

**Law and Religion Seminar  
Spring 2025  
Law 635 (001)  
MW 9:50-11:15 am**

**Professor:** Helen Alvaré  
**Office:** 433G  
**Phone:** 703-993-9845  
**e-mail:** [halvare@gmu.edu](mailto:halvare@gmu.edu)

1. **REQUIRED TEXT:** Michael W. McConnell, Thomas C. Berg, Christopher Lund, *Religion and the Constitution*, 5th ed., Aspen.

I will also provide you with handouts, usually via TWEN.

2. **CLASS METHOD:** I expect you to read all of the assigned material and to be prepared for a lively class discussion, which discussion will occupy the largest part of each meeting. I also expect regular volunteering, but will also call on students who are not volunteering regularly.

3. **GRADING:**

The law school's Academic Regulation 3-3.2(b) states that "Students must take one graded 400- or 600- level seminar course requiring a major paper, and must also complete either an additional such seminar or a course designated as a writing course. Courses that are designated as a writing course will be designated with a "(W)" on the semester schedule.

Law and Religion is a 600-level seminar course requiring a major paper. The paper must be between 25-40 double-spaced, typewritten pages, footnotes (single-spaced) included. The topic must be approved in advance by me, before end of day February 20, 2025. A first draft is due before end of day March 7, and a final version by April 28. We will discuss the requirements for this paper early in the semester.

Your final grade will be based 55% upon the quality of your class participation, and 45% upon the quality of your paper.

4. **OFFICE HOURS:** Mondays after class, and by appointment.
5. **ATTENDANCE:** Academic Regulation 4-1 governs attendance. Should the weather interfere with in-person class, we will conduct online class on the Zoom platform during the same hours class is scheduled.

## **ASSIGNMENTS:**

*Wed Jan 22*

**A survey of the constitutional questions raised by the First Amendment religion clauses; and the historical beginnings of the religion clauses**

**TEXT: 1-39**

*Monday Jan 29- Wed Jan 31*

**History of the First Amend, cont'd**

**TEXT: 39 – 65; 67(beginning top, note#2)-75**

**Religion in the Regulatory State: Is Accommodation Required?**

**TEXT: 77-118 (stop before Yoder)**

*Mon Feb 3 – Wed Feb 5*

**Accommodation: Broad Exemptions for Religion; Later Narrowing**

**TEXT: 118-150**

**Free Exercise After *Smith***

**TEXT: 150-189**

*Monday Feb 10 – Wed Feb 12*

**RFRA and RLUIPA: Applications and Interpretations**

**TEXT: 189-219**

**Targeted Accommodations and**

**Are Accommodations Unconstitutional?**

**TEXT: 219 – 257**

*Mon Feb 17 – Wed Feb 19*

**“Freedom of the Church”/Institution**

**TEXT: 257 – 293**

**Religious Freedom and Ancillary Claims**

**TEXT: 293-304**

*Monday Feb 24 – Wed Feb 26*

**Funding Religion?**

**TEXT:** 305 - 337

**Funding Religion? (cont'd)**

**TEXT:** 337 – 60

*Mon Mar 3 – Wed Mar 5*

**Funding Religion? (cont'd)**

**TEXT:** 360 - 89

**HANDOUT** <http://www.jstor.org/pss/20403361> Frances C. Fowler,  
The French Experience with Public Aid to Private Schools, Phi Delta Kappa  
International

**TEXT:** 389-411; and excerpt (on TWEN) of *Carson v. Makin*, 596 U.S.  
767.

**SPRING BREAK MARCH 10-16**

*Mon Mar 17 - Wed Mar 19*

**Conditions on Government Aid to Religion; and Racial Discrimination in  
Religious Schools**

**TEXT:** 412-428; and 428 – 31

**Law and Religion in the Family Law Context: Handout posted on TWEN**

*Mon Mar 24 - Wed Mar 26*

**Establishment Clause Standing**

**TEXT:** 431 – 51

**Religion and Gov't Influence on Culture**

**TEXT:** 453 - 92

*Mon Mar 31 – Wed April 2*

**Public Prayer or Religious Displays**

**TEXT:** 492 – 531

**Evolution and Creationism**

**TEXT:** 532 – 46; 555-567

*Monday April 7 - Wed April 9*

## **Gov't and Private Speech**

**TEXT:** 567 – 596

## **Free Speech Protecting Religious Freedom?**

**TEXT:** 596 – 619; and excerpt of *Kennedy v. Bremerton School Dist.*, on TWEN

*Monday April 14 – Wed April 16*

## **Religious Argument in Political Deliberation**

**TEXT:** 623 - 645

### **Religion and Elected Officials:**

Read **HANDOUTS BELOW on TWEN:** (might substitute if any candidates make similar statements in the course of current electoral cycle!)

-Gov. Mario Cuomo, Religious Belief and Public Morality: A Catholic Governor's Perspective (John A. O'Brien lecture at the University of Notre Dame, Sept 13, 1984).

-Governor Mitt Romney, Faith in America, (2007).

-Barack Obama, Call to Renewal (2006)

*Monday April 21 – Wed. April 23*

### **What is Religion?**

**TEXT:** 669 – 688; 695-705

**HANDOUTS: Religion, Political Activities, and Religious Freedom – from *within* the perspective of various religious traditions. Excerpts from:**

Robert Gordis, Religious Liberty \_ A Jewish Perspective, SIDIC Periodical XIII, 1980/3 Religious Liberty, available at [http://www.notredamedesion.org/en/dialogue\\_sidicView.php?id=1060](http://www.notredamedesion.org/en/dialogue_sidicView.php?id=1060).

Read Abdullah Saeed, "The Islamic Case for Religious Liberty," First Things, Nov. 2011 (excerpted).

Read *Dignitatis Humanae* (Roman Catholic) and Congregation for the Doctrine of the Faith, Catholics in Political Life (Roman Catholic) (excerpted)

Read– Baptist Joint Committee for Religious Liberty  
[http://www.bjconline.org/index.php?option=com\\_docman&task=cat\\_view&gid=59&Itemid=76](http://www.bjconline.org/index.php?option=com_docman&task=cat_view&gid=59&Itemid=76) (excerpted).

Read HANDOUT - Transcript of Elder Dallin H. Oaks speech given at Chapman University School of Law on 4 February 2011 (excerpted).

*Thurs April 24* – **TBD OBSERVE A MON SCHED**