

COURSE INFORMATION

POLS 341: Judicial Process and Policymaking Spring 2022 University of Tennessee, Knoxville

Course Section: 001

Course Credit Hours: 3

Course Location: HSS-108

Faculty Contact Information

- Professor Kirsten Widner, JD, PhD
- kwidner1@utk.edu
- 1018 McClung Tower
- Virtual Office Hours: Tuesdays 3:30pm – 5pm, or by appointment. <https://tennessee.zoom.us/j/95697876349>



Faculty Availability

Please don't hesitate to email me with updates, questions, or concerns. I will typically respond within 24 hours during the week and 48 hours on the weekend. I will notify you if I will be unavailable for any period or if connection issues may delay a response.

COURSE DESCRIPTION

Welcome to Judicial Process and Policymaking! This class examines the US Courts as political institutions. It focuses on three main areas:

- **Judicial process and players.** You will learn how cases make their way through the judicial system and the influence litigants, attorneys, interest groups and judges have on that process and on judicial policymaking.
- **How judges make decisions.** We will examine the many different factors that shape judicial decision making. You will be exposed to areas of agreement and disagreement within political science and between political scientists and lawyers about what judges actually do when deciding cases.
- **Courts in political context.** Courts do not operate in a vacuum. They are shaped by – and help to shape – other political institutions and actors. We will explore the interactions between other branches of government, the public, and the courts.

Student Learning Outcomes/Objectives

Taking this class will enable you to:

- Understand how a case makes its way through the court system and the various factors that contribute to its outcome;

- Read a petition for certiorari (Supreme Court review) and legal briefs and analyze their chances of success;
- Evaluate the role of the courts in shaping important public policy debates and outcomes; and
- Participate in an informed way in scholarly and public debates about particular cases and judicial policymaking in general.

Value Proposition

This course is valuable for any student who is interested in better understanding how US courts work and how judges arrive at decisions. It will give you the tools to read, analyze, and interpret legal texts. It will make you a more informed member of our political community. It is particularly valuable for any student who aspires to pursue a career in law, politics, public policy, journalism, sociology, criminal justice, psychology, or philosophy.

LEARNING ENVIRONMENT AND COVID PROTOCOLS

Our class will be held in person, unless or until the University changes format in response to the pandemic. Office hours will be held over Zoom. Critical course information will be shared on the Canvas site for our class, so it is important that you log on to Canvas regularly. [Canvas](#) and [Zoom](#) resources are available if you are unfamiliar with these online tools.

Masks are no longer required by the University; however, I ask you to wear a mask out of respect for me and your fellow students and their families. **Do not** attend class if you are ill, have tested positive for COVID-19, or suspect that you may have been exposed to COVID-19. I encourage you to get vaccinated (if you haven't already); this will help you to avoid having to miss class for these reasons.

HOW TO BE SUCCESSFUL IN THIS COURSE

I am excited to be your guide through this fascinating subject matter. I commit to treating each of you with respect and fairness. I will thoughtfully prepare for every class and provide intellectually challenging learning activities. To get the most out of this class, you will need to actively engage with the material. This means doing the reading for every class, making thoughtful contributions to class discussions and learning activities, and putting appropriate time into assignments and exam preparation.

Courts make policy on some of the most contentious issues of our time, including gun rights, abortion, the death penalty, and more. In exploring the work of US courts, we will use many of these issues as examples. I recognize that you and your fellow students may have strong feelings about some of these subjects. It is important that we all engage with each other respectfully even when we feel passionately about an issue or position.

COURSE REQUIREMENTS

Texts/Resources/Materials

The required text for this course is *Judicial Decision-Making: A Coursebook* by Barry Friedman, Margaret H. Lemos, Andrew D. Martin, Tom S. Clark, Allison Orr Larsen, and Anna Harvey.

We will also read some scholarly articles which will be made available to you on our Canvas site.

