) | 0/15 | | | | |
| Choice of Decision | 0 | 3 | January 18 | Essay | 1-2 pages |
| Agenda Setting (O/E) | 5/10 | 6 | February 8 | Outline or Essay | 1-2 pages or 4-5 pages |
| Policy Formulation (O/E) | 5/10 | 9 | March 1 | Outline or Essay | 1-2 pages or 4-5 pages |
| Legitimation (O/E) | 5/10 | 12 | March 29 | Outline or Essay | 1-2 pages or 4-5 pages |
| Rough Draft (O/E priors) | 15/0 | 14 | April 12 | Essay | 6-8 pages |
| Final Paper | 35 | 14 + | April 22 | Essay | 22-28 pages |

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*****The textbook, B. Guy Peters, *American Public Policy: Promise and Performance*, Eighth Edition (referred to as Peters): read for important information, not for every date and detail;**
+++Readings providing theoretical, analytical, or empirical research on aspects of the process; read for main arguments and results;
&&& Primary materials from America's political and/or policy history;
###Debates on major policy issues from Richard Ellis and Michael Nelson, *Debating Reform* (referred to as Ellis and Nelson)
^^^Illustrative material – histories or cases: read for main line of story and for consistency or inconsistency with expectations based on scholarly research.

Session 1: The Puzzling Path from Issue to Law: Health Care Reform as Illustration

^^^"Health Care Reform: Overview," New York Times, January 3, 2011 [optional]

Session 2: Values, Historical Lessons and the Creation of the American System

***James Madison, *The Federalist Papers*, #51

***Alexis de Tocqueville, *Democracy in America*, Chapter XIV: What The Real Advantages Are Which American Society Derives From The Government Of The Democracy, HIGHLIGHTED PORTIONS

***Letter from Thomas Jefferson to George Washington on the Unconstitutionality of a National Bank, HIGHLIGHTED PORTIONS

***Letter from Alexander Hamilton to George Washington on the Constitutionality of a National Bank, HIGHLIGHTED PORTIONS

Session 3: Systemic Agenda Setting and Issue Types

***Peters, Chapter 1-4, pp. 3 – 91.

+++Jeffrey E. Cohen, "Presidential Rhetoric and the Public Agenda," *American Journal of Political Science*, Vol. 39, #1, pp. 87 – 107. FOCUS on "Introduction" and "Conclusions."

+++James W. Stoutenborough, Donald P. Haider-Markel and Mahalley D. Allen, "Reassessing the Impact of Supreme Court Decisions on Public Opinion: Gay Civil Rights Cases," *Political Research Quarterly* (2006), Vol. 59, #3, pp. 419 – 433. FOCUS on introduction, "A Theory of Supreme Court Influence on Public Opinion," "Supreme Court Decisions on Gay Civil Rights and Public Opinion," and "Conclusion."

Session 4: Institutional Agenda-Setting

+++Kenneth J. Arrow, "A Difficulty in the Concept of Social Welfare," *The Journal of Political Economy*, Vol. 58, #4, pp. 328 – 346. FOCUS on "Introduction" and *The Possibility Theorem* on p. 342.

+++Lee Hamilton, "What I Wish Political Scientists Would Teach about Congress," *PS: Political Science and Politics*, (2000), Vol. 33, #4, pp. 757 – 764.

###Ellis & Nelson, Chapter 1 (Amending the Constitution)

Session 5: Federalism and Policy Formulation

+++Pietro S. Nivola, "ReBalancing American Federalism." from the Brookings Institution Metropolitan Policy Program

+++Andrew Rich and Kent Weaver, "Think Tanks in the Political System of the United States," in Andrew Rich et al, *Think Tanks in Policy Making – Do they Matter?*, Proceedings from the conference, **The Role of Think Tanks in Society**, held jointly by the Shanghai office of the Friedrich-Ebert-Stiftung (FES) and the College of Public Administration, Zhejiang University on 25 and 26 August 2010 in Hangzhou.

###Ellis & Nelson, Chapter 2 (State Drinking Age)

Session 6: Congress: Committees, Voting, and Representation

+++Aldrich, John H., and David W. Rohde. "The Republican Revolution and the House Appropriations Committee." *Journal of Politics* 62 (2000): 1-33.

+++Gilligan, Thomas W., and Keith Krehbiel. "Collective Decisionmaking and Standing Committees: An informational rationale for restrictive amendment procedures." *Journal of Law, Economics, and Organization* Vol 3 (1987): 287-335. FOCUS on "Introduction," "2. Examples of Restrictive Procedures," and "7. Discussion."

OR

+++Shepsle, Kenneth A., and Barry R. Weingast. "The institutional foundations of committee power." *American Political Science Review* 81 (1987): 85-104. FOCUS on introduction, "Theoretical Foundations of Committee Power," and "Discussion."

