



TEXAS A&M
UNIVERSITY
CENTRAL TEXAS

POLI 5302
Constitutional Law
Section 110 (Spring 2023)

Wed 2:00-4:45 PM

CRN 10477 / FH 212



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Office Hours: Mon 5-6 PM, Tues 4:30-5:45 PM, Wed 5-5:45 PM

Course Description (from TAMUCT Catalog)

Predict the resolution of constitutional controversies by examining theories of constitutional interpretation and judicial decision-making in the United States.

Course Objectives and Outcomes

This course is intended as an introduction to the social-scientific study of Constitutional Law, with a particular emphasis on the Supreme Court's interpretations of government powers, the Bill of Rights, and the provisions of the 14th Amendment. There are several objectives for the course:

1. Students should be familiar with common methods for interpreting the text of the U.S. Constitution.
2. Students should be able to approach Constitutional and legal interpretive dilemmas using the techniques of textual analysis and *stare decisis*, taking into account the conflicting demands of original intent, original public meaning, and the need for a "living constitution."
3. Students should develop and defend a coherent judicial philosophy of their own, through which they can interpret the provisions of the Constitution.
4. Students should be able to identify the uses of judicial philosophy to mask results-driven or ideological decision-making by judges.
5. Students should be able to use legal reasoning and appeals to judicial philosophies to effectively argue for either side in constitutional disputes.
6. Students should become more effective advocates, capable of addressing controversial issues using arguments (Toulmin-style combinations of claims, evidence/grounds, and warrants connecting them).

The first outcome is assessed by the first homework assignment. Outcomes 2-3 are assessed using the second homework exercise and the student's judicial opinions. Outcome 4 is assessed using the assigned law review note. Outcomes 5-6 are assessed using the assigned brief, oral arguments (debates), and the final exam.

Course Format

This course meets face-to-face, with supplemental materials made available online through the Texas A&M-Central Texas Canvas Learning Management System [<https://tamuct.instructure.com>]. **We strongly recommend the latest versions of either the Chrome or Firefox browsers. Canvas no longer supports any version of Internet Explorer.**



Student-Instructor Interaction

I check my email at least once each weekday and strive to reply to students within 24 hours, when they request a response. Reading and response times are longer over weekends and university holidays.

Book List

There are no required books to purchase for this course. The following unpublished text will be provided to students in both photocopied and electronic formats:

Dixon, Jeffrey S. 2023. *Constitutional Law for Social Scientists: A Casebook*. 2023 Edition.

The following book is recommended for its brief summaries of most of the cases covered in the course, but it is not assigned or required for purchase. You are under no obligation to purchase a textbook from a university-affiliated bookstore. The same book may also be available from an independent retailer, including an online retailer. All required readings are available on Canvas.

Vile, John R. 2020. *Essential Supreme Court Decisions: Summaries of Leading Cases in U.S. Constitutional Law*. 18th Ed. Rowman & Littlefield. ISBN: 978-1538164761

Technology Requirements and Support

This course will use the Texas A&M-Central Texas Instructure Canvas learning management system for course readings (posted in Adobe pdf format, which can be opened by Adobe Reader and most modern web browsers), the Academic Integrity Exercise, an Excel survey exercise, and PowerPoint slides. Note that Excel and PowerPoint are both available on all university computers.

- Logon to Texas A&M-Central Texas Canvas [<https://tamuct.instructure.com>].
Username: Your MyCT username (xx123 or everything before the "@" in your MyCT email address)
Password: Your MyCT password
- *For log-in problems*, students should contact Help Desk Central -- 24 hours a day, 7 days a week:
Email: helpdesk@tamu.edu
Phone: (254) 519-5466
Web Chat: [<http://hdc.tamu.edu>]
Please let the support technician know you are an A&M-Central Texas student.
- For issues with Canvas, select "chat with Canvas support," submit a support request to Canvas Tier 1, or call the Canvas support line: 1-844-757-0953, links to all are found inside of Canvas using the "Help" link.
- For issues related to course content and requirements, contact your instructor

Grading (90/80/70/60, rounded to the nearest percentile)

Academic Integrity Exercise: This consists of watching a brief lecture on Canvas, taking a quiz, seeing where any mistakes on the quiz came from, and signing a statement. It takes about half an hour. Once you successfully complete this exercise, you will no longer need to do so in future political science courses. If you have successfully completed this exercise in another one of my courses, then you need not complete it again to get the credit.

*****Completing the Academic Integrity Exercise is a prerequisite to passing this course. It must be completed before the due date in the course calendar.*****

Rubric: You will fail the course if you are required to complete the Academic Integrity Exercise and have not completed it by the due date.

Assignments (80%). There are six types of assignments:

- Homework Exercises (2): Each of these comes with its own instructions and rubric. For example, the judicial philosophy exercise asks you to set forth your philosophy of how judges should decide difficult



Constitutional cases. This part should take a couple of paragraphs. It should be clear from your explanation exactly what a judge should do with the text of the Constitution and how the judge is to select from among competing interpretations of that text. You should also address the relevance or irrelevance of the intent of the framers of Constitutional provisions, dictionary definitions of the words in the Constitution (sometimes referred to as “plain meaning”), changing social or technological conditions, established precedent, and overarching values like natural rights or justice.

