

POLI 4021 American Constitutional Law – Civil Liberties
Louisiana State University
Department of Political Science
Spring 2021
Lectures will be posted Tuesday and Thursday 12:00 pm CST

Professor Elizabeth Lane
Office: 205 Stubbs Hall
Student Hours: 9:00 – 11:00 am CST Monday on Zoom, or by appointment
Email: elane8@lsu.edu - please include “POLI 4021” 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 semester class will be 100% virtual and asynchronous. All lectures will be posted by 12:00 pm CST (noon, not midnight since this sometimes causes confusion), on Tuesdays and Thursdays in order to stick to some semblance of a “normal” class schedule. We will not be meeting over Zoom. Instead, these lectures will be pre-recorded. I understand that this is different and therefore I am always available via email, during my student hours, or by appointment.¹

Student Hours

Due to our current circumstances, student hours (aka office hours) will also be a bit different this semester. If you have a question about course material, or you just want to chat about the Supreme Court or anything else you can reach me on Mondays from 9:00 – 11:00 am CST. If this time doesn’t work for you, please email me to schedule an appointment. All alternative student hours will use the same Zoom meeting room. The information to log into the Zoom meeting is:

<https://lsu.zoom.us/j/92528116727?pwd=ZGhMUU4yUXNqOGNYakZMMTFvUUtJQT09>

Meeting ID: 925 2811 6727

Passcode: scotus

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

Passcode for dial in: 722611

COURSE TEXTS

Required Text

Epstein, Lee and Thomas G. Walker. 3029. *Constitutional Law for a Changing America: Rights Liberties, and Justices*. Tenth Edition. Washington D.C.: CQ Press. ISBN-13: 978-1506380308.

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.

¹ We will have two synchronous optional class days for the midterm and final exam review. I would love for you to join me for these, but I of course understand that your schedules may not permit this, so I will still post these review sessions on Moodle like the rest of the lectures this semester.

COURSE REQUIREMENTS & GRADING

Your course grade will be graded on a points system (points earned divided by points possible). The points will consist of class attendance/participation, briefing-discussion memos, 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, 1/19	50
Briefing-Discussion Memos	Throughout Semester	200 (20 each)
Quizzes	Throughout Semester	200 (50 each)
Midterm	Thursday, 3/8	200
Constitutional Law Post-Test	Thursday, 4/22	50
Final Exam	Tuesday, 4/27	200
Attendance & Participation	Throughout Semester	100 (4/class)
Total		1,000

Assignment Description

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

These multiple-choice tests will be **graded for completion only**. Your grade is not based on how many questions you get right/wrong. These will be used to gauge your knowledge of the Supreme Court and constitutional law prior to taking the class and evaluate how much you learn/retain by the end of the semester.

Briefing-Discussion Memos (200 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, January 26**. 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 semester. Of the 10 additional 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 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 12:00 pm 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 posted. 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)

Both the midterm and final exams will be individual exams completed through Moodle. Each will consist of multiple choice, true or false, matching, short answer, and essay questions. More information on these exams will be provided throughout the semester.

There will be exam review days before the midterm and final. These are listed on the syllabus. I will do a live Zoom session on these days after polling the class to see what time works best. I will also record the video of the session and post it for those who are unable to make it.

Attendance & Participation (100 points)

You will be awarded four total points per class period for attendance and participation. Since we will not be meeting in person this means engagement in other ways. Lectures will be recorded and posted at our regularly scheduled class time. Since you cannot participate in these lectures in the traditional way, where I post the lectures on the class Moodle page you will also find an activity called a journal associated with each class day/lecture. In the journal you will be responsible for answering a question or questions I pose to you during the lecture. A well-thought-out response that makes it evident you listened to the lecture and thought about the material will be required for the four attendance and participation points. You will have one week from the day the lecture is posted to complete your response. For example, for the lecture recorded and posted on 1/12, you will have until 12:00 pm CST on 1/19 to respond. **I will not accept late responses on journal entries due to the extended time you have to complete them.**

As the table above shows, four total points per class period totaling in 100 points accounts for your participation grade for the semester. As a result, for full attendance, you must participate (answer a question in your journal) in 25 of the 28 scheduled lectures. Due to this policy, I will not take/require excused absences in the form of a doctor's note. I will also not provide extension for quizzes and exams since these will be open for a window of time. I do permit exceptions in the case of the death of a relative with documentation. If circumstances arise during the semester that will result in an extended absence from class that will surpass the three allotted absences, such as a positive COVID-19 diagnosis, please communicate this with me as early as possible and stay in contact with me so we can arrange a way to stay current on coursework.

