

# PLSC 382G

## Constitutional Law: First Amendment Rights

Tuesday/Thursday 925AM-1050AM

Location: University Downtown Center Room 226

Instructor: Michael Catalano

Email: [mcatala4@binghamton.edu](mailto:mcatala4@binghamton.edu)

Office Hours: Tuesdays 815AM-915AM

Thursdays 1230PM-130PM

First floor of the University Downtown Center

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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 Texts

- 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*."
- NOTE: Please get the 10<sup>th</sup> edition as the page numbers may not otherwise line up with other editions. There is a newer edition of this text (11<sup>th</sup> edition). However, I decided the difference in content between the editions did not justify spending the extra money for the newer edition.
- The textbook is available for purchase online.

# Course Requirements – Court Opinions

- You will also be expected to **READ** two SCOTUS opinions per session over the course of the semester to explore cases not covered in our textbook. These are listed on the course schedule at the end of this syllabus under the column "*Opinions to Read.*"
- Of course, you can and SHOULD read ahead. In fact, I strongly recommend you do so STARTING DAY 1.
- While this entails A LOT of reading, this will allow you to witness the legal argument and reasoning behind the decisions that govern our First Amendment rights.
- While reading legal texts may prove difficult at first, you will find with time (and practice) that the process becomes MUCH more efficient.

# Course Requirements - Podcasts

- I have ***RECOMMENDED*** podcasts for you to listen to throughout the semester. These podcasts are fun and entertaining ways to engage with course we will discuss, providing additional context and legal analysis.
- You can find the links for the podcasts in the syllabus's course schedule.
- You should be able to listen to these podcasts through Apple podcasts, Google podcasts, and other podcast platforms.
- The course sources episodes from two podcasts:
  - *Make No Law* - Explores the background of important First Amendment cases and the personalities and history that led to them. Hosted by Ken White.
  - *We the People* - A weekly show of constitutional debate hosted by National Constitution Center President and CEO Jeffrey Rosen where listeners can hear the best arguments on all sides of the constitutional issues at the center of American life.

# Credit Hours and Expectations

- This course is a 4-credit course, which means that in addition to the scheduled lectures/discussions, students are expected to do at least 150 hours of course-related work during a TYPICAL semester.
- This means roughly 2 hours a day reading, writing, reviewing lecture notes, and listening to recommended podcasts.
- I understand the demand this places on your time, but I must commit to offering a meaningful amount of content to you through this course.



# Grading

Basis of Grade Calculation		<u>Grading Scale</u>	
<u>Item</u>	<u>% of Overall Grade</u>		
Participation	15%	A	94-100
Case Brief	20%	A-	90-93
Legal Writing		B+	87-89
Assignment 1	15%	B	83-86
Assignment 2	15%	B-	80-82
Assignment 3	15%	C+	77-79
Final Exam	20%	C	73-76
		C-	70-72
		D	65-69
		F	<65

# Assignments - Overview

- This course has two types of writing assignments, case briefs and legal writing exercises, in addition to a participation and a final exam components, comprising 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 (3 total) – you will argue a side in a hypothetical legal scenario using cases explicitly covered in this course.
- Additionally, you will be graded on participation and a final exam.

# 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 read. These case briefs should detail the facts of a case, legal question(s), 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 (2<sup>nd</sup>) 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 covered in this course.
- This assignment will assess your ability to construct legal arguments using relevant case law from Supreme Court decisions.
- There will be three distinct hypothetical legal scenarios due through this course.
- You will draw from a closed universe of cases for these Legal Writing Exercises, using only cases explicitly covered in this course.

# Attendance and Participation

- Participation is a component of your grade. Alerting me AHEAD OF CLASS that you will be absent will grant you an excused absence.
- This course will rely considerably on your participation and discussion about the cases we cover each session. This means I may cold-call on you during class with the expectation that you are prepared to offer meaningful contributions. This style of classroom management will somewhat mimic a law school setting.
- Absences may result in additional assignments related to the topic of the missed class.

