

Constitutional Law I
Scalia Law School | George Mason University
Fall 2026
LAW 121 | CRN 80593 |
4 credit hours

This course will meet on Tuesdays & Thursdays (1:50 p.m. – 3:50 p.m.)

Instructor: Distinguished Visiting Professor Daniel W. Hamilton

Email: dhamil2@gmu.edu

Office Hours: Tuesdays and Thursdays 10:00 am to 12:00 pm or by appointment.

Course Overview: This course is about the interpretation and application of the United States Constitution and the structure of American government. We will explore the landmark cases over the course of U.S. history that drive our understanding of the Constitution. We will focus on the way the Constitution and courts consider the allocation of power between the branches of the federal government, and between the federal government and the states. Constitutional interpretation has changed over time, and we will examine both historical and contemporary debates over the meaning and application of the Constitution.

Learning objectives for the course include:

- Learning the legal doctrine of the structure and application of the U.S. Constitution.
- Considering how Constitutional interpretation has changed over time.
- Understanding the competing perspectives on various issues decided by court decisions interpreting the Constitution.
- Developing the ability to debate Constitutional questions with evidence.

Required Text: The following is a required textbook for the course:

Choper, Jesse H.; Dorf, Michael C.; Fallon, Jr., Richard H.; Schauer, Frederick, Constitutional Law: Cases, Comments, and Questions (West Academic Publishing, 14th ed., 2023)

Note: You can find supplemental materials to the casebook [at West Academic](#).

The course will have a TWEN page. You will see in the syllabus that excerpts from contemporary cases are referenced. Those will be available on the TWEN page before the classes meet.

Class Format: The class meets on Tuesdays and Thursdays from 1:50 p.m. – 3:50 p.m. Please read all of the assigned material and be prepared for active class discussion.

Communication Policy: In addition to office hours, I'm glad to respond to student emails within 24 hours. You should also feel free to email me on nights and weekends.

Attendance: Attendance is mandatory, and anyone missing more than 20% of class meetings may be disenrolled from the class. Because law school is a collaborative learning experience, attendance in class benefits all students. Further, the course material is cumulative, meaning that each successive class builds upon material previously covered. Students who fail to attend class meetings will be at a disadvantage. Students are responsible for obtaining from a student-colleague all information given, materials distributed, and assignments made during missed classes. Occasionally, personal commitments can make attendance (or adequate preparation) impossible. You need not explain or justify these situations to me before or after the absence.

Grading: The grade in this course will be based exclusively on the final exam. The final exam will be in-person and open-book, with respect to any printed or physical materials you want to bring in for the exam. You may also use the internet except for generative AI. *The use of generative AI during the exam is strictly prohibited.*

Final Exam: Wednesday, December 2 at 12:00 pm.

Students with Disabilities: Students with disabilities may request academic accommodations as provided by federal law. Please contact George Mason University's Office of Disability Services (ODS) to request services (ods@gmu.edu, 703-993-2474).

Campus Closure or Emergency Class Cancellation/Adjustment Policy: If the campus closes, or if a class meeting needs to be canceled or adjusted due to weather or other concern, students will be contacted by email for updates on how to continue learning and for information about any changes to events or assignments.

CLASS 1 (August 18): Constitutional Structure / Judicial Review (Part I & Part II)

Reading Assignment:

- The Constitution of the United States 1751-1766
- *Marbury v. Madison*, pp. 1-9
- Notes, pp. 11-13, 18-20
- *Cooper v. Aaron*, pp. 20-21
- *United States v. Windsor*, pp. 22-23
- Notes, pp. 23-26
- *Martin v. Hunter's Lessee*, pp. 26-30

CLASS 2 (August 20): Congressional and Presidential Regulation of Judicial Power & Prerequisites to Federal Jurisdiction and Judicial Review/Standing

Reading Assignments:

