

Syllabus – Subject to Change

Constitutional Law
5488/11081
Spring 2024
Face-to-Face Instruction
Professor Laura Portuondo

Course Schedule: Monday, Tuesday, & Thursday 10:30-11:50 am

Office Hours: Drop in on Tuesdays 4:00-5:30 pm in Office 342L. If those times do not work, please email Professor Portuondo to schedule an alternative time.

Contact Information: lportuondo@uh.edu (preferred), 713-743-7046

Course Objectives: This introductory course will cover the text of the United States Constitution, the power of judicial review over federal and state legislation, and the scope of (and limitations on) the federal government’s power via sources such as commerce, spending, taxing, war and enforcement sections of the post-Civil War amendments. It will cover constitutional constraints on the allocation of federal power amongst the executive, legislative and judicial branches. Individual rights guaranteed by the Constitution will also be addressed, including rights to free speech and religious freedom under the first amendment, as well as rights such as due process and equal protection created or incorporated by the 14th Amendment. The course will also briefly consider the treatment of Indians, immigrants and territories under the Constitution.

Learning Objectives: Students will learn the foundational concepts of constitutional law and understand the presently dominant interpretation of the provisions we discuss. Students will also learn the normative principles and historical context underpinning the development of constitutional law. This will teach students to how to think about and advance constitutional arguments, as well as prepare them for the bar and upper level courses. Beyond the substance of constitutional law, students will practice skills that are important for their other courses and for effective legal advocacy. This includes practicing how to read and analyze case law, primary sources, and secondary sources, and how to identify the strengths and weaknesses of arguments and to engage with opposing viewpoints.

Open Dialogue: Constitutional Law cases, both past and present, involve some of the most politically controversial and heated debates in United States history. As a result, this course will and should inspire robust debate and hard conversations. I encourage you to share your ideas and perspectives in class openly—doing so will make class more meaningful and productive. At the same time, it is critical to your development as a lawyer that you learn to listen to, understand, and respond to the merits of opposing viewpoints in a respectful manner. Accordingly, I expect students to treat each other with dignity and respect, even when they may disagree strongly.

Required Text: The required textbook is: BOWIE, FEDERAL CONSTITUTIONAL LAW (2022) (ISBN-13 9781647085834). Occasionally, I may assign readings from other sources. These readings will be posted on Canvas.

Syllabus – Subject to Change

Reading Assignments: All of the reading assignments will be listed on the syllabus in advance of class. The readings are subject to change throughout the semester, so please make sure you are looking at the most recent version of the syllabus.

Grading and Assessment: Your grade will be determined based on three components: (1) a final exam; (2) your weekly responses on the class discussion board, two of which you will submit for evaluation; and (3) class participation. I describe each mode of assessment and its percentage of your grade below:

Component One: Final Exam (80%)

The exam will be an open book exam at the end of the semester. The exam, which I have not written yet, will include essay questions that track the topics and goals of this course. Unless the instructions specifically indicate otherwise, I will evaluate each of your answers based on the following rubric: (1) your ability to identify the relevant constitutional provision(s), (2) the clarity and efficiency with which you describe the relevant interpretations of those provisions, (3) the accuracy with which you apply those interpretations to the facts presented, (4) your ability to reflect on your confidence in your answer in light of unknown information, and (5) your perspective on whether your answer promotes or inhibits certain normative principles. I suggest that you keep this rubric in mind as you engage with the course material and discussion.

Component 2: Discussion Board Posts and Submissions (20%)

Weekly Discussion Board Posts

In many classes, I will ask a question, based loosely on current events, that relates to the topics and cases we discuss that day. These questions are designed to give you the opportunity to apply the concepts we are learning throughout the semester (and well before the final exam). We may spend some time considering these questions in class, but much of the discussion will take place on our online discussion board.

