**UNIVERSITY OF WYOMING**

**POLS/CRMJ 4110**

**Constitutional Law: Civil Rights & Civil Liberties, 3 credits**

**Fall 2020**

**Zoom Link for class:**[**https://uwyo.zoom.us/j/95794410866**](https://uwyo.zoom.us/j/95794410866)

Monday/Wednesday/Friday 1:20 – 2:10 PM

**Instructor contact information**:

Instructor: Jason B. McConnell, Ph.D., J.D.

Email: jasonmac@uwyo.edu

Teaching assistant: Elizabeth Cardenas

Email: ecarden1@uwyo.edu

**Office hours**:

McConnell:

 All office hours will be held by Zoom at this link: <https://uwyo.zoom.us/j/93534164498>

 Office hours: Monday / Wednesday / Friday, from 9:00 – 10:00 am

Cardenas:

Office: to be determined

 Office Hours: to be determined

**Course prerequisites, co-requisites, enrollment restrictions**:

Pre-req.: POLS 1000 American & Wyoming Government, or express approval of the instructor

**Course Description**:

The American Constitution defines the framework within which our government operates. As originally envisioned, this framework defined the operations of the national government, but over time the supremacy achieved by the national government over the states has resulted in the broad expansion of the scope, or reach if you will, of the Constitution into vast swaths of American daily life. This course looks not to the structure of our governmental system, but instead to the rights and liberties afforded to us under the Constitution.

**Student Learning Outcomes**:

This course examines the United States Constitution through the melding of two common approaches to the topic: the legal academic approach primarily focused upon case law handed down by the U.S. Supreme Court, and the social science approach commonplace in Political Science primarily focused upon the Constitution as the boundaries within which the three branches of government co-exist. By melding these two approaches, it is hoped students will gain appreciation of what both have to offer and thus develop a more nuanced perspective on the Constitution and the role it plays in our society.

**Required texts, readings, and special tools or materials:**

The following text is required for this course:

1. Sullivan, Kathleen M. and Feldman. *Constitutional Law, 19th ed.*:

Foundation Press, 2017

Additionally, supplemental readings will be announced from time to time. For your convenience, these readings will be available in electronic format.

Students are expected to purchase the Sullivan and Feldman text and to remain current with all assigned readings listed in the Course Schedule (below). Current events will be used as examples as appropriate. Students should keep abreast of what is happening in American politics through reading a daily newspaper, watching television news, etc. Class discussion is required (see below). Please feel free to raise questions concerning the readings or current events. However, the instructor reserves the right to restrict in-class discussions if necessary, to meet course objectives.

## General requirements and expectations for the course:

There is a strong correlation between attending class regularly and receiving a high grade in the course. Students are therefore urged to attend lecture on a regular basis. Exams are designed to draw from the readings and lectures, and students are expected to be familiar with all class material. If you miss a class, I suggest that you obtain notes from a classmate and/or discuss the lecture with me. The instructor will be happy to discuss missed lectures but students will not be permitted to copy the instructor’s notes.

Late assignments will not be accepted, unless either: a) the student has a university excused absence, OR b) the student has made arrangements with the instructor *before* the assignment due date.

## Required examinations, assignments, activities, and projects.

**Final Examination or Final Project Date:**

**EXAM 3 – Monday, December 7, 2020**

Students unable to take Exam 3 during the aforementioned day/time window *must* make prior accommodations with the instructor.

**Grading Scale and Grading Policies:**

Grades for this course will be based on three criteria:

1. Examinations:
	1. Three examinations, each covering roughly one-third of the lectures and readings, are worth 100 points each. The dates of the exams are listed below. The final examination is not comprehensive. Examinations will be a combination of short answer and essay questions.

**EXAM 1 – Monday (9/21/20)**

**EXAM 2 –Monday (10/26/20)**

**EXAM 3 – Monday (12/7/20)**

* 1. Examination procedures
		1. Exams will be taken online on the dates specified on the course schedule (above). Each exam must be taken at the scheduled time unless other arrangements are approved by the instructor.
		2. Students will have one hour with which to complete each exam, from the time they begin.
		3. Requests for make-up exams must be made **in writing (via email)** within seven calendar days of the scheduled examination date. The written request must include the reason for missing the examination and your student identification number.
		4. Requests for make-up exams will be denied unless a valid reason is presented. Examples of valid excuses for taking an exam at an alternative time include illness, death in the family, and participation in a university-sponsored activity. Other excuses will be considered as well. Documentation for the excuse may be required. Other excuses will be considered as well but will be approved at the instructor’s discretion. Documentation for the excuse may be required.
		5. University regulations concerning academic dishonesty will be strictly enforced.
1. Discussion:

Students will watch a short (roughly 10 minute) video recording tied to each class day’s material. Each video will end with one or more questions tied to the material. Students will post their answers to these questions in the associated discussion board for the topic in the course’s WyoCourses site.

