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## ***Constitutional Law Preliminary Syllabus Fall 2020***

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***Please read this syllabus carefully. This is an asynchronous online class. Please note that with an online course it is very important that you read every document and e-mail/TWEN posting closely, beginning with this syllabus, to ensure that you understand all of the course assignments, procedures, and due dates. Additionally, from time to time there may be changes, reminders, and additional content sent to organize and supplement the course. You are responsible for knowing all such information. This syllabus contains important information about the organization of the course, the requirements and your grade. This is a syllabus, not a contract, and it is subject to change though I will do my best to adhere to the schedule outlined below. Please refer to TWEN for the most up-to-date course information. You must register for TWEN; all requirements will be conveyed via TWEN, easy to understand and well organized, including regular reminders about deadlines throughout the semester.***

*While we won't meet in-person this semester, I am available for you in real-time. You can reach me anytime via email at [rknake@uh.edu](mailto:rknake@uh.edu) and I will respond in most instances immediately, and no later than within 24 hours. You can also meet with me each week during live Zoom office hours. Please know that I am here for you, both to help navigate your understanding of Constitutional Law and also to support your overall law school experience amidst this unprecedented global pandemic presented by COVID-19. You are taking Constitutional Law at an amazing time in our national life, and we will explore ripped-from-the-headlines topics while also grounding your understanding of the constitution in fundamental doctrine and iconic cases.*

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### **Organization of the Course**

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**Course Description.** Constitutional law, as a legal discipline and field of study, is exceptionally important, especially today. From public health to immigration to transgender discrimination to drones to education and beyond, constitutional law is at the heart of American public policy, not to mention the newspaper headlines. Many of the topics and doctrines covered are complicated and, frankly, convoluted at times. In this course we will explore some of the most sensitive topics, such as abortion, affirmative action, antidiscrimination, and privacy. This course surveys the United States Constitution, how it is interpreted, and who interprets it. Please note that the breadth of constitutional law means that even in a four-credit course such as this there will be entire topics that go largely if not entirely unexplored. Many class topics could be entire courses. I encourage you to explore the areas you will sample here more fully during your second and third years of law school. My hope is that you will find this course fun—yes, we will have fun!—interesting, and important. Nevertheless, without a doubt, you will also find it among the most difficult of your law school career. This is due to at least two reasons. First, we will cover a great deal of dense material, with substantial reading assignments for each class. Second, the material can be very complicated, at times, especially because for many of you, this is your first exposure to constitutional law doctrine and cases. The good news is that we are in this together, and I believe you will find our time to be intellectually rigorous and rewarding.

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**Learning Outcomes.** At the end of this course, you will understand:

- Judicial review – the scope and limits of the judicial power to resolve constitutional issues;
- Separation of powers – the relationship among branches within the federal government;
- Federalism – the relationship between the federal government and state governments;
- Equality – the scope and limits of constitutional claims to equal protection of the laws, including issues of race discrimination and sex discrimination;
- Liberty – the scope and limits of constitutional claims to liberty of various kinds, including rights of personal autonomy and the family;
- Method – methods of constitutional argument, interpretation, analysis, and/or decision;
- Context – connections among the foregoing concepts, and how these lessons can be understood within relevant historical, social, political, and/or theoretical contexts.

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**Required Materials.**

LEADING CASES IN CONSTITUTIONAL LAW by Choper, Fallon, Kamisar, Shiffrin, Dorf and Schauer (2020 edition)—*I highly recommend the 2020 edition because it has been substantially updated. If you use an older version, you are responsible for reading all material as assigned even if it does not appear in the older version. You are also required to register for TWEN; I will regularly use TWEN to communicate about the course and to post assignments/lectures/quizzes/etc. Required supplemental reading will also be posted to TWEN.*

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**Our Classroom.**

- While we will not meet in a physical classroom, you will receive regular asynchronous assignments designed to provide opportunity for regular and substantive interaction between the faculty member (me) and student (you) and among students (your fellow classmates) as required by ABA Standard 306 for distance learning.
- I will regularly monitor your effort in the course and you are welcome to communicate with me at any time about your effort, in addition to the feedback you will receive directly from some of the activities. You are responsible for keeping track of completed assignments, quizzes, etc.
- **Permission to use.** I grant permission for students currently enrolled in the course to access the video-recordings and other materials posted on TWEN solely for the purpose of participating in the course. The recordings may not be used by any person other than a student enrolled in the course or for any other purpose. Students are strictly prohibited from distributing or selling any portion of the recordings or materials.

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**Assessment.** Assessment in this class is based upon participation (quizzes and assignments) (50%) and a final exam (50%). *Thoughtful, well-reasoned and well-edited, professional school level work is required and is a component of your grade, including on the final exam. This includes proper citation to rules, cases, laws, etc.*

**Participation.** The points for participation will be based upon timely completion of all assignments and quizzes. Please note that participation points are not based upon a curve and it is my hope every class participant will receive all of the allotted points. I reserve the right to raise a grade by one grade increment (ex: B to B+) for significant and consistent work that exceeds the normal expectation of the class, as determined in my sole discretion. In particular, weight will be

given to thorough and thoughtful responses to the case study assignments. I also reserve the right to lower a grade by one grade increment (ex: B to B-) for significant and consistent work that does not meet the normal expectation of the class. This reduction may be in addition to loss of participation and effort points, discussed above.