To that end, **by Friday at 3 p.m. of each week**, go to the “Discussions” page on Canvas and do at least **one** of the following: (a) write an answer to one of the questions I presented in class that week, **or** (b) respond to one of your classmates’ answers (e.g., agreeing, disagreeing, or otherwise responding to their view). These responses are graded in that I will check at the end of the week to see that you submitted either a question or a response. As a general matter, I will not grade the substance of your posts and there is no minimum or maximum length requirement (but see the following paragraph). You may submit as many responses as you like, but I will only check to see that you posted one question or response each week. Failure to submit a response will result in a reduction in your grade.

Two Discussion Board Submissions

Twice in the semester, submit one of your discussion posts that is **no more than 300 words** to me for evaluation by uploading a Word document to Canvas under the “Assignments” tab. One submission must be a response to my question, and the other submission must be a response to a classmate’s response. In the document, state your name, the date of your post to the discussion board, and, if you are responding to a question or another student’s response, please copy that question/response at the top of the document. Then, copy your post into the Word document and upload it. (Only the content of your post counts toward the 300 word limit.).

Syllabus – Subject to Change

These submissions are intended to help prepare you for the final exam, so I will review your post with a similar rubric as the one that will apply to the final exam: (1) your ability to identify the relevant constitutional provision(s), (2) the clarity and efficiency with which you describe the relevant interpretations of those provisions that we have read or discussed as of the date of the post, (3) the accuracy with which you apply those interpretations to the facts presented, (4) your ability to reflect on your confidence in your answer in light of unknown facts or legal concepts, and (5) your perspective on whether your answer promotes or inhibits certain normative principles.

Your first submission must be uploaded during the first half of the semester, **before Friday, February 23 at 3:00 p.m.** Your second submission must be uploaded in the second half of the semester, after Friday, February 23 and **before Friday, April 19 at 3:00 p.m.** Each submission is worth 10 points (10% of your grade total). For each day that a submission is late, I will reduce the grade for that submission by 1 point (So, if you would have earned a 10 on a submission but it is one day late, the grade would be 9. If it's two days late, the grade would be 8. Three days late, 7. Etc.).

Component Three: Participation (possibility to bump grade up/down)

Throughout the semester, you will be expected to participate in class discussions. Every student is “on call” in every class, so please come prepared to engage with the assigned material each day. I also welcome volunteers.

Although participation is not a formal percentage of your grade, it may impact your final grade. Specifically, I reserve the right to raise or lower grades one-third of a letter grade (e.g., from a B to a B+; or A- to B+) on the basis of class participation. For exceptional participation (in-class or on the weekly discussion board), I reserve the right to bump up a grade (e.g., B to B+). If you consistently display inadequate preparation for class, I reserve the right to lower your grade (e.g., B to B-).

Attendance: As a requirement for accreditation of law schools by the American Bar Association, regular and punctual class attendance is necessary. To fulfill this burden and foster a uniform and fair standard, UHLC requires that students must be present for 80% of the regularly scheduled sessions. UHLC professors have no discretion to waive this requirement. Please contact Professor Portuondo if you anticipate you will be absent from class.

Honor Code: The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

AI Generated Text: The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation

Syllabus – Subject to Change

what is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This applies to AI Generated Text from yourself or others. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/others in applying the plagiarism policy to this course. The term “assessment” means any work product generated for this course that is submitted to the instructor or presented in a class session, regardless whether it is graded content or not. Assessments include discussion posts, mid-terms, and final exams. AI Generated Text may not be used in the development or drafting of any assessments created by you in a non-proctored environment, such as a “take-home” final examination unless specified as an exception below. The parts of the Honor Code that refer to unauthorized materials or aid are specifically prohibited from any use of AI Generated Text in this course.

Chosen names and preferred pronouns: I go by Professor Portuondo and use she/her pronouns. I will gladly honor requests to use nicknames and alternate names, and want to ensure that I am calling you by the correct gender pronouns. Advise me how you would like to be addressed early in the semester so that I may make appropriate changes to my records. Please feel free to reach out to me if you have concerns about how I or your classmates address you.

