

Department of Political Science and Public Administration
College of Public Policy and Justice
Auburn University at Montgomery

Judicial Politics

Course: POLS 6600
Professor: David A. Hughes, Ph.D.
Meeting Times: T & TH, 10:50 to 12:05 pm (Liberal Arts Teaching Wing 311)
Tue., 12:30 to 2:00 pm (Goodwyn 209G)
Office: Goodwyn Hall 209G
Office Hours: Mondays and Wednesdays, 2:00 to 5:00 pm.
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Course Description: This course offers a rigorous analysis of one of the three major political institutions in American politics—the judiciary. We will study how the U.S. Constitution institutionalizes the judiciary, how judges work as policy-makers in the American political system, and how the inherently political nature of the judiciary has payoffs for American politics and public welfare. As such we will study judicial institutions, policy-making, appointments, decision-making, retirements, etc. We will frequently draw parallels from the federal judiciary to other judicial institutions such as the American states. By the time you complete this course, you should have a rigorous appreciation for how law and politics are inextricably interwoven in the American judiciary.

Prerequisites: There are no prerequisites for enrolling in this course aside from standing as an Auburn University at Montgomery graduate student.

Student Learning Objectives: By the time students complete this course, they should be able to explain: (1) The fundamental tradeoff between judicial accountability and independence in a democratic society, (2) How judicial preferences interact with statutory and constitutional provisions to breathe life into the common law, (3) How political institutions influence judicial behavior and the separation of powers, and (4) How these provisions have payoffs for American policy-making, democratic accountability, judicial legitimacy, and the public welfare.

Class Attendance and Structure: Attendance in this class is mandatory. For every unexcused absence in excess of two (2), your final grade will be reduced by one letter (ten percentage points). Please be punctual and refrain from entering or leaving the classroom during meetings. It is highly distracting to your peers when you arrive late or leave early. If your punctuality or your premature departures become problematic, I reserve the right to further reduce your final grade. The class will meet twice a week. In addition, you will meet with me once every week in my office to further discuss the assigned readings.

Textbooks and Materials: There are three required textbooks you should purchase for this course:

- Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. CQ Press. ISBN: 1568022263.
- McGuire, Kevin. 2012. *New Directions in Judicial Politics*. Routledge. ISBN: 978-0-415-89332-9.
- Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?* 2nd Edition. University of Chicago Press. ISBN: 0226726711.
- Segal, Jeffrey and Harold Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge University Press.

Additionally, I will post other readings on Blackboard.

Assignments: Your performance in this course will be assessed on three dimensions. First, you will complete a research paper. Second, you will be a discussion leader on two days throughout the term. Third, you will be an active participant during classroom meetings. Further details on these assignments follow.

Research Paper: You will write a research paper that demonstrates your mastery of judicial politics. Your writing may take one of two forms. First, you may write a literature review. If you choose this route, you will pick a research area, outline the state of the discipline's knowledge in that area, how we got there, and outline the new frontiers in this area. Alternatively, you may write a research design paper. If you choose this route, you will state a research question, propose theory, hypotheses, variable operationalization, etc. Essentially, you will do everything short of conducting a quantitative analysis. Simply convince me that your operationalization is feasible so long as you had the statistical know-how to conduct the analysis. Your completed project will be no fewer than 3,500 words and should conform to the *American Political Science Association's* style guide. An early draft of this assignment is due on

Discussion Leadership: Throughout the semester, you will be assigned to serve as a discussion leader on two occasions. On the days that you are the discussion leader, you will come to class prepared to lead the class in the engagement of that day's assigned readings. You will be assessed on this component based upon your written understanding of these readings and your ability orally to communicate your knowledge of these subjects to your peers. You will turn in a typed summary and critique of each of your assigned readings on the day you are the designated discussion leader.

Participation: As the vast majority of this course requires you to engage in small group discussions, you are expected to be an active participant during our in-class meetings. Note that this is not the same thing as simply "showing up." Even on the days for which you are not assigned to be discussion leader, you are expected to have read the course materials and to have prepared to engage in thoughtful discussion with your peers relating to the day's concepts.

Grading Rubric: Your grade is assessed according to the following rubric.

- Research Paper: 60%
- Discussion Leadership: 30%
- Participation: 10%

Final Grade: Your final grade in this course is assessed according to the following rubric:

- A: 90 to 100
- B: 80 to 89
- C: 70 to 79
- D: 60 to 69
- F: Below 60.

Late Assignments: Any materials turned in late will be penalized by 10 percentage points for every business day they are late. Exceptions may be granted for verifiable illnesses, emergencies, etc.

Academic Dishonesty: Academic dishonesty is broadly defined as submitting work that is not your own without attribution, and is not acceptable in this or any other academic course. This includes plagiarism and academic misconduct on any assignment. Any academic dishonesty found on an assignment results in a failing grade for that assignment and will be prosecuted to the fullest extent permissible under University guidelines, which can be accessed at: <http://www.aum.edu/campus-life/student-affairs/for-students-and-parents/student-code-of-conduct>.

Disability Accommodations: Students who need accommodations are asked to arrange a meeting during office hours to discuss your accommodations. If you have a conflict with my office hours, an alternate time can be arranged. To set up this meeting, please contact me by e-mail. If you have not registered for accommodation services through the Center for Disability Services (CDS), but need accommodations, make an appointment with CDS, 147 Taylor Center, or call 334-244-3631 or e-mail CDS at cds@aum.edu.

Free Academic Support: All students have the opportunity to receive free academic support at AUM. Visit the Learning Center (LC) in the WASC on second floor Library or the Instructional Support Lab (ISL) in 203 Goodwyn Hall. The LC/ISL offers writing consulting as well as tutoring in almost every class through graduate school. The LC may be reached at 244-3470 (call or walk-in for a session), and the ISL may be reached at 244-3265. ISL tutoring is first-come-first served. Current operating hours can be found at www.aum.edu/learningcenter.

