

Political Science 4700
Constitutional Law: Powers

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Course Description:

POLS 4700 is part of a sequence of courses dealing with the theory and practice of American constitutional law. The course includes supreme court cases on the separation of powers, national and state regulatory powers, the federal system, and the role of the courts.

Prerequisite: POLS 1101/1101E/ 1105/ 1101S

Not open to students with credit in POLS 4800, POLS 4700E, POLS 4700H

Required Text:

Lee Epstein, Kevin McGuire, and Thomas Walker. *Constitutional Law for a Changing America: Institutional Powers and Constraints*, 11th or 12th ed. (Washington DC: CQ Press, 2022 or 2024) ISBN-10: 1071822128 or 1071934470

COURSE REQUIREMENTS

Assignments are intended to provide each student with several opportunities to demonstrate achievement of the course objectives. Specific requirements are as follows:

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|------------------------|------------|
| 1. Examination One | 25 percent |
| 2. Examination Two | 25 percent |
| 3. Class Participation | 20 percent |
| 4. Writing Assignments | 20 percent |
| 5. Moot Court | 10 percent |

DESCRIPTION OF COURSE REQUIREMENTS (see ELC for more information)

Midterm exam (25%) and Final Exam (25%): The first examination will be given after the 6th week of class unless otherwise noted in class, and the final exam will be given before the end of the semester. Students are responsible for all background and related material offered in course reading assignments, class lectures, and class discussions.

Class Participation (20%): Attendance will be observed and formally taken in all classes. Participation points are based upon regular attendance, as well as actual class participation. To receive an A for class participation you must attend class on a regular basis, discuss any assigned reading and cases, and participate in class discussions and class activities. Class prep should include reading and “briefing” cases prior to class. **STUDENTS ARE ALLOWED THREE (3) ABSENCES BEFORE THE CLASS PARTICIPATION GRADE IS IMPACTED. No communication about these absences is necessary- take them if you need them.**

Writing Assignments (20%): Short writing assignments will be posted throughout the semester, with parameters identified and a grading rubric provided. See ELC for more information. Assignments turned in after their due date will receive a 10% penalty per day.

Moot Courts (10%): Students will be given cases on the current SCOTUS docket to simulate the process of oral argument and decision making in the Court. As such, each student will act as attorney, justice, or amicus (if numbers allow) in one of these cases. Students who sign-up as attorneys will work as a team to research the relevant case law, develop notes to assist presentation, and participate in oral argument before the court. Students who participate as justices will act as a justice during oral argument, conference, and decision on the merits. Students who participate as amicus will write an amicus brief to be turned into the professor before the case is scheduled for argument. Students will have an opportunity to sign up for their preferred case and role as the semester progresses. Anyone who misses the deadline for sign-ups will be assigned a case and role by the professor.

GRADING SCALE

A	93.5-100
A-	89.5-93.4
B+	86.5-89.4
B	82.5-86.4
B-	79.5-82.4
C+	77-79.4
C	73-76
C-	70-72
D	60-69
F	below 60 or failure to receive a grade of D or better on all components

POLICY ON MISSED EXAMS/ ASSIGNMENTS:

Students who have a legitimate reason for missing an exam or assignment must notify the professor before the exam/ assignment is due and provide the professor with validating evidence. Students with a valid a valid excuse will be allowed to makeup the exam/ assignment no later than one week after the exam/assignment is due.

- **Exam make-ups are not guaranteed and are only allowed in the event of extenuating circumstances approved by the professor.**
- **Late assignment submissions will receive a 10% deduction, per day.**

POLICY ON EXTRA CREDIT:

****Extra credit opportunities are not available to individuals, and requests for extra credit will be ignored. ****

SPECIAL NOTES

ACADEMIC HONESTY AND PROFESSIONALISM

Standards of Conduct for Students: Students should behave in a professional manner at all times. It is essential that the environment in this classroom and any other classroom be conducive to learning and tolerant of all races, ethnic groups, and gender. Any student behaving in a manner that is in any way disruptive or inappropriate to the professor or to other students in the class will be referred to the appropriate authority.