**Mock Midterm Exam:** You also will receive formative assessment via a practice mid-term exam. The practice mid-term is not graded but you must complete it or your participation grade will be reduced. The mock midterm exam will be administered as a part of regularly scheduled class hours. You will receive group feedback from me and you will have the option to meet with my teaching assistants for one-on-one individual feedback.

**Final Exam.** The final exam will be an open-book, take-home exam that I will make available for you to take during the exam period. You will access the exam via TWEN at a time convenient for you, and you will be required to complete it in four hours unless you have an official accommodation.

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**Contact Information.** I am (essentially) always online. Email is the best way to communicate: [rknake@uh.edu](mailto:rknake@uh.edu) My Zoom office hours are Tuesday from 4-5PM or by appointment at this link: <https://uhlc.zoom.us/j/9571508708> The Tuesday office hours are recorded so that all students can access them. If you have a question you would like addressed but cannot attend the live office hours session, feel free to submit it to me in advance via email.

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**Teaching Assistant.** Iris Hill and Cesar Udave are the teaching assistants for this course. They will each hold Zoom office hours/review sessions. There is no requirement for you to attend these office hours/review sessions, but they are available as a resource to you.

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**Attendance.** In an asynchronous course there is, obviously, no physical “attendance” for our classes. However, you are required to keep up with the assignment schedules as set forth in the syllabus. Falling behind that schedule may result in your forced withdrawal from the course. All units must be completed, and the standards met for credit, to receive credit for the course and to be cleared to take the final. Failure to do so will result in an incomplete. You are also required to watch all course lectures/recordings.

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**Names/Preferred Pronouns.** I want to address each of you in a manner that corresponds to your identity. Although mistakes happen, proper pronunciation, chosen names and preferred pronouns—including non-binary ones such as they|them|their|Mx.—are respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or proper pronunciation or if you have other concerns.

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**ADA Accommodations:** The Law Center is committed to meeting the needs of students with physical, learning and other disabilities and provides appropriate accommodations and services tailored to each person’s specific requirements. Please contact the Center For Students With Disabilities at (713) 743-5400 for more information.

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**Counseling and Psychological Services (CAPS):** CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad

and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let's Talk” program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

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## Schedule

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Beginning on Wednesday, August 26 and continuing through November 18, your weekly assignment will be posted to TWEN on Wednesday mornings at 9AM. It is due the following Tuesday at midnight.

The weekly assignment will always include:

1. Required reading from the casebook
2. Required supplemental reading posted on TWEN
3. Required series of short lectures which can be viewed all at once, or separately, depending on your personal learning style and schedule
4. Required quiz covering the reading and lectures
5. Required activity related to that week's topic
6. Optional suggestions for learning more about that week's topic

You should treat these weekly assignments as you would a live course, reading in advance of the lectures and keeping on pace with each week's assignments. The activities/quizzes are designed specifically by me to help you grasp key concepts central to your basic knowledge of constitutional law. I will provide feedback with examples of model work so that you can engage in regular self-assessment throughout the semester. Please note that while the reading assignments each week may seem lengthy, this is an equivalent amount of reading you would be doing for three separate in-person class meetings.

I will hold Zoom office hours from 4-5PM each Tuesday, so you can ask questions about the previous week's materials. The Tuesday session will be recorded and posted on TWEN for those who wish to view it. If you cannot attend office hours on Tuesday, you are welcome to submit questions via email for me to answer during the Zoom session. (See above for Zoom link.) Note that I will not hold office hours on Tuesday, 11/3, which is Election Day—go vote!

Please note that the topics covered each week correlate to the coverage of the constitutional law portion of the multi-state bar exam. While this is NOT a bar review course (and I highly encourage you to take one when the time comes), I have strategically focused our time together on material that will be excellent background for your success on the bar exam.

Finally, again, you will find each week's (1) reading, (2) lectures, (3) quiz, and (4) activity on TWEN. Please follow the instructions on TWEN for how to access lectures (via Dropbox), complete quizzes (usually via TWEN), and submit activities (sometimes via TWEN, sometimes via GoogleForms).

<b>Assignment Post Date</b>	<b>Assignment Due Date</b>	<b>Topics</b>
Wednesday	Tuesday	
8/26	9/1 midnight	<b>Introduction to Con Law</b>  <b>Constitutional Interpretation</b>  <b>Nature and Scope of Judicial Review</b>
9/2	9/8 midnight	<b>Judicial review in operation</b>
9/9	9/15 midnight	<b>Separation of Powers Part I</b>
9/16	9/22 midnight	<b>Separation of Powers Part II</b>
9/23	9/29 midnight	<b>Federalism</b>
9/30	10/6 midnight	<b>Substantive Protection of Economic Interests</b>
10/7	10/13 midnight	<b>Individual Rights Part I (Due Process)</b>
10/14	10/20 midnight	<b>Individual Rights Part II (Equal Protection)</b>
10/21	10/27 midnight	<b>Mock Midterm</b>
10/28	11/3 midnight	<b>Individual Rights Part III (Fundamental Rights)</b>  <b>State Action</b>
11/4	11/10 midnight	<b>First Amendment – Expression</b>
11/11	11/17 midnight	<b>First Amendment – Religion</b>
11/18	11/24	<b>Capstone Class</b>
TBA (online)		<b>Exam</b>