- Notes, pp. 52-53
- *Ex parte McCordle*, pp. 54-55
- *United States v. Klein*, pp. 57-58
- Notes, pp. 55-57
- Notes, pp. 59-62
- *Boumediene v. Bush*, pp. 62-63
- Notes, pp. 63-65, 66-69
- Notes, pp. 69-72, 1685-1686
- Correspondence of the Justices, pp. 1687-1688
- Notes, pp. 1689-1690
- *Allen v. Wright*, pp. 1690-1697
- *Lujan v. Defenders of Wildlife*, pp. 1708-1713

CLASS 3 (August 25): National Legislative Power: The Necessary and Proper Clause and the Commerce Clause

Reading Assignments:

- Notes, pp. 73-76
- *McCulloch v. Maryland*, pp. 76-80
- Notes, pp. 83-84
- *Gibbons v. Ogden*, pp. 84-86

CLASS 4 (August 27): The Commerce Power II

Reading Assignments:

- *Hammer v. Dagenhart*, pp. 92-94
- Notes, pp. 94-98
- *United States v. Darby*, pp. 98-101

- Notes, pp. 101-103
- Wickard v. Filburne, pp. 103-104

CLASS 5 (September 1): The Commerce Clause and Civil Rights

Reading Assignments:

- Heart of Atlanta Motel, Inc. v. United States, pp. 106-107
- Katzenbach v. McClung, pp. 107-108
- Notes, pp. 109-110
- New Limitations of the 21st Century
 - *United States v. Morrison*, pp. 110-121

CLASS 6 (September 3): The Commerce Clause Continued

Reading Assignments:

- *Gonzales v. Raich*, pp. 121-126
- Notes, pp. 126-131
- *National Federation of Independent Business v. Sebelius*, pp. 131-139
- Notes, pp. 139-143

CLASS 7 (September 8): Regulation Through Taxing and Spending

Reading Assignments:

- *National Federation of Independent Business v. Sebelius* (Part II), pp. 143-145
- Notes, pp. 146-148
- *South Dakota v. Dole*, pp. 152-155
- *National Federation of Independent Business v. Sebelius* (Part III), pp. 157-160

CLASS 8 (September 10): Foreign Affairs Powers and Treaties: State Immunity

Reading Assignments:

- *Missouri v. Holland*, pp. 160-162
- Notes, pp. 162-164
- *Bond v. United States*, pp. 163-164
- State Immunity from Federal Regulation – Notes, pp. 165-170

CLASS 9 (September 15): Federalism, the 10th Amendment, and State Sovereignty

Reading Assignments:

- *Garcia v. San Antonio Metropolitan Transit Authority*, pp. 170-174
- Notes, pp. 174-176
- *Printz v. United States*, pp. 176-182

- *Murphy v. National Collegiate Athletic Association*, pp. 185
- Notes, pp. 185-186

CLASS 10 (September 17): Separation of Powers and the War Power

Reading Assignments:

- *Youngstown Sheet and Tube Co. v. Sawyer*, pp. 187-193
- Notes, pp. 193-201
- *United States v. Curtiss-Wright Export Corp.*, pp. 201-202
- *Campbell v. Clinton*, pp. 207-212
- Notes, pp. 212-216

CLASS 11 (September 22): Separation of Powers (Part II)

Reading Assignments:

- Notes, pp. 216-222
- Legislative and Line Item Vetoes
 - *INS v. Chadha*, pp. 223-226
- Notes, pp. 226-228
- *Clinton v. New York*, pp. 229-233
- Notes, pp. 233-235

CLASS 12 (September 24): Separation of Powers (Part III)

Reading Assignments:

- Appointment and Removal of Officers, Notes pp. 235-238 (please read up to *Buckley*)
- *Morrison v. Olsen*, pp. 243-249
- Notes, pp. 249-251
- *NLRV v. Canning*, pp. 260-261
- Excerpts from *United States of America v. Trump*

CLASS 13 (September 29): Executive Privilege, Impeachment and Presidential Immunity

Reading Assignments:

