**PLSC 333 CIVIL RIGHTS AND CIVIL LIBERTIES**

Summer Session I: 2017

Instructor: Shawn J. Donahue

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Office Location: LNG 279 (Library Tower Basement)

Office Hours: Thursday 1:00-3:00 by appointment

I will also designate times in which I will answer e-mails as I receive them as well.

Office Phone: N/A

Class Meeting: Online

Class Location: Online

**Syllabus**

**Course Description**

Constitutional law is a complex but interesting field of study. This course focuses on many of the amendments to the Constitution that grant civil liberties and rights to Americans. We will begin the course with a focus on judicial philosophy. Is the Constitution a living document, should text be strictly interpreted, or should we look to the intent of the Founders when the Constitution was written? These are the questions that often divide the Supreme Court. The majority of the course deals with the clauses of the First Amendment rights to freedom of speech and religion. We will cover freedom of expression, the Establishment Clause and the separation of church and state, freedom of the press, freedom of assembly, and limitations. The second major topic will be focused on civil rights, where will delve through the Equal Protection Clause , racial discrimination, the levels of scrutiny that is applied, the application to voting rights and representation, and other types of discrimination other than race. Other topics are the Right to Bear Arms, and the right to privacy, which include the gay rights and abortion rights.

Though included in our textbook, we do not cover the rights of the criminally accused, in order to cover the material we need to in the five week course. If you are interested in this topic, there is a course on Criminal Procedure offered at Binghamton.

This is a political science class. We will focus not just on the individual cases decided by the Court but also the politics of the Supreme Court decision process. It is no secret that politics influence court decisions and we will discuss that as well.

The textbook provides excerpts of cases, not the full opinions issued by the Court. In some instances, I will have you read the full opinions of the Court. That leads to the fact that you will need to learn a few basic legal research skills for you to find legal cases online. I also expect all of you to properly cite cases in any assignment according to the Bluebook Uniform System of Citation. You will have a short assignment on this. You may choose to buy a copy of it, which would be helpful if you attend law school in the future, but it is easily available online, so no need to buy it if you do not want to. I would note that in addition to be being a graduate student in the Political Science Department, I also went to law school at Indiana University. If any of you have any questions about law school, please do not hesitate to ask me since I realize that many of you are interested in attending law school in the future.

Please note that since this class is being held during the summer session that we will move at a rapid pace. It is important to keep up with the pace of the class as it is easy to get behind. Another thing about the timing of the class is that is being held mostly in June when the Supreme Court will be issuing its more controversial opinions. You should expect that I will assign a few of the opinions issued by the Court near the end of its term as reading material.

**Course Objectives**

The fundamental premise guiding this course is the idea that the Supreme Court and constitutional law are important topics in and of themselves and, furthermore, that they are inherently interesting and exciting topics. In other words, studying the Court and constitutional law should be both enjoyable and informative. That said, more specific goals for this course include:

1. To develop an understanding of the language of the Constitution and an appreciation for the fact that it speaks in terms of general principles rather than specific rules.
2. To read and understand the opinions issued by the Supreme Court.
3. To explore how the Supreme Court makes law with the decisions it issues.
4. To learn basic legal research skills.
5. To strengthen the ability to evaluate and construct analytic arguments.
6. To enhance written communications skills.

**Text**

The following text is required and is available for purchase at the University bookstore or on Amazon.com or other booksellers, but just be sure to get the right edition:

* Epstein, Lee and Thomas G. Walker. 2016. *Constitutional Law for a Changing America: Rights, Liberties and Justice*  9th edition. Washington, DC: CQ Press.[[2]](#footnote-2)

**OPTIONAL TEXT**

* The Bluebook: A Uniform System of Citation, 20th Edition (2015). By Columbia, Harvard, Pennsylvania and Yale Law Reviews

**Course Requirements & Grading**

Evaluation in this course is based on the following components:[[3]](#footnote-3)

