



POLS 313-01 Constitutional Law – Rights & Liberties (Spring 2021)

Instructor: Dr. Laura Moyer [Email: laura.moyer@louisville.edu]

Class: MWF 9:00-9:50. Join with Zoom link through Blackboard.

Office hours: Monday 2:30 – 4:00 or by appointment (set up via email).

Go to “Office Hours” tab in Blackboard to access the Collaborate session.

Communication: Will respond to email within 24 hours except on weekends

Course Description and Objectives

Pre-requisite: POLS 201

This course uses the traditional case method as well as a court simulation (moot court) to introduce students to the study of American constitutional law. Because the case law on civil liberties and civil rights is vast, we will primarily focus on due process, economic liberties, the privacy doctrine, and the First Amendment protections for speech and religion. In addition, we will examine the development of Equal Protection doctrine as it has been applied to classifications based on race, gender, and sexual orientation. Students will learn how to (1) distill cases to their most important components, (2) analyze and apply legal arguments about civil liberties and civil rights, (3) distinguish between and analyze different modes of Constitutional interpretation, and (4) think critically about the role of courts in making legal and social policy.

Structure of the Course

Similar to an in-person class, we will meet at a regular, designated day and time (i.e., this is a “synchronous online course”). This structure allows for you to work closely in person with your classmates in ways that are not possible in a socially distanced classroom; it also allows for the class time to be structured for active learning and discussion, rather than just lecture.

The course is organized into seven sections, each of which has its own set of learning objectives, readings, and assignments. You can find the objectives for each section in the Syllabus tab in Blackboard in a document called “Course Objectives.”

In general, the expectation is that, by signing up for this time slot, you are available to attend class during this time. This is not designed to be an asynchronous course. However, if, during the course of the semester, your circumstances suddenly change in ways that make meeting at the designated day/time not possible (e.g., illness, child care or family obligations), short-term adjustments can be made to allow you to participate fully in class without penalty. All class sessions will be recorded, with active learning exercises and lecture materials made available on Blackboard. If emergency circumstances arise whereby attending class during the scheduled time is impossible for more than once or twice, please contact the instructor.

Any student who is facing challenges securing food or housing should contact the Dean of Students office [here](#).

Requirements for the Course

Technology Expectations

If you have concerns about your ability to obtain the technology described below, please contact the instructor as soon as possible so that solutions can be worked out.

Tech requirements: Because this class will not meet in person and will run entirely through Blackboard, you will need to have access to a computer with reliable high-speed internet access and with the ability to play video and audio and to upload and download files. (While a phone can be used in a pinch to join a class session, it's best if you have access to a computer.) If you do not have access at home, you may use computers at the Ekstrom Library or other locations on campus. Make sure you have access to a computer for several hours a week. Assignments and exams will be posted and submitted using Blackboard. Use your university username and password to login to Blackboard.

Communication: All announcements and communication about the class will be sent to your university email address, so check your account and Blackboard announcements regularly.

Tools in Blackboard: We will use several tools in Blackboard regularly. All are free.

- For **class sessions**, we will use **Zoom** through a password protected session linked through Blackboard. (The link to join will be posted in Blackboard Announcements all semester.) You will need to create a free Zoom account if you don't already have one and upload a profile picture of yourself in Profile settings. If you already have Zoom, make sure your version has been updated.
- For **office hours**, you will join a standing **Collaborate** session linked through Blackboard.
- For **written participation exercises**, we'll use **Go Formative**, linked through the chat in our class sessions. (The first time you use Go Formative, you will need to register for a free account and use a class code to be added to our class. Use your UofL login information. See BB Announcements.)
- To access **class recordings**, we will use the university's free Cloud storage site **CardBox**. Link and instructions for accessing are posted on BB.

Tech problems: If you have problems with Blackboard or other technology, please contact the university's IT department. You can find a guide to the support services offered at this [link](#). In the Tech section on Blackboard, you will also find troubleshooting documents for answers to frequently asked questions. It's best to **use Chrome as your web browser** to access class sessions with full functionality; don't use Safari. Using headphones can prevent audio feedback.

Joining class sessions: When you log on to a class session, mute your microphone to start and, if you feel comfortable doing so, turn on your camera. (You can use a virtual background setting if you want.) If you don't feel comfortable with your camera on, consider uploading a profile picture of yourself instead. When you have to step away to use the bathroom or deal with something quickly, mute yourself, turn off your camera, and mark yourself as "stepped away." If you get hung up fixing some technical issue and miss out on what was said, please use the "raise hand" function or chat to let the instructor know to stop and go back. (You can also follow up via email after class.)

