

**CONSTITUTIONAL LAW II**  
**Section 201 C**

Western State College of Law  
Professor Stacey Sobel  
Fall Semester 2018

**Course Information**

Online Course Materials: TWEN, sign up by August 31  
Office: 714-459-1186  
Email: ssobel@wsulaw.edu

Office hours: **Thursdays, 4:30-6:30; and by appointment. You may only sign-up for office hours designated for your class.** Meetings during office hours should be scheduled in the book maintained by the faculty staff assistant on the 2nd floor. If you cannot make an appointment during regular office hours, please email me to schedule a meeting. Meetings should be scheduled at least 24 hours in advance. If they are made less than 24 hours in advance, I may make alternative plans and may not be available to meet. If you need to cancel a meeting or if you will be late, please contact me. I may schedule additional office hours during the semester. You will be notified in class and/or via TWEN of when those hours will occur.

**Required Text**

Chemerinsky, *Constitutional Law* (5th ed. 2017)  
Online reading material as assigned (via TWEN)

**Recommended Text**

Chemerinsky, *Constitutional Law Principles & Policies* (5<sup>th</sup> ed. 2015) (hornbook).

**I do not recommend commercial briefs and they are not permitted in class.**

**Learning Goals** – After completion of this course, students should be able to:

- Understand the constitutional concepts related to: the federal judicial, legislative and executive powers; limits on state powers; and equal protection rights.
- Identify the factual and constitutional issues implicated by a fact pattern.
- Apply and distinguish cases, including the ability to identify the salient features of an appropriate precedent case, to identify legally significant similarities between the precedent case and a fact pattern, and explain why the similarities are legally significant, and also to identify legally significant differences between the precedent case and a fact pattern, and explain why the differences are legally significant.
- Apply constitutional standards to facts, including the ability to correctly articulate the constitutional analysis implicated by the issue, to identify legally significant facts in a fact pattern, and to explain why the facts are significant by connecting the facts to the Court's analytical requirement(s).
- Evaluate legal arguments, and identify the strengths and weaknesses of the argument.

**Ethics** – Ethics are an important part of the practice of law. All students should be familiar with WSU's Honor Code. Any violation of law school rules and regulations relating to cheating, plagiarism, or other ethical matters addressed in the Honor Code will be vigorously enforced.

**Reading and Class Participation** – Students are expected to complete the assigned reading prior to class. You should engage in approximately six hours in course preparation per week. All students are expected to engage in class discussion. Participation is key to making this class enjoyable, so I expect everyone to be prepared to intelligently discuss and critically evaluate that day's assignment in class. In particular, be prepared to discuss the pertinent facts, issues, law and court findings and rulings of each case. All students are expected to engage in professional and respectful discussion of the case materials and subject matter. All views are welcomed. I use a combination of cold-calling and volunteers for class discussion. For volunteer participation, I value quality over quantity, but being an active participant is important. A consistent lack of preparation or professionalism may result in a grade reduction of up to .3 (e.g., from 3.3 to 3.0) on a student's course grade. Exemplary class performance may result in a grade increase of .1 (e.g., from 3.0 to a 3.1) on a student's course grade.

**Attendance** – The WSU policy on required attendance at all classes will be followed: students may be absent no more than two (2) classes. Students who miss more classes than permitted may be dismissed from the class, thus receiving a "0" for the course absent extenuating circumstances. See the WSCL Attendance Policy, reprinted in the Student Handbook. Students are expected to be in class at the time the course begins. Students who are late may be considered absent at the discretion of the professor. Students who know that they will be late or absent should email me prior to class if possible.

**Examinations and Grading** – The course grade is based on one mid-term and a final exam. The mid-term is an essay exam and comprises 20% of your grade. The mid-term covers the assigned readings from the beginning of the semester until the mid-term. The final examination accounts for 80% of your grade and covers all materials for the semester. The final exam contains both essay and multiple-choice questions. There will be occasional on-line assignments for pass-fail credit. Failure to complete an assignment may result in a grade reduction of up to .3.

**Disabilities Services Statement** – Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law. To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite 119. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at [aeasley@wsulaw.edu](mailto:aeasley@wsulaw.edu) or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

## **COURSE READING**

- Week 1 (8/16) Introduction; Judicial Review; and Constitutional Interpretation  
xli-lvii, 1-33
- Week 2 (8/23) Congressional and Justiciability Limits  
33-52, 59-86
- Week 3 (8/30) Standing (cont.); Congress and the States; and Necessary and Proper Clause  
86-96, 103-108, 110-113, 115-156
- Week 4 (9/6) Commerce Power  
160-162, 166-182, 188-216, 182-188
- Week 5 (9/13) Commerce; Taxing and Spending; Post-Civil War Amends.; and 11<sup>th</sup> Amend.  
217-240, 242-250, 254-271
- Week 6 (9/20) Presidential Power; Congress' Power to Increase; and Administrative State  
321-342, 345-381
- Week 7 (9/27) Checks on the President; War on Terrorism; and Review  
438-449, 401-413, 430-438; Practice Exam
- Week 8 (10/4) Mid-Term; and Preemption  
451-476
- Week 9 (10/11) Dormant Commerce Clause; and Privileges and Immunities Clause  
476-482, 489-492, 503-506, 492-499, 506-514, 514-535
- Week 10 (10/18) Civil Rights and Liberties Structure; State Action; and Economic Liberties  
537-538, 556-586, 591-595, 613-616, 635-642
- Week 11 (10/25) Equal Protection, Rational Relationship, and Race  
725-754, 754-759, 760-775, 776-779, 803-808
- Week 12 (11/1) Equal Protection, Race (cont.)  
781-785, 795-801, 833-847, 870-878
- Week 13 (11/8) Equal Protection, Gender  
882-897, 900-914
- Week 14 (11/15) Equal Protection, (cont.); and Review  
922-947
- Final Exam – TBA

## Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

### **1. Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

### **2. Practice Skills**

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

### **3. Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

### **4. Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

### **5. Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author’s ideas).

**6. Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

**7. Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

**8. Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

**Argosy University Institutional Learning Outcomes:**

**1. Analytical Reasoning**

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

**2. Effective Communication**

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

**3. Information Competency**

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

**4. Interpersonal Effectiveness**

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

**5. Personal and Professional Integrity and Ethical Behavior**

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

**6. Professional Competence**

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession