

WESTERN STATE COLLEGE OF LAW

CONSTITUTIONAL LAW I – Fall 2017

SYLLABUS AND COURSE POLICIES

Professor Todd Brower
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Office hours:

Monday [for Con Law students only]: 8:30 AM – 9:00 AM in classroom

Monday: 10:30 AM – 12:30 PM [for all students] in office

Tuesday: 8:30 – 9:00 AM [for Property students only] in classroom

Tuesday: 11:00 AM – 1:00 PM [for all students] in office

Wednesday [for Con Law students only]: 8:30 AM – 9:00 AM in classroom

Syllabus

Texts

Required Text: Chemerinsky, Constitutional Law, (5th Edition 2017).

Recommended Text: Chemerinsky, Constitutional Law Principles & Policies (2015) (hornbook).

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There is a required course webpage available at <http://webcourses.lexisnexis.com/> You will need a password to access it. The password is “password”.

The required text is to be brought to all classes. The reading assignments listed below refer to the Chemerinsky casebook. *Students should also read the corresponding pages in the Chemerinsky hornbook. This is very important, as not all materials will be discussed in class.* You may choose to buy the hornbook or read it in the library, as you prefer - but you will be responsible for that material. I strongly suggest that you read the accompanying pages in the Chemerinsky hornbook before class and with your required reading. Additional handouts may be assigned at the professor's election.

You are also responsible for checking the course webpage and doing assignments online in the time allotted. Online assignments have deadlines for completion. Once assignment and submission deadlines have passed, you will not be able to submit or access those materials.

Preparation and work for class is normally expected to be at least two hours of out of class work for every hour we spend in class. This includes not only the

required reading, but also the assignments, quizzes, and material found on the course webpage.

Course Coverage and Objectives

The purpose of the course is to explore the constitutional structure of the federal government and state governments within the federal constitutional structure. We will cover such topics as Judicial power, Congressional power and Executive power, and the interaction of those branches with state governmental powers. We will also consider the Fourteenth Amendment protections of Equal Protection, and the State Action doctrine. Please also see the class, WSCL, and Argosy objectives listed at a later section of this document.

Examinations and Grading

Each student will receive a numeric grade for the course. Course grades will be based on possible midterms and a final examination and successful completion of other exercises given throughout the semester.

There are several graded assignments, midterms, quizzes and a final exam in this course. They are described below. **Note: You have a quiz due before the first day of class.**

Midterms: There will be two graded assignments/midterms in this course. The combined graded assignments/midterm scores will count as 25% of your final course grade. *The dates for those midterms are listed at the end of this syllabus in the schedule of classes. Please familiarize yourself with those dates; they are important.* Formats to be announced later.

Additionally, there are required assignments/lectures that will be available online. You must complete/access these assignments in the time allotted. The first such assignment is a Pass-Fail quiz on the text of the Constitution and Amendments - Casebook pp. xli-lvii. The quiz is available online on the course webpage beginning on August 14, 2017 at 11:59 pm and is due online at 11:59 pm on August 20, 2017 before the first class.

There is a required course webpage available at <http://webcourses.lexisnexis.com/> The password is "password". You will need to sign up for the course webpage and access the course webpage to take that online quiz.

The dates of supplemental lectures and assignments, if any, will be determined throughout the semester. They will be announced on the course webpage.

Quizzes: There may be on-line quizzes for pass-fail credit. Each quiz may be repeated until you pass, but you must pass within 2 weeks of the original date of the quiz. Failure to pass the quizzes will result in a lowering of your final course grade by 0.3 – 0.4 depending on the original grade. For example, if your grade would ordinarily have been 3.3 in the course, you will receive a 3.0; if your grade would have been a 2.7, you will receive a 2.3.

Final Exam: The three-hour final examination will count 75% of the course grade. The final exam will consist of a multiple-choice section that counts for 25% of the course grade, and an essay section that counts for 50% of the course grade. It is closed-book.

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 0.3 of the overall course grade.

Copies of my previous examinations will be available in the library on reserve. Students are encouraged to take practice examinations. I will be happy to review practice examinations in my office during office hours.

Office Hours

I will be available for office hours by appointment at the times and locations listed at the beginning of this syllabus. Please make appointments with the receptionists in the faculty suite on the second floor. Please do not contact me to schedule appointments. If you have scheduled an appointment and need to cancel, please do so in person or call the faculty secretaries as soon as possible. Other students may be waiting for appointments and may be able to take your slot.

I will also be in class approximately 30 minutes before the starting time. These office hours are created especially for this class. This is an open session in which you can always ask questions. There are no appointments needed; first-come, first-served.

Attendance and Participation

Legal Education is a cooperative venture. My commitment to you is to be as prepared as possible for every class session, to have read and thought about the material in advance of the class, and to participate fully in the classroom. I expect no less of you than I do of myself. I do not expect you to know the answer to every question; I do expect that you will use your best efforts.

