Since the days of Felix Frankfurter, the Administrative Law course has been a staple of American law schools. It's a great course, but it's limited. The same is true of most of the courses on legislation and regulation in the first year, which also focus on how courts interpret statutes and how they review administrative actions. But a student could emerge from these courses with an A+, yet without understanding the reasons for regulations to exist or how to argue before an administrative agency. They also wouldn't learn much about the compliance process, which may well be the stage where lawyers are most active. They may learn about the existence of OIRA (the White House office that reviews agency actions), but not about how cost-benefit analysis really works. Yet as regulatory lawyers, that's something they really need to understand.

There's an effort underway to get the American Association of Law Schools to sponsor a study of how to improve this situation. The effort comes from what many would consider a conservative source, but there's no reason to consider this an ideological issues. If anything, liberals who favor more regulation should be even more interested in making sure that our students learn how to make economic arguments, how to argue before agencies, and how to make sure that businesses comply. I've always told my environmental law students that, whatever they think of cost-benefit analysis, they need to understand it well enough to critique anti-regulatory arguments.

Ideally, every law school should have a course on regulatory policy and economics, another course on compliance, and a clinic that represents clients before agencies. Not many law schools have all these courses — certainly not Berkeley. As an alternative, it would be great to see more of these issues mainstreamed into the administrative law course or into the increasing number of 1L offerings on legislation and regulation. And yes, it would be nice if the AALS were to take some initiative in thinking about how to make this work.