

CONSTITUTIONAL LAW I COURSE SYLLABUS – Fall 2016

SECTIONS 201B Tue - Thu (11:30 am – 1:00 pm) & 201C Thu (6:40 – 9:50 pm)
(VERSION – August 9 2016)

BEFORE THE FIRST CLASS:

Register for TWEN – review the SYLLABUS and other course materials

Read the Constitution and Amendments – pp. xli-lvii

Take the QUIZ on the U.S. Constitution under ASSIGNMENT & QUIZ Drop Box Link on left side of TWEN screen. The U.S. Constitution Quiz IS REQUIRED and due Noon, Wednesday 8-17. The U.S. Constitution Quiz is OPEN BOOK.

TEXTBOOK: Constitutional Law, Chemerinsky (4th Ed. 2013)

RECOMMENDED: Constitutional Law: Principles and Policies, Chemerinsky (5th Ed. 2015)

READINGS: We will be reading **cases** and **notes** as indicated. **All assigned materials** are testable unless specifically excluded in the syllabus or in class. The principal cases listed by name in this syllabus are testable in the multiple-choice question examinations.

REGISTRATION ON TWEN IS REQUIRED. The course Syllabus and all class materials will be posted there. Class communications will be by email through the TWEN website.

ESSAY QUIZZES, EXAMINATIONS and GRADING:

ESSAY QUIZZES: There will be on-line essay quizzes for review. **THE FOUR REQUIRED QUIZZES ARE PASS/FAIL.** I will make written comments, give a practice grade and supply a sample answer to provide on-going assessment feedback. If you receive a failing grade, you must re-submit the quiz until you pass. The Quiz Grades are NOT factored into the Course Grade. **HOWEVER, FAILING TO COMPLETE AND PASS THE REQUIRED ESSAY QUIZZES WILL LOWER THE COURSE GRADE** by one step (e.g., from B+ to B or from C to C-).

COURSE ASSESSMENT: the Course Grade will be based upon two online multiple choice examinations, a midterm essay examination and the final examination. The final course assessment grade will be divided as follows:

Week 4: On-line, 30-minute, open-book Multiple Choice Examination 10% (Weeks 1-3)

Week 7: In Class Essay Midterm – closed book – September 29: 20% (Weeks 1-5)

Week 9: On-line, 30-minute, open-book Multiple Choice Examination 10% (Weeks 4-6)

Final Examination – closed book one hour Multiple Choice section 20% (Weeks 8-12)

Final Examination – closed book two hour Essay Section 40% (Weeks 1-14)

The multiple choice questions will be divided between case review and issue analysis. The Multiple Choice Examinations will NOT be cumulative. The essay portion of the final will cover the entire semester except for those topics tested in midterm.

CLASS PARTICIPATION: Normally, class participation will not count towards the overall course grade. However, consistent lack of preparation over the semester may result in a reduction of up to one-step of the overall course grade (e.g., from B+ to B or from C to C-).

ATTENDANCE: The WSU policy on required attendance at all classes will be followed.

OFFICE HOURS: Thursday 2:30 – 5:30 pm and by appointment.

DISABILITY 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. 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 Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

AMERICAN BAR ASSOCIATION STANDARD 310(b)

The American Bar Association Standard 310 has established minimum requirements for classroom Credit Hours. As applied to Constitutional Law I, part of the Standard 310(b) requirement is that each student should spend, on an average, six hours per week (two hours per unit) over the fifteen weeks of the semester (fourteen weeks plus the final examination) on class preparation outside of the actual classroom. My estimate is that each student will need at least six hours for preparation outside of class for each of the fifteen weeks. These hours outside of class will satisfy this ABA Standard 310(b) requirement.

In addition, Standard 310(b) requires fifteen weeks of classroom time. (The minutes per class calculations are available if you would like to see the arithmetic.). To meet (and exceed) this requirement I have scheduled a Week 15 make-up class for the Day section on November 22. In addition, the Week 16 Final Examination will exceed the Standard 310(b) classroom hours requirement.

