

POLI 4020: American Constitutional Law
Louisiana State University
Department of Political Science
Fall 2021
Tuesday/Thursday - 12:00 Noon - 1:20 PM - Via Zoom

Instructor: Aimee Chalin
Email: achalin@lsu.edu
Student Hours: By Appointment Only

PURPOSE

This course is designed to explore the nature, function, and powers of the three branches of the United States federal government primarily through the lens of Supreme Court decisions. The course will pay particular attention to separation of powers across the branches of government and between the federal and state governments. We will analyze the ways in which the Court has interpreted the Constitution's allocation of and constraints on governmental powers over time. We will consider how various historical and political contexts may impact the interpretation of institutional powers and endeavor to apply Supreme Court precedent to modern, topical issues.

LEARNING OBJECTIVES

1. Develop a substantive understanding of historical and modern developments in the constitutional law of institutional powers and constraints.
2. Understand the factors that influence Supreme Court decision making, including political, legal, and societal factors.
3. Develop the ability to read, understand, and interpret Supreme Court decisions and to summarize, synthesize, and effectively communicate the decisions.
4. Apply the understanding gained from course readings and lectures to current and hypothetical legal issues to arrive at well-reasoned decisions that are clearly articulated and legally justified.
5. Appreciate different decisions and types of constitutional interpretation and apply these different tactics in your coursework, regardless of which side of the debate you prefer.
6. Enhance your oral and written communication skills through classroom discussion and written assignments.

CLASS FORMAT

This course is a synchronous online course. All classes will be conducted via Zoom. Students are expected to be in class at the scheduled time (Tuesdays and Thursdays at 12:00 noon to 1:20 pm CST).

We will be using Moodle for this class. The Zoom link for the class is under the course introduction on Moodle. All assignments and additional readings will be posted on Moodle, and all assignments will be completed or turned in on Moodle.

Students are prohibited from recording the classes. Lectures and course materials (including my presentations, tests, outline, and lecture notes) may be protected by copyright. You are encouraged to utilize course materials for your own educational purpose. However, you are not to record, reproduce, or distribute this content without my express written permission. This includes sharing course materials to online study sites. **Dissemination of classroom content without permission is strictly prohibited and subject to academic disciplinary actions.**

Course Communication

Class announcements will be sent via email on Moodle. Please email me **via Outlook**, not Moodle, to avoid the email going to spam. Please include your first and last name in the email. If you have questions regarding due dates or reading assignments **consult the syllabus or a classmate**.

As mentioned, you will be submitting assignments and taking examinations via Moodle. You are responsible for giving yourself enough time to do so. **If you encounter complications with Moodle, contact them first.** If the issue remains unresolved after contacting them, then you can email me, but you must provide proof of your prior communication with Moodle.

Student Hours

Student hours will be by appointment only but please do not hesitate to schedule an appointment. I look forward to being available to answer questions, address concerns, or just chat.

COURSE MATERIALS

Required Text:

Epstein, Lee and Thomas G. Walker. 2020. Constitutional Law for a Changing America: Institutional Powers and Constraints. 10th Edition. Sage CQ Press. (ISBN: 978-1544317908).

The content from the tenth edition will be used for all classes, assignments, discussions, and exams. Use earlier editions at your own risk.

Additional Readings:

Additional readings on the course schedule will be posted on Moodle if they are not available in the textbook.

COURSE REQUIREMENTS AND GRADING

Assignment	Points
Constitutional Law Pre-Test	50
Briefing-Discussion Memos	200
Midterm Exam	200
Final Exam	200
Constitutional Law Post-Test	50
Attendance and Participation	150
Total Possible Points	850

Constitutional Law Pre-Test & Post-Test (100 points)

These tests will be **graded for completion**. In addition to asking short answer questions about your constitutional law educational background and future professional plans, the tests will include multiple choice

questions to gauge your knowledge of the Supreme Court and constitutional law prior to taking the class and to evaluate how much you learn/retain at the end of the semester. The Pre-Test is due on **Tuesday, August 31, 2021 by 11:59 pm CST**, and the Post-Test is due on **Wednesday, December 1, 2021 by 11:59 pm CST**.

Briefing-Discussion Memos (200 points)

The briefing-discussion memos will be **graded for completion and good faith effort**. They do not have to be perfect, but you must demonstrate an effort to understand and synthesize the course material. The memos will be done using the Fact-Issue-Rule-Application-Conclusion-Plus (FIRAC+) briefing format. I will provide you with an example, which we will review together. Everyone must complete the first memo for *Baker v. Carr*, due on **Tuesday, September 7, 2021 by 11:00 am CST**. I will provide feedback to each student to guide your future work. However, I will not provide feedback if you do not put forth the effort expected of a memo.