- In-Class Exercises: There are, from time to time, group discussion exercises in class. Two of them are listed on the course calendar, but there will probably be more. Each is worth equal credit, which is earned by participating throughout the exercise.
- Briefs (4 – one stand-alone brief and three briefs for oral arguments, which are due on Canvas [the Discussions tab] by 6 PM the Monday prior to the oral argument: For an example of a good brief for this class, see the *Frothingham v. Mellon* sample brief.
 - You want a brief to convince the reader (i.e. each Justice) that your position on the question(s) posed by the Court in your case is the only logical position, given the text of the Constitution and any applicable laws, prior precedents, and the degree to which a decision in your favor will serve universal social objectives. Remember that your classmates are a diverse lot with different judicial philosophies, so don’t rely too much on an overly-narrow view of how the Constitution must be interpreted. Try to find common ground that justices might find compelling even if their interpretive approaches differ.
 - Begin with a paragraph recounting the basic facts of the case, so the reader is familiar with who did what and what was decided in the lower courts.
 - Now address the question(s) posed by the Court, in order.
 - For each question, try to come up with at least three independent reasons the Court should rule in your favor.
 - For example, you might emphasize that the plain meaning of the Constitution supports your answer, that one (preferably many) previous cases have interpreted the Constitutional provision at issue in the manner you recommend, and that the alternatives to your answer have unacceptable social costs (like undermining one or more of the social objectives listed above).
 - Then move on to the next question.
 - Finally, include a closing paragraph where you tie together your arguments to show the Justices (your classmates) the positive implications of voting for your client and the negative implications of voting for opposing counsel’s client.
 - Actual briefs use a unique system of citation, but all I ask is that when you cite a case, you provide the case name in italics and the year of the decision (and page number for direct quotes) in parentheses. If you cite secondary sources, be sure to use APSA format for them (APSA guidelines are available on Canvas), attaching a Works Cited page.
 - Oral Arguments [Debates] (3). Each student will participate in three debates, modeled on oral arguments before the Supreme Court, during class time. One purpose of this exercise is to develop your public speaking skills. A full list of expectations, procedures and how you will be evaluated is attached.
 - Judicial Opinions (9). Each student will end up judging nine debates. At the end of the debate, about 10-15 minutes will be provided for you to write up a brief ballot listing the reasons for your decision and responding to the arguments of the losing side.



- Law Review Note: The student will select a case decided on Constitutional grounds (not merely statutory interpretation) from the 2021-2022 or 2022-2023 Supreme Court terms, other than one of those assigned to the student for oral argument.
 - Describe the facts of the case and the Constitutional issue it presented to the Court.
 - Analyze the opinion in the form of a short law review article (a research note).
 - On what grounds was the case decided, and how novel are these grounds? What were the controlling precedents and how were they interpreted by the majority opinion?
 - Did the Court get it right? Each argument made in the opinions (including concurring and dissenting ones) should be closely scrutinized.
 - What abuses or consequences will follow if the Court continues to consistently apply the logic in the majority opinion to future hypothetical cases?
 - All references should be cited, including references to cases.
 - Length should be 2000-4000 words.
 - A minimum of ten sources should be cited, including any cases.
 - The paper should have a clear thesis about how the Court should have approached and decided the case, including explanation of how the author’s approach is better (textually, pragmatically, etc) than the original majority opinion.

Final Exam (20%): The final exam consists of a hypothetical case for which you must write a judicial opinion that acknowledges the precedents covered in that unit. The case will contain multiple questions of constitutional interpretation crossing several different units of material.

POLI 5302 Final Exam Question Grading Rubric

Grade	Judicial Philosophy (30%)	Argument Structure (10%)	Evidence (50%)	Counter-Arguments (10%)
A	Clear, detailed, and defended. No <i>ad hoc</i> elements present; rather, everything fits together consistently from principles you defend.	The proposed ruling is built up from arguments about each element of the question, each with its own support, and consistent with a judicial philosophy.	The decision applies all legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by the judicial philosophy used in the opinion.	Addressed, with flaws spotlighted.
B	Detailed and defended, but vague or includes some <i>ad hoc</i> elements.	Some elements of the proposed ruling do not correspond to the question posed or judicial philosophy used.	The decision applies most but not all legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by your judicial philosophy.	Addressed, with mixed results.



Grade	Judicial Philosophy (30%)	Argument Structure (10%)	Evidence (50%)	Counter-Arguments (10%)
C	Partially defended, but important principles appear disconnected from each other, such as an <i>ad hoc</i> collection of conflicting ideas, rather than a complete judicial philosophy.	The ruling is a set of arguments that proceed without logical order.	The decision applies some legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by your judicial philosophy. Important evidence and lines of argumentation are ignored OR the evidence used to support the ruling is not consistent with the type required by the judicial philosophy.	Some addressed, with mixed results.
D	Partially defended, but unclear or self-contradictory. It appears to be an <i>ad hoc</i> collection of conflicting ideas, not a coherent judicial philosophy.	Most of the ruling is devoid of actual argument, instead following a stream-of-consciousness or “data dump” strategy.	At least one major element of the ruling has substantial evidence from the course that supports it. However, the other elements are supported by generally vague, irrelevant (to your judicial philosophy), or “naked” claims (i.e. ones without evidence and/or warrants).	Most unmentioned; remainder are dismissed with vague statements or similar avoidance strategies
F	Unclear or undefended.	The ruling is devoid of structure.	Little if any evidence from the course is used in the answer. It fails to synthesize the law.	Not addressed

POLI 5302 Course Rubric

Item	Points Possible	Approx. Percent
Academic Integrity Exercise	0 (but required to pass)	0% *
Exercises	100 (50 each)	8%
In-Class Exercises	100 (evenly divided)	8%
Briefs	200 (50 each)	15%
Oral Arguments	300 (100 each)	23%
Opinions	90 (10 each)	7%
Law Review Note	250	20%
Final Exam	260	20%
TOTAL POSSIBLE	1300	100%
895+=A 795-894=B 695-794=C 595-694=D 594 or lower=F		



Course Policies

Deadlines and Late Work

- Attendance is required – and is necessary to engage in in-class exercises and to write opinions after oral arguments.
- This is not a self-paced class. Late submissions lose 20% of their credit each day they are late, so the assignments close five days after the original due date. The final exam cannot be late.

Incompletes

Grades of incomplete are not to be used when students simply fall behind. Instead, they are used when some event such as a hospitalization or deployment effectively takes the student out of the class after the drop deadline. By university policy, incompletes must be finished in the subsequent semester.

