Federal Election Law – Spring 2013

GMUSL – Syllabus version
Course no. 382 - 3 credit hours
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Office hours by appointment

Students will be graded based on class participation (35%) and an exam (65%).
Tentative Schedule – subject to revisions.

Ongoing Assignment: All students will be assigned a state that they will be responsible for investigating and following during the semester. In addition to specific assigned material, for each class students should have reviewed the Virginia Code as well as their assigned state code/regulations on the subject matter that will be the focus of that week’s discussions to the extent applicable to the discussion.

Week 1 (January 7)
Understanding the context of Election law & administration; constitutional provisions; the tension between federal, state & local officials;

Assignments: First class:
- Article I of the US Constitution
- Article II of the US Constitution
  [http://www.law.cornell.edu/constitution/constitution.articleii.html](http://www.law.cornell.edu/constitution/constitution.articleii.html)
- First Amendment:
  [http://www.law.cornell.edu/constitution/constitution.billofrights.html#amend](http://www.law.cornell.edu/constitution/constitution.billofrights.html#amend)
- Twelfth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxii.html](http://www.law.cornell.edu/constitution/constitution.amendmentxii.html)
- Fourteenth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxiv.html](http://www.law.cornell.edu/constitution/constitution.amendmentxiv.html)
- Fifteenth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxv.html](http://www.law.cornell.edu/constitution/constitution.amendmentxv.html)
- Seventeenth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxvii.html](http://www.law.cornell.edu/constitution/constitution.amendmentxvii.html)
- Nineteenth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxix.html](http://www.law.cornell.edu/constitution/constitution.amendmentxix.html)
- Twentieth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxx.html](http://www.law.cornell.edu/constitution/constitution.amendmentxx.html)
- Twenty-Second Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxxii.html](http://www.law.cornell.edu/constitution/constitution.amendmentxxii.html)
- Twenty-Third Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxxiii.html](http://www.law.cornell.edu/constitution/constitution.amendmentxxiii.html)
- Twenty-Fourth Amendment:
  [http://www.law.cornell.edu/constitution/constitution.amendmentxxiv.html](http://www.law.cornell.edu/constitution/constitution.amendmentxxiv.html)
Questions to prepare:  why do we have elections?  What should be the goals of elections?  What is an appropriate ballot question?  What is an appropriate ballot length?  What should be the goals of election law & procedures?  What are the benefits & disadvantages re: uniformity of rules?  Who makes the rules?  Who should?  What offices are elected?  Who administers elections, including the relevant state and local election officials in the state and their roles in elections?

[By week2 you should have identified a state you would like to follow; no student may choose the same state as another student – first one to ask will get that state; requests to Professor Quinn. ]

Week 2 (January 14) – Voting Rights Act overview & Section 2

Assignment:
• Voting Rights Act
  http://assembler.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_20.html

Questions to prepare: Why did Congress pass the Voting Rights Act?  Has it achieved its purpose?

Week 3 (January 21) – MLK Holiday

Week 4 (January 28) – Voting Rights Act & Redistricting “One Man, One Vote”

Assignment:
• Virginia Code Sections  & your state’s Code regarding redistricting criteria.
• Baker v. Carr, 369 U.S. 186 (1962)
Questions to prepare: How does apportionment work? How do we draw lines for representational districts? What are the appropriate considerations to take into account when drawing district lines?

**Week 5 (February 4)** – Voting Rights Act & Redistricting, continued; Voting Rights Act Language Access Provisions (Secs 4(e), 4(f) and 203); & VAEHA

- Virginia Code Sections & your state’s Code regarding language accessibility and voter accessibility.
- Review the Voting Rights Act Sections 4(e), 4(f) and 203 (above)
- Voting Accessibility for Elderly and Handicapped Act [http://assembler.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_20_20_1-F.html](http://assembler.law.cornell.edu/uscode/html/uscode42/usc_sup_01_42_10_20_20_1-F.html)

Questions to prepare: Why did Congress add the language accessibility provisions? Are the current designations based on the stated purpose? Why did Congress pass VAEHA? What are the VAEHA enforcement provisions? Does your state have additional criteria regarding language or disabled accessibility?

**Week 6 (February 11)** – Voting Rights Act Section 5 & Constitutionality

Assignment: Review Section 5.

- Section 5 Preclearance Guidelines [http://www.usdoj.gov/crt/voting/28cfr/51/28cfr51.htm#anchor51_1](http://www.usdoj.gov/crt/voting/28cfr/51/28cfr51.htm#anchor51_1)

Questions to prepare: Why was the Voting Rights Act found to be constitutional when passed? In your opinion is it still constitutional? Why or why not?