- In addition to the first memo, each student is required to complete 9 additional memos (10 total). Of the 10 memos, at least **5 must be completed prior to the midterm exam** (*Baker v. Carr* + 4 more).
- Each memo only needs to include one case and must include the following:
 - **Facts**: the relevant and important facts of the case, including who is involved and why
 - **Issue**: the constitutional issue(s) at stake
 - **Rule**: the legal rule(s) the court is trying to follow or interpret
 - **Application**: the court's analysis, *i.e.*, how the court applies the rule(s) to the facts of the case
 - **Conclusion**: the court's holding, the answer to the issue
 - **The "Plus" Component**: At the end of the memo, you will need to answer the following questions (when applicable): How does this case fit in with the other cases and themes we're discussing? Do you think the justices got it "right"? Why do you think this case is significant? Do you think the historical and political context in which the case was decided impacted the outcome?
 - ****A discussion/analysis of each concurrence and/or dissent**
- Please refer to the example memo of *Marbury v. Madison* provided on Moodle.
- Except for the *Baker v. Carr* memo, each memo is **due by 11:59 PM CST on the day before** the case is listed on the class schedule (*i.e.*, the night before we will discuss the case in class). All memos must be uploaded to Moodle as a PDF. Because of the numerous opportunities to submit memos, **no late memos will be accepted**.

Exams (400 points)

Both the midterm (200 points) and the final (200 points) exams will be completed individually via Moodle. The final will primarily (but not exclusively) test material covered after the midterm. Material throughout the course will touch on overarching themes, and therefore, some pre-midterm material may appear on the final. More information on exams will be provided throughout the semester.

Attendance and Participation (150 points)

All students are expected to participate in class, meaning you must come prepared and be ready to discuss all relevant materials. Further, at the end of most classes there will be a short poll on Zoom that will ask simple questions for attendance and participation credit. Please sign into Zoom with your full name to ensure you receive credit.

Grade Scale

LSU uses a letter plus-minus grading scale. The final **minimum** percentage needed for each grade is as follows: **A+**: 97, **A**: 93, **A-**: 90, **B+**: 87, **B**: 83, **B-**: 80, **C+**: 77, **C**: 73, **C-**: 70, **D+**: 67, **D**: 63, **D-**: 60, **F**: any value below 60.

I will not change grades at the end of the semester. The grade you earn is the grade you receive. Percentages greater than or equal to 0.5 will be rounded up to the next highest whole percentage (*i.e.*, 92.5% will round up to 93% but 92.49% will **not** be rounded up).

COURSE POLICIES AND RESOURCES

You are solely responsible for your conduct in this course and informing yourself of all relevant departmental, college, and university policies governing your behavior. This includes, but is not limited to, policies regarding academic integrity and plagiarism, accommodations for students with documented disabilities, religious holidays, and student athlete travel.

Academic Integrity

Louisiana State University adopted the Commitment to Community in 1995 to set forth guidelines for student behavior both inside and outside of the classroom. The Commitment to Community charges students to maintain high standards of academic and personal integrity. All students are expected to read and be familiar with the LSU Code of Student Conduct and Commitment to Community, found online at lsu.edu/saa. It is your responsibility as a student at LSU to know and understand the academic standards for our community.

Students who are suspected of violating the Code of Conduct will be referred to the office of Student Advocacy & Accountability. For undergraduate students, the outcome will range from failing the assignment to failing the class along with disciplinary probation. For graduate students, a first violation leads to deferred suspension for at least two semesters and a failing grade in the course.

All students are to abide by LSU's Commitment to Community and Code of Student Conduct, particularly Section 10.1 which governs academic misconduct.

LSU Code of Student Conduct: 10.1 Academic Misconduct

High standards of academic integrity are crucial for the University to fulfill its educational mission. To uphold these standards, procedures have been established to address Academic Misconduct. A Student is responsible for submitting work for evaluation that reflects the Student's performance. If a Student has a question regarding the Instructor's expectations for assignments, projects, tests, or other items submitted for a grade, **it is the Student's responsibility to seek clarification from the Instructor.**

In accordance with the LSU Faculty Handbook, an instructor may not assign a disciplinary grade, such as an "F" or zero on an assignment, test examination, or course as a sanction for admitted or suspected Academic Misconduct in lieu of referring the Student to SAA under the provisions of this Code. Grades assigned as a result of Academic Misconduct must be in accordance with this Code.

A Student found Responsible for Academic Misconduct may NOT drop the course in which the violation occurred. Any Student who drops the course without written permission from SAA will be re-enrolled in the class and then given the appropriate grade as provided in the Outcome. Faculty must submit the grade change form.

