

Constitutional Law: Civil Rights & Civil Liberties

Political Science/Criminal Justice 4110/5110; Fall 2017

Monday/Wednesday/Friday 9:00 – 9:50 AM

BU 210

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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.

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.

Readings

Texts for the course consist of the following:

- Sullivan, Kathleen M. and Gerald Gunther. Constitutional Law, 19th ed.: Foundation Press, 2016

Additionally, supplemental readings will be announced from time to time. For your convenience, these readings will be posted in electronic format on the course website, available through the online learning environment.

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, I reserve the right to restrict in-class discussions if necessary to meet course objectives.

Grading

Grades for this course will be based on three criteria:

1. Examinations:

- a. 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.
- b. Examination procedures
 - i. Exams will be taken in class on the dates specified on the course schedule. Each exam must be taken at the scheduled time unless other arrangements are approved by the instructor.
 - ii. Students will have the class period of the day in question to complete each exam.
 - iii. 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.
 - iv. 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.
 - v. University regulations concerning academic dishonesty will be strictly enforced.

2. Participation:

The course material will be presented using the Socratic method of calling on students. 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 on a 3x5 card (provided). I will use these cards to select students to call on in class and ask questions about the material. Periodic shuffling of the "deck" will insure random selection and completeness. Class participation is worth 50 points of the course grade.

3. Attendance:

Attendance will be taken each class period. Attendance is worth 50 points.

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), participation (50 points), and attendance (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

Academic Dishonesty

1. University regulations concerning academic dishonesty (UW Regulation 6-802) will be strictly enforced. (<http://www.uwyo.edu/generalcounsel/files/docs/uw-reg-6-802.pdf>)
2. Any and all suspicions of academic dishonesty shall be investigated in accordance with UW Regulation 6-802.
3. Evidence of academic dishonesty will result in the recommended sanction of a failing grade for the course, in accordance with UW Regulation 6-802 6.A.vi

Reasonable Accommodation

It is University of Wyoming policy to accommodate students, faculty, staff, and visitors with disabilities. If you have a physical, learning, sensory, or psychological disability and require accommodations, please let me know as soon as possible. You will need to register with University Disability Support Services (UDSS) in the Student Educational Opportunity offices, Room 330 Knight Hall, and provide UDSS with documentation of your disability.”

Words of Advice

If you find yourself having difficulty identifying the important points from the readings or following lectures, please make an appointment to meet with me outside of class. Do not wait until the day of an examination or the end of the semester to tell me that you are having trouble. By then it is too late. The time to adjust your study habits is in mid-semester, not the last week of classes.

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. I will be happy to discuss missed lectures but I do not permit students to copy my notes.

Course Schedule¹

Week 1. (8/30 – 9/1)

- 1) A primer on legal reading and writing (handout posted in WyoCourses)
- 2) Judicial Review
 - a) *Marbury v. Madison* and commentary

Week 2. (9/4 - 8)

- 1) Judicial Review (cont.)
 - a) *Martin v. Hunter's lessee*
 - b) *Cooper v. Aaron*
- 2) Individual Rights Before the Civil War
 - a) *Barron v. Baltimore*

Week 3. (9/11 - 15)

- 1) The Post-Civil War Amendments
 - a) *Slaughter-House Cases*
 - b) *Saenz v. Roe*
- 2) Incorporation
 - a) *Duncan v. Louisiana*
 - b) *Heller*
 - c) McDonald
- 3) Substantive Due Process and Economic Liberties
 - a) *Lochner v. New York*
 - b) *Nebbia v. New York*
 - c) *Williamson v. Lee Optical Co.*

Week 4. (9/18 - 22)

- 1) Substantive Due Process and Privacy
 - a) *Griswold v. Connecticut*
 - b) *Roe v. Wade*
 - c) *Planned Parenthood v. Casey*
 - d) *Gonzales v. Carhart*
 - e) *Lawrence v. Texas*
 - f) *Washington v. Glucksberg*

Week 5. (9/25 - 29)

- 1) Procedural Due Process and the Right to a Hearing

¹ NOTE: The instructor reserves the right to modify this schedule to fit the needs of the course. However, at a minimum, students will be given notice of any changes one week prior to the date on which the change will take effect.