Technology Assistance: Students may seek technology assistance from the ITS Help Desk located in the computer lab on the first floor of the Taylor Center. You may also call 334-244-3500 or email helpdesk@aum.edu.

Important Dates: The following are important dates of which you should be aware:

- January 8: Classes begin at Auburn-Montgomery
- January 11: Last day to add classes
- January 12: Registration cancellation
- January 17: Last day for 100 percent refund
- January 31: Last day for 50 percent refund
- March 2: Midterm grades are due
- March 12-16: Spring break
- March 21: Last day to drop classes

- April 19: Course evaluations
- April 24: Classes end
- May 1: Research Paper Due

Tentative Schedule: A tentative schedule appears below. Please refer to the assigned readings and due dates often. Readings marked by an asterisk (*) are available in Blackboard.

Date	Topic	Reading	Due
January 9	Syllabus Introduction		
American Judicial Institutions			
January 11	The U.S. Judiciary Hierarchy of Justice State Selection and Retention Methods	U.S. Constitution, Article II, Section 2 U.S. Constitution, Article III Segal and Spaeth, Ch. 1 Recommended Streb (2007)*	
January 16	MLK Holiday		
January 18	What is Judicial Review? Why Independence and Supremacy?The Counter-Majoritarian Difficulty	<i>The Federalist</i> , Nos. 78-83* <i>Marbury v. Madison</i> (1803)* Segal and Spaeth, Ch. 4 Recommended Bickel (1968)* Whittington (2005)* Stephenson (2003)* Hanssen (2004)*	
Models of Judicial Decision-Making			
January 23	The Attitudinal Model	Segal and Spaeth, Ch. 3	
January 25	The Strategic Model	Epstein and Knight, Chs. 1 & 2 Recommended Maltzman et al., Ch. 1 (2000)*	
January 30	The Legal Model	Segal and Spaeth, Ch. 2 McGuire, Ch. 9 Recommended Gillman (2001)* Bartels (2009)*	

Measuring Judicial Ideology and Policy			
February 1	Judicial Policy	Clark and Lauderdale (2010)*	
February 6	Federal Judicial Ideology	Segal and Cover (1989)* Martin and Quinn (2002)* Recommended Giles et al. (2001)* Bailey (2007)*	
February 8	Ideology on the State Courts	Brace et al. (2002)* Bonica and Woodruff (2014)* Windett et al. (2015)*	
Staffing the Courts			
February 13	Appointments	McGuire, Chs. 1 & 2 Segal and Spaeth, Ch. 5 Recommended Dahl (1957)* Moraski and Shipan (1999)* Cameron and Kastellec (2016)*	
February 15	Elections	Hall (2001)* Bonneau (2007)* Hall and Bonneau (2013)*	
February 20	Retirements	Zorn and Van Winkle (2000)* Curry and Hurwitz (2016)* Hughes (n.d.)*	
Agenda-Setting and Deliberation			
February 22	Deciding to Decide Repeat Players The 10 th Justice	Segal and Spaeth, Ch. 6 McGuire, Ch. 8 Recommended McGuire (1995)* Bailey et al. (2005)*	
February 27	<i>Amicus Curiae</i>	Caldeira Wright (1988)* Collins (2007)*	

March 1	Oral Arguments The Chief Justice Effect Opinion Assignments	Segal and Spaeth, Chs. 7, 8, & 9 Maltzman and Wahlbeck (2004)* Recommended Black et al. (2011)* Hammond et al. (2005)*	
March 6	Opinion Bargaining Collegiality	McGuire, Ch. 10 Epstein and Knight, Chs. 3-6 Maltzman et al., Ch. 3 (2000)* Recommended Snyder (1958)*	
Constraints on Judicial Power			
March 8	Congress	McGuire, Ch. 11 Rosenberg, Ch. 1 Recommended Marks (1988)* Gely and Spiller (1990)* Segal (1997)*	
March 12-16	Spring Break		
March 20	The Executive	<i>Youngstown Sheet and Tube v. Sawyer</i> (1952) Recommended Carrubba and Zorn (2010)*	
March 22	Special Interests	McGuire, Ch. 12 Rosenberg, Chs. 2-5 Recommended <i>Chevron v. NRDC</i> (1984)*	
March 27	Lower Courts	McGuire, Chs. 7 & 14 Cameron et al. (2000)* Hall (2014)*	
March 29	Public Opinion: Federal Courts	McGuire, Ch. 13 Recommended McGuire and Stimson (2004)* Giles et al. (2008)*	Draft 1 of Research Paper due
April 3	Public Opinion: State Courts	McGuire, Chs. 3 & 6 Huber and Gordon (2004)*	

April 5	Legitimacy Theory	Gibson et al. (1998)* Gibson (2008)* Clark (2009)*	
April 10	The Republican Schoolmaster	Franklin and Kosaki (1989)* Hoekstra and Segal (1996)*	
April 12	The Media	Epstein and Segal (2000)* Can and Wilhelm (2011)*	
The Judiciary and Public Welfare			
April 17	Representation	McGuire, Ch. 4 Boyd, Epstein, and Martin (2010)* Kastellec (2014)* Recommended Goelzhauser (2016)*	
April 19	Transparency, Pandering, and Overhang	Maskin and Tirole (2004)* Fox (2007)* Fox and Stephenson (2011)*	
April 24	Minority Rights	Rosenberg, Ch.s 12-14 Brace and Boyea (2008)* Recommended Canes-Wrone et al. (2014)*	
May 1	NA		Research Paper Due by 1:15:59 pm