

**CONSTITUTIONAL LAW**  
**University of Houston Law Center**  
**Law 5488**  
**Dr. Leslie Griffin**

**COURSE INFORMATION AND SYLLABUS**  
**SPRING 2020**

**Email:** [lgriffin@central.uh.edu](mailto:lgriffin@central.uh.edu)  
**Office Phone:** (713) 743-9519  
**Office:** 104J, Teaching Unit II, Health Law Suite  
**Class Hours:** M 1:00 – 2:30 pm; T and Th 9:00 – 10:30 am, Room 211 TUII  
**Office Hours:** M 2:30 – 4; T 10:30 – Noon; By Appt.  
**Assistant:** Elaine Fiala (efiala@uh.edu)

**Course Materials:**

**Required:** CHEMERINSKY, CONSTITUTIONAL LAW (Wolters Kluwer; 6th ed. 2019)

The following websites provide very useful information about the Supreme Court, access to old cases and details about this term's calendar:

<http://www.supremecourt.gov/>  
<http://www.scotusblog.com>  
<http://supct.law.cornell.edu/supct/index.html>  
<http://www.oyez.org/>

**Recommended:** When you need help, consider ERWIN CHEMERINSKY, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES (6th ed. 2019) and STEVEN L. EMANUEL, EMANUEL LAW OUTLINES: CONSTITUTIONAL LAW (36th ed. 2018). These books may help you to understand the reading but should not replace the reading.

**Old Exams:** My old exams will be posted in a UH Blackboard class, available through Access UH. Reviewing old exams should help you prepare for the final exam.

**Course Requirements:**

**Attendance:** You are required to attend at least 80% of our regularly scheduled classes. I recommend that you attend **all** classes. There will be a sign-in sheet for every class period; it is your responsibility to make sure you sign it. Failure to do so will prevent you from receiving credit for that class session. **I reserve the right to drop any student who fails to attend 80% of class sessions.** As a courtesy to me and your fellow students, **please arrive at class on time.** I reserve the right to adjust final grades downward for habitual tardiness.

**Class Preparation and Participation:** Class preparation and participation are expected. In this class, everyone is on call every day. At my discretion, your final grade may be adjusted

upward in recognition of exceptional contributions in the classroom or downward for failure to participate.

**Use of Computers:** You are permitted to use a computer to take notes in this class. However, during class your computer is to be used only for note-taking purposes. **Use of e-mail and Internet access is not permitted during class sessions unless it is used at my direction as part of a class assignment.** I reserve the right to adjust final grades downward for unauthorized electronic access during class.

**Cell Phones/Electronic Devices/Tape Recorders:** While it may be necessary to carry these devices, all pagers and cell phones (and any other devices that make noise) **should be set to vibrate/silent mode during class.** Sanctions for violation of this rule may be imposed at my discretion. **You are not allowed to record class in any way without my written permission.**

**Grading:** The course grade will be based on a closed-book, open-Constitution final examination, given on **Tuesday, April 28, 2020**, from 9 a.m. to 1:00 p.m. The examination will consist primarily of essays, and will be based on the assigned readings and materials discussed in class. This course is subject to the official UHLC grade curve.

**CAPS Statement:** Counseling and Psychological Services (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).

**Sexual Misconduct Policy:** The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08. Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

**Course Goals:** This is the introductory class in constitutional law. Your goal is to learn how the Supreme Court of the United States decides cases. You need to understand how past cases were decided and then learn how to argue about hypothetical cases not yet decided by the Court. As you prepare for class, you should always focus on the “why” of your reading. It should be easy for you to figure out the result of each case you read (who wins or loses). In addition, you must always learn the reasoning why the Court reached its decision. You must learn the reasoning of any section of the opinion you read, whether a majority opinion, concurrence or dissent.

It takes five votes to win a case in the Supreme Court; hence you must always pay attention to the Justices participating in every case you read. By the end of the course you want to remember how the individual Justices have reasoned in each case so that you have an educated opinion on

what will be important to them in deciding future cases. You should look at my old exams early in the semester to see what type of question you will be expected to answer. As the semester progresses, you should practice your writing skills by answering old exam questions.

Writing your own outline of the class materials will help you to prepare for the exam. I recommend that you work on your outline each week so that you are not overwhelmed by producing it at the end of the semester.

Constitutional law is different from your other subjects. You will probably begin to see how all the pieces fit together about ¾ of the way into the course. Meanwhile, you should learn each piece week by week. We cover a lot of material and you will not be able to learn it if you procrastinate until the end of the semester. I am happy to meet with you to discuss your studies and exam preparation.