Grade Scale

LSU uses a letter plus minus grading scale. The final **minimum** percentage needed for each grade level 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 do not round grades at the end of the semester. The grade you earn is the grade you receive.

COURSE POLICIES & 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.

Late Work

Late Briefing-Discussion Memos will be dropped by two points each hour they are late. That is, if your memo due at 12:00 pm CST is handed in at 1:00 pm CST (one hour late), the highest possible grade you can receive is 18 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. Please remember **all due dates and times are at noon CST** unless otherwise specified.

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. (Taken from <https://www.lsu.edu/saa/faculty-staff/academicintegrity/syllabusstatements.php>)

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. (Taken from <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. It is also important to keep in mind that just like any other class you are not to copy directly from your textbook without proper attribution either. On your briefing-memos I expect this to be **in your own words** and not the words of Lee Epstein and Thomas Walker. I do not want to see that you can copy the textbook. 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 in our virtual environment. Think of it as the verbal reminder I would give you if we were meeting in person. 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:" as the first part of the subject line followed by your specific concern. 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 be 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

As mentioned previously, I will be recording class lectures and posting them on Moodle via YouTube, which provides closed captioning. Lectures and course materials (which is inclusive of my presentations, tests, exams,

outlines, and lecture notes) maybe 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 distribute this content without my expressed written permission**. This includes sharing course materials to online social study sites like Course Hero, Quizlet, and other services. Dissemination of classroom content without permission to do so is strictly prohibited and subject to academic disciplinary actions.

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 of the cases listed for that day in your reading and assignments. Sometimes cases run onto the next page. All cases or readings with a * indicate that they are located on Moodle instead of your textbook.

PART I: INTRODUCTION & INCORPORATION

Tuesday, January 12

Course Introduction

- Syllabus

Thursday, January 14

The United States Supreme Court

- Understanding the U.S. Supreme Court – Ch. 1 pgs. 9-42

Tuesday, January 19

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 21

Understanding Opinions & Judicial Review

- FIRAC Introduction*
- Judicial Review – Ch. 2 pgs. 43-64
 - *Marbury v. Madison*

Tuesday, January 26

- Institutional Constraints on Judicial Power – Ch. 2 pgs. 55-64 & Moodle
 - *Ex parte McCordle*
 - *Lujan v. Defenders of Wildlife**
- **FIRST BRIEFING MEMO DUE 12:00 PM**

Thursday, January 28

- Incorporation of the Bill of Rights – Ch. 3 – pgs. 65-73
 - *Barron v. Baltimore*
 - *Hurtado v. California*

Tuesday, February 2

- Fundamental Rights Analysis – Ch. 3 pgs. 73-86
 - *Palko v. Connecticut*
 - *Duncan v. Louisiana*

PART II: FIRST AMENDMENT RIGHTS – FREEDOM OF RELIGION

Thursday, February 4

- Free Exercise Clause: Compelling Interest Standard – Ch. 4 pgs. 88-111
 - *Cantwell v. Connecticut*
 - *Sherbert v. Verner*
 - *Wisconsin v. Yoder*

Tuesday, February 9

- Free Exercise Clause Contd.: Smith Standard & RFRA – Ch. 4 pgs. 111-126 & Moodle
 - *Employment Division v. Smith*
 - *City of Boerne v. Flores*
 - *Burwell v. Hobby Lobby**
- QUIZ 1 DUE AT 12:00 PM

Thursday, February 11

- Establishment Clause: Pre-Lemon – Ch. 4 pgs. 126-147
 - *Everson v. Board of Education*
 - *School District of Abington Township v. Schempp*
 - *Lemon v. Kurtzman*