UGA Student Honor Code

"I will be academically honest in all of my academic work and will not tolerate academic dishonesty of others."

A Culture of Honesty, the University's policy and procedures for handling cases of suspected dishonesty, can be found at honesty.uga.edu.

Important:

Unauthorized use of AI software or word mixing software to write any assignment or disguise plagiarized work is considered unauthorized assistance in this course. All assignments will be scanned by AI and plagiarism detection software.

PREFERRED NAMES AND/OR PRONOUNS

Class rosters are provided to the instructor with the student's legal name. I am eager to address you by your preferred name and/or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records.

PROHIBITION ON RECORDING LECTURES

In the absence of written authorization from the UGA Disability Resource Center, students may not make a visual or audio recording of any aspect of this course. Students who have a recording accommodation agree in writing that they:

- Will use the records only for personal academic use during the specific course.
- Understand that faculty members have copyright interest in their class lectures and that they agree not to infringe on this right in any way.
- Understand that the faculty member and students in the class have privacy rights and agree not to violate those rights by using recordings for any reason other than their own personal study.
- Will not release, digitally upload, broadcast, transcribe, or otherwise share all or any part of the recordings. They also agree that they will not profit financially and will not allow others to benefit personally or financially from lecture recordings or other course materials.
- Will erase/delete all recordings at the end of the semester.
- Understand that violation of these terms may subject them to discipline under the Student Code of Conduct or subject them to liability under copyright laws.

UGA WELL-BEING RESOURCES

UGA Well-being Resources promote student success by cultivating a culture that supports a more active, healthy, and engaged student community.

Anyone needing assistance is encouraged to contact Student Care & Outreach (SCO) in the Division of Student Affairs at 706-542-8479 or visit sco.uga.edu. Student Care & Outreach helps students navigate difficult circumstances by connecting them with the most appropriate resources or services. They also administer the Embark@UGA program which supports students experiencing, or who have experienced, homelessness, foster care, or housing insecurity.

UGA provides both clinical and non-clinical options to support student well-being and mental health, any time, any place. Whether on campus, or studying from home or abroad, UGA Well-being Resources are here to help.

- Well-being Resources: well-being.uga.edu
- Student Care and Outreach: sco.uga.edu
- University Health Center: healthcenter.uga.edu
- Counseling and Psychiatric Services: caps.uga.edu or CAPS 24/7 crisis support at 706-542-2273
- Health Promotion/ Fontaine Center: healthpromotion.uga.edu
- Accessibility and Testing: accessibility.uga.edu

Additional information, including free digital well-being resources, can be accessed through the UGA app or by visiting <https://well-being.uga.edu>.

COURSE OUTLINE

Part One. Introductory Material

I. The U.S. Constitution and the Supreme Court (E&W Chapter 1)

A. The Constitution and Its Key Features

B. The American Legal System

1. Structure
2. Supreme Court Procedures

C. Modes of Constitutional Decisionmaking

Part Two. The Distribution of Power among the Branches of Government

II. The Judiciary (E&W, Chapter 2)

A. Judicial Review

Focus Cases: *Marbury v. Madison* (1803), *Martin v. Hunter's Lessee* (1816)

B. Constraints on Judicial Power

1. Jurisdiction. Focus Cases: *Ex parte McCordle* (1869), *Hamdan v. Rumsfeld* (2006)
2. Justiciability
 - a. Advisory Opinions
 - b. Collusive Suits
 - c. Mootness
 - d. Ripeness
 - e. Political Questions— Focus Cases: *Baker v. Carr* (1962), *Nixon v. United States* (1993)
2. Standing to Sue— Focus Cases: *Flast v. Cohen* (1968), *Hollingsworth v Perry** (2012), *US v Windsor** (2012)
3. The Separation of Powers System as a Constraint