Academic Integrity

University Code of Academic Honesty: Texas A&M University -Central Texas values the integrity of the academic enterprise and strives for the highest standards of academic conduct. A&M-Central Texas expects its students, faculty, and staff to support the adherence to high standards of personal and scholarly conduct to preserve the honor and integrity of the creative community. Academic integrity is defined as a commitment to honesty, trust, fairness, respect, and responsibility. Any deviation by students from this expectation may result in a failing grade for the assignment and potentially a failing grade for the course. Academic misconduct is any act that improperly affects a true and honest evaluation of a student's academic performance and includes, but is not limited to, cheating on an examination or other academic work, plagiarism and improper citation of sources, using another student's work, collusion, and the abuse of resource materials. All academic misconduct concerns will be reported to the university's Office of Student Conduct. Ignorance of the university's standards and expectations is never an excuse to act with a lack of integrity. When in doubt on collaboration, citation, or any issue, please contact your instructor before taking a course of action.

For more [information regarding the Student Conduct process](https://www.tamuct.edu/student-affairs/student-conduct.html), [https://www.tamuct.edu/student-affairs/student-conduct.html]. If you know of potential honor violations by other students, you may [submit a report](https://cm.maxient.com/reportingform.php?TAMUCentralTexas&layout_id=0), [https://cm.maxient.com/reportingform.php?TAMUCentralTexas&layout_id=0].

Specific guidelines for this course, which supplement and do not replace University policy:

- **Violations:** Some common violations of academic integrity that I have observed while teaching similar classes at TAMUCT are
 - **Most Common Violation:** Plagiarism. This comes in two varieties:
 - Use of direct quotes without quotation marks. Even if you are just using three- or four-word phrases, you need to surround them with quotation marks if you didn't create them yourself. This is true even if you cite the source! Remember that changing a few words in a sentence does not transform a direct quote into a paraphrase; instead, it transforms one long direct quote into several shorter direct quotes with a word of your own between each. A true paraphrase is the expression of the cited source's ideas in your own words.
 - Paraphrasing another person's words without citing the source
 - **Second Most Common Violation:** Receiving answers on any coursework from anyone other than the instructor. If you hand your work to someone else and they proceed to copy part or all of it, both of you will be deemed to have violated the policy. A single copied answer on an assignment is sufficient to trigger the policy.



- **Penalties:**
 - The normal penalty for a violation of academic integrity (whether or not it is specifically listed above) in any of my classes is a grade of zero for the work or a deduction of 20% (two letter grades) from your course grade, whichever is **greater**. The infraction will be reported to the TAMUCT administration, with a recommendation for probation in the case of deliberate violation or no further action in the case of clearly inadvertent violation.
 - The (a) outright purchase, download, or completion by others of an exam or assignment, or (b) second or subsequent violation of academic integrity (in this course or other courses) display such serious disregard for academic integrity that either one of them will result in course failure **and** recommendation for maximum disciplinary penalties to the TAMUCT administration.

Drop Policy

If you discover that you need to drop this class, you must complete the [Drop Request](#) Dynamic Form through Warrior Web:

[<https://federation.ngwebsolutions.com/sp/startSSO.ping?PartnerIdId=https://eis-prod.ec.tamuct.edu:443/samlSSO&SpSessionAuthnAdapterId=tamuctDF&TargetResource=https%3a%2f%2fdynamicforms.ngwebsolutions.com%2fSubmit%2fStart%2f53b8369e-0502-4f36-be43-f02a4202f612>]

Faculty cannot drop students; this is always the responsibility of the student. The Registrar's Office will provide a deadline on the Academic Calendar for which the form must be completed. Once you submit the completed form to the Registrar's Office, you must go into Warrior Web and confirm that you are no longer enrolled. If you still show as enrolled, FOLLOW-UP with the Registrar's Office immediately. You are to attend class until the procedure is complete to avoid penalty for absence. Should you miss the drop deadline or fail to follow the procedure, you will receive an F in the course, which may affect your financial aid and/or VA educational benefits.

Student Resources

- **Emergency Warning System for Texas A&M University – Central Texas:** SAFEZONE. SafeZone provides a public safety application that gives you the ability to call for help with the push of a button. It also provides Texas A&M University-Central Texas the ability to communicate emergency information quickly via push notifications, email, and text messages. All students automatically receive email and text messages via their myCT accounts. Downloading SafeZone allows access to push notifications and enables you to connect directly for help through the app.
 - You can download SafeZone from the app store and use your myCT credentials to log in. If you would like more information, you can visit the SafeZone website [www.safezoneapp.com].
 - To register SafeZone on your phone, please follow these 3 easy steps:
 1. Download the SafeZone App from your phone store using the link below:
 - iPhone/iPad: [<https://apps.apple.com/app/safezone/id533054756>]
 - Android Phone / Tablet [<https://play.google.com/store/apps/details?id=com.criticalarc.safezoneapp>]
 2. Launch the app and enter your myCT email address (e.g. {name}@tamuct.edu)
 3. Complete your profile and accept the terms of service
- **Academic Accommodations:** At Texas A&M University-Central Texas, we value an inclusive learning environment where every student has an equal chance to succeed and has the right to a barrier-free education. The Warrior Center for Student Success, Equity and Inclusion is responsible for ensuring that students with a disability receive equal access to the university's programs, services and activities. If you believe you have a disability requiring reasonable accommodations, please contact the Office of



Access and Inclusion, WH-212; or call (254) 501-5836. Any information you provide is private and confidential and will be treated as such.