A seating chart will be distributed at the beginning of the first class. Please print your name legibly in the seat you choose for your permanent seat. If you wish to

change your seat, please notify me so that the seating chart can be adjusted accordingly.

I strongly encourage you to choose a seat near the front of the classroom. Educational studies show that students sitting near the front benefit most from the classroom experience. Because all students will be required to participate, your seat choice will not enhance or reduce the likelihood of your being chosen to recite in class. Because I make every effort to learn the names of each student in my classes, your choice of seat will not assure you of anonymity either.

Classes begin promptly at the scheduled time. Please be in your seat for the start of class. Students who arrive late disrupt the learning process for others. If you are unavoidably late, please enter quietly through the rear entrance and take your assigned seat.

Attendance and participation are required for all classes. There are no excused or unexcused absences. **In accordance with the WSU student handbook, if you miss more than four (4) daytime classes or two (2) nighttime classes, you will be academically dismissed from the course.** Additionally, if you arrive late or depart early without permission, you may be marked absent for the entire session.

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 Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Reading Assignments and Class Preparation Assignments: TOPIC and PAGES

All pages are for the text. Pages in parentheses are recommended, not required. *Please read the accompanying material in the hornbook.*

For the first class you have two assignments:

1. The quiz on the constitution described below;
2. The first set of case readings on Congressional power and limitations also listed below.

The Constitution, Articles I - VII, and Amendments:

Pass-Fail quiz on the text of the Constitution and Amendments - Casebook pp. xli-lvii. The quiz is available online on the course webpage beginning on August 14, 2017 at 11:59 pm and is due online at 11:59 pm on August 20, 2017 before the first class. There is a required course webpage available at <http://webcourses.lexisnexis.com/> The password is "password". You will need to sign up for the course webpage and access the course webpage to take that online quiz. There is a required course webpage available at <http://webcourses.lexisnexis.com/> The password is "password". You will need to access the course webpage to take that online quiz.

There are also mandatory answers to questions about the cases in the assignment that we will discuss for each week. Before class starts on Monday of each week, you must upload your answers to those questions online in the designated area of the course webpage. You should also bring a copy of your answers to class for that week since you will need them as references for the class discussion of those cases. Your participation grade for this class is based in part on your answers.

Congressional Power and Limitations. The Commerce Clause and Federalism: 115-129, 151-156, 159-182; 188-205; 207-216

Congressional Power and Limitations: 184-188, 217-237

Congressional Power and Limitations, Section 5 of the XIV Amendment (Eleventh Amendment and Sovereign Immunity: 245-260, plus in class lecture on the Eleventh Amendment and sovereign immunity, Reading Assignment: mandatory reading of hornbook sections on both topics)

Judicial Power and Limitations, including Standing: 1-13, 33-52, 59-84, 86-89

Executive Power and Limitations: 321-335, 385-394, 401-413, 438-449

State Powers & Federalism

Preemption, Dormant Commerce Clause, Article IV Privileges & Immunities: 451-454, 461, 462, 467, 476-482, 489-495, 499-515, 517-523, 523-535

Civil Rights and Individual Liberties: Structure: 537-538, 556-566, 567-581, 582-586, 588-596, 597-600

Equal Protection: Rational Basis review: 725-754

Equal Protection: Race: 754-756, (756-759), 759-772, (772-774), 774-785, 795-801, 833-835, 870-878

Equal Protection: Gender: 882-897, 900-914

Equal Protection: Alienage and Non-Marital Children in Hornbook; Others: 941-947

MIDTERMS: Cumulative from beginning of semester to that point in the course.
FINAL EXAM: Cumulative from beginning of semester

Midterm schedule

- **Midterm 1**
 - **Available online: 9/10/17 @ 11:59 PM**
 - **Due online: 9/17/17 @ 11:59 PM**

- **Midterm 2 10/24/17**

Schedule of classes Monday/Wednesday 9:00 AM -10:30 AM

Important dates:

9/4/17 – Labor Day – No class

9/11/17 – No Class – Work on graded assignment/midterm 1 (see above)

9/13/17 – No class – Work on graded assignment/midterm 1 (see above)

**9/18/17 – class in session, (Graded Assignment/midterm already due
9/17/17 @ 11:59 PM (see above))**

9/24/17 – No class – Graded assignment/midterm 2

The following are explicit goals and objectives for this course:

Doctrinal Knowledge

Students will demonstrate knowledge of the substantive law of Constitutional Law 1, including the powers of the federal government and its branches, state powers and their limitations, and the 14th and 5th Amendment doctrines of Equal Protection.

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.

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.

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:

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.

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.

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.

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.

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.

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.

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:

Analytical Reasoning

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

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

Information Competency

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

Interpersonal Effectiveness

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

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.

Professional Competence

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