Computer Requirements

Zoom (for office hours) and Canvas (for course information) will be critical tools for this class. If you have technical issues, contact the OIT HelpDesk by phone at (865) 974-9900 or at the [Walk-in HelpDesk](#). For IT and Computing issues, use the online [Contact Form](#).

COURSE COMMUNICATIONS POLICY

Course information will be shared in three ways: in-class announcements, email, and through the Canvas site. To ensure that you have the most current information about the course, it is important that you attend our classes and regularly check Canvas and your email. Please check your [Canvas notification settings](#) to ensure you receive important announcements.

Virtual Office Hours

I will hold weekly office hours on Zoom from 3:30pm – 5pm on Tuesdays. You can “come” to office hours by going to <https://tennessee.zoom.us/j/95697876349> any time during that period. You will be put into a virtual waiting room, and I will admit students one at a time, or in groups if requested. If the standing time on Tuesdays does not work for you, you can also email me at kwidner1@utk.edu to make an appointment to meet at another time.

Here are some great reasons to come to office hours:

- To get clarification or more information on a topic we covered in class
- To get “unstuck” on an assignment
- To discuss how what you our learning in our course relates to other things you are studying
- To identify opportunities for further research
- To get advice about career paths or course selection

I really enjoy talking to students and hope that you will come to virtual office hours often!

COURSE ATTENDANCE AND PARTICIPATION POLICY

These are strange times. I understand that challenges to attendance and participation may arise due to problems that come with life during a pandemic. For these reasons, I will not require attendance and am not assigning a specific grade for participation. In fact, I ask that you **NOT** come to class if you are ill, have tested positive for COVID-19, or suspect you have been exposed to COVID-19. All Powerpoint presentations will be made available on Canvas, so if you have to miss class, you will still have access to the slides. However, you should also ask a classmate for notes, as not all details in the lectures will be included in the slides. I'm happy to meet with you to go over any material for which you need further clarification.

While you will not be directly graded on it, attendance and participation are in your interest. We learn best when we actively engage with material, rather than passively receiving it. Further, attendance and participation will help me get to know you, so that if you ever need a letter of recommendation (for law school, graduate school, or other opportunities), I will have things to say about you and therefore can write a better letter. Finally, while there will not be a participation grade per se, I will take participation into consideration in assigning final grades to students who are on the cusp between grades. For example, a student whose raw score is in the high B+ range may get bumped up to an A- if they have regularly and constructively contributed to class discussions.

ASSIGNMENTS, ASSESSMENTS, AND EVALUATIONS

Your grade for this class will be based on a 3-part research project, a midterm exam, a final exam, and a miscellaneous category explained below. The research project is structured to give you some control over your learning, time, and the amount of feedback you want to incorporate.

Assignments and Exams

- **Research project(s):** This component is worth **45%** of your total grade. You will be matched with a case that has been selected for review by US Supreme Court. You will apply class concepts to your case, submitting either papers or podcasts – whichever you prefer. In addition to choosing the format (papers or podcasts), you can choose which of the following ways you would like to complete this assignment:
 - **Option 1: Section by section.** If you choose this option, you will produce 3 short papers or podcasts. Each section will relate to a specific section of the course material and will be due shortly after we finish covering the material to which it relates. You will get feedback on each of the first two sections before the next one is due.
 - **Option 2: One research project.** If you choose this option, you will produce one longer research paper or podcast that covers all the same information addressed section by section in Option 1. This project will be due at the same time as the third short project is due for Option 1.

