

POLI 4021 Section 003 American Constitutional Law – Civil Liberties
Louisiana State University
Department of Political Science
Spring 2022
Tuesday and Thursday 9:00 – 10:20 am CST
206 Williams Hall

Professor Elizabeth Lane
Office: 205 Stubbs Hall

Student Hours: 1:30 – 2:30 pm CST Tuesdays and Thursdays, in office, on Zoom, or by appointment
Email: elane8@lsu.edu - please include "POLI 4021 Section 003" in subject line

PURPOSE

This course is designed to examine the development of individual liberties and protections provided by the Constitution of the United States as interpreted by the U.S. Supreme Court. Specifically, we will focus on how the Supreme Court defines, establishes, and interprets provisions enumerated in the Bill of Rights and ensuing amendments, and how this process has developed over time. Students should leave this class with a fundamental understanding of the Constitution, how the Supreme Court operates in a common law system, and critical knowledge of the Court's decisions that have defined and shaped the history of the United States. This course is not about the mere recitation of facts or personal opinions. While there will be opportunities for discussion, students should be able to support their views with well-reasoned legal justifications. The writing, analytical thinking, and general topic of this course provides excellent preparation for future legal and government work/studies and aims to make you a more informed citizen.

OBJECTIVES AND LEARNING OUTCOMES

1. Develop a substantive understanding of historical and modern developments in the constitutional law of civil rights and civil liberties.
2. Understand how societal and political factors interact with the law. Particularly, understand how these factors influence Supreme Court justices, and their interpretation of the constitution and decision making on these issues.
3. Develop the ability to read, understand, and interpret U.S. Supreme Court decisions, and effectively summarize their decisions.
4. Apply your understanding gained from course readings and lectures to current and hypothetical legal issues to arrive at a well-reasoned decision that you can clearly articulate with sufficient legal justification.
5. Appreciate different decisions and viewpoints of constitutional interpretation. Be able to explain and apply these different views in your coursework, regardless of which side of the debate you prefer.
6. Enhance your oral and written communications skills through classroom discussion and written assignments.

SOCIAL SCIENCES COMPETENCY STATEMENT

LSU graduates will demonstrate an understanding of the informing factors of global interdependence, including economic forces, political dynamics, and cultural and linguistic differences.

CLASS FORMAT

This class will meet in-person in accordance with LSU's current COVID policies, which only permits classes with over 100 students to meet online/hybrid format. I will do my best to remember to record lectures for those of you that are unable to make it to class due to illness or COVID protocols, but due to technical difficulties encountered throughout the semester (or operator error) I will not guarantee that 100% of the lectures will be recorded and posted online. That being said, I will post lecture slides on the course Moodle site *following* each lecture.

Student Hours

If you have a question about course material, or you just want to chat about the Supreme Court or anything else, my student hours (aka office hours) will be on Tuesdays and Thursdays from 1:30-2:30 pm CST in 205 Stubbs Hall. If this time is inconvenient for you, or you need to meet via Zoom, please email me to arrange an alternative time/venue. After making arrangements, Zoom office hours will be held using the Zoom information below:

<https://lsu.zoom.us/j/91996586099?pwd=MHQ5TVhFQXYwZExhQ0RyQjNCQ0sydz09>

Meeting ID: 919 9658 6099

Passcode: conlaw

Dial Meeting: 888 788 0099 or 877 853 5247 (Both are US Toll-free)

Passcode for dial-in: 473402

COURSE MATERIALS

Required Text

Epstein, Lee and Kevin T. McGuire and Thomas G. Walker. (2021). *Constitutional Law for a Changing America: Rights, Liberties, and Justices*. Eleventh Edition. Washington D.C.: CQ Press. ISBN-13: 978-1544391250.

Although previous editions exist, I will be teaching out of the tenth edition. This means that all assignments, group discussion, and exams will be from the content in this edition, which I expect you to also use. Use earlier editions at your own risk.

Supplemental Text

Additional readings on the course schedule that are not in the textbook will be posted on the course Moodle page. You can also locate these texts yourself on NexisUni.

