Constitutional Law:
Politics 337—Spring 2016

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Office Hours: Tuesday 11:30-12:30 or by appt.
Classroom: Ford 302
Class Time: Tues/Thurs 12:50-2:30

We should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save our country.

Justice Oliver Wendell Holmes, dissent
Abrams v. United States, 1919

In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, class of citizens. Our Constitution is colorblind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful.

Justice John Marshall Harlan, dissent
Plessy v. Ferguson, 1896

Course Objectives:
The objective of this course is to examine the development of constitutional law and the exercise of power by the United States Supreme Court in the following areas: (1) Freedom of Speech and Association; (2) Freedom of Religion: Establishment and Exercise; (3) Equal Protection; and (4) Privacy. This course focuses on the 1st and 14th Amendments to the United States Constitution.

Course Goals/Student Learning Outcomes:
By the end of this course students should:
- Understand the socio-political climate in which the Supreme Court makes its decisions
- Understand different methods of constitutional interpretation
- Be able to argue principles involved in constitutional cases
- Be able to identify recent trends in constitutional decision-making
• Have a firm grasp on each of the following concepts/subject areas:
  Freedom of Speech, Expression and Association; Freedom of Religion; Equal Protection

Textbook:

Class Requirements:
The format of this course will be similar to that of a constitutional law course taught in law school. Students are expected to read all of the assigned readings prior to class, and to come to class prepared to discuss the cases and concepts you have read. I will frequently call on you and ask you to orally brief a case in class. This means giving me the facts, procedural history, holding of the Court and the reasoning behind the holding. This is called the Socratic method, which I will employ on a limited basis.

Attendance:
As you might expect, attendance is extremely important. Not only will you have a hard time understanding the material when you are absent, but class discussions cannot occur absent a class. Attendance is therefore expected and is required to satisfactorily complete this course. This is particularly important because our class meets only two times a week. Therefore, my attendance policy is as follows: you may miss two classes without any sort of excuse, but your grade will decrease by 5% for each additional unexcused absence.

You may, however, be absent for an unlimited amount of time with a valid excuse. I will be the one who makes the call as to what is and is not valid, but it does include the following: a genuine personal or family emergency, sickness or health issues, and mandatory university activities. While class is important it will never be more important than a true family or personal emergency. I do expect students to communicate with me when they will be absent. Unexcused absences on exams, or failure to return a take-home exam by the deadline will result in a failing grade.

Assignments:
Midterm (25%)
Case Presentation (25%)
Final (25%)
Participation (25%)

Examination and Mid-Term
There will be two examinations in this class. Each will be worth 25% of your grade.

Participation
Participation is an important part of this class and will be 25% of your grade. Not only does excellent participation create a more interesting and enriching educational
environment, but the only way I truly know you are understanding the readings on a weekly basis is via participation.

**Case Presentation**

The nature of this presentation is intended to give students the opportunity to use the knowledge they have gained in a subject we have already discussed in a format somewhat different than the usual lecture format. Each student will be grouped with a partner and that pair of students will present one side of a case to the class while the other pair argues against it. The precise breakdown in grading of this project will be distributed later, however, in general the grading will be based upon both the oral presentation and the written component that goes with it. At the end of the case presentation, the rest of the class, who will be acting as the Supreme Court, will discuss the outcome. Each “Justice” will also be required to write one opinion—either a majority or dissenting opinion, for one of the presentations.

**Grading**

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<th>Grade Range</th>
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<td>98-100%</td>
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<td>94-97%</td>
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<td>59% or below</td>
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**Late Policy**

My late policy is as follows: every day an assignment is late 1/3 of a grade will be deducted from it. I will grade the paper, then deduct the appropriate penalty. For example, if an assignment is due Tuesday and I receive it on Thursday which under ordinary circumstances would have earned a “B,” the maximum grade possible a student can earn is a “C+.” I will only accept late work up to one week.

**Course Work Time Commitment**

Willamette’s Credit Hour Policy holds that for every hour of class time there is an expectation of 2-3 hours work outside of class. Thus, for a class meeting three hours a week you should anticipate spending 6-9 hours outside of class engaged in course-related activities. Examples include study time, reading and homework assignments, research projects, and group work. Please remember, you will be reading Supreme Court cases. These readings are dense and should therefore be read slowly. If a reading for a given class is taking you less than two or more hours to read you are not spending enough time on it.

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1 On assignments/exams only; WU does not allow A+ grades.