- Texas A&M University-Central Texas supports students who are pregnant and/or parenting. In accordance with requirements of Title IX and related guidance from US Department of Education's Office of Civil Rights, the Dean of Student Affairs' Office can assist students who are pregnant and/or parenting in seeking accommodations related to pregnancy and/or parenting. Students should seek out assistance as early in the pregnancy as possible. For more information, please visit [Student Affairs](https://www.tamuct.edu/student-affairs/pregnant-and-parenting-students.html) [https://www.tamuct.edu/student-affairs/pregnant-and-parenting-students.html]. Students may also contact the institution's Title IX Coordinator. If you would like to read more about these [requirements and guidelines](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf) online, please visit the website [http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf].
- Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex and gender—including pregnancy, parenting, and all related conditions. A&M-Central Texas is able to provide flexible and individualized reasonable accommodation to pregnant and parenting students. All pregnant and parenting students should contact the Associate Dean in the Division of Student Affairs at (254) 501-5909 to seek out assistance. Students may also contact the University's Title IX Coordinator.
- **Tutoring:** Tutoring is available to all A&M-Central Texas students, both virtually and in-person. Student success coaching is available online upon request.
 - If you have a question, are interested in becoming a tutor, or in need of success coaching contact the Warrior Center for Student Success, Equity and Inclusion at (254) 501-5836, visit the Warrior Center at 212 Warrior Hall, or by emailing WarriorCenter@tamuct.edu.
 - To schedule tutoring sessions and view tutor availability, please visit [Tutor Matching Services](https://tutormatchingservice.com/TAMUCT) [https://tutormatchingservice.com/TAMUCT] or visit the Tutoring Center in 111 Warrior Hall.
 - Chat live with a remote tutor 24/7 for almost any subject from on your computer! Tutor.com is an online tutoring platform that enables A&M-Central Texas students to log in and receive online tutoring support at no additional cost. This tool provides tutoring in over 40 subject areas except writing support. Access Tutor.com through Canvas.
- **University Writing Center:** Located in Warrior Hall 416, the University Writing Center (UWC) at Texas A&M University–Central Texas (A&M–Central Texas) is a free service open to all A&M–Central Texas students. The hours of operation are from 10:00 a.m.-5:00 p.m. Monday thru Thursday in Warrior Hall 416 (with online tutoring available every hour as well) with satellite hours available online only Monday thru Thursday from 6:00-9:00 p.m. and Saturday 12:00-3:00 p.m.
 - Tutors are prepared to help writers of all levels and abilities at any stage of the writing process. While tutors will not write, edit, or grade papers, they will assist students in developing more effective composing practices. By providing a practice audience for students' ideas and writing, our tutors highlight the ways in which they read and interpret students' texts, offering guidance and support throughout the various stages of the writing process. In addition, students may work independently in the UWC by checking out a laptop that runs the Microsoft Office suite and connects to WIFI, or by consulting our resources on writing, including all of the relevant style guides. Whether you need help brainstorming ideas, organizing an essay, proofreading, understanding proper citation practices, or just want a quiet place to work, the UWC is here to help!
 - Students may arrange a one-to-one session with a trained and experienced writing tutor by making an appointment via [WCOOnline](https://tamuct.mywconline.com/) [https://tamuct.mywconline.com/]. In addition, you can email Dr. Bruce Bowles Jr. at bruce.bowles@tamuct.edu if you have any questions about the



UWC, need any assistance with scheduling, or would like to schedule a recurring appointment with your favorite tutor.

- **University Library & Archives:** The University Library & Archives provides many services in support of research across campus and at a distance. We offer over 350 electronic databases containing approximately 631,525 eBooks and 75,149 journals, in addition to the 97,443 items in our print collection, which can be mailed to students who live more than 50 miles from campus. Research guides for each subject taught at A&M-Central Texas are available through our website to help students navigate these resources. On campus, the library offers technology including cameras, laptops, microphones, webcams, and digital sound recorders.
 - Research assistance from a librarian is also available 24 hours a day through our online chat service, and at the reference desk when the library is open. Research sessions can be scheduled for more comprehensive assistance, and may take place virtually through WebEx, Microsoft Teams or in-person at the library. [Schedule an appointment here](#)
 - [<https://tamuct.libcal.com/appointments>]. Assistance may cover many topics, including how to find articles in peer-reviewed journals, how to cite resources, and how to piece together research for written assignments.
 - Our 27,000-square-foot facility on the A&M-Central Texas main campus includes student lounges, private study rooms, group work spaces, computer labs, family areas suitable for all ages, and many other features. Services such as interlibrary loan, TexShare, binding, and laminating are available. The library frequently offers workshops, tours, readings, and other events. For more information, please visit our [Library website](#) [<https://tamuct.libguides.com/index>]

Important University Dates (From <https://www.tamuct.edu/registrar/academic-calendar.html>)

January 17, 2023	Add, Drop, and Late Registration Begins for 16- and First 8-Week. \$25 fee assessed for late registrants.
January 17, 2023	Classes Begin for Spring Semester
January 19, 2023	Deadline for Add, Drop, and Late Registration for 16- and First 8-Week Classes
February 1, 2023	Deadline to Drop 16-Week Classes with No Record
February 1, 2023	Educator Preparation Program (Teacher and Principal) application deadline
February 1, 2023	Superintendent Program application deadline
March 10, 2023	Deadline for Admissions Applications (Spring)
March 13-17, 2023	Spring Break
March 20, 2023	Advising Begins for Summer Semester
March 20, 2023	Class Schedule Published For Summer Semester
March 31, 2023	Deadline for Graduation Application for Ceremony Participation
April 1, 2023	Clinical Teaching Placement Form Deadline
April 1, 2023	School Counselor Program Application deadline (Summer)
April 1, 2023	Deadline for GRE/GMAT Scores to Office of Graduate Studies
April 3, 2023	Registration Opens for Summer Semester



April 5, 2023	Priority Deadline for International Student Admission Applications (Summer)
April 7, 2023	Deadline for Scholarship Applications for the Summer Semester
April 7, 2023	Deadline to Drop 16-Week Classes with a Quit (Q) or Withdraw (W)
April 14, 2023	Deadline for Final Committee-Edited Theses with Committee Approval Signatures
April 24, 2023	Priority Deadline for VA Certification Request (Summer)
April 28, 2023	Student End of Course Survey Opens (16- and Second 8-Week Classes)
May 12, 2023	Deadline for Applications for \$1,000 Tuition Rebate for Spring Graduation (5pm)
May 12, 2023	Deadline for Degree Conferral Applications to the Registrar's Office. \$20 Late Application Fee.
May 12, 2023	Deadline to Withdraw from the University for 16- and Second 8-Week Classes
May 12, 2023	Spring Semester Ends
May 13, 2023	Commencement Ceremony Bell County Expo Center 3 pm

Amendments

Not all exigencies can be foreseen. I reserve the right to amend the syllabus at any time. Any such amendment will be provided to the students in writing by uploading a revised syllabus to Canvas.

