

## CONSTITUTIONAL LAW SPRING 2022

PROFESSOR MICHAEL ALLAN WOLF

SECTION 3B, LAW 5501, CLASS 18532, 4 CREDIT HOURS

### ***SYLLABUS AND CLASS PROCEDURES***

OUR CLASS WILL MEET ON MONDAYS, TUESDAYS, AND WEDNESDAYS FROM 9:15-10:30 AM, IN ROOM 345.

*My office is Room 307, my email address is [wolfm@law.ufl.edu](mailto:wolfm@law.ufl.edu), and my phone number is 352-273-0934. I am typically in my office Monday through Friday. If my door is open, you are welcome, as I do not restrict my contact with students to a few hours per week. If I am not in the office when you want to meet, and you would like to set up an appointment, please send me an email message.*

**THERE IS ONE REQUIRED TEXT FOR THIS CLASS:** ERWIN CHEMERINSKY, CONSTITUTIONAL LAW (6<sup>th</sup> ed. 2020).

**ADDITIONAL ASSIGNMENTS (INCLUDING NEW CASES) WILL BE POSTED ON THE CANVAS SITE FOR THIS COURSE OR DISTRIBUTED BY EMAIL.**

**COURSE DESCRIPTION (FROM WEB PAGE):** *Introduction to United States Constitutional Law. Topics include judicial enforcement of the Constitution to preserve individual liberties; judicial review; separation of powers; structure and powers of the federal government; and federalism.*

**COURSE GOALS AND/OR OBJECTIVES:** *By the end of this course, it is my hope that students will:*

- *be skilled and experienced at reading cases carefully and efficiently,*
- *have the ability to identify key passages in constitutional law opinions,*
- *understand the often-subtle differences between majority, dissenting, and concurring positions,*
- *appreciate how U.S. Supreme Court decisions reflect changes in social, economic, political, and ideological developments in American society and thought,*
- *write well-organized answers to essay questions that spot issues, relate the relevant law to the pertinent facts, and resolve those issues,*

- *be able to identify key aspects of important Supreme Court decisions,*
- *be familiar with American constitutional law doctrines regarding the powers and limitations of the three branches of government, due process, equal protection, various forms of discrimination, and incorporation of and protections afforded by of fundamental rights.*

## COURSE POLICIES:

**ATTENDANCE POLICY:** *The law school's policy on attendance can be found at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>. Each student is permitted six absences during the semester. Within one week of missing class, you are responsible for reporting to me via email that you missed class. There is no need to explain your absence, as I do not differentiate between excused and non-excused absences. I reserve the right to reduce the grade for a student with excessive absences and to bar the student from taking the final exam.*

**INTERNET USE IN THE CLASSROOM:** *I expect that during each class all students will be prepared to conduct research on the internet (usually Lexis or Westlaw) using a laptop, tablet, or other means. Of course, students are not to use these devices (including smart phones) for any non-pedagogical purposes.*

**ACADEMIC HONESTY:** *Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.*

## GRADING POLICIES:

*I expect that students will have done the assigned readings for each class. I will rely on student participation to facilitate the learning of challenging concepts. Students who participate at a consistently high level may be rewarded by a one-half grade bump (e.g., from B+ to A-). I reserve the right to lower the grades of students who disrupt the learning environment by a one-half grade bump.*

**THERE WILL BE THREE GRADED TESTS DURING THE SEMESTER:** *The first test will have two parts. The first part is a closed-book, multiple-choice test in which students will have 20 minutes to answer 20 questions. The answer choices will be the names of the cases that we will have covered up to that point in the course. The second part of the first test will be a 30-minute essay test in which the students will be able to use their Chemerinsky 6<sup>th</sup> edition casebooks only. There will be 0-15 points awarded for test one.*

*The second test's format is similar to that of the first part of the first test. It will be a closed-book, multiple-choice test in which students will have 50 minutes to answer 50 questions. The answer choices will be the names of the cases that we will have covered up to that point in the course. There will be 0-25 points awarded for test two.*

*The third test (final exam) will be an open-book, 3-hour essay. There will be 0-60 points awarded for this test.*

**GRADING SCALE:** *The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:*

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67

E (Failure)	0.0
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The law school grading policy is available at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/uf-law-student-handbook-and-academic-policies>.

### WORKLOAD/CLASS PREPARATION:

*It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments for every 1 hour in class.*

### ACCOMMODATIONS:

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

The Exam Delays and Accommodations policy for the law school can be found here: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

### ONLINE COURSE EVALUATION PROCESS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

## CLASS READINGS:

You will find below a list of the topics that I anticipate we will cover during the semester, along with a rough estimate of how many class hours per topic. Please note, however, that the pace at which we cover the materials in our reading list will depend on your pace of learning. I will not leave a topic until I believe that the students who are prepared for class have a good understanding of the material. In the event we are moving more slowly than anticipated, I will not speed up to cover all of these readings. Instead, I will make cuts in the assigned readings.