Upon posting their answers, students will unlock an electronic copy of the instructor’s lecture notes on the topic.

1. Participation:

Students will be held accountable for course material using the Socratic method of calling on students. (contd. below)

To facilitate both my familiarity with you and my assessment of your familiarity with the material, each student will provide answers to a few demographic questions by responding to a short survey in WyoCourses. I will use these responses to select students to call on in class and ask questions about the material. Periodic shuffling of the course roster will insure random selection and completeness. Class participation is worth 50 points of the course grade.

**Grading at a Glance**

Final grades for the course will be based on the total number of points earned on the three examinations (3 x 100 points), discussion (50 points) and participation (50 points), relative to the following scale:

 360 to 400 points = A

320 to 359 points = B

 280 to 319 points = C

 240 to 279 points = D

 0 to 239 points = F

**Attendance and Absence policies**:

Students who are absent from class when they are called on to answer questions about course material will be called on in the next class period. Students who are absent the second time when called on will receive a zero for participation, unless their absence is excused.

University policies on excused absences as outlined are [UW Regulation 2-108 (Student Attendance Policy)](http://www.uwyo.edu/regs-policies/_files/docs/regulations-2018/uw_reg_2-108_approved_7-12-18.pdf).

**Classroom Behavior Policy:**

At all times, treat your presence in the classroom and your enrollment in this course as you would a job. Act professionally, arrive on time, pay attention, complete your work in a timely and professional manner, and treat all deadlines seriously. You will be respectful towards you classmates and instructor. Spirited debate and disagreement are to be expected in any classroom and all views will be heard fully, but at all times we will behave civilly and with respect towards one another. Personal attacks, offensive language, name-calling, and dismissive gestures are not warranted in a learning atmosphere. As the instructor, I have the right to dismiss you from the classroom, study sessions, electronic forums, and other areas where disruptive behavior occurs.

Electronic devices such as mobile phones should be set to silent. Laptops are allowed for note-taking purposes. No video or audio recording during class is allowed to protect the privacy of your fellow students.”

**Classroom Statement on Diversity:**

The University of Wyoming values an educational environment that is diverse, equitable, and inclusive. The diversity that students and faculty bring to class, including age, country of origin, culture, disability, economic class, ethnicity, gender identity, immigration status, linguistic, political affiliation, race, religion, sexual orientation, veteran status, worldview, and other social and cultural diversity is valued, respected, and considered a resource for learning. “

**Disability Support**:

The University of Wyoming is committed to providing equitable access to learning opportunities for all students. If you have a disability, including but not limited to physical, learning, sensory or psychological disabilities, and would like to request accommodations in this course due to your disability, , please register with and provide documentation of your disability as soon as possible to Disability Support Services (DSS), Room 128 Knight Hall. You may also contact DSS at (307) 766-3073 or udss@uwyo.edu. It is in the student’s best interest to request accommodations within the first week of classes, understanding that accommodations are not retroactive. Visit the DSS website for more information at: [www.uwyo.edu/udss](http://www.uwyo.edu/udss)

**Academic Dishonesty Policies**:

Academic dishonesty will not be tolerated in this class. Cases of academic dishonesty will be treated in accordance with UW Regulation 2-114. The penalties for academic dishonesty can include, at my discretion, an “F” on an exam, an “F” on the class component exercise, and/or an “F” in the entire course. Academic dishonesty means anything that represents someone else’s ideas as your own without attribution. It is intellectual theft – stealing - and includes (but is not limited to) unapproved assistance on examinations, plagiarism (use of any amount of another person’s writings, blog posts, publications, and other materials without attributing that material to that person with citations), or fabrication of referenced information. Facilitation of another person’s academic dishonesty is also considered academic dishonesty and will be treated identically.

**Duty to Report:**

UW faculty are committed to supporting students and upholding the University’s non-discrimination policy. Under Title IX, discrimination based upon sex and gender is prohibited. If you experience an incident of sex- or gender-based discrimination, we encourage you to report it. While you may talk to a faculty member, understand that as a "Responsible Employee" of the University, the faculty member MUST report information you share about the incident to the university’s Title IX Coordinator (you may choose whether you or anyone involved is identified by name). If you would like to speak with someone who may be able to afford you privacy or confidentiality, there are people who can meet with you. Faculty can help direct you or you may find info about UW policy and resources at <http://www.uwyo.edu/reportit>

You do not have to go through the experience alone. Assistance and resources are available, and you are not required to make a formal complaint or participate in an investigation to access them.