- **Option 3: A combination of the two.** If you start with Option 1 and are not happy with the grade you receive on any of the short projects, you can revise that section based on the feedback you received and submit it as part of one longer research project. You can also choose this option if you were planning to go with Option 1 but missed a deadline on one of the sections. Rather than submit a section late, you would simply submit a full project under Option 2. Any sections that you have revised will be regraded, and you will receive whichever grade for that section is higher.
- Note that whichever option is chosen, the content and total length of the research project will be the same. The options just allow you to decide how to allocate your work time during the semester and whether you would like feedback along the way.
- **Exams:** There will be 2 exams in this class. Together the exams are worth **45%** of your grade.
 - The **midterm exam** will test all the material covered up to that point in the class. The midterm is intended to be a tool for you to assess how well you are understanding the class material and how to apply it, and to see what my exams are like. The midterm will be 15% of your total grade.
 - The **final exam** will be comprehensive, covering material from the full course. It will follow the same general format as the midterm. The final will be 30% of your grade.
- **Miscellaneous assignments:** This component is worth **10%** of your grade. Miscellaneous assignments include things like completing class surveys, doing practice exam questions for feedback, and submitting questions for the midterm and final exam reviews. Miscellaneous assignments will not be given letter grades. If you do the assignment with the expected level of effort, you will receive a check. If you do the assignment with less than the expected level of effort, you will get a check minus. Two check minuses will be equivalent to one check. Your grade will for this component will be calculated based on the percentage of checks you have out of the total miscellaneous assignments given. Oh hi, are you still reading? Yay! If you see this statement, email me a picture of a pet or other adorable animal (though please no snakes – they terrify me!) and you will receive an extra check toward your miscellaneous assignments. It’s a fitting reward for your diligent syllabus reading.

Collaboration Policy

You are encouraged to share resources that are helpful for completing the assignments. Please post these to the “helpful resources” thread under the discussion tab on Canvas.

Though you may share any generally helpful resources, you are required to do your own analysis and writing/recording for all assignments and exams. On the research project(s), you may – and are in fact encouraged to – make use of the [Writing Center](#) for assistance with writing or organization.

Procedures for Turning in Assignments

All assignments will be submitted via our Canvas site. If you have trouble getting the assignment to upload or are unsure if Canvas recorded your submission, you are responsible for emailing the assignment to me by the deadline.

GRADING

You will receive a letter grade for each assignment and exam. That letter grade will be converted into the scale used to calculate [grade point averages](#) and then multiplied by the percent of your total grade represented by that assignment or exam. For example:

Component	Grade	GPA Scale * Percent of Grade	Value
Research Project(s)	A-	3.7 * 45%	1.67
Midterm	B+	3.3 * 15%	0.50
Final exam	A	4.0 * 30%	1.20
Miscellaneous	A	4.0 * 10%	0.40
Total			3.77 (A-)

Participation will be used to determine the final grade for students whose total value falls between two grades. For example, a student whose total value was 3.5 (which is halfway between a B+ and an A-), will receive the A- if they have actively and constructively participated in the class, and a B+ if they have not.

Questions About Grades

If you have a question about your grade at any point, please come see me in virtual office hours or send me an email (kwidner1@utk.edu). Please do not post questions about grades on the discussion board.

UNIVERSITY POLICIES

Academic Integrity

From the [University of Tennessee Honor Statement](#), “An essential feature of the University of Tennessee, Knoxville is a commitment to maintaining an atmosphere of intellectual integrity and academic honesty. *‘As a student of the university, I pledge that I will neither knowingly give nor receive any inappropriate assistance in academic work, thus affirming my own personal commitment to honor and integrity.’*”

University Civility Statement

“Civility is genuine respect and regard for others: politeness, consideration, tact, good manners, graciousness, cordiality, affability, amiability and courteousness. Civility enhances academic

freedom and integrity, and is a prerequisite to the free exchange of ideas and knowledge in the learning community. Our community consists of students, faculty, staff, alumni, and campus visitors. Community members affect each other's well-being and have a shared interest in creating and sustaining an environment where all community members and their points of view are valued and respected. Affirming the value of each member of the university community, the campus asks that all its members adhere to the principles of civility and community adopted by the campus." See the [UT Principles of Civility and Community](#).

Disability Services

Any student who feels s/he may need an accommodation based on the impact of a disability should contact Student Disability Services in Dunford Hall, at 865-974-6087, or by video relay at 865-622-6566, to coordinate reasonable academic accommodations.