- *United States v. Nixon*, pp. 261-263
- Notes, pp. 263-266
- *Nixon v. Fitzgerald*, pp. 266-267
- Impeachment, Notes, pp. 275-279
- *Trump v. United States*
 - [Oyez](#)

- [Constitution Annotated](#)

CLASS 14 (October 1): The State Power to Regulate: The Dormant Commerce Clause

Reading Assignments:

- Notes, pp. 281-285
- *Philadelphia v. New Jersey*, pp. 294-296
- Notes, pp. 297-299, 310-312
- *Hunt v. Washington State Apple Advertising Commission*, pp. 312-313

CLASS 15 (October 6): The Dormant Commerce Clause (Part II)

Reading Assignments:

- *Minnesota v. Clover Leaf Creamery Co.*, pp. 314-315
- *Healy v. Beer Institute, Inc.*, pp. 322-324
- Regulation of Transportation, pp. 327
- *Kassel v. Consolidated Freightways Corp.*, pp. 327-332
- Notes, pp. 332-332

FALL BREAK – NO CLASS THURSDAY, OCTOBER 8 - MONDAY, OCTOBER 12

CLASS 16 (October 13): Dormant Commerce Clause (Part III)

Reading Assignments:

- The State as a Market Participant
 - *Reeves, Inc. v. Stake*, pp. 341-344
- Notes, pp. 347-348
- Interstate Privileges and Immunity Clause
 - *United Building and Construction Trades Council v. Mayor of Camden*, pp. 348-352
- Notes, pp. 352-356

CLASS 17 (October 15): State Action

Reading Assignments:

- Notes, pp. 1605-1606
- The Civil Rights Cases, pp. 1606-1608
- Notes, pp. 1608-1610
- Notes, pp. 1612-1614
- State Enforcement and *Shelley v. Kramer*, pp. 1625-1627

- Notes, pp. 1627-1628
- State Failure to Act and *DeShaney v. Winnebago County Dept. of Social Services*, pp. 1642-1644

CLASS 18 (October 20): The Political Question Doctrine and Gerrymandering

Reading Assignments:

- Notes, pp. 31-32
- *Nixon v. United States*, pp. 32-37
- Notes, pp. 37-38
- *Rucho v. Common Cause*, pp. 42-49
- Notes, pp. 49-52

CLASS 19 (October 22): Congressional Enforcement of Civil Rights

Reading Assignments:

- Notes, pp. 1647-1648
- Notes, pp. 1651
- *Jones v. Alfred H. Mayer Co.*, pp. 1651-1654
- Notes, pp. 1654-1660
- *Katzenbach v. Morgan*, pp. 1660-1664

CLASS 20 (October 27): Congressional Enforcement of Civil Rights (Part II)

Reading Assignments:

- *City of Boerne v. Flores*, pp. 1664-1669
- Notes, pp. 1669-1672
- Section Five and State Sovereign Immunity
 - Notes, pp. 1672-1676

CLASS 21 (October 29): Congressional Enforcement of Civil Rights (Part III)

Reading Assignments:

- The Fifteenth Amendment
 - *Shelby County v. Holder*, pp. 1677-1681
- Notes, pp. 1681-1684

NO CLASS TUESDAY, NOVEMBER 3

CLASS 22 (November 5): Judicial Review (Part III)

Reading Assignments:

- Mootness
- *DeFunis v. Odegaard*, pp. 1726-1728
- Notes, pp. 1728-1732
- Ripeness
 - *United Public Workers v. Mitchell*, pp. 1732-1736

CLASS 23 (November 10): The Major Questions Doctrine

Reading Assignments:

- Supplemental Distribution

CLASS 24 (November 12): Executive Orders and the Separation of Powers

Reading Assignments:

- Supplemental Distribution

CLASS 25 (November 17): Delegation and Agency Discretion

Reading Assignments:

- Supplemental Distribution

CLASS 26 (November 19): Course Review and Final Exam Discussion