Instructor's Personal Statement (not required reading, but may be of interest)

I strive to provide my students with a liberal arts education. Such an education is intended to expand human potential by emphasizing critical thinking skills, strong writing and oral communication skills, and perceptive responses to others' arguments. These goals enable students to become lifelong learners, community members, and ultimately to lead rewarding lives. Therefore, under the broad rubric of a liberal arts approach to teaching, I emphasize four objectives in my teaching: development of critical thinking skills, advancement of writing and speaking skills, moral development, and mastery of what in my judgment constitutes the "core" of the area under study. These goals determine how I construct course syllabi, which materials I use, and how I manage the classroom.

Critical Thinking Skills

Students should learn to think critically about the material in the course (primarily the assigned readings). This is a difficult skill to learn, but one that pays dividends in every other class and in the outside world. After all, we want educated and critical citizens. In this course, I sometimes assign my own work, as this is my research area. I expect students to bring the same critical focus to my own work that they do to those of other authors.

I divide critical thinking skills into three components. First, students must be perceptive readers and listeners. In nearly all courses, there are either sections of the readings, lectures, or class handouts which we discuss and debate, nearly line by line. The point of these exercises is to draw students' attention to the multiple ways in which one might read a phrase or argument. Even where the course readings consist largely of a standard textbook, I try to model this skill in class discussions by initially responding to many questions with "Are you asking X, Y, or Z?" Understanding the nuances of an argument is a prerequisite to analyzing it.

Second, students should have the ability to challenge and dissect arguments made by the course materials, fellow students, or myself. There are some students who are looking for "the way it is" to be



handed to them from on high. I aim to challenge those students by presenting concrete, unsolved puzzles, and then presenting a number of possible solutions, requiring them to compare the evidence for each. Since the questions I ask in class are usually open questions within the discipline of political science, there are no easy answers. When I open a class discussion, gage with students doing discussion exercises, or grade homework assignments, I play “devil’s advocate” for each student or group, taking a different position as I interact with each student. It is therefore disappointing when students simply parrot back what they believe the professor wants to hear. Their own thoughts count.

Just as important as the ability to analyze an argument is the ability to construct and defend one, choosing one among several imperfect explanations as the “best bet” for explaining a phenomenon or the superior normative framework. There are some students who are very good at critiquing existing explanations, but who then use this skill as an excuse to avoid argument altogether: “None of these explanations are perfect, so it’s all just a matter of opinion.” I force students to weigh the strengths and flaws of each competing explanation and identify the one which is most likely to be correct. For legal questions, I require them to apply their own judicial philosophy to difficult questions of interpretation. In sum, I try to combine the focus on argument dissection that one finds in debate with the focus on puzzle-solving that one finds in science and philosophy.

Writing and Speaking Skills

As a former debater and debate coach, I appreciate the importance of being able to write and speak clearly. Of course, one of the most important ways to accomplish this is by assigning writing and presentation activities that require effective argument. Students should learn to argue more than one side of a proposition, for those who do not understand opposing arguments are not truly capable of establishing and defending their own arguments. In order to help students proofread their work, I put together a brief guide illustrating the most common student grammatical errors: word mix-ups, sentence fragments, agreement of subject and verb, and improper comma or apostrophe usage.

Moral Development

One goal of a liberal arts education is to render students more capable of self-reflection and positive development. Moral education is essential to this process, yet may be the most difficult task facing an educator. Students must first be convinced that the ethical life is the best life. Fortunately, most students already have a set of values, albeit sometimes under-examined and often inconsistent ones. The task of the professor is to challenge their moral beliefs in such a manner that students have to choose between competing values and become more consistent in their moral judgments. It is not the task of the professor to ensure that students adhere to a particular value system or ideology; instead, the ideal professor will challenge students of any ideology and make them more consistent in their judgments.

For this to be possible, students need to recognize their own underlying assumptions (often their religious faith, combined with a cynical view of human behavior) that make a system of values possible. They must then be able to defend the connections between those assumptions and their value choices. In short, political science needs to be seen as part of a broader liberal arts curriculum which prepares students to do justice (as students understand it) in the world. Otherwise, we risk training sophists who simply use their skills to manipulate others.



Subject Mastery

Finally, each class I teach has a certain “core” of material I expect students to master. This material is the necessary data for intelligent discussion of the questions posed by the course. Mastery is different than memorization; it means being able to apply the material to an unanticipated question or situation. Accordingly, units are structured around great unanswered questions or legal dilemmas.



Course Schedule

Unit I: Processes of Constitutional Interpretation – Is the “Rule of Law” a Myth?