* Legal Research Exercises (4) 20%
* Legal Memoranda (4) 80%

Final grades in this course are computed on the following basis:[[4]](#footnote-4)

* A: 94-100%
* A-: 90-93%
* B+: 88-89%
* B: 82-87%
* B-: 80-81%
* C+: 78-79%
* C: 72-77%
* C-: 70-71%
* D+: 68-69%
* D: 62-67%
* D-: 60-61%
* F: <59%

**Legal Research ExerciseS**

There is four (4) legal research exercises, which is worth 5% of the final grade each. The exercise is relatively short in nature and is intended to familiarize students with the basics of legal research. Students will need to possess basic legal research skills to successfully complete the full legal memorandum assignments. Those skills will be taught in lectures. The due date for the legal research exercise will be listed on the assignment as posted in the syllabus. It is possible that a short (5-10 question) open book quiz may be substituted by me in place of a writing assignment for these.

**Legal Memoranda**

During the course of the semester, students will prepare four (4) legal memoranda, each of which is worth 20% of the final grade. For each memorandum, I will provide a hypothetical legal scenario approximately 8-12 (or more if you choose) pages in length[[5]](#footnote-5). For each memorandum, students will conduct their own legal research to identify the relevant case law and craft a memorandum arguing for the disposition of the case accordingly. This is closed universe unless otherwise specified, so all these will be cases from your book or from the online lectures. The due dates for the assignments will listed after the assignments are posted in the syllabus.

For these assignments, you can assume each party has standing to bring the suit unless otherwise mentioned.

Students will also be required to submit electronic versions of their papers to Turnitin.com via the MyCourses page for this class. Once graded, this is where you will get your feedback from me as to why you received your grade.

Please note that all these assignments will be required to have been cited in proper Bluebook format. Failure to do so will result in grade deductions.

One of the first three of these assignments may be resubmitted following comments from me. Your grade will be the resubmitted version, whether it is higher or lower.

**Exam**

* There will be no formal exams in this course since it is for Composition credit.

**Blackboard**

Since this is an online class, everything will be conducted through Blackboard. All lectures, notes, assignments will be available via blackboard. This is also your responsibility to check it for assignments.

**LECTURES**

I will provide a lecture for each part of the material covered, which is recorded via Vimeo. It is necessary to listen to each of these lectures in addition to the material in the textbook. These lectures will include extensive power points and breakdown of the cases. You can generally figure that the material that I feel most important in the lectures will tend to be the focus of the assignments. The lectures will usually be about 30-45 minutes each, with some being shorter or longer on occasion. I try to split them up a bit, so there are quite a few, and they may be more than one per day.

**E-Mail**

All students registered for this course will automatically be subscribed to a class list serve via Blackboard. This list will be used to communicate reminders, updates, etc. to the class. Students are absolutely responsible for all information that is communicated in this manner. Those students who usually use an e-mail address other than their BU e-mail address should set their BU account to forward to their preferred e-mail address. Students should contact Computing Services if assistance with e-mail is required. You may find that there is a way to send messages on Blackboard. Don’t use, as I don’t check it. I won’t respond to it so don’t expect a response.

**Grade Disputes**

Grading should be an entirely transparent process and, accordingly, I will be as clear as I can be about my grading process and standards. Students wishing to dispute a grade for an assignment or exam must do so in writing within one (1) week of the return of the graded item. Students must also wait 24 hours before initiating an appeal. When doing so, students should provide a clear explanation as to why they feel a different grade is in order. Simply “wanting” or “needing” a higher grade is insufficient reasoning. When work is reviewed pursuant to a grade dispute, the entire item (assignment or exam) is reviewed, meaning that a grade dispute may result in the same grade, a higher grade, or a lower grade.