# Challenges with Assignments/Grades

- Late Written Work
  - 10% grade deduction on assignment for each 24-period past the due date/time.
  - If you anticipate being late on an assignment, let me know as soon as possible AHEAD OF TIME. This may allow for leniency (NOT guaranteed).
- Grade Appeals
  - Appeals must be to the instructor (me) within 7 calendar days (one week) of the date the graded item is returned to the class.
  - Appeals from you must take the form of a one-page, single-spaced memo.
  - These memos must provide detailed, specific, and substantively meaningful reasons tied to the rubric for the assignment in question.

# 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 2023-24 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.



# Campus Help for Students – Dean of Students

If you are experiencing undue personal or academic stress at any time during the semester or need to talk with someone about a personal problem or situation, I encourage you to seek support as soon as possible. I am available to talk with you about stresses related to your work in my class. Additionally, I can assist you in reaching out to any one of a wide range of campus resources, including:

1. Dean of Students Office: 607-777-2804
2. Decker Student Health Services Center: 607-777-2221
3. University Police: On campus emergency, 911
4. University Counseling Center: 607-777-2772
5. Interpersonal Violence Prevention: 607-777-3062
6. Harpur Advising: 607-777-6305
7. Office of International Student & Scholar Services: 607-777-2510

# Campus Help for Students – University Counseling Center

- At some point during their college experience, students may encounter personal, social, or developmental issues that call for assistance beyond the advice provided by friends and family.
- That's where the University Counseling Center (UCC) can help. The UCC provides a variety of free and confidential counseling services delivered by professional counselors.
- All currently enrolled Binghamton University undergraduate students, graduate students and affiliated entities are eligible to receive these services free of charge.
- Services and programs available through the center include individual and group counseling, consultation, referral, and psychoeducational programs.
- For more information or to make an appointment, visit <https://www.binghamton.edu/counseling>.

# About Me!

Name: Michael Catalano

Email Address: [mcatala4@binghamton.edu](mailto:mcatala4@binghamton.edu)

Office: LNG 98

Hometown: Cortland, NY

Current Residence: Endwell, NY

Education: Gettysburg College (BS 2010), Binghamton University (MA 2019), Binghamton University (PHD EXPECTED 2024)

Favorite things: My family (Jenna, Theodore, Luca, wife Olivia), Winemaking, Delta Blues, Gardening, Hiking, Magic the Gathering

# Course Schedule

Date	Topics	Cases	CLfaCA Reading	Podcasts	Assignment Due
January 16	Course Overview, Syllabus				
January 18	How to read an opinion, How to write a case brief				
January 23	Supreme Court Basics		p.1-41		
January 25	Why the Bill of Rights? Why the First Amendment			<i>We The People</i> podcast: <a href="https://constitutioncenter.org/interactive-constitution/podcast/why-the-first-amendment-matters-today">https://constitutioncenter.org/interactive-constitution/podcast/why-the-first-amendment-matters-today</a>	
January 30	Early Free Speech Decisions I	Schenck v. US (1919); Gitlow v. NY (1925)	p.184-202	<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/06/fire-in-a-crowded-theater/">https://legaltalknetwork.com/podcasts/make-no-law/2018/06/fire-in-a-crowded-theater/</a> <i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/07/fighting-faiths/">https://legaltalknetwork.com/podcasts/make-no-law/2018/07/fighting-faiths/</a>	
February 1	Early Free Speech Decisions II	Abrams v. US (1919); Stromberg v. California (1931)			