Attendance

Attend class from a location that has a stable and fast internet connection and is conducive to your engagement in class discussion. That is, try to find a quiet location where you can focus on the class, away from distractions like background noise or others who might distract your attention. Try to find a location where you can feel comfortable talking as well.

While no grade will be assigned for attendance alone, failing to attend class regularly will undermine your ability to succeed in the class. **If you are having trouble getting logged into class on time, having internet connectivity problems during class, or are experiencing any other issue that is interfering with your ability to attend class, please let the instructor know so we can develop an alternative plan.**

Students who are ill, waiting for a COVID test result, or quarantined do not need a doctor's note to demonstrate excused absences, unless they have missed two weeks of class; however, please let the instructor know in advance of class time. Students are expected to complete the exams and the final project (simulation) on the days designated on the syllabus. If there is a conflict with an exam or final project for a university-excused absence (illness, quarantine, family emergency, religious holiday, etc.), the instructor should be notified in advance of class, unless impossible.

Participation (20%)

Attendance is a necessary, but not sufficient condition for earning a good participation grade. Students are expected to read all assigned materials before class, brief assigned cases, take notes during class, complete assignments on time, conduct themselves in a mature and professional manner, and treat other students and the instructor with courtesy and respect (including on email). Please silence phones and put away other unrelated materials before class begins. The quality of participation will be evaluated through both spoken and written contributions.

Class participation is worth a total of 5 points. This includes active participation in breakout groups, quick real-time polls, and general engagement during class (i.e., responding when called upon, or raising hand). Two points will be awarded for completing the first week introduction exercise on Go Formative. To earn all of the remaining 3 points for participation, students must be outstanding and consistent in their ability to discuss cases, make connections across cases and opinions, and demonstrate the fundamentals of legal reasoning; they must also be conscientious, responsible, and respectful in all interactions with classmates and the instructor. Lack of attendance, preparedness, or respect for others in the course will result in lower grades for this part of the course. (See Blackboard for the grading rubric.)

Written participation is worth a total of 15 points. Students' short written responses to prompts in Go Formative (during class time) will form the basis for this part of the grade. (Students participating asynchronously will submit written participation outside of class time, subject to approval by instructor.) In general, responding fully to the question posed with supporting evidence from the case(s) is sufficient to receive full credit for each assignment. These assignments will also be the basis for class discussion on many days.

Case briefs (15%)

Because the study of law requires both dense reading and cumulative comprehension, it is essential that students **brief all assigned cases before coming to class**. The process of briefing will prepare you for class discussions and save you many hours of time in test preparation. Your participation grades will be determined by your ability to convey the information in your briefs, as well as your ability to analyze the

implications, strengths, and weaknesses of legal arguments. During class time, you will be expected to edit and annotate your case briefs, correcting any misconceptions or questions. The brief you prepare before class is not expected to be perfect – indeed, the goal is for you to use our class discussion to improve your first attempt.

At the end of each class, I will randomly select several students to **submit a briefed case or cases** (uploaded via BB Assignments) for a grade. This should be the marked up/edited version that includes class notes. You may complete your briefs and class notes in variety of ways: entirely by hand; typed, then printed with hand-written notes from class; OR entirely typed (using the Track Changes or Comment feature in Word can work well). You can scan handwritten versions into PDFs using Notes on your phone. Every student will be “called” an equal amount of times, with the lowest grade dropped.

There is a step-by-step guide posted on Blackboard about how to read and brief cases for our class. At the beginning of the semester, we will also do a few exercises to help you acclimate before briefs are submitted for a grade.

The purpose of this exercise is to evaluate your progress in developing the skill of briefing, not so much to determine whether the content is “right” or “wrong.” As such, the **briefs must represent your own work and adhere to the university policy on academic honesty. This means that copying briefs from any outside source is unacceptable. Dishonesty on case briefs will result in a FAILING GRADE for that portion (15%) of your course grade.**

Quiz (5%)

There will also be one quiz at the beginning of the semester. **The purpose of this assignment is to alert you to gaps in your notes and understanding BEFORE the first exam:** it is an active study tool. Makeups are only granted for serious reasons (e.g., illness, family emergency), and if notification occurs on or before the day of the assignment. The quiz is not required to be taken during our usual class time.

