



POLA 4270: CONSTITUTIONAL LAW

COURSE SYLLABUS – SPRING 2017

When: Monday / Wednesday / Friday (12:00PM – 12:50PM)
Where: 118 Norman Mayer Building

CONTACT INFORMATION

Instructor: Scott N. Nolan
Office Location: 121(C) Norman Mayer Building
Department of Political Science
Tulane University
Office Hours: Monday / Wednesday / Friday (1:00PM – 2:00PM)
Email Address: snolan4@tulane.edu

COURSE DESCRIPTION

This course is designed to provide students with an understanding of the major features, concepts, and processes of constitutional law in the United States. This course includes an overview of the functioning of courts, judges, juries, lawyers and other legal/judicial actors, how courts deal with civil and criminal cases and issues, judicial decision-making, and the impact of court decisions on groups and individuals. Students will be exposed to systematic approaches to the study of law in the United States, especially the Attitudinal Model. Mastering the course content will allow students to make sense of judicial and legal phenomenon they encounter in their post-academic/professional lives.

GOALS

To impart students with knowledge of:

- the major ideological and legal debates that occur in constitutional law and complex litigation – especially in the U.S. Supreme Court.
- how lawyers, individuals, businesses, and interest groups interact with courts (and judges) to achieve their legal and policy preferences;
- the difficulties in developing and testing theories and research hypotheses about criminal trials, civil litigation, law and judicial outcomes, as well as judicial decision-making in appellate courts;
- how individuals, preferences, and procedures interact to produce judicial/legal outcomes, including non-policy; and
- understand legal cases that appear in media outlets, including learning to reflect critically on one's own closely held legal and political views.

To enhance students' abilities in:

- textual and situational analysis;
- critical reasoning; and
- oral and written communication.

OBJECTIVES To achieve the goals listed above by attending lectures, participating in classroom discussions, and the evaluation of student assignments including quizzes, exams, and completing a research paper.

OUTCOMES Students satisfactorily completing this course will have demonstrated substantive knowledge of the subject matter indicated above and they will have demonstrated an appropriate level of mastery of the skills of analysis, reasoning and communication. Outcomes will be measured quantitatively and qualitatively via the “grading scale” described below.

GENERAL NOTES This syllabus is the first place you should look if you have questions about your responsibilities or the structure of this course. If you do not find the information that you are looking for in this syllabus, please email me with any and all questions (snolan4@tulane.edu).

Information contained in the syllabus, especially regarding scheduling, is subject to change at my discretion during the semester. I will announce, in advance, any changes that are made via e-mail and/or announcements on the course website.

The best way to ensure that you are aware of any changes is to check your Tulane e-mail and course website regularly. Students are required to check their Tulane e-mail on a regular basis, as I may distribute important course information by e-mail and/or through the course website.

- **Your first [non-graded] assignment will be agreeing that you have read this syllabus in its entirety and understand its terms. If you do not complete the Syllabus Assignment as soon as you begin the course, then I cannot grade your subsequent coursework.**

ACCESS TO INSTRUCTOR I try to be available for students Monday – Friday, 9:00am-5:00pm, and I generally respond to e-mails from students within one (1) business day. If you do not receive a reply within three (3) business days, please send me an e-mail reminder. I sometimes respond to e-mails from students during evenings and weekends, but I do not always do so. Keep this in mind, and do not wait until the last minute if you have a question or need help.

PARENTS AND PEERS Due to privacy concerns, I do not take questions from, or take meetings with, any student’s parent(s). Please do not have parents, classmates, friends, etc. contact me on your behalf; the sole exception is if you have been injured, hospitalized, or are otherwise physically unable to contact me – I will ask them for documentation, such as a doctor’s note.