# Course Schedule

Date	Topics	Cases	CLfaCA Reading	Podcasts	Assignment Due
February 6	Symbolic Speech	US v. O'Brien (1968); Texas v. Johnson (1989)	p.202-211	<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/05/street/">https://legaltalknetwork.com/podcasts/make-no-law/2018/05/street/</a>	
February 8	Preservation of Order I	Chaplinsky v. NH (1942); Cohen v. California (1971)	p. 211-230	<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/01/fighting-words/">https://legaltalknetwork.com/podcasts/make-no-law/2018/01/fighting-words/</a> <i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/11/the-f-bomb/">https://legaltalknetwork.com/podcasts/make-no-law/2018/11/the-f-bomb/</a>	
February 13	The Brandenburg Test	Brandenburg v. Ohio (1969)		<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2020/10/imminent-lawless-action/">https://legaltalknetwork.com/podcasts/make-no-law/2020/10/imminent-lawless-action/</a>	
February 15	Preservation of Order II	McCullen v. Coakley (2014); Snyder v. Phelps (2011)			
February 20	Student Speech	Tinker v. Des Moines Independent Community School Districts (1969); Morse v. Frederick (2007)	p.235-243	<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/01/the-schoolhouse-gates/">https://legaltalknetwork.com/podcasts/make-no-law/2018/01/the-schoolhouse-gates/</a>	
February 22	Government Speech	Walker v. Texas Division, Sons of Confederate Veterans (2015); Matal v. Tam (2017)	p. 256-264	<i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/03/disparagement-contempt-and-disrepute/">https://legaltalknetwork.com/podcasts/make-no-law/2018/03/disparagement-contempt-and-disrepute/</a> <i>Make No Law</i> podcast: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/02/on-the-job-free-speech-government-workplace/">https://legaltalknetwork.com/podcasts/make-no-law/2018/02/on-the-job-free-speech-government-workplace/</a>	

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February 27	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: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2019/08/deplatformed-social-media-censorship-and-the-first-amendment">https://legaltalknetwork.com/podcasts/make-no-law/2019/08/deplatformed-social-media-censorship-and-the-first-amendment</a>	Legal Note #1
February 29	Libel	New York Times v. Sullivan (1964); Hustler Magazine v. Falwell (1988)	p.307-321	<i>We The People</i> podcast: <a href="https://constitutioncenter.org/interactive-constitution/podcast/should-the-supreme-court-reconsider-nyt-v-sullivan">https://constitutioncenter.org/interactive-constitution/podcast/should-the-supreme-court-reconsider-nyt-v-sullivan</a>	
March 5	SPRING BREAK – NO CLASS				
March 7	SPRING BREAK – NO CLASS				
March 12	Free Exercise of Religion I	Cantwell v. CT (1940); Sherbert v. Verner (1963)	p. 91-111		
March 14	Free Exercise of Religion II	WI v. Yoder (1972); Employment Division, Department of Human Resources of Oregon v. Smith (1990)	p.111-126		

# Course Schedule

Date	Topics	Cases	CLfaCA Reading	Podcasts	Assignment Due
March 19	Free Exercise of Religion III	City of Boerne v. Flores (1997); Masterpiece Cakeshop v. Colorado Civil Rights Commission (2017)			
March 21	Religion in Schools	Everson v. Board of Education (1947); School District of Abington Township v. Schempp and Murray v. Curlett (1963)	p.126-139		
March 26	Lemon Test	Lemon v. Kurtzman and Earley v. DiCenso (1971); Zelman v. Simmons-Harris (2002)	p.139-153		Legal Note #2
March 28	Religion in School and Government	Lee v. Weisman (1992); Rosenberger v. University of Virginia (1995)			
April 2	Prayer in School and Government	Engel v. Vitale (1962); Town of Greece v. Galloway (2014)	p. 164-171		
April 4	No Class - Mental Health Day				

# Course Schedule

Date	Topics	Cases	CLfaCA Reading	Podcasts	Assignment Due
April 9	Religious Establishment I	Trinity Lutheran Church v. Comer (2017); Edwards v. Aguillard (1987)	p. 153-164		
April 11	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: <a href="https://constitutioncenter.org/interactive-constitution/podcast/student-aid-religious-education-and-the-first-amendment">https://constitutioncenter.org/interactive-constitution/podcast/student-aid-religious-education-and-the-first-amendment</a>	
April 16	Freedom of Association	Roberts v. United States Jaycees (1984); Boy Scouts of America v. Dale (2000)	p.272-278		
April 18	Freedom of the Press I	Near v. Minnesota (1931); New York Times v. US (1971)	p.280-300		Legal Note #3
April 23	No Class - Passover Break				
April 25	No Class - Monday Classes Meet				



# Course Schedule

Date	Topics	Cases	CLfaCA Reading	Podcasts	Assignment Due
April 30	Freedom of the Press II	Miller v. California (1973); Hazelwood School District v. Kuhlmeier (1988)	p.280-300		
May 2	Concluding Thoughts				
May 3	Final Exam – 8AM-10AM	University Downtown Center Room 224			