**Make Up Policy**

Each student is expected to complete all assignments by the due date and take all examinations at the scheduled times. Assignments will be distributed well in advance of their due dates. Students are strongly encouraged to begin work early since late work will generally not be accepted. In those exceedingly rare circumstances in which a late assignment is accepted, there will be a one letter-grade deduction for each 24-period the assignment is late.

**Special Needs**

I am committed to meeting any special needs students with learning disabilities might have. Students with special needs are advised to contact me immediately with documentation from Services for Students with Disabilities. Last minute accommodations are not feasible so students with special needs are obligated to contact me early in the semester.

**Religious Accommodation**

Students with a scheduling conflict related to the observance of a religious holiday are advised to contact me immediately. I will be very happy to make an appropriate accommodation. Students should note, however, that they must notify me within the first two (2) weeks of the start of the session to make any such accommodation.

**ACADEMIC INTEGRITY**

Academic integrity is an important touchstone of academic life, for both students and faculty. As the instructor for this class and a member of the Binghamton University community, I have a responsibility to scrupulously abide by and vigorously promote the highest standards of academic integrity. Accordingly, no form of academic dishonesty (intended or accidental) will be tolerated. Anyone found guilty of cheating or plagiarism or of other violations of academic integrity will receive an automatic grade of 0.0 (F) for the course. Furthermore, all other available penalties within the University (e.g., proceedings before the Harpur College Academic Honesty Committee) will be pursued to the fullest extent. Students should bear in mind that there are severe consequences for violations of academic integrity, which may well extend beyond Binghamton University (e.g., it may complicate or prevent admission to law school).

Students are required to review the Student Academic Honesty Code, which can be found on-line in the Bulletin. I will assume that you have no objections to the code unless otherwise specified.

I will be very happy to answer any questions students in this class may have about the Code and provide any necessary clarifications. I will also provide guidance, both to the class as a whole and to individual students as needed, regarding academic integrity as it applies to the assignments and exams in this course. Students have an affirmative obligation to seek out additional assistance from me if they have any unanswered questions about academic integrity.

**I AM PUTTING THIS IN BOLD AND CAPS FOR A REASON.**

**DO NOT PLAGIARIZE!**

**DO NOT PLAGIARIZE!**

**DO NOT PLAGIARIZE!**

**IT IS NOT WORTH IT!**

**IF YOU QUOTE SOMEONE, CITE IT! DON’T COPY STUFF OFF THE NET AND SAY IT IS YOUR OWN! TURNITIN WILL CATCH YOU! I WILL CATCH YOU! YOU MAY GET KICKED OUT OF THE SCHOOL AND NEVER GET TO GO TO LAW SCHOOL!**

I am very serious about plagiarism. I caught a student last semester that person received an F for the class and the case was forwarded to the Director of Undergraduate Studies. It is very easy to try to copy and paste material from the internets, but it is surprisingly easy to catch on turn it in, especially since most undergraduates do not possess the legal writing skills of law professors, who write much of the material. If you do copy and paste something, give credit for where you got it from, that is not plagiarism, but it will make for you getting a low grade since it about your interpretation and analysis, not another person.

**Schedule**

given that we have to finish this course in five weeks, we will cover between 125-150 pages of material per week or about 25-30 pages per day (not including SUNDAY). I would note that the pace is faster at the start of the course.

**Please note that this is a suggested schedule for the readings and lectures so that you can get through the materials. don’t think you have to rigidly follow the times for readings and lectures. however, the due dates for assignments are when things need to be turned in.**

**Week 1 (May 30-june 4):**

May 30 (Tuesday):

Lecture 1: Basic Legal Research

Readings: Pages 1-21, Attachment on Writing Legal Writing

Lectures 2 and 3: Understanding the Supreme Court I and II

No specific readings for these, but read Pages 22-44 on your own, some of the material will mesh up

May 31 (Wednesday):

Lecture 4: Institutional Powers and Constraints

Readings: Pages 45-64 (you can go through this pretty quickly)