CHAPTER ONE – THE FEDERAL JUDICIAL POWER

ONLINE U.S. Constitution Quiz – Open Book – Due Wednesday August 17-at noon

Week 1 JUDICIAL REVIEW (Day: Aug-18, Eve Aug-18)

[26 pages reading]

CONSTITUTION, Articles I-VII and Amendments – pp. xli-lvii
pp. 1-13; 33-45
Marbury v. Madison
Ex Parte McCordle
United States v. Klein
Hayburn’s Case
Plaut v. Spendthrift Farms

Online Essay Quiz 1 (Marbury – Judicial Review)

Due Monday 8-22 (noon)

Week 2 STANDING & JUSTICIABILITY (Day Aug-23, Aug-25; Eve Aug-25)

[48 pages reading]

pp. 45-52; 59-75; 81-85; 86-96; 105-110
Allen v. Wright
City of Los Angeles v. Lyons
Lujan v. Defenders of Wildlife
Singleton v. Wulff
United States v. Richardson
Poe v. Ullman
Abbott Laboratories v. Gardner
Friends of Earth, Inc. v. Laidlaw Environmental Services
United States Parole Commission v. Geraghty
Baker v. Carr
Powell v McCormack
Goldwater v. Carter

Optional Essay Quiz (Standing) Due Monday 8-31 (noon)

CHAPTER TWO – THE FEDERAL LEGISLATIVE POWER

Week 3 FEDERAL CONGRESSIONAL POWER (Day 8-30, 9-1; Eve 9-1)

[63 pages reading]

pp. 115-177
McCulloch v. Maryland
National Federation v. Sibelius
United States v. Comstock
Gibbons v. Ogden
NLRB v. Jones & Laughlin
U.S. v. Darby
Wickard v. Filburn

First Multiple Choice Examination – Online – Sun Sep 11 – Noon to 4:00 pm (Weeks 1-3)

Week 4 COMMERCE CLAUSE (Day Sep 6, Sep 8; Eve Sep 8)

[60 pages reading]

pp. 177-184; 190-209; 220-241

Heart of Atlanta Motel v. U.S.

Katzenbach v. McClung

Perez v. U.S. (p. 182)

U.S. v. Lopez

U.S. v. Morrison

New York v. United States

Printz v. United States

Reno v. Condon

Online Essay Quiz 2 (Commerce Clause) Due Wed 9-14, 12:00 noon

Week 5 FEDERAL CONGRESSIONAL POWER (Day Sep 13, Sep 15; Eve Sept 15)

[26+ pages reading]

pp. 241-245; 251-266; 266-270

U.S. v. Butler

Steward Machine Co. v. Davis

South Dakota v. Dole

United States v. Morrison

Shelby County, Alabama v. Holder [NEW CASE – see TWEN site]

Katzenbach v. Morgan & Morgan

City of Boerne v. Flores

National Federation v. Sibelius [REVIEW]

Background Note on Eleventh Amendment

Fitzpatrick v. Bitzer

Optional Essay Quiz Tenth Amendment Due Wednesday September 21

CHAPTER THREE – THE FEDERAL EXECUTIVE POWER

Week 6 (Day Sep 20, Sep 22; Eve Sep 22)

38 pages reading]

pp. 317-331; 344-366;

Youngstown Sheet & Tube Co. v. Sawyer

U.S. v. Richard M. Nixon

Immigration and Naturalization Service v. Chada

Alexia Morrison v. Olson

Myers v. U.S.

Humphrey's Executor v. United States

Wiener v. United States

Bowsher v. Synar

Morrison v. Olson (Separation of Powers)

Week 7 (Day Sep 27; No Class) IN CLASS MIDTERM Day and Eve Sep 29 (Weeks 1-5)

Week 8 (Day Oct 4, Oct 6; Eve Oct. 6)

[55 pages reading] pp. 369-377; 381-393; p. 411-418; 431-455 ;

U.S. v. Curtis-Wright Corp.
Dames & Moore v. Regan, Secretary of the Treasury
Hamdi v. Rumsfeld
Ex Parte Quirin

CHAPTER FOUR – LIMITS ON STATE REGULATORY AND TAXING POWER

Preemption Tests – Gade v. National Solid Wastes Mngmnt (p. 433)
Lorillard Tobacco v. Reilly
Florida Lime v. Paul
PG&E v. State Energy Resources
Arizona v. U.S.

Week 9 (Day Oct 11, Oct 13; Eve Oct. 13)

[46 pages reading]

pp. 455-479; 484-501; 504-506
H.P. Hood & Sons v. Du Mond
Cooley v. Board of Wardens
South Carolina State Highway Department v. Barnwell Brothers, Inc.
Southern Pacific Co. v. Arizona Ex Rel. Sullivan, Attorney General
City of Philadelphia v. New Jersey
Hughes v. Oklahoma
Hunt v. Washington State Apple Advertising Commission
Exxon v. Governor of Maryland
Dean Milk v. City of Madison
Maine v. Taylor and United States
Loren J. Pike v. Bruce Church, Inc.
Bibb, Director of Public Safety of Illinois v. Navajo Freight Lines
Consolidated Freightways Corp. of Delaware v. Raymond Kassel
Western & Southern Life Ins. Co. v. State Bd of Equalization of CA
Reeves v. William Stake
Privileges and Immunities Clause of Article IV, §2: Introduction