COURSE REQUIREMENTS AND GRADING

Your course grade will be graded on a points system (points earned divided by points possible). The points will consist of reading responses, four quizzes, two exams, and a pre- and post-test. A summary of the points breakdown is as follows:

| Assignment | Due Date | Points |
|------------------------------|---------------------|---------------|
| Constitutional Law Pre-Test | Tuesday, January 25 | 50 |
| Briefing-Discussion Memos | Throughout Semester | 300 (30 each) |
| Quizzes | Throughout Semester | 200 (50 each) |
| Midterm | Thursday, March 10 | 200 |
| Constitutional Law Post-Test | Thursday, May 5 | 50 |
| Final Exam | Monday, May 9 | 200 |
| Total | | 1,000 |

Assignment Description

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

These multiple-choice, true and false, and short answer tests will be **graded for completion only**. Your grade is not based on how many questions you get right or wrong. They will be used to gauge your knowledge of the Supreme Court prior to taking the class and evaluate how much you learn/retain by the end of the semester. After the due date and time, I will go through and change all grades to 100% for those who made a full faith effort to complete the tests. Please note that these are worth the equivalent of two quiz scores and can significantly help your overall semester grade. The pre- and post-tests are **due at 11:59 pm CST** on the due date listed in the course schedule section of the syllabus.

Briefing-Discussion Memos (300 points)

These will be **graded for completion and good faith effort**. They do not have to be perfect, but there should be some demonstration of an effort to understand the course material **correctly**. Each memo will receive a check plus (full credit), a check, or a check minus. Since the Facts Issue Rule Application Conclusion (FIRAC) briefing style is likely new to most of you, everyone is expected to complete the first assignment, due **Tuesday, February 1, before class begins**. I, along with the class teaching assistant will provide feedback on this assignment to guide your future work. However, I will not provide feedback if you did not put forth the effort expected of a Briefing-Discussion Memo.

- In addition to the first memo, each student is required to complete nine additional Briefing-Discussion memos, a total of 10 for the entire semester. Of the 10 total memos, you must **complete five prior to midterm (first memo plus four additional memos of your choice) and the final five after the midterm**, prior to the final exam.
- The memos must include the FIC of a FIRAC brief **for each case listed on the syllabus schedule for that day**. This component of this assignment is to help you learn how to organize and clarify Supreme Court decisions. You must also summarize how the cases fit together and share your opinion on the justices' decisions. The goal of the discussion portion is to synthesize the case information and share your perspective. That is, how do these cases fit together, and do you think the justices got these cases "right?"
- **Memos are due at 9:00 am CST on the day they are listed on the syllabus. That is, they must be completed and submitted before the lecture on that content is held. All memos must be uploaded as a PDF.** Please see Late Work section of the syllabus if you fail to make this deadline.

Quizzes (200 points)

There will be four quizzes throughout the semester. These quizzes will serve as an assessment to ensure you are keeping up with course content between exams. They will be available for approximately one and a half days prior to the due date and time. For example, if the quiz is due at 12:00 pm CST on Tuesday, it will be posted by Sunday evening, and if it is due Thursday by 12:00 pm CST, it will be posted by Tuesday evening. All quizzes will be due prior to class on the day they are listed and will consist primarily of true or false and multiple-choice with some short answer questions.

Exams (400 points)

The midterm exam for this class will mirror the Supreme Court's opinion writing process. Students will be assigned to a group with approximately three other students that will represent the Supreme Court. Prior to the week of exams, each group will be provided a hypothetical Supreme Court case. Each student is expected to arrive on exam day with notes prepared as to how the case should be decided. The exams will be a collaborative effort and result in each group crafting a majority and dissenting opinion. More details on exams to follow.

The final exam will be individual and will be given during the scheduled final exam time for the course. This exam will be some combination of true/false, multiple choice, matching, and short answer. This exam will **not** be cumulative and will only cover post-midterm material.

Grade Scale

LSU uses a letter plus minus grading scale. The final **minimum** percentage needed for each grade level is as follows: A+: 98, A: 94, A-: 91, B+ 88, B: 84, B-: 80, C+: 77, C: 73, C-: 70, D+: 67, D: 63, D-: 60, F: any value below 60%. Please do not email me at the end of the semester asking me to round your final grade. To be fair, I do not accept rounding appeals to ensure that all students have the same opportunities throughout the semester to earn points towards their final grade and late semester appeals are not fair to other students.