EXAM 1 Q 'n A – Wednesday (9/27/2017)
EXAM 1 – Friday (9/29/2017)

Week 6. (10/2 - 6)

- 1) Intro to Equal Protection
 - a) *Strauder* and *Plessy*
 - b) *Brown I*
 - c) *Bolling*
- 2) Implementation of Brown
 - a) *Brown II* and notes
 - b) *Loving*
 - c) *Palmore* and *Johnson*
 - d) *Korematsu*
- 3) Racially Discriminatory Purpose and Effect
 - a) *Yick Wo*, *Gomillion*, *Griffin* and *Palmer*
 - b) *Washington v. Davis*
 - c) *Arlington Heights*

Week 7. (10/9 - 13)

- 1) Affirmative Action I
 - a. *Bakke*
 - b. *Grutter*
 - c. *Gratz*
- 2) Affirmative Action II
 - a. *Parents Involved in Community Schools*
 - b. *Fischer*
 - c. *Schuetz*
- 3) Gender-based Discrimination
 - a. *Craig v. Boren*
 - b. *Hogan*
 - c. *U.S. v. Virginia*

Week 8 (10/16 - 20)

- 1) Discrimination Based on Sexual Orientation
 - a. *Romer v. Evans*
 - b. *Lawrence v. Texas*
 - c. *Obergefell*
- 2) Free Speech Overview and Incitement to Violence I
 - a. Free Speech Overview
 - b. Incitement to Violence
 - i. *Schenck v. United States*
 - ii. *Abrams v. United States*
- 3) Incitement to Violence II

- a. *Gitlow v. New York*
- b. *Whitney v. California*
- c. *Brandenburg v. Ohio*

Week 9 (10/23 – 27)

- 4) Fighting Words and Hostile Audiences
 - a. *Cohen v. California*
 - b. *Feiner v. New York*
- 5) Injury to Reputation and Sensibility
 - a. *New York Times v. Sullivan*
 - b. *R.A.V. v. City of St. Paul*
- 6) Sexually Explicit Expression I
 - a. *Roth v. United States & Albers v. California*
 - b. *Miller v. California*

Week 10 (10/30 – 11/3)

- 1) Sexually Explicit Expression II
 - a. *F.C.C. v. Pacifica Foundation*
 - b. *Reno v A.C.L.U.*

EXAM 2 Q ‘n A – Wednesday (11/1/2017)

EXAM 2 –Friday (11/3/2017)

Week 11 (11/6 - 10)

- 1) Commercial Speech
 - a. *Virginia Pharmacy Board v. Virginia Citizens Consumer Council*
 - b. *Central Hudson Gas v. Public Service Comm’n*
 - c. *44 Liquormart, Inc. v. Rhode Island*

Week 12 (11/13 - 17)

- 1) Content-based and Content-neutral speech regulations
 - a) *United States v. O’Brien*
 - b) *Texas v. Johnson*
- 2) Government as Landlord I
 - a) *Members of City Council v. Taxpayers for Vincent*
 - b) *Clark v. Community for Creative Non-Violence*
- 3) Government as Landlord II,
 - a) Non-traditional public forums

Week 13 (11/20) Week of Thanksgiving

- 1) Government as Landlord III
 - a) *Connick v. Meyers*
 - b) *Pickering v. Connick*
- 2) Freedom of Association
 - a) *NAACP v. Alabama*
 - b) *Shelton v. Tucker*

- c) *Gibson v. Florida Legislative Investigation Comm.*
- d) *NAACP v. Button*

Week 14 (11/27 – 12/1)

- 1) Money and Political Campaigns
 - a) *Buckley v. Valeo*
 - b) *McConnell v. Federal Election Commission*
 - c) *Citizens United v. Federal Election Commission*
- 2) *Freedom of the Press*
 - a) *Branzburg v. Hayes*
 - b) *Minneapolis Star & Tribune Co. Minnesota Comm'r of Revenue*
- 3) Free Exercise of Religion
 - a) *Church of the Lukumi Babalu Aye v. City of Hialeah*
 - b) *Locke v. Davey*
 - c) *Sherbert v. Verner*
 - d) *Employment Division, Dept. of Human Resources v. Smith*

Week 15 (12/4 - 8)

- 1) The Establishment Clause I – Public Symbols & Prayer in Schools
 - a) *Zorach v. Clauson*
 - b) *Lee v. Weisman*
 - c) *Edwards v. Aguillard*
- 2) The Establishment Clause II – Public Displays
 - a) *Lynch v. Donnelly*
 - b) *McCreary County v. ACLU of Kentucky*
 - c) *Van Orden v. Perry*
- 3) The Establishment Clause III – Financial Considerations
 - a) *Everson v. Board of Education*
 - b) *Mueller v. Allen*
 - c) *Zelman v. Simmons-Harris*

Week 16 (5/11 – 15)

Exam 3 Q 'n A Monday, 12/11/2017

EXAM 3 – Friday, 12/15/2017 (8:00 – 10:00 AM)