

CONSTITUTIONAL LAW I SYLLABUS

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COURSE SCHEDULE/MEETING TIMES/TYPE: This is an in-person course that meets on Tuesday and Thursday afternoons from 4:00 to 6:00 p.m.

Please sign up for this class's TWEN page before the semester starts.

The casebook for this class is Barnett & Blackmun, *Constitutional Law: Cases in Context* (4th ed.). Official disability accommodations excepted, use of laptops (or tablets with keyboards) is not permitted in this class. **Therefore, you will need to buy the hard copy of the book.**

You can save some money by buying a used copy on Amazon or eBay or other source, if available. You do not need to purchase the 2026 supplement. You will need to print out some supplementary materials that will be available on TWEN or via internet links.

Barnett & Blackman have created videos that summarize many of the cases we will be reading. You are not required to watch these videos, but you may find them helpful.
https://youtube.com/@foundationfortheconstitution?si=_z67R1Exk-vVBJVI

This class deals with many controversial and sometimes sensitive issues. Legal and, to the extent relevant, political views of all stripes are welcome in this class so long as they are expressed in a civil manner. Students are expected to participate and listen respectfully, and express disagreement in a civil manner. Students (and even the professor) sometimes express their views awkwardly, which can happen when one is speaking extemporaneously rather than from a script. We should all be generous in assuming that other participants in the class are well-meaning and do not intend to offend.

Please also note the law school faculty's statement on [Commitment to Open Dialogue](#) and Debate, with which I whole heartedly agree.

Below is the tentative syllabus. Please see important additional information after the syllabus.

1. 8/18 INTRODUCTION TO CLASS AND FOUNDING DOCUMENTS

Assignment: Preface of Casebook; Casebook, pages 3-31 (pay special attention to the Declaration of Independence, pages 4-7)

2. 8/20 FOUNDING DOCUMENTS, ORIGINAL SIN?

Assignment: Articles of Confederation, Casebook li-lvii; U.S. Constitution, Casebook: xxii-end, casebook 31-50 [Thurgood Marshall](#) bicentennial speech,

; Clarence Thomas article (available on TWEN)

3. 8/25 SCOPE OF FEDERAL LEGISLATIVE POWER

Assignment: Casebook 61-88

4. 8/27 JUDICIAL REVIEW, SCOPE OF FEDERAL LEGISLATIVE POWER, NATIONAL BANK CONTROVERSY

Assignment: Casebook 88-118, 124-28

5. 9/1 THE BILL OF RIGHTS

Assignment: Casebook 49-60, 142-47, 1565-1584

6. 9/3 SCOPE OF FEDERAL LEGISLATIVE POWER: COMMERCE AND SLAVERY

Assignment: CASEBOOK 128-37, 152-80

7. 9/08 FEDERAL POWER OVER SLAVERY, CONT.

Assignment: Casebook 677-713

8. 9/10 ENUMERATED POWERS: LEGISLATIVE POWER

Assignment: Casebook 203-235

9. 9/15 ENUMERATED POWER: LEGISLATIVE POWER

Assignment: casebook 235-70

10. 9/17 ENUMERATED POWER: LEGISLATIVE POWER

Assignment: casebook 270-303

11. 9/22 ENUMERATED POWER: LEGISLATIVE POWER

Assignment: Casebook 303-339

12. 9/24 STATE POWER AND THE FEDERAL CONSTITUTION-CONTRACTS CLAUSE

Assignment: Contract Clause readings on TWEN, Supplemental Readings Folder

13. 9/29 ENUMERATED POWER: LEGISLATIVE POWER

Assignment: Casebook 339-344

TENTH AMENDMENT AS A LIMIT ON FEDERAL POWER

Assignment: Casebook 344-373

14. 10/1 ELEVENTH AMENDMENT

Assignment: Casebook 374-385, 394-98

CONGRESS'S SECTION 5 POWER

Assignment: Casebook 386-394

15. 10/6 DORMANT COMMERCE CLAUSE

Assignment: casebook 399-421, National Pork Producers (TWEN)

10/8 NO class fall break

16. 10/13 LIMITS ON STATE POWER TO REGULATE FEDERAL ELECTIONS

Assignment:

[Reynolds v. Sims](#), [US Term Limits v. Thornton](#),
[Bush v. Gore](#), Trump v. Anderson, TWEN