1. **January 18:** Presentation -- *The Rule of Law, Or Politics By Other Means?*
2. **January 25:** Textualism
 - a. Complete (if you have not previously completed the Academic Integrity Exercise for me in some other course): Academic Integrity Exercise (see Assignments on Canvas)
 - b. Read: *Constitution of the United States of America* (Links on Canvas)
 - c. Complete: Constitutional Scavenger Hunt Exercise
3. **February 1:** Originalism, Plain Meaning, and a Living Constitution
 - a. Read:
 - i. Dixon, Constitutional Law for Social Scientists, Introduction
 - ii. Whittington, “Originalism: A Critical Introduction”
 - iii. Baude and Doerfler, “The (Not So) Plain Meaning Rule”
 - iv. Reinhardt, “Life or Death: Our Constitution and How It Grows”
 - b. Complete: Judicial Philosophy Exercise

Unit II: The Separation and Division of Constitutional Powers

4. **February 8:** Judicial Power
 - a. Read:
 - i. Dixon, Constitutional Law for Social Scientists, Chapter 1
 - ii. Sample Brief for Petitioner (*Frothingham v. Mellon*)
 - b. In Class: Debate 1A
5. **February 15:** Congressional Power
 - a. Read:
 - i. Vile, Essential Supreme Court Decisions: Summaries of Leading Cases in US Constitutional Law (Excerpts on Congressional Powers) [Canvas]
 - ii. Dixon, Constitutional Law for Social Scientists, Chapters 2-3
 - b. In Class:
 - i. Policy Preferences Survey
 - ii. Debate 1B
6. **February 22:** Executive Power
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 4
 - b. In Class:
 - i. Separation of Powers Exercise
 - ii. Debate 1C
7. **March 1:** Federalism
 - a. Read:
 - i. Class Survey Analysis (Canvas)
 - ii. Dixon, Constitutional Law for Social Scientists, Chapter 5
 - b. In Class: Debate 1D

Unit III: Political Rights: Speech, Assembly, Voting, and Equal Protection of the Laws

8. **March 8:** Political Speech
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 6
 - b. In Class: Debate 2A



9. **March 22:** Freedoms of the Press, Expression, Assembly, and Association
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 7
 - b. In Class: Debate 2B
10. **March 29:** Equal Protection of the Laws
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 8
 - b. In Class: Debate 2C
11. **April 5:** Voting Rights
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 9
 - b. In Class: Debate 2D

Unit IV: Freedoms of the Person: Religion, Privacy, Self-Defense, and Due Process

12. **April 12:** The Religion Clauses
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapters 10-11
 - b. In Class: Debate 3A
13. **April 19:** Unenumerated or Implied Rights
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 12
 - b. In Class: Debate 3B
14. **April 26:** Criminal Justice
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 13-14
 - b. In Class: Debate 3C
15. **May 3:** Due Process of Law
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapters 15-16
 - b. In Class:
 - i. Debate 3D
 - ii. Final Exam Distributed (Take-Home Exam)
16. **May 10:** Vindicating Constitutional Rights: *Bivens* Actions and Section 1983 as Remedies
 - a. Read: Dixon, Constitutional Law for Social Scientists, Chapter 17
 - b. Due: Take-Home Final Exam



Instructions: Doing your best to remain consistent with your previously-submitted judicial philosophy, answer the following questions about the Constitution. For each one, give a straightforward (usually Yes or No) answer followed by an *explanation* of which part of the text of the Constitution -- as you interpret it -- compels that result. You may find the Annotated Constitution helpful, since it contains many judicial precedents, historical notes, and textual analyses: <https://www.law.cornell.edu/anncon/>

Another source that may be useful, particularly for those interested in original meaning or original intent, is The Founder's Constitution: <http://press-pubs.uchicago.edu/founders/tocs/toc.html> Note, however, that The Founder's Constitution omits everything after the Twelfth Amendment (which is interesting, since it implies the authors don't particularly care what the Framers of the post-Civil War Amendments thought).

1. What clause of the Constitution, if any, permits Congress to establish an independent Air Force?
2. Can the Vice President be impeached?
3. Who shall officiate when the President is tried for impeachment?
4. When, if ever, can the President appoint a senior official without the advice and consent of the Senate?
5. What is necessary to convict someone of treason?
6. What does the Constitution say about how one state must regard the laws of another state?
7. What provision of the Constitution, if any, prohibits the use of excessive force against suspects?
8. What should happen if a federal court finds an act of Congress to be unconstitutional?
9. Could the President constitutionally issue a statement that only evangelical Protestants will be considered for future Supreme Court nominations?
10. Are noncitizens entitled to equal protection of the laws?
11. Does a search require a search warrant to be constitutional?
12. Could a state establish an official church, funded with state tax revenues?
13. Under what provision, if any, are federal laws prohibiting *private* racial discrimination in employment and housing authorized by the Constitution?
14. Assume the United States is hit with a devastating nuclear strike. In the aftermath, may the President impose martial law and suspend *habeas corpus* if there has been no outright invasion or rebellion?
15. Does the Speaker of the House need to be a member of the House of Representatives?

Write a final, reflective paragraph assessing whether and how your view on the Constitution has changed while answering these questions. Are there particular puzzles that are difficult to resolve? Are there results you were forced to reach that you find abhorrent or nonsensical? Were you able to separate your political preferences from your Constitutional findings?

Grading Rubric: 50 points – 3 each for 1-15 (1 for citing the most relevant provision, 2 for interpreting it) and 5 points for the reflective paragraph at the end.

Instructions: Set forth your philosophy of how judges should decide difficult Constitutional cases. This should take a couple of pages. It should be clear from your explanation exactly what a judge should do with the text of the Constitution and how the judge is to select from among competing interpretations of that text. You should address the relevance or irrelevance of (1) the stated intent of the framers of Constitutional provisions, dictionary definitions of the words in the Constitution – both (2) at a provision’s time of adoption and (3) in the present day (sometimes referred to as “plain meaning”), (4) changing social or technological conditions, (5) established precedent (the role of *stare decisis*), and (6) overarching values like natural rights or justice. You will be using your judicial philosophy to evaluate cases presented in mock oral arguments in class, so it should be clear about what steps are to be followed when interpreting the Constitution.

This exercise is your own considered thought on the issue, so research shouldn’t be necessary. Still, if you do any research, be sure to quote and cite your sources properly in the text and include an APSA-formatted works cited page.