Grade Questions and Appeals

If you receive a grade and see that it contains an arithmetic error (i.e., I mis-calculated your grade), please inform me of the problem. If you have a question or concern about your performance on any course work, please also contact me. **All** concerns must be stated in writing (paper or email), beginning with a statement that concisely explains why you believe your grade should be altered.

All concerns, whether arithmetic or otherwise, must be raised within one week of that assignment/quiz's release to students. The one-week clock starts when grades are posted on Moodle or paper exams are distributed back to the class regardless of whether you were there to collect it or not. If you do not raise your question within this one-week period, you forfeit your ability to appeal your grade.

Late Work

Late Briefing-Discussion Memos will be dropped by three points each hour they are late. That is, if your memo due at 9:00 am CST is handed in at 10:00 am CST (one hour late), the highest possible grade you can receive is 27 points. You must make arrangements in advance extenuating circumstances make it impossible to take a quiz or exam. **All due dates and times are in CST regardless of your current location.**

COURSE POLICIES AND RESOURCES

You are solely responsible for your conduct in this course and informing yourself of all relevant course, 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, student athlete travel, Covid-19 policies including proper mask-wearing in the classroom, and all information and policies related to this course outlined in this syllabus.

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 www.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, a first academic violation could result in a zero grade on the assignment or failing the class and disciplinary probation until graduation. For a second academic violation, the result could be suspension from LSU. For graduate students, suspension is the appropriate outcome for the first offense.

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. Written assignments for this class will 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. On your reading responses I expect this to be in your own words and not the words of Woodward and Armstrong. I do not want to see that you can copy the book. You must demonstrate your own understanding of this material.

With regard to group work, all work must be completed without assistance unless explicit permission for group or partner work is given by the faculty member. 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 me member 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.

WORD OF WARNING: There are several online resources that that summarize the facts of the case, the main issue, and decision. I **strongly** recommend that you **DO NOT VISIT** these websites and do not use information from these sources to for coursework. Everything you submit in this class as your own work needs to actually be your own work. If you take information from these websites without attribution that is plagiarism and a violation of university policies. And since you aren't supposed to be visiting these sources, you should not be citing them to begin with.

If you are ever confused about what is and is not plagiarism, I am happy to discuss it with you, especially if it avoids you accidentally plagiarizing. Additionally, Indiana University has a helpful plagiarism tutorial that I encourage you to look at if you are ever confused in this class or any other:

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

Course Communication

Class announcements will be sent via email on Moodle. I try to send an email at the beginning of each week with the weekly schedule to keep everyone on task, **however the syllabus is always the Holy Grail for this class**, and please make sure you are checking it regularly yourself.

If you need to schedule a meeting outside of office hours, have questions regarding course material, or other topics, please feel free email me. When emailing, please include "**POLI 4021 Section 003:**" as the first part of the subject line followed by your specific concern. **This is incredibly important because I am teaching two sections of POLI 4021 this semester.** In order for me to reply, you must also 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. Please email me via Outlook.** Moodle mail often goes to my spam folder, and I won't see it. During the week I will typically answer email within 24 hours. I do not check email as regularly on the weekend so it will usually take 48 hours.

As mentioned, you will be submitting assignments and taking quizzes and 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 communication with Moodle first.

Accommodations for Students with Disabilities

Louisiana State University is committed to providing reasonable accommodations for all persons with disabilities. The 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 website is www.lsu.edu/disability. I will honor all accommodations from when the disability is registered forward. 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.

Classroom Recording and Materials

If you wish to record classroom lectures you must ask the instructor for permission prior to doing so. Lectures and course materials (including but not limited to presentations, exams, quizzes, outlines, lecture notes, reading prompts, etc.) may be protected by copyright. You are encouraged to take notes and utilize course materials for your own educational purpose; however, **you are not to reproduce or redistribute this content without my expressed permission.** This includes sharing any course-related material with online social-study sites like Course Hero, Quizlet, Koofers, and other related services. Dissemination of classroom content without permission to do so is strictly prohibited and subject to academic disciplinary actions.