Lecture 5: Incorporation Doctrine

Readings: Pages 66-87 (main goal here is to understand the process of incorporation)

June 1 (Thursday):

Lecture 6: Free Exercise of Religion I: Approaching Civil Liberties; Definition; Secular Policy Test

Readings: Pages 91-94 (skim), 95-105 (read all)

Lecture 7: Free Exercise of Religion II: Secular Policy Test and Sherbert-Yoder Test

Readings: Pages 105-115

Lecture 8: Free Exercise of Religion III: The Smith Test and Applications

Pages 115-131

June 2 (Friday):

Lecture 9: Establishment Clause I: Everson to Abdington

Readings: Pages 131-146

Lecture 10: Establishment Clause II: The Lemon Test and Aid to Religious Schools

Readings: Pages 146-159

**Legal Research Assignment #1 due by 9:00 PM**

June 3 (Saturday):

Lecture 11: Establishment Clause III: Religion and Prayer in School and Other Places

Readings: Pages 159-176

Lecture 12: Establishment Clause IV: Public Display of Religion, Entanglement

Readings: Pages 176-189

**week 2 (june 5-11)**

June 5 (Monday):

Lecture 13: Speech Clauses I: Standards- Clear and Present Danger, Bad Tendencies

Readings: Pages 191-205

Lecture 14: Speech Clauses II: Standards- Preferred Freedoms and a Divided Court

Readings: Pages 205-224

June 6 (Tuesday):

Lecture 15: Speech Clauses III: Symbolic Speech and Flag Burning

Readings: Pages 224-233

Lecture 16: Speech Clauses IV: Public Forums and Preservation of Order

Readings: Pages 233-247

June 7: (Wednesday):

**Legal Research Assignment #2 due by 9:00 PM**

Lecture 17: Speech Clauses V : Hate Speech and False Speech

Readings: Pages 247-258

Lecture 18: Speech Clauses VI: Student Speech

Readings: Pages 258-267

June 8 (Thursday):

Lecture 19: Speech Clauses VII: Forced Expression

Readings: Pages 267-276

Lecture 20: Speech Clauses VIII: Commercial Speech

Readings: Pages 276-284

June 9 (Friday):

Lecture 21: Speech Clauses IX: Freedom of Association

Readings: Pages 284-290, page 291 (Box 5-7 only)

Lecture 22: Freedom of the Press I: Prior Restraint

Readings: Pages 293-309

June 10 (Saturday):

**Legal Writing Assignment #1 (covering Religion Clauses) due by 9:00 PM**

Lecture 23: Freedom of the Press II: Control of Content

Readings: Pages 309-319

**week 3 (june 12-17)**

June 12 (Monday):

Lecture 24: Limitations of Freedom of Expression I: Libel

Readings: Pages 321-335

June 13 (Tuesday):

**Legal Research Assignment #3 due by 9:00 PM**

Lecture 25: Limitations of Freedom of Expression II: Obscenity Test

Readings: Pages 335-348

Lecture 26: Limitations of Freedom of Expression III: Obscenity II, Cruelty and Violence

Readings: Pages 348-361

June 14: (Wednesday):

Lecture 27: First Amendment and the Internet

Readings: Pages 363-378

Lecture 28: Right to Bear Arms

Readings: Pages 379-388

June 15: (Thursday):

Lecture 29: Right to Privacy I: Establishment of the Right in *Griswold*

Readings: Pages 390-401

Lecture 30: Right to Privacy II: Abortion Rights- *Roe* and its Applications

Readings: Pages 401-413

June 16 (Friday):

Lecture 31: Right to Privacy III: Abortion Rights II- *Casey* and Limits

Readings: Pages 413-425

Lecture 32: Right to Privacy IV, Abortion Rights III- Developments since *Casey*

Readings: Pages 425-427, Syllabus of *Whole Women’s Health v. Texas* (2016)

June 17 (Saturday):