III. The Legislature (E&W Chapter 3)

A. The Independence and Integrity of Congress

B. Membership in Congress--Focus Cases: *Powell v. McCormack* (1969), *U.S. Term Limits v. Thornton* (1995)

1. The Speech or Debate Clause--Focus Case: *Gravel v. United States* (1972)

B. The Sources and Scope of Congressional Power

1. Enumerated and Implied Powers—Focus Cases: *McCulloch v. Maryland* (1819), *McGrain v. Daugherty* (1927), *Watkins v. United States* (1957), *Barenblatt v. United States* (1959)
2. Inherent Powers—Focus Case: *United States v. Curtiss-Wright Export Corp.* (1936)
3. Amendment-Enforcing Power—Focus Case: *South Carolina v. Katzenbach* (1966)

IV. The Executive (E&W, Chapter 4)

A. Selection of the President--Focus Case: *Bush v. Gore* (2000)

B. Faithful Execution of the Laws -Focus Case: *In re Neagle* (1890)

C. The Domestic Powers of the President

1. Veto Power—Focus Case: *Clinton v. City of New York* (1998)
2. Appointment and Removal—Focus Cases: *Morrison v. Olson* (1988), *Myers v. United States* (1926), *Humphrey's Executor v. United States* (1935)
3. Executive Privilege—Focus Case: *United States v. Nixon* (1974)
4. Presidential Immunity—Focus Cases: *Mississippi v. Johnson* (1867), *Nixon v. Fitzgerald* (1982), *Clinton v. Jones* (1997)
5. The Power to Pardon—Focus Cases: *Ex parte Grossman* (1925), *Murphy v. Ford* (1975)

D. Foreign Policy- Focus Case: *United States v. Curtiss-Wright Export Corp.* (1936)

V. Separation of Powers System in Action (E&W, Chapter 5)

A. Domestic Disputes

1. The Delegation of Legislative Powers—Focus Case: *Mistretta v. United States* (1989)
2. Congress and Executive/Judicial Powers—Focus Cases: *INS v. Chadha* (1983), *Bowsher v. Synar* (1986)

B. War and National Emergencies -Focus Cases: *The Prize Cases* (1863), *Ex parte Milligan* (1866), *Ex parte Quirin* (1942), *Korematsu v. United States* (1944), *Youngstown Sheet and Tube Co. v. Sawyer* (1952), *Dames & Moore v. Regan* (1981), *Hamdi v. Rumsfeld* (2004), *Hamdan v. Rumsfeld* (2006)

Part Three. Nation-State Relations

VI. Federalism

A. Dual v Cooperative Federalism: Focus Cases: *McCulloch v. Maryland* (1819); *Scott v. Sanford*; *National League of Cities v. Usery* (1976), *Garcia v. SAMTA* (1985), *New York v. United States* (1992), *Printz v. United States* (1997)

B. New Judicial Federalism and National Preemption of State Laws -Focus cases: *Murdock v. City of Memphis*; *Michigan v Long*; *State of Missouri v Holland*; *Crosby v NFTC*

VII. The Commerce Power (E&W, Chapters 7)

A. Foundations of Commerce Power - Focus Case: *Gibbons v. Ogden* (1824)

B. The Commerce Power before the New Deal -Focus Cases: *United States v. E.C. Knight Co.* (1895), *Stafford v. Wallace* (1922)

C. The New Deal Confrontation - Focus Cases: *A.L.A. Schechter Poultry Corp. v. United States* (1935), *Carter v. Carter Coal Co.* (1936); *National Labor Relations Board v. Jones & Laughlin Steel Corp.* (1937)

D. The Commerce Power after the New Deal Confrontation -Focus Cases: *United States v. Darby Lumber* (1941), *Wickard v. Filburn* (1942)

E. The Republican Court and the Commerce Power - Focus Cases: *United States v. Lopez* (1995), *United States v. Morrison* (2000), *Gonzales v. Raich* (2005), *National Federation of Independent Business v Sebelius* (2012)

Disclaimer

The course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.