Attendance

Coming to class is important. This class is meeting in person because this material is difficult to learn on your own and you should have an opportunity to ask questions to aid your learning. For the sake of your own success, I STRONGLY encourage you to come to class every meeting and be prepared with questions. Last semester I had fifty students with 20 who attended regularly. I am sure it comes as no surprise that the group who regularly attended in-person did significantly better than their classmates. With that said, I have removed all attendance policies from my syllabi this semester due to the current environment of the COVID-19 pandemic. I understand that current protocols may prohibit you from attending class even if you are not sick or test positive.

SCHEDULE OF TOPICS, READINGS, AND ASSIGNMENTS

I expect to follow this schedule closely. Though I do not anticipate needing to, I reserve the right to modify the syllabus and course schedule as necessary. All changes (if any) will be announced on Moodle via email. As you work your way through the schedule, please make sure to account for all readings listed for that day so that you are prepared for class.

Please note the following important dates from the registrar's office:

- Wednesday, January 26: Final drop date without a "W" grade
- Thursday, January 27: Final add date
- Friday, March 11: Mid-semester grades due
- Thursday, April 14: Final drop date and **final date to reschedule a final exam**

PART I: INTRODUCTION & INCORPORATION

Tuesday, January 18 – ZOOM LECTURE

Course Introduction

- Syllabus

Thursday, January 20 – ZOOM LECTURE

The United States Supreme Court

- Understanding the U.S. Supreme Court – Ch. 1 pgs. 11-44

Tuesday, January 25

Opinion Writing on the United States Supreme Court

- *Crafting Law on the Supreme Court: The Collegial Game* (Maltzman, Spriggs and Wahlbeck; 2000)*
- **PRE-TEST DUE 11:59 pm**

Thursday, January 27

Understanding Opinions & Judicial Review

- FIRAC Introduction*
- Judicial Review – Ch. 2 pgs. 45-54
 - *Marbury v. Madison*

Tuesday, February 1

- Institutional Constraints on Judicial Power – Ch. 2 pgs. 55-65 & Moodle
 - *Ex parte McCardle*
 - *Lujan v. Defenders of Wildlife**
- **FIRST BRIEFING MEMO DUE 9:00 am CST**

Thursday, February 3

- Incorporation of the Bill of Rights Ch. 3 – pgs. 67-74
 - *Barron v. Baltimore*
 - *Hurtado v. California*

Tuesday, February 8

- Fundamental Rights Analysis – Ch. 3 pgs. 74-87
 - *Palko v. Connecticut*
 - *Duncan v. Louisiana*

PART II: FIRST AMENDMENT RIGHTS – FREEDOM OF RELIGION

Thursday, February 10

- Free Exercise Clause: Compelling Interest Standard – Ch. 4 pgs. 91-113
 - *Cantwell v. Connecticut*
 - *Sherbert v. Verner*
 - *Wisconsin v. Yoder*
- **QUIZ 1 DUE AT 11:59 PM CST**

Tuesday, February 15

- Free Exercise Clause Contd.: Smith Standard & RFRA – Part II & Ch. 4 pgs. 113-126 & Moodle
 - *Employment Division v. Smith*
 - *Church of the Lukumi Babalu Aye Inc. v. City of Hialeah*
 - *Burwell v. Hobby Lobby**

Thursday, February 17

- Establishment Clause: Pre-Lemon – Ch. 4 pgs. 126-143
 - *Everson v. Board of Education*
 - *School District of Abington Township v. Schempp*
 - *Lemon v. Kurtzman*

Tuesday, February 22

- Establishment Clause: Post-Lemon – Ch. 4 pgs. 143-161
 - *Zelman v. Simmons-Harris*
 - *Edwards v. Aguillard*
 - *Town of Greece v. Galloway*

Thursday, February 24

- Establishment Clause: Displays & Government Involvement – Ch. 4 pgs. 161-179
 - *Van Orden v. Perry*
 - *American Legion v. American Humanist Association*