Your Role in Improving Teaching and Learning Through Course Assessment

At UT, it is our collective responsibility to improve the state of teaching and learning. During the semester, you may be requested to assess aspects of this course either during class or at the completion of the class. You are encouraged to respond to these various forms of assessment as a means of continuing to improve the quality of the UT learning experience.

Key Campus Resources for Students

- [Center for Career Development](#) (Career counseling and resources; HIRE-A-VOL job search system)
- [Course Catalogs](#) (Listing of academic programs, courses, and policies)
- [Hilltopics](#) (Campus and academic policies, procedures and standards of conduct)
- [OIT HelpDesk](#) (865) 974-9900
- [Schedule of Classes/Timetable](#)
- [Student Health Center](#) (visit the site for a list of services)
- [Student Success Center](#) (Academic support resources)
- [Undergraduate Academic Advising](#) (Advising resources, course requirements, and major guides)
- [University Libraries](#) (Access to library resources, databases, course reserves, and services)

COURSE SCHEDULE OF CLASSES, READINGS, AND ASSIGNMENTS

Summary of Important Dates

- **Thursday, March 3rd**: Research Project Section 1 Due (if submitting separately)
- **Thursday, March 10th**: Midterm Review
- **Tuesday, March 22nd**: Midterm
- **Tuesday, April 12th**: Research Project Section 2 Due (if submitting separately)
- **Thursday, May 5th**: Research Project Section 3 *OR* Full Research Assignment Due
- **Tuesday, May 10th**: Final Review
- **Thursday, May 12th**: Final Exam

Detailed Course Schedule:

Please note that the reading assignments listed for a particular class are to be completed before that day’s class begins.

Class	Topics	Assignments
Tuesday, 1/25 Introduction to Judicial Politics, Part I	<ul style="list-style-type: none"> • How are courts political? • Course commitments and expectations 	None
Thursday, 1/27 Introduction to Judicial Politics, Part II	<ul style="list-style-type: none"> • Factors involved in judicial policy making 	Reading: <i>Judicial Decision Making</i> , chapter 1, pages 1 – 49 Case Options for Research Projects Distributed
Section I: The US Judicial System: Process and Players		
Tuesday, 2/1 Overview of the US Judicial System	<ul style="list-style-type: none"> • State court systems • Federal court system • Types of cases 	No new reading Preferences for Research Project Cases Due
Thursday, 2/3 Progress of a Case	<ul style="list-style-type: none"> • How cases move through the system • Ways cases end 	No new reading
Tuesday, 2/8 Hierarchy in the US Judicial System, Part I	<ul style="list-style-type: none"> • Why a hierarchical system? • Precedent • Disagreement and compliance 	Reading: <i>Judicial Decision Making</i> , chapter 6, pages 425 – 476 (stop right before section B, “Why Do Lower Courts Obey Precedent”) Research Project Section 1 Requirements Distributed
Thursday, 2/10 Hierarchy in the US Judicial System, Part II	<ul style="list-style-type: none"> • Reversal • Discretionary review • Criteria and Process for Granting Certiorari • Docket control • Challenges of precedent 	Reading: <i>Judicial Decision Making</i> , chapter 6, pages 476 – 523