**Substantive changes to syllabus**:

*All deadlines, requirements, and course structure is subject to change if deemed necessary by the instructor. Students will be notified verbally in class, on our WyoCourses page announcement, and via email of these changes.*

**Schedule of topics, activities, and graded work**:

**Week 1. (8/24 – 28)**

1. A primer on legal reading and writing (handout posted in WyoCourses)
2. Judicial Review
	1. *Marbury v. Madison* and commentary (pp. 1-15)
3. Judicial Review (cont.) (pp. 16 – 34)
	1. *Martin v. Hunter’s lessee*
	2. *Cooper v. Aaron*

**Week 2. (8/31 – 9/4)**

1. Individual Rights Before the Civil War (pp. 441 – 444)
	1. *Barron v. Baltimore*
2. The Post-Civil War Amendments (pp. 449 – 462)
	1. *Slaughter-House Cases*
	2. *Saenz v. Roe*
3. Incorporation (pp. 462 - 482
	1. *Duncan v. Louisiana*
	2. *District of Columbia v. Heller*
	3. McDonald v. City of Chicago

**Week 3. (9/7 - 11)**

1. Substantive Due Process and Economic Liberties (pp. 483 – 508)
	1. *Lochner v. New York*
	2. *Nebbia v. New York*
	3. *Williamson v. Lee Optical Co.*
2. Substantive Due Process and Privacy (pp. 508 – 601)
	1. *Griswold v. Connecticut*
	2. *Roe v. Wade*
3. Substantive Due Process and Privacy (cont.)
	1. *Planned Parenthood v. Casey*
	2. *Gonzales v. Carhart*

**Week 4. (9/14 - 18)**

1. Substantive Due Process and Privacy (cont.)
	1. *Lawrence v. Texas*
	2. *Washington v. Glucksberg*
2. Procedural Due Process and the Right to a Hearing (pp. 602 – 608)
3. **EXAM 1 Q ‘n A**

**Week 5. (9/21 - 25)**

1. **EXAM 1 – Monday (9/21/20)**
2. Intro to Equal Protection (pp. 658 – 669)
	1. *Strauder* and *Plessy*
	2. *Brown I*
	3. *Bolling*
3. Implementation of Brown (pp. 669 – 682)
	1. *Brown II* and notes
	2. *Loving*
	3. *Palmore* and *Johnson*
	4. *Korematsu*

**Week 6. (9/28 – 10/2)**

1. Racially Discriminatory Purpose and Effect (pp. 682 – 692)
	1. *Yick Wo, Gomillion, Griffin* and *Palmer*
	2. *Washington v. Davis*
	3. *Arlington Heights*
2. Affirmative Action I (pp. 692 – 700, 712 – 731)
	1. *Bakke*
	2. *Grutter*
	3. *Gratz*
3. Affirmative Action II (pp. 731 – 745)
	1. *Fischer*
	2. *Schuette*
	3. *Parents Involved in Community Schools*

**Week 7. (10/5 - 9)**

1. Gender-based Discrimination (pp. 756 – 777)
	1. *Craig v. Boren*
	2. *Hogan*
	3. *U.S. v. Virginia*
2. Discrimination Based on Sexual Orientation (pp. 551 – 590)
	1. *Romer v. Evans*
	2. *Lawrence v. Texas*
	3. *U.S. v. Windsor*
	4. *Obergefell v. Hodges*
3. Free Speech Overview and Incitement to Violence I (pp. 931 – 959)
	1. Free Speech Overview
	2. Incitement to Violence
		1. *Schenck v. United States*
		2. *Abrams v. United States*

**Week 8 (10/12 - 16)**

1. Incitement to Violence II (pp. 959 – 986)
	1. *Gitlow v. New York*
	2. *Whitney v. California*
	3. *Brandenburg v. Ohio*
2. Fighting Words and Hostile Audiences (pp. 986 – 1004)
	1. *Chaplinsky v. New Hampshire*
	2. *Cohen v. California*
	3. *Feiner v. New York*
3. Injury to Reputation and Sensibility (pp. 1004 – 1021, 1035 – 1057)
	1. *New York Times v. Sullivan*
	2. *R.A.V. v. City of St. Paul*

**Week 9 (10/19 - 23)**

1. Sexually Explicit Expression I (pp. 1057 – 1077)
	1. *Roth v. United States & Alberts v. California*
	2. *Miller v. California*
2. Sexually Explicit Expression II (pp. 1103 – 1126)
	1. *F.C.C. v. Pacifica Foundation*
	2. *Reno v A.C.L.U.*
3. **Exam 2 Q ‘n A**

