

American Constitutional Law

Information

Professor: Dr. Goelzhauser
Email: greg.goelzhauser@usu.edu
Office: Old Main 324B
Office Hours: MW 11:30–12:30

Course Description

This course offers an introductory survey of American constitutional law. We will cover fundamental issues in American politics concerning institutional powers, the separation of powers, federalism, the Bill of Rights, due process, and equal protection. Our tour emphasizes the development of modern constitutional law while also focusing on broader themes regarding constitutional politics. We pay particular attention to the role of law and legal institutions in shaping American political development and the design of constitutional rules. By the end of the semester you will have acquired factual knowledge, learned fundamental principles and theories, and improved your ability to analyze and critically evaluate questions concerning American constitutional law.

Reading

There are no required texts to purchase. We will be reading U.S. Supreme Court opinions, which are in the public domain and freely available online through sites such as [Google Scholar](#) and [Court Listener](#). Assigned cases are hyperlinked below to their respective Google Scholar pages. If you want to print or otherwise markup the opinions, consider one of the following options. First, the easiest option is to copy and paste the opinion from Google Scholar into a word processing program such as Microsoft Word. Second, you can use the citation information included below to download opinions in a variety of formats through the university's subscription to [Lexis](#). Third, you can use the citation information included below to download the opinions with original pagination as printed in the U.S. Reports through the university's subscription to [HeinOnline](#). Note that the date ranges provided below are recommendations for completing each block of assigned readings. Depending on course progress we may be behind or slightly ahead of the assigned readings on any given day; regardless, you should keep up with the recommended completion dates as things will tend to even out over time.

Grading

Grades will be comprised of the following components:

- First Exam (35%) [October 4]
- Second Exam (35%) [November 15]
- Research Paper (20%) [December 4]
- Presentation (10%) [November 20–December 8]

Final grades will be distributed according to the following scale:

A	93-100	C	73-76
A-	90-92	C-	70-72
B+	87-89	D+	67-69
B	83-86	D	63-66
B-	80-82	D-	60-62
C+	77-79	F	59 and below

Course Topics

Part I: Structure and Powers

A. Judicial Power

1. Judicial Review [August 28–September 1]
 - *Marbury v. Madison*, 5 U.S. 137 (1803) [read pp. 153–179]
2. Justiciability [August 28–September 1]
 - *Elk Grove v. Newdow*, 542 U.S. 1 (2004) [read pp. 11–16]
 - *Poe v. Ullman*, 367 U.S. 497 (1961) [read pp. 498–504]
 - *DeFunis v. Odegaard*, 416 U.S. 312 (1974) [read pp. 314–320]
 - *Powell v. McCormack*, 395 U.S. 486 (1969) [read pp. 490–495, 518–549]

B. Legislative Power

1. Foundations [September 4–8]
 - *McCulloch v. Maryland*, 17 U.S. 159 (1819) [read pp. 197–213]
2. Taxing and Spending [September 4–8]
 - *NFIB v. Sebelius*, 132 S.Ct. 2566 (2012) [read pp. 2593–2600 & 2651–2667]
3. The Commerce Clause [September 11–15]
 - *Wickard v. Filburn*, 317 U.S. 111 (1942) [pp. 113–129]
 - *United States v. Lopez*, 514 U.S. 549 (1995) [pp. 551–552, 558–567, 615–625]
4. The Tenth Amendment [September 11–15]
 - *Printz v. United States*, 521 U.S. 898 (1997) [pp. 902–925, 939–962]

C. Executive Power

1. Inherent Authority [September 18–22]
 - *Youngstown v. Sawyer*, 343 U.S. 579 (1952) [pp. 590–592, 634–651, 701–704]
2. Privilege [September 18–22]
 - *United States v. Nixon*, 418 U.S. 683 (1974) [pp. 686–690, 703–716]
3. Immunity [September 25–29]
 - *Clinton v. Jones*, 520 U.S. 681 (1997) [pp. 686–686, 692–706, 708–709]
4. Foreign Affairs [September 25–29]
 - *Korematsu v. United States*, 323 U.S. 214 (1944) [pp. 216–223, 243–248]

Part II: Rights and Liberties

A. The Bill of Rights

1. Incorporation [October 2–6]
 - *Adamson v. California*, 332 U.S. 46 (1947) [read pp. 62–92]
2. The Second Amendment [October 2–6]
 - *DC v. Heller*, 128 S.Ct. 2783 (2008) [read pp. 2788–2804, 2817–2836, 2851–2853]
3. The Crime Provisions [October 9–13]
 - *Miranda v. Arizona*, 384 U.S. 436 (1966) [read pp. 467–479]
 - *Atkins v. Virginia*, 536 U.S. 304 (2002) [read pp. 307–309, 311–321, 340–348]

Note: POLS 4160 covers the First Amendment.