Second Multiple Choice Examination – Online – Sunday Oct 9 – Noon to 4:00 pm (Weeks 4-6)

CHAPTER FIVE – THE STRUCTURE OF THE CONSTITUTION’S PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES

Week 10 (NO DAY CLASS Oct 18; Day Class, Oct 20; Eve Oct 20)

[70 pages reading] pp. 517-520; 548-558; 567-570; 575-580.
pp. 601-614; 627-629
pp. 646-647
pp. 711-736

Barron v. Mayor and City Council of Baltimore
The Civil Rights Cases
Marsh v. Alabama
Jackson v. Metropolitan Edison Co.

Shelley v. Kraemer
Burton v. Wilmington Parking
Moose Lodge No. 107 v. Irvis

CHAPTER SIX – ECONOMIC LIBERTIES

Allgeyer v. Louisiana
Lochner v. New York
Williamson v. Lee Optical
The Contracts Clause: Introduction

CHAPTER SEVEN – EQUAL PROTECTION

Romer v. Evans
Railway Express Agency v. New York
New York City Transit v. Beazer
U.S. Department of Agriculture v. Moreno

Essay Quiz 3 (Dormant Com Clause) Due Sun 11-1 (1:00 pm)

Week 11 (Day Oct 25, Oct 27; Eve Oct 27)

[47 pages reading] pp. 740-755; 757-766; 771-781; 787-791; 794-798

Dred Scott v. Sandford
Korematsu v. U.S.
Loving v. Virginia
Plessy v. Ferguson
Brown v. Board of Education

Washington v. Davis
McCleskey v. Kemp
Personnel Administrator of Massachusetts v. Feeney
Village of Arlington Heights v. Metropolitan Housing Dev. Corp.

Brown v. Board of Education II

Week 12 (Day Nov 1, Nov 3; Eve Nov 3)
[42+ pages reading] pp. 824-838
pp. 866-889; 896-897

Regents of U.C. v. Bakke (p. 825)
Richmond v. J.A. Croson
Fisher v. United States [NEW CASE – see TWEN site]

Reed v. Reed
Frontiero v. Richardson
Craig v. Boren
U.S. v. Virginia
Geduldig v. Aiello

Orr v. Orr
Mississippi University for Women v. Hogan

Califano v. Webster

Online Essay Quiz 4 (Equal Protection) Due Wed 11-9 (Noon)

Week 13 (Day Nov 8, Nov 10; Eve Nov 10)
[29+ pages reading] pp. 905-921; 921-924; 924-931

Graham v. Richardson
Foley v. Connelie
Ambach v. Norwick
Plyler v. Doe
Massachusetts Board of Retirement v. Murgia
San Antonio School District v. Rodriguez (p. 929-30)
U.S. v. Windsor [NEW CASE – see TWEN site]

Week 14 (Day Nov 15, Nov 17; Eve Nov 17)
Issue Analysis Essay Exercise

Week 15 (Day Nov 22)
Make-up Class: Extended office hours; individual meetings

Week 16
Final Examination

FINAL EXAMINATION – TBA

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

Gotanda Comment on Argosy University Institutional Learning Outcomes:

In Constitutional Law I, we will be working to develop these six Learning Outcome competencies. The Course methodologies include in-class lectures, Socratic-style class examination; case presentations; and examination of hypothetical situations.

In addition, the course includes as skill development and assessment, the use of multiple choice examinations, essay examinations, closed-book and open-book work, timed and un-timed work, and work both in-class and out of class.

The course methodologies will all contribute towards individual student development towards all six Argosy University Learning Outcomes.

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.

Gotanda Comment on Western State College of Law Programmatic Learning Outcomes:

Constitutional Law is a bar-tested subject and part of the core curriculum. The course emphasis will be upon (1) Doctrinal Knowledge, (3) Legal Analysis; and (5) Written Communication. The teaching and learning methodologies used in the Course will focus upon developing these Learning Outcomes competencies. Successful completion of the Constitutional Law I will mean mastery of these basic areas across the range of teaching, learning, and assessment methodologies used in Constitutional Law I.

In addition, the course will work to develop basic level of competencies in Constitutional Law in these areas: (4) Legal Research, (5) Oral Communication, (6) Advocacy of Legal Argument, (7) Cultural Competency and (8) Legal Ethics.

In general, the complex nature of constitutional litigation is difficult to address in a basic survey course on Constitutional Law. The Learning Outcomes of (2) Practice Skills and (7) Client Sensitivity in Constitutional litigation will not be a focus in this course.