**STUDENTS
WITH
DISABILITIES**

If you have any kind of special circumstances, such as a disability, illness or handicap, or if you are involved with a university activity that requires you to miss class, let me know as soon as possible. This information is confidential. All students attending Tulane University with documented disabilities are eligible and encouraged to apply for services with the Office of Disability Services (ODS). Students needing accommodations must provide me with a Course Accommodation Form and if applicable, an Exam Request Form (“blue sheet”) in order to schedule an exam to be taken at ODS. Accommodations involving exams must be requested to me at least four days before a test or seven days before a final exam. Any student receiving an exam-related accommodation should plan to take the exam at ODS. Please alert me to your request as soon as possible because accommodations are not made retroactively. Please see me for information, or go to: <http://tulane.edu/studentaffairs/disability/>

**ACADEMIC
INTEGRITY**

Academic honesty is expected of all students at Tulane. Your responsibilities as a Tulane student include being familiar with the honor code and the plagiarism policy of the university. See further: <http://tulane.edu/college/code.cfm>

PLAGIARISM

Cases of cheating or plagiarism will be reported to the Honor Board, and may result in a failing grade for the class, academic probation, or expulsion. Ignorance is not a valid excuse. Academic dishonesty includes, but is not limited to, the following actions:

- presenting another’s work as if it were one’s own;
- failing to acknowledge or document a source even if the action is unintended (i.e. plagiarism) (this includes copying & pasting material from the internet);
- giving or receiving, or attempting to give or receive, unauthorized assistance or information in an assignment or examination;
- submitting the same assignment in two or more courses without prior permission of the respective instructors;
- having another person write a paper or sit for an examination (including using online paper-mills); and/or
- using tests or papers from students in prior semesters.

**CLASSROOM
ETIQUETTE**

Many discussions in this course will focus on how courts work and how they should work. I will at times ask students for their opinions on various controversial social, political, and legal topics. As in political systems, classrooms work best when people participate. You are encouraged to express your thoughts, but you are expected to do so in a thoughtful and respectful manner. The political opinions of your classmates are based on their unique experiences, personalities, and backgrounds. Be mindful of your words. Any student who is exceedingly disruptive or disrespectful towards the instructor, guests, and/or other students may be asked to leave the classroom or withdraw from the course altogether.

USE OF ELECTRONICS

I strongly suggest that you take notes by hand (using a pen, paper and/or notebook). Note-taking on portable electronics and/or laptops is not forbidden, but they tend to distract you and your classmates. People abusing electronics may lose those privileges at my discretion.

As a courtesy to me and your classmates, please silence all electronics and do not text, take, or make calls during class. If you absolutely must take a call, then quietly excuse yourself into the hall. Use good judgment.

The use of electronics of any kind during graded in-class assignments (quizzes, exams, etc.) is absolutely forbidden – is assumed to be cheating – and you will receive a grade of zero (0) for the assignment.

COURSE FORMAT

The goals of this course are: (1) that you complete and understand the course objectives listed above as they relate to the specific content of this course; and (2) that you proceed through your academic career learning and using skills that apply to the professional settings you will encounter after you graduate.

You will be treated as the young professional adults you are – this means that you are responsible for completing the assignments, following all instructions and rules laid out in class and this syllabus, and respecting deadlines for completing assignments. Unless otherwise noted, you are not to work with anyone else on any assignment, quiz, or exam; your work should be yours and yours alone.

Some assignments will be submitted via email or through the course website. It is your responsibility to ensure you have internet access, access to your Tulane/student email account, and access to the course website for the duration of the course. I recommend that you access the course webpage in an environment where internet service interruptions are at a minimum. “My internet was down” is never a valid reason for missing an assignment or deadline. The sole exception to this rule will be if natural events (like hurricanes) suspend access for all of us.

ASSIGNMENTS

For all written work you must turn in a printed copy and email me an electronic copy of your work. You must use one of the following file formats to ensure that I can review your work: Microsoft Word (.doc, .docx), Adobe Acrobat (.pdf), rich text (.rtf), Word Perfect (version 6.0 or newer, .wpd), Microsoft Works (Version 6.0 or newer, .wps), or plain text (.txt). **Microsoft Word and Adobe Acrobat are the preferred formats.** Similarly, please include the course number and name of the assignment you are turning in when e-mailing me - it will help keep things organized and ensure you get your credit/grade.

**ASSIGNMENTS
(CONTINUED)**

If you have technical issues with the course website, email, attachments, etc., then please let me know as soon as possible. Please note that the university Computer / Technology Help Desk is the first place you should go with technical questions since they are the experts.

