

PLSC 382D

Constitutional Law:

First Amendment Rights

Date and Time: TBD

Location: TBD

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Office Hours: TBD

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Course Description

This course examines the several rights guaranteed by the First Amendment of the US Constitution in the context of constitutional law. We will read and discuss both the written constitutional provisions and subsequent case law regarding the freedom of speech, freedom of religion, freedom of the press, and the right to assemble.

We will also gain a basic overview of processes and procedures of courts and the incorporation of the Bill of Rights. Students can expect to build a broader foundation of knowledge in constitutional law with a useful understanding of the controversies around the First Amendment, both past and recent.

This course will benefit those interested in 1) our most fundamental rights, 2) the legal profession, 3) legal research, 4) constitutional history, 5) how courts establish policy, and/or 6) our role in safeguarding freedoms.

Course Objectives

- 1) Understand Supreme Court precedent and case law regarding First Amendment rights.
- 2) Map the evolution of First Amendment rights over time.
- 3) Engage in legal analysis of Supreme Court opinions.
- 4) Develop legal reasoning and writing skills.

Course Requirements – Required Text

- There is only one required text for this course:
Epstein, Lee, and Thomas G. Walker. 2019. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 10th edition.
Washington, DC: CQ Press.
- I have listed the page numbers you should read for each day's topic on the course schedule at this end of this syllabus under the column "*CLfaCA Reading*."
- The textbook is available for purchase online and through the Binghamton University bookstore.

Assignments - Overview

- This course has two types of assignments, which comprise the entirety of your grade.
- Case briefs – you distill the important information and concepts out of the cases we cover each session.
- Legal Writing Exercises (2 total) – you will argue a side in a hypothetical legal scenario using cases explicitly covered in this course.

Assignments – Case Briefs

- For your case brief assignments, you distill the important information and concepts out of the cases we cover in each session.
- These case briefs will assess your ability to understand and summarized complex legal cases in a useful and meaningful way.
- You will submit case briefs for each opinion we will read. These case briefs should detail the facts of a case, issues/disputes, court holding, rationale, and other relevant elements.
- Case briefs should be no more than 1-2 single-spaced pages.
- More information will be provided in lecture the second (2nd) day of the course, but for reference feel free to use:
 - <https://www.lexisnexis.com/en-us/lawschool/pre-law/how-to-brief-a-case.page>
 - <https://lawschool.westlaw.com/marketing/display/SG/3>

Assignments – Legal Writing Exercises

- For your Legal Writing Exercises, you will argue a side in a hypothetical legal scenario using cases explicitly covered in this course.
- This assignment will assess your ability to construct legal arguments using relevant case law from Supreme Court decisions covered in this course.
- There will be two distinct hypothetical legal scenarios due through this course, one at the midway point and one at the end of the course.
- You will draw from a closed universe of cases for these Legal Writing Exercises, using only cases explicitly covered in this course.

Grading

Basis of Grade Calculation

<u>Item</u>	<u>% of Overall Grade</u>
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Case Brief	40%
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Legal Writing

Assignment 1	30%
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Assignment 2	30%
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Grading Scale

A	94-100
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A-	90-93
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B+	87-89
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B	83-86
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B-	80-82
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C+	77-79
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C	73-76
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C-	70-72
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D	65-69
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F	<65
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Course Policies – Academic Integrity

- Faculty and students have a responsibility to abide by and vigorously promote the highest standards of academic integrity.
- Students are to carefully review the Student Academic Honesty Code, which can be found on-line in the 2021-22 University Bulletin.
- Have questions? Ask me!!
- Violations will receive a grade of 0.00 (F) for the class and likely proceedings before the Academic Honesty Committee.

Course Policies - Accommodations

Students who require accommodation (as documented by Services for Students with Disabilities) should be sure to contact me in the first week or so of classes so that we can discuss the logistics of providing any accommodation(s) to which they are entitled.

Student athletes and students who are in the military should also be sure to contact me in the first week or so of classes so that we can develop a plan (if necessary) to help students simultaneously meet their academic obligations for this class and their athletic or military responsibilities.

I am also happy to discuss any other special circumstances (family illness, childcare) that students are experiencing so that we can plan accordingly to permit students to navigate both their academic and other obligations.

Topic Outline/Schedule – Week 1

Date	Concepts	Cases	CLfaCA Reading		
May 31, 2022	Course Overview, Syllabus, Case Briefs, Writing Assignments				
June 1, 2022	How to read an opinion, How to write a case brief				
June 2, 2022	What is the Law? What is a Constitution?		p.1-8		
June 3, 2022	SCOTUS Basics I		p.9-41		
June 4, 2022	Reading Day – Get Ahead of Your Reading!				

Note I: “CLfaCA Readings” stands for the Epstein and Walker textbook *Constitutional Law for a Changing America* with the page numbers inclusive.

Note II: Opinions will be available as PDFs on our Brightspace course page.