B. The Fourteenth Amendment

1. Equal Protection [October 16–20]
 - *Brown v. Board of Education*, 347 U.S. 483 (1954) [read pp. 486–496]
 - *Grutter v. Bollinger*, 539 U.S. 306 (2003) [read pp. 311–318, 323–343, 379–387]
 - *United States v. Virginia*, 518 U.S. 515 (1996) [read pp. 519–520, 531–546, 576–586]
2. Due Process [October 23–November 10]
 - *Mathews v. Eldridge*, 424 U.S. 319 (1976) [read pp. 323–325, 332, 335, 340–349]

- *Lochner v. New York*, 198 U.S. 45 (1905) [read pp. 52–76]
- *Roe v. Wade*, 410 U.S. 113 (1973) [read pp. 153–166, 171–178]
- *Washington v. Glucksberg*, 521 U.S. 702 (1997) [read pp. 705–736, 790–792]
- *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015) [read pp. 2589–2612, 2620–2646]

Research Paper

There are two options for the research paper. First, you can pick a current event that implicates some question of constitutional law and write a paper analyzing the issue using applicable precedent or some other established mode of constitutional decisionmaking (e.g., application an interpretive method such as the original meaning of the relevant constitutional provision). Second, you can pick a case from the Supreme Court’s [current docket](#) that raises a constitutional question and analyze the issue using applicable precedent or some other established mode of constitutional decisionmaking.

The paper will be graded on the basis of the quality of your analytical arguments, accuracy, thoroughness, editing, and compliance with the following requirements: 7–10 pages of text (N.B. satisfying the page-length requirement is not intrinsically relevant to the more important evaluative factors of analytical quality, accuracy, and thoroughness), separate title page with author information, paginated (with the title page unnumbered), 12-point font, 1-inch margins, double spaced with no extra space between paragraphs, section headings, and citations where appropriate inserted as footnotes (any citation system is fine as long as the relevant information for finding the references is included). At a minimum, the paper should include three sections: an introduction setting forth the relevant facts (not to exceed one page), an argument section detailing application of the facts to relevant precedents or some other mode of constitutional decisionmaking, and a conclusion summarizing your most important points (not to exceed one page). Note that the cases we review in class may not be the ones most relevant to your chosen topic. As a result, you should expect to do supplemental research. Good sites for conducting supplemental research include [Google Scholar](#), [Lexis](#), and [HeinOnline](#).

Presentation

You will present the results from your research in an oral presentation. The presentation should be 3–5 minutes followed by audience questions. Use of slides is optional. The presentation will be graded on the basis of how well the primary analytical arguments are presented, clarity, staying within the allotted time, and ability to respond to basic questions about your chosen subject matter.

Course Policies

Applicable [university policies](#) will be followed. These include, but are not limited to, policies on matters such as [excused absences](#), [classroom conduct](#), [academic integrity](#), and [disability-related accommodation](#). Students are bound by university policies regardless of prior knowledge or understanding. As a result, it is good practice to periodically review these policies.

Although the university’s policy on [excused absences](#) addresses numerous contingencies, it delegates discretion to faculty with respect to several matters. As a result, the following policies are adopted pursuant to university’s regulations. First, excused absences will generally be limited to

the mandatory and “other allowable” reasons delineated by university policy. There is a strong presumption against the grant of excused absences for any other reason, though exceptions may be considered on a case by case basis. Second, appropriate independent documentation must generally be provided for any excused absence. If documentation cannot be provided for good reason, other verification may be required. I reserve the right to determine what constitutes acceptable documentation or verification for purposes of classifying an absence as excused subject to applicable university policy. Third, without an excused absence, make-up exams can be taken and late papers submitted within 24 hours of the original deadline with a 20% reduction in grade for that course component. Time will be tolled on non-business days, including weekends and university holidays.

The syllabus is subject to change.