- **For all written work, use one inch (1”) margins; Calibri, Arial, or Times New Roman 12-point font; double-spaced lines; numbered pages; and fully justified margins.**
- **Visit the Writing / Tutoring Center on campus for additional help.**

**GRADING
SCALE**

Your final grade is assigned as follows:

100-94=A; 93-90=A-; 89-87=B+; 86-84=B; 83-80=B-; 79-77=C+; 76-74=C; 73-70=C-; 69-67=D+; 66-64=D-; 63-60=D-; and 59-0=F

**GRADING
SYSTEM**

Your final grade in this course is computed as follows:

Attendance (5% of Final Grade) & Participation (15% of Final Grade)

You will sign a class roster that I pass around every class. You are given two (2) unexcused absences per semester. After that, your absences will count against you unless they are excused. Excused absences include but are not limited to personal emergencies and/or health-related illnesses with appropriate documentation. I do not excuse absences for extracurricular events without documentation from a faculty sponsor, coach, etc. Email me or come to office hours if you have a problem attending class.

Your participation grade depends on the frequency and quality of your participation in class discussion when you are on the “Hot Seat”. You will be assigned a set of days on the reading schedule below. Avoid missing your “Hot Seat” days because you get credit by showing up *and* participating. Read each assignment before class and be ready to discuss it in detail. Students on the “Hot Seat” will be called on to lead discussion.

Exams (40% of Final Grade; 4 Exams x 10% per Exam)

You will take four (4) exams over the course of the semester. Exams will focus on the material covered in the readings and in class – and any and all material covered in class or in the readings is fair game for exams. The exams will be taken online and contain a combination of true/false, multiple choice, and/or short answer/essay questions. There may be one or more bonus question(s) in each exam derived from material covered in class. Make-up exams will be given only for documented health or personal emergencies and they will be given at my discretion. The best thing to do is email me prior to the exam if and when you have a problem. Emails sent after the exam must include attached documentation that explains why you were not able to attend the exam/class (i.e. a doctor’s note). Exams missed without supporting documentation will receive a grade of zero (0).

**GRADING
SYSTEM
(CONTINUED)**

Case Briefs (25% of Final Grade; 25 Case Briefs x 1% per Brief)

You will write a total of 25 one-page case briefs from the cases below. A sample brief will be handed out in class on Friday, January 20; I will also give an in-class presentation on how to research, brief, and cite cases. Days with a single star on the reading schedule below are days when case briefs are due, by 12:00pm (noon), submitted online via Canvas.

Legal Memo Project (15% of Final Grade)

You will write 1 legal memo, ten to twelve (10-12) pages in length. A rubric and sample will be handed out during the semester. It is due by 12:00pm (noon), on Monday, May 1, submitted online via Canvas.

FINAL EXAM

Your final exam (Exam 4) will be held during the final exam period. University Policy is that any student who is absent from a final exam will be given permission to take a make-up exam only if an acceptable excuse is presented to an associate dean in Newcomb-Tulane College before the exam or within 24 hours after the exam. A student whose absence from a final exam is not excused is to be given an “F” in the course. The final exam is not cumulative in this course.

TEXTBOOK

There is one required textbook, available at the campus bookstore:

- Epstein, Lee and Thomas Walker. 2014. *Constitutional Law for a Changing America: A Short Course. 6th Edition.* CQ Press ISBN-10: 1483307808

Please be sure to get the correct edition. Any additional required reading materials will be distributed in class, via e-mail and/or the course website.

**SEXUAL
HARASSMENT**

Tulane University recognizes the inherent dignity of all individuals and promotes respect for all people. As “One Wave,” Tulane is committed to providing an environment free of all forms of discrimination based on race, ethnicity, creed, religion, gender, gender identity and sexual orientation, as well as all forms of sexual harassment, including sexual assault, domestic and dating violence, and stalking. If you (or someone you know) has experienced or experiences discrimination, domestic violence, sexual assault or sexual harassment, please visit onewave.tulane.edu or call:

- **Strictly Confidential**
Student Health Center | (504) 865-5255
Counseling & Psychological Services | (504) 314-2277
Sexual Aggression Peer Hotline and Education | (504) 654-9543
- **Mostly Confidential**
Coordinator of Violence Prevention | (504) 314-2161
Tulane University Police (TUPD) | (504) 865-5911
Office of Institutional Equity | (504) 862-8083