Exams (30%)

In-class discussions, lecture, and the required readings listed on the syllabus will serve as the basis for exams (essay/take home format). There will be **two midterm exams** to test your understanding of concepts as well as your ability to apply and analyze them. Students are generally expected to take the exams on the days listed on the syllabus. Makeups are only granted for serious reasons (e.g., illness, family emergency), and if notification occurs on or before the day of the assignment.

Simulation (30%)

Following the Supreme Court’s new COVID-19 procedures for oral arguments, we will be holding “telephone oral arguments” as part of a moot court simulation. Students will play one of the following roles: (1) a specific justice from the past or present, (2) an attorney who represents an organized interest filing an amicus brief, or (3) an attorney representing a direct party in the case. Students will be evaluated via a written assignment as well as participation in oral arguments. This culminating project will take the place of a final exam and will be **held during scheduled class time as well as during the scheduled final exam period.** In the event that a student cannot participate in the simulation during class

time because of extenuating circumstances (illness, family emergency, child care interruptions, etc.), there will be an alternative culminating project in the form of a legal strategy paper. **Students requiring the legal strategy paper option need to alert the instructor as soon as possible.**

Disability Accommodations

Students with documented disabilities who require accommodations: please notify me privately at the beginning of the semester so that we can make appropriate arrangements.

Academic Honesty

Every student is expected to be familiar with and abide by the University’s policy on academic honesty before performing any academic work. (See the Student Code of Conduct for details.) Examples of academic dishonesty described in the Code of Student Conduct include, but are not limited to cheating on tests, plagiarizing written work from any source (including Wikipedia and your friends), selling or buying academic assignments, writing a single paper for multiple classes, collaborating on an assignment without the instructor’s permission, and helping another student do any of these things. **All suspected violations of academic honesty will be reported to the College.**

Title IX/Clery Act Notification

Sexual misconduct (including sexual harassment, sexual assault, and any other nonconsensual behavior of a sexual nature) and sex discrimination violate University policies. Students experiencing such behavior may obtain confidential support from the PEACC Program (852-2663), Counseling Center (852-6585), and Campus Health Services (852-6479). To report sexual misconduct or sex discrimination, contact the Dean of Students (852-5787) or University of Louisville Police (852-6111). Disclosure to University faculty or instructors of sexual misconduct, domestic violence, dating violence, or sex discrimination occurring on campus, in a University-sponsored program, or involving a campus visitor or University student or employee (whether current or former) is not confidential under Title IX. Faculty and instructors must forward such reports, including names and circumstances, to the University’s Title IX officer. For more information, see the Sexual Misconduct Resource Guide: <http://louisville.edu/hr/employeerelations/sexual-misconduct-brochure>.

Grading Policy

Exam 1: 15 points	Participation: 20 points
Exam 2: 15 points	Case Briefs: 15 points
Quiz: 5 points	Simulation: 30 points

The course is graded on a 100-point scale. There is **no extra credit available** for any student. For confidentiality reasons, grades will NOT be discussed over email, so please make an appointment to set up a phone call with me if you have any questions.

A+ : 97-100	C+ : 76-79
A: 93-96	C: 73-75
A-: 90-92	C-: 70-72
B+: 86-89	D (60-69)
B: 83-85	F (59 & below)
B-: 80-82	

Required texts

- **POLS 313-01 course pack available at University bookstore [Denoted as CP on reading schedule]. You will find it under “M” for Moyer. The hard copy version is preferred because you will need to mark up each case as you read it.**

- Additional readings posted on Blackboard [Denoted as **BB** on reading schedule]

Spring 2021 Important Dates

- Drop/add period ends: Friday, Jan. 15
- MLK Holiday: Monday, Jan. 18
- Last day to withdraw: Friday, March 12
- Last Day of Class: Wednesday, April 21
- **Moot Court Simulation:** (8:00 a.m. – 10:30 a.m.)

Note: the syllabus represents a general plan for the course and may be subject to change, based on the discretion of the instructor. Readings denoted as EXTRA are simply that – additional reading for those more interested in the topic. (This often includes connections to material in current events.)