**Legal Writing Assignment #2 (covering Speech and Press Clauses) due by 9:00 PM**

Lecture 33: Right to Privacy IV: Gay Rights I- Regulation of Private Sexual Activities

Readings: Pages 427-437

Lecture 34: Right to Privacy V: Gay Rights II- Same Sex Marriage

Readings: Pages 437-449

Lecture 35: Right to Privacy VI: The Right to Die, Drug Testing (go through quickly/skim)

Readings: Pages 449-459

**week 4 (june 19-24)**

June 19 (Monday):

Lecture 36: Introduction to Civil Rights

Readings: Pages 601-608

June 20 (Tuesday):

Lecture 37: Discrimination I: Separate But Equal

Readings: Pages 609-618

Lecture 38: Discrimination II: The *Brown* Cases

Readings: Pages 618-626

June 21: (Wednesday):

**Legal Research Assignment #4 due by 9:00 PM**

Lecture 39: Discrimination III: Busing and Desegregation

Readings: Pages 626-637

Lecture 40: Discrimination IV: Classifications to Harm Minorities, Interracial Marriage

Readings: Pages 637-648

June 22: (Thursday):

Lecture 41: Discrimination V: Affirmative Action I

Readings: Pages 648-660

Lecture 42: Discrimination VI: Classifications to Benefit Minorities, Affirmative Action

Readings: Pages 660-669; Syllabus of *Fisher v. Texas* (2016)

June 23 (Friday):

Lecture 43: Discrimination VII: Gender Discrimination

Readings: Pages 669-688

Lecture 44: Discrimination VIII: Sexual Orientation Discrimination

Readings: Pages 688-694

June 24 (Saturday):

**Legal Writing Assignment #3 (covering Speech Limitations and Privacy) due by 9:00 PM**

Lecture 45: Discrimination IX: Economic Status and Alien Discrimination

Readings: Pages 694-706

Lecture 46: Discrimination X: State Action Requirement

Readings: Pages 706-716

**week 5: (june 26-juNE 30)**

June 26 (Monday):

Lecture 46: Voting and Representation I: Elections

Readings: Pages 717-723

Lecture 47: Voting and Representation II: Voting Rights

Readings: Pages 723-736

June 27 (Tuesday):

Lecture 48: Voting and Representation III: Restrictions on the Right to Vote

Readings: Pages 736-741

Lecture 49: Voting and Representation IV: Campaign Finance

Readings: Pages 741-755

June 28: (Wednesday):

Lecture 50: Voting and Representation V: Reapportionment and Redistricting

Readings: Pages 755-768

June 29 (Thursday):

No Readings or Lectures

June 30 (Friday):

No readings or lectures

July 4: (Tuesday):

**Legal Memorandum #4 (Covering Discrimination and Voting Rights) due by 9:00 PM**- Grades have to be submitted by 4:00 PM the next day, so this is about as late as I can make this.

1. Though I try to be as prompt as possible in responding to student inquiries, it may take up to 24 hours for a response depending upon when an e-mail inquiry is received on weekday and 48 hours on weekends. [↑](#footnote-ref-1)
2. Students should be sure to obtain the appropriate edition (the 9th edition) and correct volume (subtitled “Rights, Liberties, and Justice”) of the Epstein and Walker text. [↑](#footnote-ref-2)
3. Note that students must complete each of these components to be eligible to receive a passing grade in the class. Stated differently, failure to complete any one of these items will result in a failing grade for the class regardless of whether, from a numerical perspective, a student could earn a passing grade. [↑](#footnote-ref-3)
4. Students submit to the Academic Integrity rules of the University Student Code of Conduct. [↑](#footnote-ref-4)
5. There is no hard or fast page limit here, but if it is only a few papers it is probably too short, but if it is coming in at 20 pages it is probably too long. The best answers are those that answer the questions most succinctly. [↑](#footnote-ref-5)