
Constitutional Law Syllabus Fall 2021

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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 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.

Organization of the Course

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.

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.

Required Materials.

LEADING CASES IN CONSTITUTIONAL LAW by Choper, Fallon, Kamisar, Shiffrin, Dorf and Schauer (2020 edition). *If you use a different version, you are responsible for reading all material as assigned. You are also required to register for TWEN; I will regularly use TWEN to communicate about the course and to post additional reading assignments along with /lectures/quizzes/activities/etc.*

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.

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.

Contact Information. I am (essentially) always online. Email is the best way to communicate: rknake@uh.edu My Zoom office hours are Friday from 3-4PM. Please email me in advance to set up a 10-15 minute meeting block. If you are unable to meet on Fridays please send me some alternate times and we will find what works for you.

Teaching Assistants. Dana Massett and Emory Powers are the teaching assistants for this course. They will each hold Zoom office hours/review sessions weekly. There is no requirement for you to attend these office hours/review sessions, but they are available as a resource to you.

Attendance/Weekly Schedule. 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. New assignments will be posted on Wednesday mornings at 9AM, with a deadline of midnight on the following Tuesday.

Honor Code. The UHLC Honor Code applies to all aspects of this class. *You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. It is an Honor Code violation to review the assignments distributed to, or written by, any of my students from prior years.*

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.

Diversity, Inclusion, and Wellness. At UHLC, we are committed to ensuring inclusive online and classroom learning spaces, where you’ll be treated with respect and dignity, and where

everyone is provided the equitable opportunity to participate, to contribute, and to succeed. In this course, all students are welcome regardless of socio-economic status, age, race, ethnicity, disability, religion, national origin, veteran's status, sex, sexual orientation, gender identity, gender expression, political affiliation, marital status and other diverse identities that we each bring to class. Our class is richer for this diversity. Inclusive learning spaces facilitate the innovation and creative thought that enhance student success. This success arises from the participation, support, and understanding of you and your colleagues. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we're all expected to engage respectfully and with regard to the dignity of all others. If you feel like your class performance is impacted in any way by your experiences inside or outside of class, please reach out to me. I want to be a resource for you. If you feel more comfortable speaking with someone besides me, Student Services is an excellent resource: 713- 743-2182. Finally, I encourage you to bring any issues negatively impacting UHLC's openness to diversity and inclusion to the Law Center's Diversity and Inclusion committee (of which I am a member). The D&I committee's charge includes "[building] on the Law Center's strengths as a diverse and inclusive environment." You can contact the committee directly at UHLCD&I@uh.edu. Your suggestions are encouraged and appreciated. Please let me know ways to improve the effectiveness of this course for you personally, or for other students or student groups.

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.

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) 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 The Texas Lawyers' Assistance Program ("TLAP") also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

Anti-Discrimination and Sexual Misconduct Policies. UHLC and the University of Houston are 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, a confidential reporting process is 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 and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members

and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.

Basic Needs. We are in an economic depression and a health crisis and I want you to know that there are resources on campus to help you, should you fall on hard times (or, if you are already there). I am one of those resources. Do not feel any shame (really!) in talking to me about anything you are going through—I'm not your therapist, but I am here for you, and I can point you to the right services and professionals.

If you find yourself food insecure, housing insecure, or in need of other services, the University has FREE resources available here: <https://www.uh.edu/dsaes/coogscare/> 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) 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 The Texas Lawyers' Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

Schedule

Beginning on Wednesday, August 25 and continuing through November 17, 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.

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).

Week	Assignment Post Date	Assignment Due Date	Topics
	Wednesday	Tuesday	
1	8/25	8/31 midnight	Introduction to Con Law Constitutional Interpretation Nature and Scope of Judicial Review
2	9/1	9/7midnight	Judicial review in operation
3	9/8	9/14 midnight	Separation of Powers Part I
4	9/15	9/21 midnight	Separation of Powers Part II
5	9/22	9/28 midnight	Federalism
6	9/29	10/5 midnight	Substantive Protection of Economic Interests
7	10/6	10/12 midnight	Individual Rights Part I (Due Process)
8	10/13	10/19 midnight	Individual Rights Part II (Equal Protection)
9	10/20	10/26 midnight	Mock Midterm
10	10/27	11/2 midnight	Individual Rights Part III (Fundamental Rights) State Action
11	11/3	11/9 midnight	First Amendment – Expression
12	11/10	11/16 midnight	First Amendment – Religion
13	11/17	11/23	Capstone Class
	TBA (online)		Exam