

CONSTITUTIONAL LAW II

Western State College of Law
Professor Stacey Sobel
Spring Semester 2024

Course Information

Online Course Materials: TWEN, sign up by January 23, 2024
Email: ssobel@wsulaw.edu

Office hours: Office hours will be held in-person on: Tuesdays, 2:30 – 5:00 PM. Office hours will also be held on Zoom at other times. **The Zoom meeting number is 344-446-2334.** Once I've completed the previous zoom meeting, you will be admitted from the waiting room. Meetings during office hours should be scheduled via TWEN sign-up sheets. If you cannot make an appointment during regular office hours or there are no available time slots, 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 might not be available to meet. If you need to cancel a meeting or if you will be late, please remove your name from the sign-up sheet. I may schedule additional office hours at particular times during the semester. You will be notified in class and/or via TWEN of when those hours will occur.

Required Text

Chemerinsky, *Constitutional Law* (6th ed. 2020)
Online materials as assigned (via TWEN)

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 fundamental rights, substantive and procedural due process, and First Amendment 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 WSCL'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. **Students may not record the class discussion without the professor's approval.**

Attendance – The WSCL policy on required attendance at all classes will be followed: students enrolled in three hour classes 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 may be occasional on-line quizzes for pass-fail credit. Failure to complete or pass a quiz may result in a grade reduction of up to .3.

Accommodations – 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. 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 accommodation. 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 Marisa Cianciarulo at mcianciarulo@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

January 16-18	<u>Fundamental Rights: Intro; Family Autonomy</u> 903-909; 952-959; 1030-1042; 909-929
January 23-25	<u>FR: Family; Reproductive Rights</u> 938-952; 959-961, 967 (V, summary), 976-977 (summary), <i>Dobbs</i> (TWEN)
Jan. 30-Feb. 1	<u>FR: Repro. Rights; Medical Decisions; Sexual; Voting Rights</u> 1001-1003, 1005-1030; 1053-1076
February 6-8	<u>FR: Voting; Access to the Courts; Education; Procedural Due Process</u> 1079-1083; 1106-1116; 1121-1162
February 13-15	<u>PDP; First Amendment: Free Speech Methodology</u> 1162-1169; 1177-1179; 1186-1201; 1210-1219; <i>Shurtleff</i> (TWEN); 1229-1237
February 20, 22-27	No class 2/20; <u>Speech: Prior Restraints; Compelled Speech; Review</u> Practice Exam; 1237-1249; 1257-1267; 1270-1272
March 1	<u>Midterm</u>
March 5-7	Spring Break
March 12-14	<u>Compelled, Unprotected and Less Protected Speech: Incitement of Illegal Activity</u> <i>303 Creative</i> ; 1289-1294; 1308-1317; 1329-1332
March 19-21	<u>Fighting Words; Hostile Audience; Sex Related Speech; Profanity and Indecency</u> 1341-1355; 1365-1372; 1375-1404
March 26-28	<u>Violent Speech; Commercial; Conduct; Money as Political Speech</u> 1404-1427; 1434-1439; 1442-1443; 1481-1491; 1506-1523
April 2-4	<u>Location</u> 1531-1540; 1545-1574; 1582-1597
April 9-11	<u>Location, Freedom of Association</u> <i>Mahanoy</i> ; 1597-1610; 1621-1635; 1665-1675
April 16-18	<u>Religion: Free Exercise</u> 1675-1700; <i>Fulton</i> ; <i>Roman Catholic Diocese of Brooklyn</i> ; <i>Tandon</i>
April 23-25	No class 4/23; <u>Establishment Clause</u> 1717-1728; 1736-1752
April 30	<u>Establishment Clause; Review</u> <i>Kennedy</i> ; 1752-1790; <i>Carson</i> ; Practice exam

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).

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.

6. 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.

7. Legal Ethics

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