Grading Rubric: 50 points total – 20 for the clarity, coherence, and organization of the statement of your judicial philosophy and 30 (5 each) for addressing the complete list of relevant/irrelevant factors. Minus up to 15 points if your philosophy is unclear (e.g. “I weigh the following factors...” without saying *which* factors take precedence in *which* situations).

- I. Briefs: Briefs for your constructive speeches should be posted to Canvas (use the Discussions tab on the left and then post the brief in the thread for your assigned case) by 6 PM on the Monday before you argue the case. This gives both sides time to prepare rebuttal arguments and also gives the Justices a chance to prepare some questions for each advocate.
- II. General Rules for Oral Argument
 - A. Be on time. You will miss points if we have to delay the debate due to your lateness.
 - B. I will time your speeches. When I signal TIME, you must complete your current sentence and sit down. This is how it works at the Supreme Court (although they use a little light in the podium rather than hand signals). You may wish to use your own timer so you can see how much time you have remaining during your speeches.
 - C. Judges should not speak except during question time. During speeches and opinion-writing, you should not talk. This is a way of respecting your classmates who are speaking or writing. If chatter is a problem, I will deduct points from your judging grade.
 - D. Do not talk or make gestures during someone else's speech. You should be writing down their points so you can refute them.
- III. Judging guidelines
 - A. Judges should pretty much always be taking notes. It's surprising how many arguments one forgets after 15 minutes of speeches.
 - B. Decisions
 1. Judges need to render a point-by-point decision, although they have only ten to fifteen minutes to do so. Begin your decision with the following statement: "I vote for the PETITIONER/RESPONDENT for the following reasons:"
 2. The rest of your decision should detail why you found some arguments more compelling than others. Your job is to critique the arguments rather than the speakers themselves. My own evaluation will include advice for the speakers.
 3. Put your name on your decisions so you receive credit for them. They will be shared with the debaters during the next class.
 4. Attach your notes from the debate to your decision. Your name should be on both.
 - C. Evaluation. Judging is worth 25 points.
 1. Voting is worth 5 points.
 2. Having a reasonable record of the speakers' arguments is worth 10 points. Consider using a "flow" as described in class.
 3. The explanation of your decision is worth 10 points.
- IV. Speaking rules. By and large, grading is determined by the arguments you make. However, speaking is worth some of the credit, and a good speaker tends to make weak arguments sound pretty good. Here are a few tips. I will deduct points if you don't follow them.
 - A. Speak a bit more loudly than usual, if you normally have a soft voice. A conversational voice is great, but just turn up the volume a bit. People who cannot hear your arguments probably won't vote for them.
 - B. Speak from an outline or note cards – a brief, in essence. Don't try to "wing it" **or** simply read an essay word-for-word. Both of these tactics are recipes for boring, unpersuasive speeches.
 - C. If you have an exact quote you need to read, be sure you tell the audience the source of the quotation. Try to avoid reading lengthy quotes – read only the sentence or sentences that are absolutely necessary to support your case.



- D. End your speech with a (judicial) call to action. That is, write an ending line like “We ask that you deny the appeal” or “Therefore, the appeal lacks merit” or “Having proven our case, we ask you to grant our appeal.” Do NOT use self-deprecating lines like “That was bad” or “That’s all I have” or “I’m done.”
 - E. One final tip. Try your best to *look like you are winning*, even when you doubt that you can win. Surprisingly, faking confidence can not only make others more likely to vote for you, but it can also make you more confident about public speaking.
- V. Structure. Each advocate will give two speeches – a constructive and a rebuttal – as well as answer questions from the judges (and the professor). To get an idea of what questions are likely, consider reading the transcript of the oral arguments before the Court, if one exists for your case. The Justices ask plenty of questions in most arguments, and the professor draws most of his questions from those actually asked at argument.
- A. Petitioner and Respondent Constructives (5-6 minutes) – These speeches should be prepared and practiced at least once before class (to ensure you don’t use too much or too little time). You will give a 1-2 minute description of facts and then make your argument to the Court. Argument guidelines:
 - 1. There should be more than one of them. Never put all your eggs in one basket. Find at least two (and preferably three or more) ways that your opponent’s position violates the Constitution or established methods for interpreting law.
 - 2. Each argument should have legal support. That is, you should be able to cite at least one Supreme Court case as a precedent for the argument and explain why the case you cite compels the result that you advocate. Of course, the case may not be a perfect match, but you can find a quote for just about anything from some decision or another.
 - 3. To get ideas for your briefs:
 - a. Read the opinions. For cases which haven’t been decided, find the Circuit Court of Appeals decision and read it.
 - b. Use Lexis Academic (be sure to click the Legal tab) to look for law review articles on the case you are debating (or at least the topic, if you cannot find articles about the case). These arguments are usually accompanied by plenty of references to court precedents.
 - c. Read the briefs. A number of websites make each side’s briefs to the Court publicly accessible.
 - B. Question Time (about 5-6 minutes) – This occurs after each constructive speech. Justices – and not your opponent – will ask the questions (this is not cross-examination time). Just be prepared to answer questions about your arguments. Justices commonly pose hypothetical scenarios to see how far your interpretation goes and what the consequences of adopting it are likely to be.
 - C. Petitioner and Respondent Rebuttals (2-4 minutes) – You should prepare your rebuttal while the class is questioning your opponent. The rebuttal should accomplish two tasks:
 - 1. The easy task: Remind the judges of your arguments, especially any which were not contradicted by your opponent’s speech.
 - 2. The hard task: Rebut any arguments in your opponent’s speeches that pose a threat to your case. You need to come up with responses to their arguments.
 - a. You can often anticipate your opponent’s arguments by simply reading the opinion/dissent in the case which you are debating. After all, that’s probably where they got their arguments. Prepare ahead of time to refute each point.
 - b. If your opponent is more creative than this, refutation requires some “thinking on your feet.” Of course, you should write down any answer you think of while your



opponent is still speaking. This lets you focus on the tougher arguments during your preparation time.