**Reading Assignments:** The assignments listed below are in CHEMERINSKY, CONSTITUTIONAL LAW (Wolters Kluwer; 6th ed. 2019).

## **I. FEDERAL POWERS**

### **A. JUDICIAL POWER**

M, Jan. 13      Judicial Review [1-11, 32-39]

T, Jan. 14      Standing [44-79]

Th, Jan. 16      Political Questions [90-115]

### **B. LEGISLATIVE POWER**

M, Jan. 20      No Class – Martin Luther King Day

T, Jan. 21      *McCulloch* [119-30]

Th, Jan. 23      Necessary and Proper Clause, Commerce Power  
                         *Gibbons* to Civil Rights [155-87]

M, Jan. 27      *Lopez, Morrison, Raich* [187-216]

T, Jan. 28      Federalism-based limits [216-40]

Th, Jan. 30      Taxing & Spending Powers, Congress's Powers Under the Post-Civil War  
                         Amendments [240-74]

M, Feb. 3      The Affordable Care Act [130-55]

### **C. EXECUTIVE POWER**

T, Feb 4      *Steel Seizure* [275-91]

Th, Feb. 6     **On this day, the Fifth Circuit will be on campus so you will attend their morning session. We will study *Chadha* [304-12] from 1-2:30 on that day.**

M, Feb. 10     Appointment and Removal, *PCAOB* [312-39]

T, Feb. 11     *Zivotofsky* [343-54]

Th, Feb. 13     The War on Terror [354-87]

M, Feb. 17     Presidential Power over Immigration [395-406]

T, Feb. 18     Checks on the President [115-18, 406-17]

#### **D. LIMITS ON STATE POWER**

Th, Feb. 20     Dormant Commerce Clause, Privileges and Immunities  
[457-86, 489-501]

### **II. THE POST CIVIL-WAR AMENDMENTS**

M, Feb. 24     *Slaughter-House*, *Saenz* and Incorporation [503-32]

#### **III. DUE PROCESS**

T, Feb. 25     Economic: *Lochner*, Punitive Damages [581-618]

#### **IV. EQUAL PROTECTION**

##### **A. RATIONAL BASIS REVIEW**

Th, Feb. 27     Introduction to Equal Protection, Rational Basis [683-711]

##### **B. RACIAL DISCRIMINATION**

M, Mar. 2     *Dred Scott*, *Korematsu* [711-728]

T, Mar. 3     From *Plessy* to *Brown* [728-38]

Th, Mar. 5     Other Invalidation of Segregation [738-60]

#### **Mar. 9-13     SPRING BREAK – NO CLASS**

M, Mar. 16     From *Brown* to *Parents Involved* [760-90]

T, Mar. 17     Racial Classifications Benefitting Minorities [790-803]

Th, Mar. 19     University and Law School Admissions, *Fisher* [803-33]

### **C. GENDER DISCRIMINATION**

M, Mar. 23 Level of Scrutiny [836-50]

T, Mar. 24 Gender Stereotypes and Biology [851-76]

### **D. OTHER TYPES OF DISCRIMINATION**

Th, Mar. 26 Alienage, Non-Marital Children, Age [876-901]

## **V. FUNDAMENTAL RIGHTS UNDER DUE PROCESS & EQUAL PROTECTION**

M, Mar. 30 The Right to Marry [903-29]

T, Mar. 31 Family [929-50]

Th, Apr. 2 Reproductive Autonomy [950-61]

M, Apr. 6 Abortion: *Roe*, *Casey* [961-81]

T, Apr. 7 Government Regulation of Abortions [981-1006]

Th, Apr. 9 Constitutional Protection for Medical Care Decisions [1015-30]

M, Apr. 13 Constitutional Protection for Sexual Orientation and Sexual Activity [1030-42]

T, Apr. 14 Procedural Due Process [1128-40; 1162-76]

## **VI. THE FIRST AMENDMENT**

Th, Apr. 16 First Amendment Speech [1186-1229]

M, Apr. 20 First Amendment: Free Exercise [1675-1714]

T, Apr. 21 Statutory Protection of Religious Freedom [1715-1717 & handout]

Th, Apr. 23 First Amendment: Establishment [1762-90]

**Your closed-book, open-Constitution exam will be on Tuesday, April 28, from 9:00 A.M. until 1:00 P.M. I will provide the Constitution.**