17. 10/15 EXECUTIVE POWER

Assignment: Casebook, 429-75

18. 10/20 EXECUTIVE POWER: WARTIME DISCRIMINATION AND TREATMENT OF SPIES

Assignment Casebook 482-508

19. 10/22 EXECUTIVE POWER: THE APPOINTMENT AND REMOVAL POWER CLASS I

Separation of Powers material from TWEN and Noel Canning, 557-75

20. 10/27 EXECUTIVE POWER: THE APPOINTMENT AND REMOVAL POWER CLASS II

Separation of Powers material from TWEN and Noel Canning, 557-75

21. 10/29 EXECUTIVE POWER: THE APPOINTMENT AND REMOVAL POWER CLASS III

Separation of Powers material from TWEN and Noel Canning, 557-75

22. 11/3 EXECUTIVE POWER: EXECUTIVE PRIVILEGE AND IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY

Assignment: Casebook 575-88, *Trump v. United States* (TWEN)

22. 11/5 JUDICIAL POWER: ADVISORY OPINIONS AND THE POLITICAL QUESTION DOCTRINE

Assignment: Casebook 611-642

23. 11/10 STANDING, RIPENESS, MOOTNESS

Assignment: Casebook 643-674

24. 11/12 DOES SUPREME COURT PRECEDENT BIND NON-PARTIES? SHOULD IT?

DOES THE SUPREME COURT OWE ANY DEFERENCE TO THE OTHER BRANCHES?

Assignment: [Lincoln, first inaugural address](#); [Southern Manifesto](#); Cooper v. Aaron,
Casebook 949-55; Revisit *City of Boerne v. Flores*

25.. 11/17 CONSTITUTIONAL CONSTRAINTS ON TREATMENT OF WARTIME DETAINEES (readings on TWEN)

26. 11/19 Basic primer on equal protection and due process, reading TBA

Course Overview

The purpose of this class is to cover the constitutional status of federalism, the separation of powers, and other issues, mostly via reading and discussing relevant Supreme Court cases.

Learning outcomes

Students who complete this course should be conversant in the following topics:

Judicial review – the scope and limits of the judicial power to resolve constitutional issues, and the question of whether judicial interpretation of the Constitution is “supreme”;

Separation of powers – the relationship among branches within the federal government, including questions of the scope of Congress’ legislative power, the president’s executive power, and the relationship between them;

Federalism – the relationship between the federal government and state governments, including the powers of the federal government to regulate commerce and to enforce constitutional rights;

Constitutional interpretation – available methods of constitutional argument, interpretation, analysis, and/or decision, including originalism and living constitutionalism;

Political and Historical context – understanding how all of the above unfolding in the context of the relevant historical and political context, including the history of slavery and the civil rights movement.

Students are expected to be prepared for class. Relevant policies will be announced by the first day of class.

Office hours

I am happy to meet with you via Zoom or in person at any mutually convenient time. Please email me or speak to me before or after class for an appointment.

Basis of Evaluation & Assessments

Students’ grade will be based on a final exam, exact format TBA. There are no pluses or minuses for class participation on this class.

Course rules

Students are expected to participate in class. Students who don’t regularly participate will be called on.

Email Communication

Students must use their MasonLive email account to receive important University information, including communications related to this class.

Attendance

Regular and punctual attendance are required to earn academic credit. Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should circumstances occur where you anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), you should immediately contact the Assistant Dean, Student Academic Affairs.

Class Recordings Prohibited

Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me. My current plan is to record class sessions and make them available to students only upon express direction from Assistant Dean, Student Academic Affairs as an accommodation for illness or other exigency.

Exam Conflicts

In accordance with AR 4-4.1, excuses and requests for permission not to sit for an examination when scheduled must be presented, with appropriate documentation, to the Assistant Dean, Student Academic Affairs. Except in emergencies, such requests should be presented no later than two weeks before the date of the examination.

Academic Integrity

It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: [honor code](#).

Classroom Accommodations: Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit [Disability Services](#) for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

University Life

University Life provides student support resources such as **Counseling and Psychological Services (CAPS)**, **Student Health Services (SHS)**, and the **Student Support and Advocacy Center (SSAC)**. For more information about University Life on the Arlington Campus, please visit: [University Life Mason Square](#)