Syllabus Changes: Please note that I may need to make modifications to the course syllabus. I will give notice of such changes as early as possible via announcement in email or in class.

Additional Information and Resources: Please see the end of this syllabus (after “Course Topics and Assignments”) for additional information and resources related to this class.

Course Topics and Assignments

(subject to change)

Class 1 (January 16)

- (Optional) CB Chapter 1
- CB Chapter 3.3 (pp. 81–92)
 - a. Note: You can ignore the visuals and discussion on page 82, as we will discuss the case *McCulloch v. Maryland* in a later class.
- CB Chapter 2.1.1 (Opinions on the National Bank)

Class 2 (January 18)

- CB Chapter 2.1.2 (*McCullough v. Maryland*)

Class 3 (January 22)

Syllabus – Subject to Change

- CB Chapter 3.1 (pp. 57–74)
- Excerpts, *Rucho v. Common Cause* – read the Intro & Part I (CB pp. 582–83), Part V (CB pp. 587–89), and the dissent (p. 589)

Class 4 (January 23)

- CB Chapter 5.4 (pp.114–23)

Class 5 (January 25)

- CB Chapter 6.1, SKIP 6.1.1 (pp. 125–26, 128–33)
- CB Chapter 6.2 (pp.133–45)

Class 6 (January 29)

- CB Chapter 8.1.1 (skip NOTE: DUAL FEDERALISM) (pp.157–67, 169–71)
- CB Chapter 8.2.1 (pp. 174–79)
- CB Chapter 8.2.2 (pp. 179–82)

Class 7 (January 30)

- CB Chapter 8.2.3 (pp. 182–88)
- CB Chapter 8.2.4 (pp. 188–93)
- CB Chapter 9.1 (pp. 195–202)

Class 8 (February 1)

- CB Chapter 9.2 (pp. 202–14)
- CB Chapter 9.3.2 (pp. 218–24)

Class 9 (February 5)

- CB Chapter 10.3 (pp. 232–43)
- CB Chapter 11.2 (pp. 247–58)

Class 10 (February 6)

- CB Chapter 12.1.1 to 12.1.3 (pp. 267–81)
- Casebook supplement pp. 27–28 (on Canvas)

NO CLASS FEBRUARY 8

Class 11 (February 12)

- CB Chapter 18.3 (stop after *Prigg*) (pp. 417–25)
- CB Chapter 18.4 intro & 18.4.1 (SKIP Question II and Dissent) (pp. 427–36, 442–43)
- Frederick Douglass, “The Constitution: Is It Pro-Slavery or Anti-Slavery?” (On Canvas)

Class 12 (February 13)

- CB Chapter 20.1 (pp. 478–500)
- CB Chapter 20.3 (pp. 512–16)

Class 13 (February 15)

Syllabus – Subject to Change

- CB Chapter 21.2.1 (pp. 526–33)
- CB Chapter 21.4 (pp. 547–58)

Class 14 (February 19)

- CB Chapter 21.3.1, STOP on p. 545 before “Sovereign Immunity” (pp. 538–45)

[Remaining Class Readings To Be Announced]

Additional Information and Resources

Mental Health and Wellness Resources: The University of Houston has a number of resources to support students’ mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let’s Talk location in-person or virtually. Let’s Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

Title IX/Sexual Misconduct: Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids: The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart

Syllabus – Subject to Change

Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing jdcenter@Central.UH.EDU.

Recording of Class: Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Resources for Online Learning: The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website (<https://uh.edu/power-on/learning/>). Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

Security Escorts and Cougar Ride

Security Escorts and Cougar Ride: UHPD continually works with the University community to make the campus a safe place to learn, work, and live. The security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety, please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called "Cougar Ride" that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at <https://uh.edu/af-university-services/parking/cougar-ride/>.