Class	Topics	Assignments
Tuesday, 2/15 Cases and Litigants	<ul style="list-style-type: none"> • Case-based decision making • The role of litigants 	Reading: <i>Judicial Decision Making</i> , chapter 4, pages 199 – 251 (stop right before section III, “The Power of Attorneys”)
Thursday, 2/17 Attorneys and Interest Groups	<ul style="list-style-type: none"> • Paid attorneys • Advocacy groups • Government attorneys • “Friends of the court” 	Reading: <ul style="list-style-type: none"> • <i>Judicial Decision Making</i>, chapter 4, pages 251 – 284 (stop right before section IV, “Legislative Influence and Control”) • <i>Judicial Decision Making</i>, chapter 4, pages 300 – 321 (start at section V, “Judicial Agenda Setting”) • <i>Judicial Decision Making</i>, chapter 5, pages 357 – 364 (start at section D, “Briefs of Amicus Curiae,” and end right before section II, “Caseload Pressures”) Practice Exam Questions Distributed
Tuesday, 2/22 Court Capacity Part I	<ul style="list-style-type: none"> • Judicial expertise • Evidence and Experts 	Reading: <i>Judicial Decision Making</i> , chapter 5, pages 323 – 357
Thursday, 2/24 Court Capacity Part II	<ul style="list-style-type: none"> • Judicial tools and resources 	Reading: <i>Judicial Decision Making</i> , chapter 5, pages 364 – 424 Practice Exam Questions Due
Section II: How Judges Make Decisions		
Tuesday, 3/1 The Law	<ul style="list-style-type: none"> • Legal formalism • Legal realism • “Easy” and “hard” cases • Rules vs. standards 	Reading: <i>Judicial Decision Making</i> , chapter 2, pages 51 – 93
Thursday, 3/3 Judges’ Preferences, Part I	<ul style="list-style-type: none"> • Judges’ political leanings • Attitudinal model • Testing the role of judicial preferences 	Reading: <i>Judicial Decision Making</i> , chapter 3, pages 95 – 133 (stop right before section III, “Modeling Judicial Preferences”) Research Project Section 1 Due (if submitting separately) Research Project Section 2 Requirements Distributed

Class	Topics	Assignments
Tuesday, 3/8 Judges' Preferences, Part II	<ul style="list-style-type: none"> • Ideology • Spatial models of judicial preferences Measuring judicial preferences	Reading: <i>Judicial Decision Making</i> , chapter 3, pages 133 – 167 (end right before section V, “Beyond Partisanship, Politics and Voting: Demographic Characteristics”) Email kwidner1@utk.edu by the end of the day with up to 3 questions you would like me to cover in the Midterm Review
Thursday, 3/10 Midterm Review	<ul style="list-style-type: none"> • Topics needing clarification or review 	None
3/14 – 3/18 Spring Break!		None
Tuesday, 3/22 Midterm	<ul style="list-style-type: none"> • Midterm Examination 	None
Thursday, 3/24 Judges' Identity, Part I	<ul style="list-style-type: none"> • Gender • Race and Ethnicity 	Reading: <i>Judicial Decision Making</i> , chapter 3, pages 167 – 197
Tuesday, 3/29 Judges' Identity, Part II	<ul style="list-style-type: none"> • Religion • Parenthood • Other Characteristics • Reforms and Constraints 	Reading: Article: “Identifying Judicial Empathy: Does Having Daughters Cause Judges to Rule for Women’s Issues?” by Adam N. Glynn and Maya Sen, <i>American Journal of Political Science</i> 59(1): 37-54 (2015).
Thursday, 3/31 Judging on Collegial Courts, Part I	<ul style="list-style-type: none"> • Pros and cons of collegial courts • Concurrences and dissents 	Reading: <i>Judicial Decision Making</i> , chapter 7, pages 525 – 572 (stop right before section B, “Three Models of Opinion Output”)
Tuesday, 4/5 Judging on Collegial Courts, Part II	<ul style="list-style-type: none"> • Unanimous vs. non-unanimous cases • Strategic behavior on collegial courts • Opinion assignment • Opinion writing • Voting 	Reading: <i>Judicial Decision Making</i> , chapter 7, pages 572 – 649