U.S. Constitution (2 hours)  
xxxix-lv

### CHAPTER 1: THE FEDERAL JUDICIAL POWER

Judicial Review (2 hours)

1-11 (*Marbury, Martin, Cohens*)

Judicial Interpretation (1 hour)

11-32 (*Heller*)

Political Questions (1 hour)

90-102 (*Baker, Rucho* (Court opinion only))

### CHAPTER 2: THE FEDERAL LEGISLATIVE POWER

Necessary and Proper Clause (1 hour)

119-30, 155 (*McCulloch*)

Commerce Clause (background and broad interpretation) (4 hours)

155-81 (*Gibbons, Jones & Laughlin, Darby, Wickard, Heart of Atlanta Motel, McClung, Hodel, Perez*)

Tenth Amendment v. Commerce Clause (3 hours)

181-215, 226-40 (*Garcia, Lopez, Morrison, Raich, Printz, Condon, Murphy*)

### **FIRST TEST**

Taxing/Spending Power (2 hours)

240, 245-48, 130-54 (*Dole, Sebelius*)

Congressional Power under Reconstruction Amendments (2 hours)

248-69 (*Morrison, Katzenbach, Boerne, Shelby County* (Court opinion only))

## CHAPTER 3: THE FEDERAL EXECUTIVE POWER

Presidential Power (1 hour)

275-91 (*Youngstown Sheet, Nixon*)

Non-Delegation Doctrine (1 hour)

292-95 (*Schechter Poultry and Panama Refining*)

Presidential Power over Immigration and Immunity (1 hour)

395-406, *Trump v. Hawaii, Trump v. Vance* (**new case**)

## CHAPTER 5: THE STRUCTURE OF THE CONSTITUTION'S PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES

The Road to Incorporation (1 hour)

503-14 (*Barron, Slaughter-House Cases*)

Incorporation Achieved (2 hours)

516-32 (*Palko, Adamson, Duncan, McDonald, Timbs*)

State Action (3 hours)

532-40, 543-51, 553-56, 561-78 (*Civil Rights Cases, Marsh, Terry, Evans, Halleck, Shelley, Wilmington Parking, Moose Lodge, Norwood, Rendell-Baker, Brentwood*)

## CHAPTER 6: ECONOMIC LIBERTIES

Economic Substantive Due Process Ascendant (2 hours)

579-99 (*Allgeyer, Lochner, Muller, Weaver*)

Economic Substantive Due Process after the Fall (1 hour)

599-606 (*West Coast Hotel, Carolene Products, Lee Optical*)

Contracts Clause (1 hour)

618-22 (*Blaisdell*)

Takings Clause (2 hours)

636-39, 641-50, 668-77 (*Pennsylvania Coal, Penn Central, Lucas, Kelo*)

## CHAPTER 7: EQUAL PROTECTION

Equal Protection and Levels of Scrutiny (1 hour)

683-98, 704-11 (*Romer, Moreno, Cleburne*)

Discrimination Based on Race or National Origin (4 hours)

711-27, 728-42, 752-54, 756-65, 772-81, 802-11, 819-33 (*Scott, Korematsu, Loving, Plessy, Brown I, Davis, Palmer, Arlington Heights, Brown II, Dowell, Parents Involved* (majority only), *Croson, Grutter* (Court opinion only), *Gratz, Fisher*)

Gender Discrimination (3 hours)  
836-50, 866-75 (*Frontiero, Craig, Virginia, Califano, Nguyen*)

Discrimination Based on Sexual Orientation  
900-01

#### CHAPTER 8: FUNDAMENTAL RIGHTS UNDER DUE PROCESS AND EQUAL PROTECTION

Non-Economic Substantive Due Process (4 hours)  
903-21, 938-977, 981-87 (*Loving, Obergefell* (Court opinion only), *Moore, Meyer, Pierce, Troxel, Buck, Skinner, Griswold, Eisenstadt, Roe, Casey* (Court opinion only), *Whole Woman's Health*)

Discrimination Based on Sexual Orientation and Activity (1 hour)  
1030-42 (*Lawrence*)

Right to Vote (2 hours)  
1053-54, 1071-1106 (*Reynolds, Evenwel, Bush v. Gore*)

#### CHAPTER 9: FIRST AMENDMENT: FREEDOM OF EXPRESSION

Free Expression (2 hours)  
1177-94, 1270-72, 1455-61 , 1506-1515 (*Reed, Barnette, Sullivan, Citizens United* (Court opinion only))

#### CHAPTER 10: FIRST AMENDMENT: RELIGION

Free Exercise of Religion (1 hour)  
1675-85, 1689-1700 (*Smith* (Court opinion only), *Masterpiece Cake Shop*)

### **SECOND TEST**

## **FINAL EXAM:**

*Monday, May 2, 2022*