WEEK / DATES	LECTURE TOPIC	READ BEFORE CLASS
Wk. 1: 01-16-17	Martin Luther King, Jr. Holiday	No Reading
Wk. 1: 01-18-17	The Syllabus and Course Introduction	Lecture Only
Wk. 1: 01-20-17	How to Research, Brief and Cite Cases	Lecture Only
Wk. 2: 01-23-17	The U.S. Constitution	E&W: Chapter 1: 1-19, 769-780
Wk. 2: 01-25-17	The State and Federal Court System	Lecture Only
Wk. 2: 01-27-17	The U.S. Supreme Court	E&W: Chapter 2: 20-31
Wk. 3: 01-30-17*	Supreme Court Decision-Making	E&W: Chapter 2: 31-52
Wk. 3: 02-01-17	The Power of Federal Judicial Review	E&W: Chapter 3: 59-76
Wk. 3: 02-03-17	Constraints on Federal Judicial Power	E&W: Chapter 3: 76-88
Wk. 4: 02-06-17*	Members of Congress and Term Limits	E&W: Chapter 4: 89-103
Wk. 4: 02-08-17	The Scope of Congressional Power	E&W: Chapter 4: 103-121
Wk. 4: 02-10-17	Congress and the Separation of Powers	E&W: Chapter 4: 121-130
Wk. 5: 02-13-17*	Presidential Selection and Power	E&W: Chapter 5: 131-139
Wk. 5: 02-15-17	The Presidents' Domestic Power	E&W: Chapter 5: 139-157
Wk. 5: 02-17-17	The Presidents' Foreign Affairs Power	E&W: Chapter 5: 157-184
Wk. 5: 02-17-17	Exam 1 (Chapter 3, 4, and 5 Cases)	(On Canvas 2-17-17 to 2-19-17)
Wk. 6: 02-20-17*	Federalism and States Rights	E&W: Chapter 6: 187-198
Wk. 6: 02-22-17	Cooperative and Dual Federalism	E&W: Chapter 6: 198-213
Wk. 6: 02-24-17*	Foundations of the Commerce Power	E&W: Chapter 7: 214-244
Wk. 7: 02-27-17	Mardi Gras Holiday	No Reading
Wk. 7: 03-01-17	Mardi Gras Holiday	No Reading
Wk. 7: 03-03-17	Limiting of the Commerce Power	E&W: Chapter 7: 244-282
Wk. 8: 03-06-17*	The Free Exercise of Religion	E&W: Chapter 12: 379-402
Wk. 8: 03-08-17	The Establishment of Religion	E&W: Chapter 12: 402-419
Wk. 8: 03-10-17	Prayer, Public & Religious Schools	E&W: Chapter 12: 419-436
Wk. 8: 03-10-17	Exam 2 (Chapter 7 and 12 Cases)	(On Canvas 3-10-17 to 3-12-17)
Wk. 9: 03-13-17*	Free Speech in Times of Crisis	E&W: Chapter 13: 437-450
Wk. 9: 03-15-17	Free Speech, Content and Contexts	E&W: Chapter 13: 450-464
Wk. 9: 03-17-17	Hate Speech versus Free Speech	E&W: Chapter 13: 464-486
Wk. 10: 03-20-17*	The Right to Keep and Bear Arms	E&W: Chapter 15: 533-542
Wk. 10: 03-22-17	Gun Regulation and Litigation	Handouts + Discussion
Wk. 10: 03-24-17	Religion, Speech, & Arms Catchup	Review Notes

Note: Days with a single star (“ * ”) are days when case briefs are due on Canvas by 12:00pm.

