

# LAW280 Administrative Law II (Remedies)

3rd and 4th quarters, Sophomore

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<b>Instructor</b>	TOBE MASUMI
<b>Style of Class</b>	Lecture
<b>Number of Credits</b>	2
<b>Day and Period</b>	To be advised

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## Course Description

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This course systematically examines the “Administrative Remedies Law” as an academic discipline. This body of law pertains primarily to mechanism for litigation between citizenry and public administration.

Not many people will involve themselves in litigation in the course of their lifetime, particularly litigation with public administration. Even in actual cases of litigation, lawyers will take care of most of the requisite tasks. This may lead to the idea that citizens won’t be inconvenienced by not knowing the Administrative Remedies Law. However, administrative litigation consists of a variety of arcane rules (which tend to impede initiation of litigation by citizenry), often making it impossible to open litigation by the time a citizen consults with a lawyer. It is, therefore, not useless to equip oneself with general knowledge of this important law.

Additionally, the mechanisms of administrative litigation reflect the essence and characteristics of public administrative acts. Thus, acquisition of knowledge about the Administrative Remedies Law will enhance an understanding of the administrative litigation system, and, eventually to a more sophisticated understanding of public administration itself.

## Course Objectives

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To acquire systematic knowledge of the Administrative Remedies Law (administrative litigation; filing of an objection to an administrative action; state reparation; restitution).

## Prerequisites

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Administrative Law I (General Remarks)

\* Although not required, it is recommended that the students have completed Administrative Law I, as some parts of this course are based upon the concepts, etc. that are taught in Administrative Law I.

## Class Materials

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### Textbook

None designated (The lecture will be conducted based on outlines provided by the instructor).

### Supplementary Materials

Hashimoto Hiroyuki and Sakurai Keiko, *Gyoseiho* (Administrative Law), Kobundo.

Shiono Hiroshi, *Gyoseiho II, Gyoseiho soron* (Administrative Law II, General Remarks of Administrative Law), Yuhikaku.

Uga Katsuya, *Gyoseiho gaisetsu II* (Outline of Administrative Law II), Yuhikaku.

Bessatsu Jurisuto, *Gyosei hanrei hyakusen I, II* (Jurist, Separate Volume, “Hundred Cases of Administrative Judicial Precedents I, II”), Yuhikaku.

\* The latest edition of the above should be referred to.

## Course Method

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Lecture based on outlines provided by the instructor. Students will be asked proactively participate in class (by answering simple questions in class) as appropriate.

## Evaluation/Assessment

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The grade evaluation will be based upon the attitude toward the lecture (responses to questions, etc.) and written examinations (short-answer examinations + essay tests).

## Grading

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30% Attitude toward lecture

## Course Schedule

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### **Week 1: Structure of Administrative Remedies Law**

Overview of the disciplinary composition of the administrative remedies law.

### **Week 2: Actions for the Revocation of Administrative Dispositions (Disposability)**

Understanding of “disposability” as one of the requirements to institute an action for revocation of administrative disposition, and survey of scope of the disposability as admitted with respect to various administrative actions.

### **Week 3: Actions for the Revocation of Administrative Dispositions (Standing to Sue)**

“Standing to sue” as one of the requirements to institute an action for revocation of administrative disposition, with focus on when the standing to sue is admitted of a third party.

### **Week 4: Actions for the Revocation of Administrative Dispositions (Benefit of Suit, etc.)**

Other requirements to institute an action for revocation of administrative dispositions, with focus on the benefit of suit.

### **Week 5: Illegality/Judgement**

Effect of the judgement in an action for revocation of an administrative disposition.

### **Week 6: Action for Declaration of Nullity, etc./Action for Declaration of Illegality of Inaction**

Requirements for action and requirements for admission of the merit in the cases of action for declaration of nullity, etc./action for declaration of illegality of inaction.

### **Week 7: Mandamus Action/Action for Injunction**

Requirements for action and requirements for admission of the merit in the cases of the mandamus action/action for injunction.

### **Week 8: Provisional Protection of Right**

Stay of execution, provisional mandating and provisional injunction as institutions to protect the rights of plaintiffs (provisional protection of right).

### **Week 9: Administrative Appeal**

Administrative appeals, with focus on request for examination, request for re-investigation, request for re-examination.

### **Week 10: State Compensation (Substance of Responsibility of State Compensation, etc.)**

Substance of the responsibility of the state to compensate under Article 1 of the State Redress Act and the requirements to be satisfied when such responsibility is admitted (exercise of public authority).

### **Week 11: State Compensation (Responsibility of Public Authority)**

Substance of the responsibility of the state to compensate under Article 1 of the State Redress Act and the requirements to be satisfied when such responsibility is admitted (relevance to duties, illegality, intent/negligence).

### **Week 12: State Compensation (Failure to Exercise Regulatory Authority)**

Conditions and other matters to effectively cause the state to assume responsibility to compensate damage under Article 1 of the State Redress Act when an administrative agency failed to exercise its regulatory authority.

### **Week 13: State Compensation (Public Structure Liability)**

Conditions and other matters necessary to effectively cause the state to assume responsibility to compensate damage (public structure liability) under Article 2 of the State Redress Act.

### **Week 14: Indemnification**

Conditions, contents and other matters of indemnification.

### **Week 15: Course Wrap-up**

Review of the entire course and reconfirmation of the significance of studying administrative remedies law.

## Preparation and Follow-up

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Confirm the contents of the lecture outline prepared by the instructor before coming to class. If there is a supplementary materials book suggested in the outline, read their relevant chapters to prepare for the class.

Review after the class the key points of the lecture in an effort to accurately understand each concept studied. Sort out any questions and ask them at the next class.