Class	Topics	Assignments
Section III: Courts in Political Context		
Thursday, 4/7 Separation of Powers, Part I	<ul style="list-style-type: none"> • Jurisdiction • Delegation • Encouraging litigation • Limiting litigation • Court curbing • Judicial independence • Separation of powers and statutory interpretation 	Reading: <ul style="list-style-type: none"> • <i>Judicial Decision Making</i>, chapter 4, pages 284 – 300 (start at section 4, “Legislative Influence and Control,” and stop right before section 5, “Judicial Agenda Setting”) • <i>Judicial Decision Making</i>, chapter 8, pages 651 – 697 (stop right before section III, “Separation of Powers and Constitutional Interpretation”)
Tuesday, 4/12 Separation of Powers, Part II	<ul style="list-style-type: none"> • Separation of powers and constitutional interpretation • Judicial supremacy 	Reading: <i>Judicial Decision Making</i> , chapter 8, pages 697 – 733 Research Project Section 2 Due (if submitting separately) Research Project Section 3 Requirements Distributed
Thursday, 4/14 No Class Day	<ul style="list-style-type: none"> • No class! 	None
Tuesday, 4/19 Public Opinion and Judicial Policy Making, Part I	<ul style="list-style-type: none"> • How does public opinion affect judicial decisions? • How do judges gauge public opinion? 	Reading: <i>Judicial Decision Making</i> , chapter 10, pages 831 – 892 (stop right before section IV, “How Courts Affect Public Opinion”) Practice Exam Questions Distributed
Thursday, 4/21 Public Opinion and Judicial Policy Making, Part II	<ul style="list-style-type: none"> • The Court’s impact on public opinion 	Reading: <i>Judicial Decision Making</i> , chapter 10, pages 892 – 931
Tuesday, 4/26 Judicial Selection, Part I	<ul style="list-style-type: none"> • Federal nomination process • Confirmation process • Interest group participation 	Reading: <ul style="list-style-type: none"> • <i>Judicial Decision Making</i>, chapter 9, pages 735 – 740 (stop right before section B, “Selection Methods for State Judges”) • Article: “Presidents, Senates, and Failed Supreme Court Nominations” by Keith E. Whittington, <i>The Supreme Court Review</i>, 2006(1), 401-438

Class	Topics	Assignments
Thursday, 4/28 Judicial Selection, Part II	<ul style="list-style-type: none"> Judicial elections Merit selection Accountability vs. independence Possible Reforms 	<p>Reading: <i>Judicial Decision Making</i>, chapter 9, pages 740 – 788 (stop right before section III, “Possible Reforms”)</p> <p>Practice Exam Questions Due</p>
Tuesday, 5/3 Effectiveness of Courts as Policymaking Institutions, Part I	<ul style="list-style-type: none"> Constraints on court policy making Legal functionalism 	<p>Reading:</p> <ul style="list-style-type: none"> Article: “Legal Functionalism and Social Change: A Reassessment of Rosenberg’s <i>The Hollow Hope: Can Courts Bring About Social Change?</i>” by David Schultz & Stephen E. Gottlieb, <i>Journal of Law & Politics</i> 12: 63-91(1996) Article: “Judicial Contributions to US National Policy Change since 1945” by Matt Grossmann and Brendon Swedlow, <i>Journal of Law and Courts</i> 3(1): 1-35 (2015)
Thursday, 5/5 Effectiveness of Courts as Policymaking Institutions, Part II	<ul style="list-style-type: none"> Unintended consequences of litigation 	<p>Reading: Article: “Why Do States Privatize their Prisons? The Unintended Consequences of Inmate Litigation” by Anna Gunderson (forthcoming in <i>Perspectives on Politics</i>)</p> <p>Research Project Section 3 (if submitting separately) OR Full Research Project DUE</p> <p>Email kwidner1@utk.edu by the end of the day with up to 3 questions you would like me to cover in the Final Review</p>
Tuesday, 5/10 Final Review and Wrap Up	<ul style="list-style-type: none"> Topics needing clarification or review Concluding thoughts 	None
Thursday, 5/12 3:30pm – 6pm Final Exam	<ul style="list-style-type: none"> Final examination 	None

*Please note: I reserve the right to revise, alter or amend this syllabus as necessary. Students will be notified on Canvas and in class of any such changes.