Wk. 11: 03-27-17	Spring Break	No Reading
Wk. 11: 03-29-17	Spring Break	No Reading
Wk. 11: 03-31-17	Spring Break	No Reading
Wk. 12: 04-03-17*	The Right to Reproductive Privacy	E&W: Chapter 16: 543-569
Wk. 12: 04-05-17	Access to Abortion Since <i>Roe v. Wade</i>	Handouts + Discussion
Wk. 12: 04-07-17	The Right to Personal Privacy	E&W: Chapter 16: 569-586
Wk. 12: 04-07-17	Exam 3 (Chapter 13, 15, & 16 Cases)	(On Canvas 4-07-17 to 4-09-17)
Wk. 13: 04-10-17*	Policing, Searches, and Warrants	E&W: Chapter 17: 589-607
Wk. 13: 04-12-17	Policing, Arrests, and <i>Miranda</i> Rights	E&W: Chapter 17: 607-623
Wk. 13: 04-12-17	First Draft of Legal Memo Due	Submit on Canvas by 12:00pm
Wk. 13: 04-14-17	Holiday Break	No Reading
Wk. 14: 04-17-17	Holiday Break	No Reading
Wk. 14: 04-19-17*	The Right to an Appointed Attorney	E&W: Chapter 18: 624-635
Wk. 14: 04-21-17	Sentencing and the Death Penalty	E&W: Chapter 18: 635-654
Wk. 15: 04-24-17*	Race-Based Discrimination	E&W: Chapter 19: 657-677
Wk. 15: 04-26-17	Gender-Based Discrimination	E&W: Chapter 19: 677-691
Wk. 15: 04-28-17	Sexuality-Based Discrimination	E&W: Chapter 19: 691-703
Wk. 16: 05-01-17*	Sexuality-Based Discrimination	Handouts + Discussion
Wk. 16: 05-01-17	Final Draft of Legal Memo Due	Submit on Canvas by 12:00pm
Wk. 16: 05-01-17	Exam 4 (Chapter 17, 18, & 19 Cases)	(On Canvas 5-01-17 to 5-06-17)

**HOT SEAT
ASSIGNMENTS**

Hot Seat Team “Freedom”

Days: 1/30, 2/06, 2/13, 2/20, 3/6, 3/13, 3/20, 4/10, 4/21, 4/28, 5/1

Hot Seat Team “Equality”

Days: 2/1, 2/8, 2/15, 2/22, 3/08, 3/15, 4/3, 4/12, 4/24, 4/28, 5/1

Hot Seat Team “Justice”

Days: 2/3, 2/10, 2/17, 2/24, 3/10, 3/17, 4/7, 4/19, 4/26, 4/28, 5/1

**CASES FOR
BRIEFING
(2 PER WEEK)**

Chapter 3 Cases (Due 01-30-17)

- *Marbury v. Madison* (1803)
- *Dred Scott v. Sandford* (1857)
- *Ex Parte McCardle* (1869)

Chapter 4 Cases (Due 02-06-17)

- *U.S. Term Limits v. Thornton* (1995)
- *McCulloch v. Maryland* (1819)
- *U. S. v. Curtis Wright Export Corp.* (1936)
- *Mistretta v. U.S.* (1989)

Chapter 5 Cases (Due 02-13-17)

- *Clinton v. City of New York* (1998)
- *Hirabayashi v. U.S.* (1943)
- *Korematsu v. U.S.* (1944)
- *Youngstown Sheet v. Sawyer* (1952)
- *Hamdi v. Rumsfeld* (2004)

Chapter 6 Cases (Due 02-20-17)

- *McColloch v. Maryland* (1819)
- *Dred Scott v. Sandford* (1857)
- *Hammer v. Dagenhart* (1918)
- *U.S. v. Darby* (1941)
- *Printz v. U.S.* (1997)

Chapter 7 Cases (Due 02-24-17)

- *Hammer v. Dagenhart* (1918)
- *U.S. v. Darby* (1941)
- *Wickard v. Filburn* (1942)
- *Heart of Atlanta Hotel v. U.S.* (1964)
- *N.F.I.B. v. Sebelius* (2012)

Chapter 12 Cases (Due 03-06-17)

- *Lukumi Babalu Aye v. City of Hialeh* (1993)
- *Engel v. Vitale* (1962)
- *Abington Township v. Schempp* (1963)
- *Lynch v. Donnelly* (1984)
- *County of Allegheny v. ACLU* (1989)

Chapter 13 Cases (Due 03-13-17)

- *Texas v. Johnson* (1989)
- *Morse v. Frederick* (2007)
- *Snyder v. Phelps* (2011)
- *Boy Scouts of America v. Dale* (2000)

**CASES FOR
BRIEFING
(2 PER WEEK)**

Chapter 15 Cases (Due 03-20-17)

- *U.S. v. Miller* (1939)
- *District of Columbia v. Heller* (2008)
- *McDonald v. City of Chicago* (2010)