Schedule of Readings and Assignments (to be read PRIOR to coming to class)

Mon., Jan. 11	<p>Welcome to Constitutional Law</p> <ul style="list-style-type: none"> - What to expect in this course - What is constitutional law? <p>Task: Follow the link and instructions on BB Announcements page to <u>set up your Go Formative account</u> and <u>post a short audio intro</u> of yourself. (It will only be available to the instructor, not other students.)</p>
Wed., Jan. 13	<p>I. Introduction to Law and Judicial Power</p> <p>A. Understanding the Supreme Court</p> <p><u>Reading:</u> Ducat, “Introduction” [CP]</p>
Fri., Jan. 15	<p>B. Reading and Interpreting Legal Texts</p> <p><u>Reading:</u> “Modes of Constitutional Interpretation” [CP]</p> <p>(Complete pre-class task on Go Formative: written participation)</p>
Mon., Jan. 18	<p>** No class: MLK Day of Service **</p>
Wed., Jan. 20	<p>B. Reading and Interpreting Legal Texts</p> <p><u>Reading:</u> How to brief a court case [on BB] (Complete pre-class task in BB Assignments tab)</p>
Fri., Jan. 22	<p>II. Due Process and the “Incorporation” of the Bill of Rights</p> <p><u>Reading:</u> Theories and Process of Incorporation [CP]</p> <p><u>Brief [CP]:</u> <i>Barron v. Baltimore</i></p>

Mon., Jan. 25	Due Process and Incorporation (continued) <u>Brief [CP]:</u> <i>Palko v. Connecticut</i>
Wed., Jan. 27	Due Process and Incorporation <u>Brief [CP]:</u> <i>Adamson v. California; Rochin v. California</i>
Fri., Jan. 29	Due Process and Incorporation Complete pre-class task on Go Formative (no case briefs due) Last names A-L: Civil forfeiture <i>Timbs v. Indiana</i> [BB] Last names M-Z: Non-unanimous juries <i>Ramos v. Louisiana</i> [BB]
Mon., Feb. 1 Quiz	** QUIZ DUE by 8 P.M. (BB Assignments tab)** We won't meet during class time. Email with any questions.
Wed., Feb. 3	III. The Lochner era of "Liberty of Contract" <u>Brief:</u> <i>Lochner v. New York</i>
Fri., Feb. 5	IV. Right of Privacy A. Reproductive Rights & Abortion <u>Brief</u> <i>Griswold v. Connecticut</i> [CP]
Mon., Feb. 8	Right of Privacy (continued) <u>Brief</u> <i>Roe v. Wade</i> [CP]
Wed., Feb. 10	Right of Privacy (continued) <u>Brief</u> <i>Planned Parenthood v. Casey</i> [CP]
Fri., Feb. 12	Right of Privacy (continued) B. Anti-sodomy laws [END OF MATERIAL FOR EXAM 1] <u>Brief:</u> <i>Bowers v. Hardwick</i> [CP]; <i>Lawrence v. Texas</i> [CP]
Mon., Feb. 15	Catch up day/review for Exam 1

Wed., Feb. 17 Exam	** EXAM 1 DUE BY 8 P.M. (BB Assignments tab)** We won't meet during class time. Email if you have any questions.
Fri., Feb. 19	V. Equal Protection of the Laws [START MATERIAL FOR EXAM 2] A. Race <u>Brief:</u> <i>Plessy v. Ferguson</i> [CP]; <i>Sweatt v. Painter</i> [CP]
Mon., Feb. 22	A. Race (con't) <u>Brief:</u> <i>Brown v. Board of Education I</i> [CP]; <i>Brown v. Board II</i> [CP]
Wed., Feb. 24	A. Race (con't) Will discuss <i>Swann v. Charlotte-Mecklenburg Bd of Education</i> , but don't need to brief <u>Brief:</u> <i>Milliken v. Bradley</i> [CP]
Fri., Feb. 26	A. Race (con't) <u>Reading (no case briefs due):</u> Integration in Louisville [BB] Justice Breyer's dissent in <i>Parents in Community Schools</i> case [CP] Pre-class task on Go Formative (written participation)
Mon., March 1	B. Equal Protection: Gender <u>Brief:</u> <i>Frontiero v. Richardson</i> [CP]
Wed., March 3	B. Gender (con't) <u>Brief:</u> <i>Craig v. Boren</i> [CP]
Fri., March 5	**NO CLASS: SPRING MINI-BREAK**
Mon., March 8	B. Gender (con't) <u>Brief:</u> <i>US v. Virginia</i> [CP]