- *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*

Tuesday, March 1 – NO CLASS MARDI GRAS

Thursday, March 3 – MIDTERM EXAM WORK DAY 1

Tuesday, March 8 – MIDTERM EXAM WORK DAY 2

PART III: FIRST AMENDMENT RIGHTS – FREEDOM OF SPEECH, ASSEMBLY, & ASSOCIATION

Thursday, March 10

- Free Speech: Development of Legal Standards – Ch. 5 pgs. 181-201
 - *Schenck v. United States*
 - *Gitlow v. New York*
 - *Brandenburg v. Ohio*
- MIDTERM EXAM DUE AT 11:59 PM

Tuesday, March 15 – NO CLASS SPRING BREAK

Thursday, March 17 – NO CLASS SPRING BREAK

Tuesday, March 22

- Free Speech: Development of Contemporary Standards – Ch. 6 pgs. 203-222 & Moodle
 - *U.S. v. O'Brien*
 - *Texas v. Johnson*
 - *Boy Scouts of America v. Dale*
- QUIZ 2 DUE AT 11:59 PM CST

Thursday, March 24

- Compelled Speech & Fighting Words – Ch. 6 pgs. 222-238
 - *West Virginia State Board of Education v. Barnette*
 - *Janus v. American Federation of State, County, and Municipal Employees*
 - *Chaplinsky v. New Hampshire*
 - *Cohen v. California*

Tuesday, March 29

- Student & Government Speech – Ch. 6 pgs. 238-252
 - *Tinker v. Des Moines Independent Community School District*
 - *Morse v. Frederick*
 - *Walker v. Texas Division, Sons of Confederate Veterans*
 - *Matal v. Tam*

Thursday, March 31 - ONLINE PRE-RECORDED LECTURE

- Commercial Speech & Content Based Regulation – Ch. 6 pgs. 253-261
 - *Bates v. State Bar of Arizona*
 - *Central Hudson Gas v. Public Service Commission of New York*

- *McCullen v. Coakley*

PART IV: FIRST AMENDMENT RIGHTS – FREEDOM OF THE PRESS

Tuesday, April 5

- Prior Restraint – Ch. 7 pgs. 263-276
 - *Near v. Minnesota*
 - *New York Times v. U.S.*
 - *Hazelwood School District v. Kuhlmeier*

Thursday, April 7 – ONLINE PRE-RECORDED LECTURE

- Government Control of Press Content & Special Media Rights – Ch. 7 pgs. 277-285 & Moodle
 - *Miami Herald v. Tornillo**
 - *Branzburg v. Hayes*

PART V: FIRST AMENDMENT RIGHTS – BOUNDARIES OF FREE EXPRESSION

Tuesday, April 12

- Libel – Ch. 8 pgs. 287-299
 - *New York Times v. Sullivan*
 - *Hustler Magazine v. Falwell*
- QUIZ 3 DUE AT 11:59 PM CST

Thursday, April 14

- Obscenity – Ch. 8 pgs. 299-310
 - *Roth v. U.S.*
 - *Miller v. California*

PART VI: THE RIGHT TO KEEP AND BEAR ARMS

Tuesday, April 19

- The Right to Bear Arms – Ch. 9 pgs. 354-364 & Moodle
 - *United States v. Miller**
 - *District of Columbia v. Heller*
 - *McDonald v. City of Chicago**

PART VII: THE RIGHT TO PRIVACY

Thursday, April 21

- Establishing a Right to Privacy – Ch. 10 pgs. 341-371
 - *Griswold v. Connecticut*
 - *Roe v. Wade*
 - *Planned Parenthood of Southeastern Pennsylvania v. Casey*

PART VIII: EQUAL PROTECTION

Tuesday, April 26

- Contemporary Approaches to Equal Protection – Part IV & Ch. 14 pgs. 515-522, 557-578
 - *Cleburne v. Cleburne Living Center*
 - *Loving v. Virginia*
 - *Regents of the University of California v. Bakke*

Tuesday, May 3

- Heightened Scrutiny & Gender Discrimination –Ch. 14 pgs. 582 - 600
 - *Reed v. Reed*
 - *Craig v. Boren*
 - *U.S. v. Virginia*

Thursday, May 5

- Final Exam Review Day
- QUIZ 4 DUE AT 11:59 PM CST
- POST-TEST DUE 11:59 PM CST

Monday, May 9 – FINAL EXAM 3:00-5:00