

# PLSC 382D

# Constitutional Law:

# First Amendment Rights

Syllabus

Summer 2022 – Session I

Instructor: Michael Catalano

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Office Hours: Wednesdays 12P-2P

Office Hours Zoom Link:

<https://binghamton.zoom.us/j/98249994448>

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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.

# Communication Policy

- I will be available via email ([mcatala4@binghamton.edu](mailto:mcatala4@binghamton.edu)) throughout the entirety of the course.
- NOTE: There is another Michael Catalano on campus so please use the email you find in this syllabus or on the Brightspace course page.
- I will make every effort to respond to emails within 24 hours during the week or 48 hours on weekends.
- Communication from me will come primarily through our Brightspace course page. Please plan on checking the course page daily.
- Office hours will be every Wednesday from 12P-2P via Zoom. Zoom link: <https://binghamton.zoom.us/j/98249994448>

# About Me

- Name: Michael Catalano
- Hometown: Cortland, NY
- Family: Olivia (wife); kiddos Jenna (5y), Theodore (3y), and Luca (6m); dog Madea (Pug-Boston Terrier-mix)
- Undergraduate: Gettysburg College (PA)
- Research Interests: Law and Courts, Judicial Independence, State Courts, Judicial Selection
- Summer Plans (beyond this course): Gardening, Exploring Broome County Parks with my kiddos, working on my dissertation

# Format and Procedures

- This course will be conducted through:
  - readings from our course textbook and Supreme Court opinions
  - asynchronous lectures posted daily on the Brightspace course page
  - Listening to Constitutional Law podcasts
  - Your legal writing: case briefs and legal writing assignments
- Lectures
  - I will record and upload lectures on each weekday, as outlined in the schedule at the end of this syllabus.
  - Daily lectures will be approximately 30 minutes in length, broken up into 10-minute segments.
  - You **MUST** have read required texts (textbook and opinions) **AND** submitted the appropriate case briefs prior to viewing lectures.

# 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*."
- 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 and through the Binghamton University bookstore.



# Course Requirements – Court Opinions

- You will be expected to ***SKIM*** two to three Supreme Court opinions each day based on that day's topic. These are listed on the course schedule at the end of this syllabus under the column "*Cases to Skim.*"
- You will also be expected to ***READ*** several opinions 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.
- 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

- About half of our sessions have ***RECOMMENDED*** podcasts for you to listen to. These podcasts are fun and entertaining ways to engage with course we will discuss, providing additional context and legal analysis.
- The links for these podcasts can be found in the course schedule of this syllabus.
- You should be able to listen to these podcasts through Apple podcasts, Google podcasts, and other podcast platforms.
- We source 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 152 hours of course-related work during a TYPICAL semester.
- Given the truncated nature of Summer Session courses, during our 5 weeks together, you should expect to spend roughly 15-20 hours a week on this course.
- This means roughly 3-4 hours a day reading, writing, viewing lectures, 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.

# 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 (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 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 – Late Work and Extensions

- Due to the truncated and fast-paced nature of this course, late work cannot be accepted and extensions cannot be granted.
- In other words, any late work receives an automatic ZERO (0).
- If you anticipate, after the start of the semester, that you will have difficulties completing the coursework in a timely manner, it is YOUR responsibility to communicate that to me and to construct a satisfactory alternate plan that I may accept.
- There may be opportunities to make accommodations due to circumstances; however, it is at my discretion based on the demands of the course and likelihood that you will be able to keep pace with those demands.



# Course Policies – Attendance

- This course is asynchronous. As a result, there is no meaningful way for attendance to be required for this course.
- With that said, it is expected that you will view/listen to each lecture posted as if you were in an in-person lecture course.
- The (near) daily case brief assignments will act as a check akin to attendance for an in-person course.

# Course Policies – Important Dates

Date	Importance	Notes
May 31, 2022	Course Begins	
June 4, 2022	Reading Day	Get Ahead of Your Reading
June 18, 2022	Legal Exercise #1 Due	
June 25, 2022	Reading Day	Get Ahead of Your Reading
July 1, 2022	Legal Exercise #2 Due	
July 1, 2022	Course Ends	

# 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.

# Campus Help for Students – Brightspace Support

- Brightspace Technical Support is available 24/7.
- Click Help in the course navigation bar.

# Campus Help for Students – University Tutoring Services

- UTS offers free tutoring for undergraduate students at Binghamton University.
- All UTS tutoring appointments must be scheduled online through B-Successful at the [my.binghamton.edu](http://my.binghamton.edu) portal.
- If you have any questions about UTS:
  - Call 607-777-9235
  - Email [uts@binghamton.edu](mailto:uts@binghamton.edu)
  - or visit the website: <http://www.binghamton.edu/tutoring>.

# Campus Help for Students – ITS Helpdesk

- The Information Technology Services Help Desk is the University's central contact point for questions about the use of information technology.
- The Help Desk staff will answer questions directly or facilitate a resolution if second level technology support is required.
- Walk-in: Located in the Technology Hub first floor lobby.
- Call: 607-777-6420
- E-mail: [helpdesk@binghamton.edu](mailto:helpdesk@binghamton.edu).
- <https://www.binghamton.edu/its/>

# Campus Help for Students - Libraries

- The Libraries offer a wide variety and range of services including research assistance, instruction, user-friendly interfaces, digital preservation, digital scanners, and resource sharing.
- Text: 607-205-8173
- Call: 607-777-2345
- Email: [refquest@binghamton.edu](mailto:refquest@binghamton.edu)
- <http://www.binghamton.edu/libraries>



# 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>.

# 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: <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>	
June 8, 2022	Early Free Speech Decisions	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>	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: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2018/05/street/">https://legaltalknetwork.com/podcasts/make-no-law/2018/05/street/</a>	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: <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>	
June 11, 2022	Preservation of Order II	McCullen v. Coakley (2014); Snyder v. Phelps (2011)	p. 218-230	<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>	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: <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>	
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: <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>	
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: <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>	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	<b>Legal Memo #1 Due</b>				

# 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: <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>	
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: <a href="https://legaltalknetwork.com/podcasts/make-no-law/2020/06/i-know-it-when-i-see-it/">https://legaltalknetwork.com/podcasts/make-no-law/2020/06/i-know-it-when-i-see-it/</a>	
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: <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>	
July 1, 2022	<b>Legal Memo #2 Due</b>	<b>LAST DAY OF CLASS</b>			