3. Some strategies for responding to arguments which you did not anticipate:
 - a. Argue that a proposed standard is too vague. Every standard requires interpretation, but your opponent's standard will result in inconsistent decisions by different judges – the antithesis of the predictable rule of law.
 - b. Argue that a proposed standard is open-ended. If we follow your opponent's logic, what absurd results will follow? Come up with a hypothetical situation where your opponent's arguments would set a precedent for a terrible decision.
 - c. Argue that your opponent's reading of the Constitution is too broad or too narrow. In other words, argue against the judicial philosophy which their arguments assume. If they rely on the text for an argument, try pointing out that the spirit of the law works the other way. If they speak of original intent, respond with plain meaning.
 - d. Use one of your own arguments as an answer. Sometimes, if the judge accepts one of your points as true, the opponent's argument becomes irrelevant. For example, they might say "if you allow X you will have to allow Y, which is absurd." If your proposed interpretation allows X but not Y, you should point this out.
- D. After the debate: Justices should hand in notes from the debate and their decisions/opinions.
- E. Evaluation: The form used to evaluate and grade your performance is attached.



POLI 4302/5302
 Oral Argument Evaluation

Debate: _____ Speaker: _____

Representing: PETITIONER RESPONDENT

Item	Expectations	Worth	Grade	Comments
General				
• Voice	Loud enough for everyone to understand you. Project confidence – sound like you’re winning.	10		
• Clarity	Speak in complete sentences, and distinguish each of your arguments clearly. Do not mumble.	10		
• Answers to Questions	Answer each question. Show that you understand your own arguments. If the question is irrelevant, try to explain why the judges should vote for you no matter what answer they accept.	5		
Constructive				
• Preparation	Have an outline of your arguments and support (a brief).	15		
• Organization	At least two distinct arguments, presented sequentially.	5		
• Support	Each argument cites precedent and explains why the precedent compels this decision. Each argument explains why the result you propose is better than the result proposed by your opponent.	25		
• Time	No less than 5 minutes. Stop speaking when time signal is given.	5		
Rebuttal				
• Organization	Clearly distinguish each argument being addressed (whether yours or theirs). At all times, your audience should know what you are speaking about.	10		
• Refutation	Rather than merely repeating your own points, respond to what your opponent has said.	10		
• Time	No less than 2 minutes. Stop speaking when time signal is given.	5		
TOTAL		100		

Additional Comments:



Debate/ Date	Case [Question/Issue Presented]	Petitioner/ Appellant	Respondent/ Appellee
1A Feb 8	<i>Biden v. Nebraska and Department of Education v. Brown</i> (Consolidated) * [Do six states and/or two student loan borrowers have Article III standing to challenge the Department of Education's student-debt relief plan?]	Department of Education (No)	Brown et al (Yes)
1B Feb 15	<i>Gonzales v. Raich</i> [Does the Controlled Substances Act exceed Congressional power under the Interstate Commerce Clause as applied to the <i>intrastate</i> cultivation and possession of marijuana for medical use?]	Gonzales (No)	Raich (Yes)
1C Feb 22	<i>Blassingame v. Trump</i> (as if appealed by Trump) [Are former Presidents immune from all civil suits for damages based on conduct during their terms, or only for suits based on "official" actions as President?]	Trump (Yes - all)	Blassingame (No – official only)
1D Mar 1	<i>National Pork Producers Council v. Ross</i> * [Do allegations that a state law has dramatic economic effects largely outside of the state and requires pervasive changes to an integrated nationwide industry state a violation of the dormant Commerce Clause?]	National Pork Producers Council (Yes)	Ross (No)
2A Mar 8	<i>United States v. Hansen</i> * [Are federal criminal prohibition against encouraging or inducing unlawful immigration for commercial advantage or private financial gain facially unconstitutional on First Amendment overbreadth grounds?]	United States (No)	Hansen (Yes)
2B Mar 22	<i>303 Creative LLC v. Elenis</i> * [Does applying a public-accommodation law to compel an artist to speak or stay silent violate the free speech clause of the First Amendment?]	303 Creative LLC (Yes)	Elenis (No)
2C Mar 29	<i>Students for Fair Admissions v. University of North Carolina</i> * [Should the Supreme Court overrule <i>Grutter v. Bollinger</i> and hold that public institutions of higher education cannot use race as a factor in admissions?]	Students for Fair Admissions (Yes)	University of North Carolina (No)
2D Apr 5	<i>Shelby County v. Holder</i> [Does the renewal of Section 5 of the Voter Rights Act under the constraints of Section 4(b) exceed Congress' authority under the Fourteenth and Fifteenth Amendments, and therefore violate the Tenth Amendment and Article Four of the Constitution?]	Shelby County (Yes)	Holder (No)

Debate/ Date	Case [Question/Issue Presented]	Petitioner/ Appellant	Respondent/ Appellee
3A Apr 12	<i>Carson v. Makin</i> [Does a state violate the Religion Clauses of the United States Constitution by prohibiting students participating in an otherwise generally available student-aid program from choosing to use their aid to attend schools that provide religious, or "sectarian," instruction?]	Carson (Yes)	Makin (No)
3B Apr 19	<i>Rowe v. DeBruyn</i> (as if appealed to Supreme Court by Rowe) [Does a duly convicted and sentenced prison inmate retain any right of self-defense against other inmates?]	Rowe (Yes)	DeBruyn (No)
3C Apr 26	<i>Heien v. North Carolina</i> * [Does a police officer's mistake of law provide the individualized reasonable suspicion that the Fourth Amendment requires to justify a traffic stop?]	Heien (No)	North Carolina (Yes)
3D May 3	<i>Samia v. U.S.</i> * [Does admitting a codefendant's redacted out-of-court confession that immediately inculcates a defendant based on the surrounding context violate the defendant's rights under the Confrontation Clause of the Sixth Amendment?]	Samia (Yes)	United States (No)

* Indicates an as-yet undecided case from the 2022-2023 Term