Tuesday, February 16 – NO CLASS MARDI GRAS

Thursday, February 18

- Establishment Clause: Post-Lemon – Ch. 4 pgs. 147-170
 - *Zelman v. Simmons-Harris*
 - *Edwards v. Aguillard*
 - *Town of Greece v. Galloway*

Tuesday, February 23

- Establishment Clause: Displays & Government Involvement – Ch. 4 pgs. 170-182 & Moodle
 - *Van Orden v. Perry*
 - *Lynch v. Donnelly**
 - *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*

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

Thursday, February 25

- Free Speech: Development of Legal Standards Pre-WWII – Ch. 5 pgs. 183-197 & Moodle
 - *Abrams v. U.S.**
 - *Gitlow v. New York*
 - *Brandenburg v. Ohio**

Tuesday, March 2

- Free Speech: Development of Contemporary Standards – Ch. 5 pgs. 197-212, 213-217
 - *U.S. v. O'Brien*
 - *Texas v. Johnson*
 - *Cohen v. California*
- QUIZ 2 DUE AT 12:00 PM

Thursday, March 4

- Midterm Exam Review Day

Tuesday, March 9 – NO CLASS MIDTERM EXAM DUE

Thursday, March 11

- Speech Forum & Context Analysis – Ch. 5 pgs. 218-234
 - *McCullen v. Coakley*
 - *Snyder v. Phelps*
 - *U.S. v. Alvarez*

Tuesday, March 16

- Student Speech – Ch. 5 pgs. 235-242, 265-268
 - *Tinker v. Des Moines Independent Community School District*
 - *Morse v. Frederick*
 - *West Virginia State Board of Education v. Barnette*

Thursday, March 18

- Commercial Speech & Freedom of Association – Ch. 5 pgs. 248-256, 273-279
 - *Bates v. State Bar of Arizona*
 - *Central Hudson Gas v. Public Service Commission of New York*
 - *Boy Scouts of America v. Dale*

PART IV: FIRST AMENDMENT RIGHTS – FREEDOM OF THE PRESS

Tuesday, March 23

- Prior Restraint – Ch. 6 pgs. 280-296
 - *Near v. Minnesota*
 - *New York Times v. U.S.*
 - *Hazelwood School District v. Kuhlmeier*

Thursday, March 25 – NO CLASS

Tuesday, March 30

- Government Control of Press Content & Special Media Rights – Ch. 6 pgs. 296-306 & Moodle
 - *Miami Herald v. Tornillo**
 - *Branzburg v. Hayes*

PART V: FIRST AMENDMENT RIGHTS – BOUNDARIES OF FREE EXPRESSION

Thursday, April 1

- Libel – Ch. 7 pgs. 307-322
 - *New York Times v. Sullivan*
 - *Hustler Magazine v. Falwell*

Tuesday, April 6

- Obscenity – Ch. 8 pgs. 322-334
 - *Roth v. U.S.*
 - *Miller v. California*
- QUIZ 3 DUE AT 12:00 PM

PART VI: THE RIGHT TO KEEP AND BEAR ARMS

Thursday, April 8

- The Right to Bear Arms – Ch. 8 pgs. 354-364 & Moodle
 - *United States v. Miller**
 - *District of Columbia v. Heller*
 - *McDonald v. City of Chicago**

PART VII: THE RIGHT TO PRIVACY

Tuesday, April 13

- Establishing a Right to Privacy – Ch. 9 pgs. 365-379, 386-396
 - *Griswold v. Connecticut*
 - *Roe v. Wade*
 - *Planned Parenthood of Southeastern Pennsylvania v. Casey*

Thursday, April 15 – NO CLASS MPSA CONFERENCE

Tuesday, April 20

- Privacy Extended: Sexual Activity and Orientation – Ch. 9 pgs. 397-416
 - *Lawrence v. Texas*
 - *Obergefell v. Hodges*

Thursday, April 22

- Final Exam Review Day

- QUIZ 4 DUE AT 12:00 PM
- POST-TEST DUE 11:59 PM

Tuesday, April 27 – FINAL EXAM 5:30-7:30