<p>Wed., March 10</p>	<p>C. Equal Protection: Sexual orientation</p> <p><u>Brief:</u> <i>Romer v. Evans</i> [CP]</p>
<p>Fri., March 12</p>	<p>C. Sexual orientation (con't)</p> <p><u>Brief:</u> <i>U.S. v. Windsor</i> [CP]; <i>Obergefell v. Hodges</i> [CP]</p>
<p>Mon., March 15 Exam</p>	<p>**No class: EXAM 2 DUE BY 8 P.M. (BB Assignments)** We won't meet during class. Email with any questions.</p>
<p>Wed., March 17</p>	<p>VI. First Amendment: Free Speech</p> <p>A. What is speech? <u>Reading (no case brief due):</u> "The literal meaning of speech, the social function of speech, and the effects of speech" [BB]</p> <p>Complete pre-class exercise on Go Formative (written participation)</p>
<p>Fri., March 19</p>	<p>B. "Clear and Present Danger"</p> <p><u>Brief:</u> <i>Schenck v. United States</i> [CP]; <i>Gitlow v. New York</i> [CP]</p>
<p>Mon., March 22</p>	<p>B. "Clear and Present Danger" (con't)</p> <p>Discuss <i>Thomas v. Collins</i> (but don't need to brief)</p> <p><u>Brief:</u> <i>Terminiello v. Chicago</i> [CP]</p>
<p>Wed., March 24</p>	<p>B. "Clear and Present Danger" (con't)</p> <p><u>Brief:</u> <i>Brandenburg v. Ohio</i> [CP]</p>
<p>Fri., March 26</p>	<p>C. Free Speech: Time, Place, and Manner Limitations</p> <p><u>Brief:</u> <i>Adderley v. Florida</i> [CP]; <i>Minnesota Voters Alliance v. Mansky</i> [BB]</p>

<p>Mon., March 29</p>	<p>D. Symbolic Speech</p> <p><u>Brief:</u></p> <p><i>West Virginia State Board of Education v. Barnette</i> [CP];</p> <p><i>Tinker v. Des Moines School District</i> [CP]</p>
<p>Wed., March 31</p>	<p>Symbolic Speech (con't)</p> <p>Discuss <i>United States v. O'Brien</i> (but don't need to brief)</p> <p><u>Brief:</u></p> <p><i>Texas v. Johnson</i> [CP]</p>
<p>Fri., April 2</p>	<p>VII. First Amendment: Religion</p> <p>A. Establishment Clause</p> <p>Discuss <i>Lemon v. Kurtzman</i> (but don't need to brief)</p> <p><u>Brief:</u></p> <p><i>Lee v. Weisman</i> [CP]</p>
<p>Mon., April 5</p>	<p>Establishment of Religion (con't)</p> <p>*Discuss simulation*</p> <p><u>Brief:</u></p> <p><i>Town of Greece</i> [CP]</p>
<p>Wed., April 7</p>	<p>B. Free Exercise of Religion</p> <p><u>Brief:</u></p> <p><i>Thomas v. Indiana Employment Security Review Board</i> [CP];</p> <p><i>Wisconsin v. Yoder</i> [CP]</p>
<p>Fri. April 9</p>	<p>B. Free Exercise of Religion (con't)</p> <p><u>Brief:</u></p> <p><i>Employment Division of Oregon v. Smith</i> [CP]</p>

<p>Mon., April 12</p>	<p>B. Free Exercise of Religion (con't)</p> <p><u>Reading (no case briefs due):</u></p> <p>Religious freedom and Kentucky COVID restrictions litigation [BB]</p> <p>Complete pre-class task on Go Formative (written participation)</p>
<p>Wed., April 14</p>	<p>Simulation Preparation: Legal Research Day (attendance counts)</p> <p>*Bring names of two on-point cases you have identified</p>
<p>Fri., April 16</p>	<p>Simulation Preparation: Briefs & Paper Writing (attendance counts)</p> <p><u>In-class:</u> working session for simulation</p> <p>Papers/briefs DUE on Sunday 18th by 8 p.m. via BB Assignments</p>
<p>Mon., April 19</p>	<p>Simulation: Oral Arguments Preparation (attendance counts)</p> <p><u>In class:</u> prep for oral arguments; amicus attorneys work on social media campaign</p>
<p>Wed., April 21</p>	<p>Simulation: Social Media Presentations & Tech Check (attendance counts)</p> <p><u>In class:</u> Amicus groups present their social media campaigns; justices and attorneys test tech (attendance counts for grade)</p>
<p>Tues., April 27 (8:00- 10:30 a.m.)</p> <p>Final Day of Simulation</p>	<p>FINAL SIMULATION: Oral Arguments and Press Conference (attendance counts)</p> <p>Amicus group press conference</p> <p>Oral arguments</p> <p>Justice conference and opinion announcement</p> <p>[For students doing alternate final project: Legal Strategy Paper due by noon]</p>