Chapter 16 Cases (Due 04-03-17)

- *Griswold v. Connecticut* (1965)
- *Roe v. Wade* (1973)
- *Webster v. Reprod. Health Services* (1989)
- *Planned Parenthood v. Casey* (1992)
- *Bowers v. Hardwick* (1986)
- *Lawrence v. Texas* (2003)

Chapter 17 Cases (Due 04-10-17)

- *U.S. v. Jones* (2012)
- *Mapp v. Ohio* (1961)
- *U.S. v. Leon* (1984)
- *Miranda v. Arizona* (1966)

Chapter 18 Cases (Due 04-19-17)

- *Gideon v. Wainwright* (1963)
- *Furman v. Georgia* (1972)
- *Gregg v. Georgia* (1976)

Chapter 19 Cases (Due 04-24-17)

- *Plessy v. Ferguson* (1896)
- *Brown v. Board of Education* (1954)
- *Reed v. Reed* (1971)
- *Craig v. Boren* (1976)

Chapter 19 Cases (Due 05-01-17)

(Pick Only 1 Case)

- *Lawrence v. Texas* (2003)
- *U.S. v. Windsor* (2013)
- *Hollingsworth v. Perry* (2013)
- *Obergefell v. Hodges* (2015)

Note: You may not repeat cases. For example, if you brief *Dred Scott v. Sandford* (1857) in the week that includes Chapter 3, then you cannot brief *Dred Scott* again in the week that includes Chapter 6.



POLA 4270: CONSTITUTIONAL LAW

SPRING 2017 – LEGAL MEMO PROJECT

First Draft Due: April 12, 2017, at 12:00pm (noon), online via Canvas

Final Draft Due: May 1, 2017, at 12:00pm (noon), online via Canvas

LEGAL MEMO PROJECT

You will write a paper 10-12 pages in length. Please review the syllabus section titled “ASSIGNMENTS” regarding formatting and style.

Pick one set of two cases below and write a detailed analysis (two case briefs) that includes the following information for each case:

1. The case caption and citation.
2. A background of the case, relevant facts, and history.
3. The political and legal arguments of the plaintiff(s).
4. The political and legal arguments of the defendant(s).
5. The Court’s majority ruling, notable dissents and concurrences.
6. The political and legal implications of decision.
7. A brief summary of any subsequent court decisions regarding the issues presented in the case.
8. Your personal opinion regarding the case ruling. Given what you have learned in this course, do you agree or disagree with the Court’s decision?

In general, your paper should include observations, research conclusions, and/or arguments from the decision and/or reputable academic sources. Stories published by major news organizations are fine, too. If you are confused about the validity of a source, then email me a link to it online or at the library.

A sample brief (from a prior course) is posted on Canvas as an example of good content, formatting, and style. The paper is worth 15% of your final grade. Absolutely no late papers will be accepted. Please email me any questions (snolan4@tulane.edu).

**CASES FOR
LEGAL MEMO
(PICK 1 SET)**

Discrimination Based on Race

1. *Plessy v. Ferguson* (1896)
2. *Brown v. Board of Education* (1954)

Women's Rights, Privacy, and Reproductive Choice

1. *Griswold v. Connecticut* (1965)
2. *Roe v. Wade* (1973)

Discrimination Based on Sexuality

1. *Lawrence v. Texas* (2003)
2. *Obergefell v. Hodges* (2015)

Minority Rights in War Time

1. *Hirabayashi v. U.S.* (1943)
2. *Korematsu v. U.S.* (1944)

The Limits of Free Speech

1. *Texas v. Johnson* (1989)
2. *Snyder v. Phelps* (2011)

Gun Rights and the Second Amendment

1. *District of Columbia v. Heller* (2008)
2. *McDonald v. The City of Chicago* (2010)

Criminal Rights and the Police

1. *Mapp v. Ohio* (1961)
2. *Miranda v. Arizona* (1966)

The Death Penalty and the Eighth Amendment

1. *Furman v. Georgia* (1972)
2. *Gregg v. Georgia* (1976)

Note: You may create a set of two cases on your own from any cases covered in the textbook or in class. If you chose this option, then email me a request for permission along with the two case names and citations no later than Monday, April 3, 2017.