**Week 10 (10/26 - 30)**

1. **Exam 2 – Monday (10/26/20)**
2. Commercial Speech (pp. 1133 – 1160)
	1. *Virginia Pharmacy Board v. Virginia Citizens Consumer Council*
	2. *Central Hudson Gas v. Public Service Comm’n*
	3. *44 Liquormart, Inc. v. Rhode Island*
3. Content-based and Content-neutral speech regulations (pp. 1161 – 1199)
	1. *United States v. O’Brien*
	2. *Texas v. Johnson*

**Week 11 (11/2 - 6)**

1. Government as Landlord I (pp. 1213 – 1249)
	1. *Members of City Council v. Taxpayers for Vincent*
	2. *Clark v. Community for Creative Non-Violence*
2. Government as Landlord II, (pp. 1250 – 1290)
	1. Non-traditional public forums
		1. Libraries, Jails, and Schools
		2. Buses, Theaters and Military Bases
3. Government as Landlord III (pp. 1305 – 1323)
	1. *Tinker v. Des Moines Independent Community School District*
	2. *Bethel School District No. 403 v. Fraser*
	3. *Hazelwood School District v. Kuhlmeier*
	4. *Morse v. Frederick*

**Week 12 (11/9 - 13)**

1. McConnell’s research on student speech
2. Government as Employer
	1. *Connick v. Meyers*
	2. *Pickering v. Connick*
3. Freedom of Association (pp. 1413 – 1431)
	1. *NAACP v. Alabama*
	2. *Shelton v. Tucker*
	3. *Gibson v. Florida Legislative Investigation Comm.*
	4. *NAACP v.* *Button*

**Week 13 (11/16 - 20)**

1. Money and Political Campaigns (pp. 1454 – 1505)
	1. *Buckley v. Valeo*
	2. *McConnell v. Federal Election Commission*
	3. *Citizens United v. Federal Election Commission*
2. *Freedom of the Press (pp. 1506 – 1545)*
	1. *Branzburg v. Hayes*
	2. *Minneapolis Star & Tribune Co. Minnesota Comm’r of Revenue*
3. Free Exercise of Religion (pp. 1551 – 1606)
	1. *Church of the Lukumi Babalu Aye v. City of Hialeah*
	2. *Locke v. Davey*
	3. *Sherbert v. Verner*
	4. *Employment Division, Dept. of Human Resources v. Smith*

**Week 14 (11/23 - 27) Week of Thanksgiving**

1. The Establishment Clause I – Financial Considerations (pp. 1606 – 1635)
	1. *Everson v. Board of Education*
	2. *Mueller v. Allen*
	3. *Zelman v. Simmons-Harris*

**Week 15 (11/30 – 12/4)**

1. The Establishment Clause II – Public Symbols & Prayer in Schools (pp. 1635 – 1657)
	1. *Zorach v. Clauson*
	2. *Lee v. Weisman*
	3. *Edwards v. Aguillard*
2. The Establishment Clause III – Public Displays (pp. 1657 – 1687)
	1. *Lynch v. Donnelly*
	2. *McCreary County v. ACLU of Kentucky*
	3. *Van Orden v. Perry*
3. **Exam 3 Q ‘n A**

**Week 16 (12/7 - 11)**

1. Exam 3 – Monday, December 7, 2020

**Student Resources:**

DISABILITY SUPPORT SERVICES: udss@uwyo.edu, 766-3073, 128 Knight Hall, [www.uwyo.edu/udss](http://www.uwyo.edu/udss)

COUNSELING CENTER: uccstaff@uwyo.edu, 766-2187, 766-8989 (After hours), 341 Knight Hall, [www.uwyo.edu/ucc](http://www.uwyo.edu/ucc)

ACADEMIC AFFAIRS: 766-4286, 312 Old Main, [www.uwyo.edu/acadaffairs](http://www.uwyo.edu/acadaffairs)

DEAN OF STUDENTS OFFICE: dos@uwyo.edu, 766-3296, 128 Knight Hall, [www.uwyo.edu/dos](http://www.uwyo.edu/dos)

UW POLICE DEPARTMENT: uwpd@uwyo.edu, 766-5179, 1426 E Flint St, [www.uwyo.edu/uwpd](http://www.uwyo.edu/uwpd)

STUDENT CODE OF CONDUCT WEBSITE: [www.uwyo.edu/dos/conduct](http://www.uwyo.edu/dos/conduct)