Academic Dishonesty and Plagiarism

Nearly everyone understands that copying passages verbatim from another writer's work and representing them as one's own work constitute plagiarism. Yet plagiarism involves much more. At LSU plagiarism is defined to include any use of another's work and submitting that work as one's own. This means not only copying passages of writing or direct quotations, but also paraphrasing or using structure or ideas without citation. Learning how to paraphrase and when and how to cite is an essential step in maintaining academic integrity.

See <https://www.lsu.edu/saa/students/academicintegrity/index.php>.

Written assignments for this class may be subject to review by plagiarism detection software. Incidents of dishonesty may also be reported to the Department or University, which can result in further disciplinary action.

Specific Statement Regarding Briefing-Discussion Memos

All briefing-discussion memos must be in your own words and demonstrate an understanding of the material. Do not copy from the textbook or use online resources that provide case briefs. In fact, I strongly recommend not visiting these websites as it will then be more difficult to synthesize the material in your own words. Taking information from any source, including these websites or the textbook, without attribution constitutes plagiarism and therefore is a violation of university policies.

If you are ever unsure about what constitutes plagiarism, I am happy to discuss it with you. Further, Indiana University has a helpful plagiarism tutorial.

See <https://plagiarism.iu.edu/tutorials/task2/index.html>

Group Work and Unauthorized Assistance

All work must be completed without assistance unless explicit permission for group or partner work is given by the Instructor. This is critical so that I can assess your performance on each assignment. If a group/partner project is assigned, the student may still have individual work to complete. Read the syllabus and assignment directions carefully. You might have a project with group work and a follow up report that is independently written. When in doubt, e-mail the Instructor or ask during a class session. Seeking clarification is your responsibility as a student. Assuming group/partner work is okay without permission constitutes a violation of the LSU Code of Student Conduct.

Accommodations for Students with Disabilities

Louisiana State University is committed to providing reasonable accommodations for all persons with disabilities. This syllabus is available in alternate formats upon request.

If you have already made accommodation arrangements, please inform me of your needs at **the beginning of the course** and present me with your accommodations form. If you need to request accommodations under the Americans with Disabilities Act, you may do so by contacting Disability Services in 115 Johnston Hall. Their phone number is 225-578-5919 and the website is www.lsu.edu/disability. I will honor all accommodations beginning when the disability is registered. I am unable honor retroactive accommodations.

Other Accommodations

I recognize that although all of you are students, you have a life outside of the classroom and oftentimes things going on in your personal life can complicate your work as a student, particularly during these challenging times. LSU has resources like [LSU Cares](#) to help during these difficult times. If you feel like you are struggling, please let me know. I am happy to submit a form to the Cares team on your behalf to get in touch with you and connect you with different resources and assistance.

COVID-19 Vaccination

LSU strongly encourages all students, faculty and staff to get vaccinated for COVID-19. Visit www.lsu.edu/roadmap/vaccines/ to learn how to get vaccinated on campus. Vaccination helps keep our campus community safe, helps protect those among us who are most vulnerable to COVID-19, and is our path back to more normal operations and the full college experience that our students deserve.

SCHEDULE OF TOPICS, READINGS, AND ASSIGNMENTS

Please complete the assigned readings by the start of each class. You should read the cases assigned and any commentary on the pages indicated for each class. Any assigned reading not available in Epstein and Walker (“EW”), is marked with an asterisk and will be available on Moodle.

Note: I reserve the right to modify this syllabus and schedule at any time. Students will be informed of any changes as soon as practicable on Moodle and via email prior to class.

PART I: INTRODUCTION AND THE JUDICIARY

Tuesday, August 24, 2021

Course Introduction

Thursday, August 26, 2021

Judicial Process

- EW 10-42, 48-53
- Recommended: EW 2-9

Tuesday, August 31, 2021

Judicial Review

- U.S. Constitution Article III
- Federalist No. 78
- EW 54-75
 - Marbury v. Madison (1803)
 - Martin v. Hunter's Lessee (1816)

*Final date for dropping courses without receiving a “W”

***PRE-TEST DUE BY 11:59 PM CST**

Thursday, September 2, 2021

Judicial Review; Jurisdiction

- EW 75-91
 - Eakin v. Raub (1825)
 - Ex Parte McCordle (1869)
 - Patchak v. Zinke (2018)

Tuesday, September 7, 2021

Justiciability and Standing

- EW 91-118
 - Baker v. Carr (1962)
 - Nixon v. United States (1993)
 - Flast v. Cohen (1968)

***BAKER V. CARR MEMO DUE BY 11:00 AM CST**

PART II: THE LEGISLATURE

Thursday, September 9, 2021

Congressional Independence

- U.S. Constitution Article I
- EW 119-135
 - Powell v. McCormack (1969)
 - U.S. Term Limits, Inc. v. Thornton (1995)

Tuesday, September 14, 2021

Legislative Powers

- EW 135-159
 - Gravel v. United States (1972)
 - McCulloch v. Maryland (1819)
 - McGrain v. Daugherty (1927)