Session 7: Institutions in the Policy Process

***Peters, Chapters 5 - 6, pp. 92 – 140.

****Mr. Smith Goes to Washington* (1939) [Watch in Class]

###Ellis & Nelson, Chapter 12 (Filibuster)

Session 8: Rules, Norms, and Precedents; and Budget Politics

***Peters, Chapter 7, pp. 141 – 178.

+++Walter J. Oleszek, "A Dynamic Process," Chapter 10, in *Congressional Procedures and the Policy Process* (Eighth Edition), pp. 366-381.

+++Charles E. Lindblom, "The Science of Muddling Through," *Public Administration Review* (1959), Vol. 19, #2, pp. 79 – 88.

###Ellis & Nelson, Chapter 13 (Line Item Veto)

Session 9: Lobbying, Media and Public Opinion

+++Hall, Richard L., and Frank W. Wayman. "Buying time: Moneyed interests and the mobilization of bias in congressional committees." *American Political Science Review* 84 (1990): 797-820. FOCUS on abstract, introduction, and "Conclusion."

+++Jeffrey E. Cohen, "If the News is so Bad, Why Are Presidential Polls so High? Presidents, the News Media, and the Mass Public in an Era of New Media," *Presidential Studies Quarterly* (2004), Vol. 34, #3, pp. 493 – 515.

+++Ryan L. Claassen and Benjamin Highton, "Does Policy Debate Reduce Information Effects in Public Opinion? Analyzing the Evolution of Public Opinion on Health Care," *The Journal of Politics* (2006), Vol. 68, #2, pp. 410 – 420. FOCUS on introduction, "Policy Debate in Theory," "Political Information and Policy Debate," and "Discussion and Conclusion."

###Ellis & Nelson, Chapter 8 (No cup of coffee rule)

###Ellis & Nelson, Chapter 3 (National Initiative and Referendum)

Session 10: The Supreme Court

+++Stephen L. Carter, "Constitutional Improprieties: Reflections on Mistretta, Morrison, and Administrative Government," *The University of Chicago Law Review* (1990), Vol 57, #2, pp. 357 – 406.

+++Louis Michael Seidman, "Let's Give Up on the Constitution," *New York Times*, December 30, 2012.

+++Victoria Nourse, "A Decision Theory of Statutory Interpretation: Legislative History by the Rules," Georgetown Public Law and Legal Theory Research Paper No. 12-150.

###Ellis & Nelson, Chapter 15 (Term Limits for Justices)

Session 11: The Bureaucracy, Regulation and Implementation

&&&Rulemaking Process from Federal Register

+++Calvert, Randal L., Mathew D. McCubbins, and Barry R. Weingast. "A Theory of Political Control and Agency Discretion." (1989): 588-611. FOCUS on introduction, and "Discussion."

+++David H. Rosenbloom, “ „Whose Bureaucracy Is This, Anyway?“ Congress“ 1946 Answer,” *PS: Political Science and Politics* (2001), Vol. 34, #4, pp. 773 – 777.
###Ellis & Nelson, Chapter 13 (Line Item Veto)

Session 12: Presidential Decision Making, Foreign Policy and National Security Processes

+++Graham T. Allison, “Conceptual Models and the Cuban Missile Crisis,” *The American Political Science Review* (1969), Vol. 63, #3, pp. 689 – 718.

+++Kiki Caruson and Victoria A. Farrar-Myers, “Promoting the President’s Foreign Policy Agenda: Presidential Use of Executive Agreements as Policy Vehicles,” *Political Research Quarterly* (2007), Vol. 60, #4, pp. 631 – 644.

+++Patrick J. Haney, “Foreign Policy Advising: Models and Mysteries from the Bush Administration,” *Presidential Studies Quarterly* (2005), Vol. 35, #2, pp. 289 – 302.

Session 13: Evaluation of Process and Product

***Peters, Chapter 8, pp. 179 – 198.

+++John Rawls, “Justice as Fairness: Political not Metaphysical,” *Philosophy and Public Affairs*, (1985) Vol. 14, #3, pp. 223 – 251.

Session 14: Constraints on and Obligations of Participants

+++Kathleen Clark, “The Ethics of Representing Elected Representatives,” *Law and Contemporary Problems* (1998), Vol. 61, #2, pp. 31 – 45.

+++Dennis F. Thompson, “Paradoxes of Government Ethics,” *Public Administration Review* (1992), Vol. 52, #3, pp. 254 – 259.

+++Martin Reuss, “Government and Professional Ethics: The Case of Federal Historians,” *The Public Historian* (1999), Vol. 21, #3, pp. 135 – 142.

+++Andrew Rehfeld, “Representation ReThought: On Trustees, Delegates and Gyroscopes in the Study of Political Representation and Democracy,” *American Political Science Review* (2009), Vol. 103, #2, pp. 214 – 230.