Topic Outline/Schedule – Week 2

Date	Concepts	Cases to Skim	CLfaCA Reading	Recommended Podcasts	Opinion to Read
June 6, 2022	SCOTUS Basics II		p.9-41		
June 7, 2022	Why the Bill of Rights? Why the First Amendment?			<i>We The People</i> podcast: https://constitutioncenter.org/interactive-constitution/podcast/why-the-first-amendment-matters-today	
June 8, 2022	Early Free Speech Decisions	Schenck v. US (1919); Gitlow v. NY (1925)	p.184-202	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/06/fire-in-a-crowded-theater/ <i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/07/fighting-faiths/	Abrams v. US (1919)
June 9, 2022	Symbolic Speech	US v. O'Brien (1968); Texas v. Johnson (1989)	p.202-211	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/05/street/	Stromberg v. California (1931)
June 10, 2022	Preservation of Order I	Chaplinsky v. NH (1942); Cohen v. California (1971)	p. 211-218	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/01/fighting-words/ <i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/11/the-f-bomb/	
June 11, 2022	Preservation of Order II	McCullen v. Coakley (2014); Snyder v. Phelps (2011)	p. 218-230	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2020/10/imminent-lawless-action/	Brandenburg v. Ohio (1969)

Topic Outline/Schedule – Week 3

Date	Concepts	Cases to Skim	CLfaCA Reading	Recommended Podcasts	Opinion to Read
June 13, 2022	Student Speech	Tinker v. Des Moines Independent Community School Districts (1969); Morse v. Frederick (2007)	p.235-243	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/01/the-schoolhouse-gates/	
June 14, 2022	Government Speech	Walker v. Texas Division, Sons of Confederate Veterans (2015); Matal v. Tam (2017)	p. 256-264	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/03/disparagement-contempt-and-disrepute/ <i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2018/02/on-the-job-free-speech-government-workplace/	
June 15, 2022	Right Not to Speak/Compelled Speech	West Virginia State Board of Education v. Barnette (1943); Rumsfeld v. Forum for Academic and Institutional Rights, Inc. (2006)	p.264-272	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2019/08/deplatformed-social-media-censorship-and-the-first-amendment	Janus v. American Federation of State, County, and Municipal Employees, Council (2018)
June 16, 2022	Free Exercise of Religion I	Cantwell v. CT (1940); Sherbert v. Verner (1963); WI v. Yoder (1972)	p. 91-111		
June 17, 2022	Free Exercise of Religion II	Employment Division, Department of Human Resources of Oregon v. Smith (1990); City of Boerne v. Flores (1997)	p.111-126		Masterpiece Cakeshop v. Colorado Civil Rights Commission (2017)
June 18, 2022	Legal Memo #1 Due				

Topic Outline/Schedule – Week 4

Date	Concepts	Cases to Skim	CLfaCA Reading	Recommended Podcasts	Opinion to Read
June 20, 2022	Religion in Schools	Everson v. Board of Education (1947); School District of Abington Township v. Schempp and Murray v. Curlett (1963)	p.126-139		Lee v. Weisman (1992)
June 21, 2022	Lemon Test	Lemon v. Kurtzman and Earley v. DiCenso (1971); Zelman v. Simmons-Harris (2002)	p.139-153		
June 22, 2022	Religious Establishment I	Trinity Lutheran Church v. Comer (2017); Edwards v. Aguillard (1987)	p. 153-164		Rosenberger v. University of Virginia (1995)
June 23, 2022	Prayer in School and Government	Engel v. Vitale (1962); Town of Greece v. Galloway (2014)	p. 164-171		Santa Fe Independent School District v. Doe (2000)
June 24, 2022	Religious Establishment II	Van Orden v. Perry (2005); Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission (2012)	p.171-182	<i>We The People</i> podcast: https://constitutioncenter.org/interactive-constitution/podcast/student-aid-religious-education-and-the-first-amendment	
June 25, 2022	Reading Day – Get Ahead of Your Reading!				

Topic Outline/Schedule – Week 5

Date	Concepts	Cases to Skim	CLfaCA Reading	Recommended Podcasts	Opinion to Read
June 27, 2022	Libel	New York Times v. Sullivan (1964); Hustler Magazine v. Falwell (1988)	p.307-321		
June 28, 2022	Obscenity	Roth v. US (1957); Miller v. California (1973); New York v. Ferber (1982)	p.321-340	<i>Make No Law</i> podcast: https://legaltalknetwork.com/podcasts/make-no-law/2020/06/i-know-it-when-i-see-it/	
June 29, 2022	Freedom of Association	Boy Scouts of America v. Dale (2000)	p.272-278		Roberts v. United States Jaycees (1984)
June 30, 2022	Freedom of the Press	Near v. Minnesota (1931); New York Times v. US (1971); Hazelwood School District v. Kuhlmeier (1988)	p.280-300	<i>We The People</i> podcast: https://constitutioncenter.org/interactive-constitution/podcast/should-the-supreme-court-reconsider-nyt-v-sullivan	
July 1, 2022	Legal Memo #2 Due	LAST DAY OF CLASS			