**Week 7 (February 18)** – NVRA & Voter Registration Issues

Assignment:

- Review your state’s code and Virginia Code (Chapter 4) re: voter registration.
- Gonzalez and Inter Tribal Council v. Arizona (9th Circuit April 17, 2012), No. 08-17115, available at SCOTUSBLOG.com (and review petition for certiorari.)
- Arica v. Detzner, (S.D. Fla. October 4, 2012), Case No. 12-22282
- ACORN v. Edgar, 56 F.3d 791 (7th Cir. 1995)
Questions to prepare: Who is eligible to vote under federal law? Does your state have additional criteria? How does one register to vote? Why do we require voters to register to vote? What are alternative registration procedures, and what are their positive and negative issues?

**Week 8 (February 25)** - UOCAVA, MOVE & Absentee Voting Issues

Assignment: Review your state’s code and Virginia Code (Chapter 7) re: absentee voting.

In addition, read the following:
- Uniformed and Overseas Citizens Absentee Voting Act
  [http://www.usdoj.gov/crt/voting/42usc/subch_ig.htm](http://www.usdoj.gov/crt/voting/42usc/subch_ig.htm)

Questions to prepare: Why do we allow absentee voting? Is it a right or a privilege? Who is eligible to vote absentee? How does one vote absentee? How does state & federal law on absentee voting interact? Should we switch entirely to mail voting?

**Week 9 (March 4)** – Election Disputes; Recounts & Contests, Equal Protection, Bush v. Gore & Counting the Votes

Assignment:
- Review your state’s code re: recounts & contests and review Virginia Code (Chapter 8 on Recounts and Contests).
- [Bush v. Gore](http://www.law.cornell.edu/supct/html/00-949.ZPC.html)
- Class will be expected to pick one of the following and research to discuss for class (assignment confirmed the week before): Washington State Governor’s recount 2004; Puerto Rico Governor’s race 2004; Virginia AG’s recount 2005; Minnesota Senate recount 2008; Alaska Senate race 2010.

Questions to prepare re: your state: What kinds of actions are the subjects of election disputes? What are the differences in recounts and contests? What were the relevant issues in the recount you researched? In your opinion, did the court handle it well (irrespective of the determination of the winner), and why or why not?
**Week 10 (March 11) –** Spring Break

**Week 11 (March 18) –** Political Parties, 3rd Parties & Independent Candidates, Initiative & Referendum; Ballot Access

- Virginia Code sections 24.2-500 through 24.2-543
- Virginia Code sections 24.2-684 through 24.2-687
- The laws/rules in your state’s laws/regulations regarding (1) political parties’ roles re: nominations, (2) offices elected (3) referenda & ballot initiatives

Questions to prepare: What is the process for nomination for office? Who can vote to nominate a party candidate? What is the process for independent candidates? What are the appropriate roles of parties? How does ballot initiative & referendum work?

**Week 12 (March 25) –** Elections Access versus Elections Integrity; Voting Systems & Internet Voting; Election Day procedures;

- Virginia Code 24.2-600 et seq. and 24.2-1000 et seq. & your state’s code provisions on election day procedures & election crimes

Non-required reading:

**Week 13 (April 1) - Federal Campaign Finance**

Assignment:

Questions to prepare: What are the problems that campaign finance laws are trying to solve? Do the rules take care of the perceived problems? What are alternative methods for dealing with those problems?

**Week 14 (April 8) Federal Campaign Finance**

Bipartisan Campaign Reform Act; Political Advertising

Assignment:
- Virginia Code (Chapter 9.2 on Disclosure Requirements for Political Campaign Advertisements), and your state’s code on political campaign advertisements.

Questions to prepare (class #2): What was Congress trying to accomplish with BCRA? What problems have resulted from it? Why are there efforts to regulate political advertising? How does the first amendment apply to political advertising?

**Week 15 (April 15) State Campaign Finance**

Assignment:
• Review campaign finance provisions in your state’s code and the Virginia Code (Chapter 9 on the Campaign Finance Disclosure Act).

Questions to prepare: How does state campaign finance law interact with federal campaign finance law? What are the problems that campaign finance laws are trying to solve? Do the rules take care of the perceived problems? What are alternative methods for dealing with those problems? How do the states differ in their approach to campaign finance laws?

Week 16 (April 22) – HAVA & the future of Federal Election Law

The Help America Vote Act and election reform implementation; provisional ballots; Election litigation, the changing role of courts, and the changing strategy of political parties & candidates; the tensions between uniformity & experimentation; felon voting; International Elections Issues; pending federal legislation

Assignment: In addition to the ongoing assignment, read the following:

• Help America Vote Act (skim all; study Title III) http://www.usdoj.gov/crt/voting/hava/HAVA_2002.html

Questions to prepare: Why did Congress pass HAVA? What are its goals? Have the goals been met? Why or why not? What progress has been made in improving elections? How has Election Day changed in the past 10 years? What are the benefits and challenges of uniformity in election procedures? What are the benefits and challenges of federalism? What did the Supreme Court intend when it decided Bush v. Gore? Should felons be able to vote? When should their right to vote be restored?