Thursday, September 16, 2021

Legislative Powers

- EW 159-180
 - Watkins v. United States (1957)
 - Barenblatt v. United States (1959)
 - South Carolina v. Katzenbach (1966)

Tuesday, September 21, 2021

Impeachment

- TBD*

PART III: THE EXECUTIVE

Thursday, September 23, 2021

Executive Powers

- U.S. Constitution Article II
- EW 181-207
 - Bush v. Gore (2000)
 - In re Neagle (1890)

Tuesday, September 28, 2021

Veto and Appointment Powers

- EW 208-226
 - Clinton v. City of New York (1998)
 - Morrison v. Olson (1988)
 - NLRB v. Noel Canning (2014)

Thursday, September 30, 2021

Removal and Executive Privilege

- EW 226-242
 - Myers v. United States (1926)
 - Humphrey's Executor v. United States (1935)
 - United States v. Nixon (1974)

Thursday, September 30, 2021

Immunity

- EW 242-264
 - Mississippi v. Johnson (1867)
 - Nixon v. Fitzgerald (1982)
 - Clinton v. Jones (1997)

PART IV: INTERBRANCH INTERACTIONS AND FOREIGN AFFAIRS

Thursday, October 7, 2021

Interbranch Interactions

- EW 265-284
 - Mistretta v. United States (1989)
 - Immigration and Naturalization Service v. Chada (1983)
 - Bowsher v. Synar (1986)

Tuesday, October 12, 2021

Foreign Affairs

- EW 284-295
 - Prize Cases (1863)
 - Ex Parte Milligan (1866)

Thursday, October 14, 2021 – MIDTERM EXAM

Tuesday, October 19, 2021

Foreign Affairs

- EW 295-311
 - Korematsu v. United States (1944)
 - Youngstown Sheet and Tube Co. v. Sawyer (1952)

Thursday, October 21, 2021: NO CLASS – FALL HOLIDAY

Tuesday, October 26, 2021

Foreign Affairs

- EW 311-334
 - Dames & Moore v. Regan (1981)
 - Zivotofsky v. Kerry (2015)
 - Hamdi v. Rumsfeld (2004)

PART V: FEDERALISM

Thursday, October 28, 2021

Early Nation-State Relations

- EW 335-355
 - McCulloch v. Maryland (1819)
 - Scott v. Sandford (1857)

Tuesday, November 2, 2021

Later Nation-State Relations

- EW 366-383
 - New York v. United States (1992)
 - Printz v. United States (1997)
 - Murphy v. National Collegiate Athletic Association (2018)

Thursday, November 4, 2021

Sovereign Immunity

- EW 383-384 & 398-404
 - Seminole Tribe of Florida v. Florida (1996)*
 - Nevada Department of Human Resources v. Hibbs (2003)*
 - Arizona v. United States (2012)

PART VI: COMMERCE POWER

Tuesday, November 9, 2021

Foundations of the Commerce Clause

Commerce Clause and the Industrial Revolution

- EW 405-425
 - Gibbons v. Ogden (1824)
 - United States v. E.C. Knight Co. (1895)
 - Champion v. Ames (1903)

Thursday, November 11, 2021

Commerce Clause and the Industrial Revolution

Commerce Clause and the New Deal

- EW 425-449
 - Hammer v. Dagenhart (1918)
 - A.L.A. Schechter Poultry Corp. v. United States (1935)
 - NLRB v. Jones and Laughlin Steel Corporation (1937)

Tuesday, November 16, 2021

Commerce Clause After the Switch in Time

- EW 449-463
 - United States v. Darby (1941)
 - Wickard v. Filburn (1942)
 - Heart of Atlanta Motel, Inc. v. United States (1964)

Thursday, November 18, 2021

Commerce Clause and the Federalism Revolution

- EW 463-494
 - United States v. Lopez (1995)
 - United States v. Morrison (2000)
 - Gonzales v. Raich (2005)
 - National Federation of Independent Business v. Sebelius (2012)

PART VII: ECONOMIC SUBSTANTIVE DUE PROCESS

Tuesday, November 23, 2021

Economic Liberty

- EW 617-647
 - The Slaughterhouse Cases (1873)
 - Lochner v. New York (1905)
 - Muller v. Oregon (1908)

Thursday, November 25, 2021 – NO CLASS - THANKSGIVING

Tuesday, November 30, 2021

The Decline of Economic Substantive Due Process

- EW 650-661
 - Nebbia v. New York (1934)
 - West Coast Hotel v. Parrish (1937)
 - Williamson v. Lee Optical Company (1955)

***POST-TEST DUE ON WEDNESDAY, DECEMBER 1, 2021, BY 11:59 PM CST**

Thursday, December 2, 2021

Final Class - Review