2 The remaining sections are taken directly from the University’s Website, per requirement.
**ADA compliance**

Please tell me about any disabilities that will affect your participation in this course. I will respect any accommodations authorized by the Office of Disabilities Services.

**Plagiarism and Cheating Policy**

http://www.willamette.edu/cla/catalog/resources/policies/categories/plagiarism_cheating.php

**Religious Accommodation**

Willamette University recognizes the value of religious practice and strives to accommodate students’ commitment to their religious traditions whenever possible. When conflicts between holy days or other religious practice and academic scheduling arise, every effort should be made to allow students to adhere to their tradition, including, when possible, excusing class absences and allowing make-up work. A student anticipating the need to miss a class for religious reasons should alert the faculty member within the first two weeks of the semester, and the two of them should determine the next course of action. Any unresolved difficulty should be referred to the Office of the Chaplains.

**Important Dates**

- Friday, 29 Jan—LAST DAY TO ADD/DROP
- Friday, 26 Feb—LAST DAY TO CHOOSE PASS/FAIL
- Monday-Friday 21-25 March—SPRING BREAK
- Friday, 1 April—LAST DAY TO WITHDRAW
- Wednesday, 20 April—SSRD NO CLASSES
- Tuesday, 3 May—LAST DAY CLASSES

**OUR FINAL EXAM WILL BE HELD________________________**
Readings—
Constitutional Law Spring 2016

Week One—

• 19 January: Intro
  o No reading; go over syllabus and intro to Constitution lecture
  o Intro quiz; Separation of Powers, Checks and Balances and Federalism; Judicial Review

• 21 January: The Free Exercise Clause
  o Overview Powers of Government—Articles I, II, III
  o Read pages 93-112
    ▪ Cantwell v. Connecticut; Sherbert v. Verner; Wisconsin v. Yoder

Week Two—

• 26 January: The Free Exercise Clause
  o Read pages 113-128
    ▪ Employment Division v. Smith; City of Boerne v. Flores

• 28 January: The Establishment Clause
  o Read pages 128-146
    ▪ Everson v. Board of Ed; Lemon v. Kurtzman;

Week Three—

• 2 February: The Establishment Clause
  o Read pages 146-169
    ▪ Agostini v. Felton; Zelman v. Simmons-Harris; Edwards v. Aguillard

• 4 February: The Establishment Clause
  o Read pages 169-184
    ▪ Abington Township v. Shempp; Lee v. Weisman

Week Four—

• 9 February: The Establishment Clause
  o Read pages 184-196
    ▪ Van Orden v. Perry; Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission

• 11 February: Catch Up for Mid-Term
 Catch Up on Establishment Clause

**Week Five—**
- **16 February: Review**
  - Review for Mid-Term
  - Freedom of Speech Exercise
- **18 February: Mid-Term Examination**

**Week Six—**
- **23 February: Freedom of Speech**
  - Read pages 197-205; 222-229
- **25 February: Freedom of Speech**
  - Read pages 230-247
    - U.S. v. O’Brien; Texas v. Johnson; Chaplinsky v. New Hampshire; Cohen v. California

**Week Seven—**
- **1 March: Freedom of Speech**
  - Read pages 248-267
    - Hill v. Colorado; RAV v. City of St. Paul; Snyder v. Phelps; Tinker v. Des Moines
- **3 March: Freedom of Speech**
  - Read pages 267-281
    - Morse v. Frederick; West Virginia v. Barnette; Rumsfeld v. FAIR

**Week Eight—**
- **8 March: Freedom of Association**
  - Read pages 291-297
    - Boy Scouts of America v. Dale
  - Class Exercise: Race and the EPC
- **10 March: Equal Protection--Race**
  - Read pages 603-620
    - Plessy v. Ferguson; Sweatt v. Painter

**Week Nine—**
- **15 March: Equal Protection--Race**
  - Read pages 620-627; 638-643
    - Brown v. Board of Education I-II; Loving v. Virginia
  - Class Exercise: Equal Protection and Gender
- 17 March: Equal Protection—Gender
  - Read pages 652-663
    - Reed v. Reed; Frontiero v. Richardson; Craig v. Boren

Week Ten—
- 21-25 March: SPRING BREAK!!!
• 28 April: Case Presentations
  o Case Presentation No. 5: TBA

Week Sixteen—
• 3 May: Freedom of Speech: The Internet; Review
  o Review for Final Exam
  o Read pages 378-386
    ▪ United States v. Williams
  o Read pages 371-378
    ▪ Reno v. ACLU