

POLS 313 –American Constitutional Law
Fall 2024
Tuesdays and Thursdays 2:30-3:45 PM
Brooks Hall Room 125

INSTRUCTOR INFORMATION AND ACCESSIBILITY

Instructor: Dr. Jonathan M. King, Assistant Professor, Political Science
Email: jonathan.king@mail.wvu.edu
Office: 315D Woodburn Hall
Office Hours: Tuesdays and Thursdays 12:00PM-2PM or by appointment

COURSE DESCRIPTION

The United States Constitution divides the government's power between the federal government and the states. The Constitution then distributes the federal government's power across three co-equal branches: a legislative branch that writes the laws, an executive branch that oversees their implementation, and a judicial branch that interprets them. The twin pillars of federalism and the separation of powers seem easy enough to understand, but in reality, they often lead to questions about who has the authority to act and when they can do so. Can the Supreme Court resolve legislative apportionment cases? Can Congress exclude a duly elected representative from participating in legislative activities? Can the president utilize a line-item veto? Can the federal government force states to create toxic dump sites?

When the division of power is unclear, the other branches of the federal government and the states tend to act first and ask for forgiveness later, and the Supreme Court often steps in to provide help and guidance on the issue. This course is designed to examine the federal government's institutions, their roles, and their relationships with the states through the eyes of the Supreme Court's rulings on institutional powers and constraint.

OBJECTIVES AND LEARNING OUTCOMES

1. Develop a substantive understanding of historical and modern developments in the constitutional law of institutional powers and constraints.
2. Understand the factors that influence Supreme Court decision making.
3. Develop the ability to read and interpret U.S. Supreme Court decisions.
4. Apply past Supreme Court decisions to hypothetical legal issues and arrive at well-reasoned decisions that you can clearly articulate and legally justify.
5. Understand different methods of constitutional interpretation and how to apply these methods.
6. Enhance your written communication skills through written assignments.

COURSE MATERIALS

Please obtain a copy of the following book for this class (either digital, physical copy, or audiobook is fine, but if you use the digital copy/ audiobook, it is your responsibility to locate the corresponding page numbers).

- Epstein, Lee, Kevin T. McGuire, and Thomas G. Walker. 2023. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. Eleventh Edition. Washington D.C.: CQ Press. ISBN-13: 978-1071822128.

Although previous editions of Epstein, McGuire, and Walker exist, I will be teaching out of the eleventh edition. This means that all assignments, quizzes, and exams will be from the content in this edition, which I expect you to use. Use earlier editions at your own risk.

All other course material will be placed on eCampus. Please ensure you have access to eCampus at the beginning of the semester; if you do not, please email me during the first week of class.

For any eCampus issues, call for tech support:
304-293-4444 or 877-327-9260

COURSE REQUIREMENTS

Your grade will be determined using the following weights:

Area	Weight
Module Quizzes	40%
Briefing Memos	35%
Final	15%
Attendance	5%
Pre/Post Quiz	5%
Total	100%

Pre/Post Quiz (5%):

One of the aims of this course is to increase your knowledge of the Constitution, judiciary, and constitutional law. We will have a pre-and post-course quiz to gauge changes in knowledge over the course of the semester. Prior to the start of course content, you will take a pre-course quiz. Your last assignment in this course will be a post-course quiz. These quizzes will **only be graded for completion** and not the accuracy of your response. These two quizzes are closed-note and closed-book.

Module Quizzes (40%):

Over the course of the class, you will be taking six quizzes following the completion of each module. Each quiz will have between 10 and 15 multiple choice questions and 2-3 short answer questions (3-5 sentences of writing) per quiz. Quizzes will be timed with 30 minutes to complete each quiz. These quizzes are not cumulative. The first quiz will cover the material from the first module. Each subsequent quiz will cover the material examined since the last quiz.

The quiz schedule is included at the end of the syllabus. Quizzes will be open-note and open-book and taken on eCampus. Quizzes may be taken any time during the specified module but must be completed by the due date. Quizzes completed after the listed due date will be subject to late penalties. Exceptions to the late penalties will be made in extreme circumstances including, but not limited to: 1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; or (4) observance of a religious holiday. All claims must, when possible, be made prior to the quiz that you will miss. But, because life happens, I will drop your lowest quiz score (meaning your final quiz grade will be from your five best quizzes). That means you can miss one quiz without incurring a penalty. Quizzes must be completed by 11:59 PM Morgantown time on the due date; late submissions will be penalized as follows:

- 1-60 minutes late: -10% of grade
- 60-120 minutes late: -15% of grade
- 121-180 minutes late: -20% of grade
- 181-360 minutes late: -30% of grade
- 361-720 minutes late: -40% of grade
- More than 720 minutes late: -100% of grade

Briefing Memos (35%):

During the semester, you will be completing eight briefing memos that outline important information of cases we will be studying. We will be using the “Facts, Issue, Rule, Application, Conclusion” (FIRAC) briefing style wherein you create one-page long (maximum) memos outlining what happened in the case, how the Court ruled, what legal rules were applied, and why this case is important. While you are only required to do eight memos over the course of the semester, if you are interested in attending law school, I *highly recommend* using this method on all cases we discuss. They will be useful for future recall and makes studying cases easier than paging through a textbook.

Each memo will receive a grade based off the accompanying rubric. See the “Briefing Memos” document in eCampus for more specific information.

Memos are due by 11:59PM Morgantown time on the due dates posted. Memos should be submitted to eCampus (Assignments > Memo X). Late submissions will be penalized as follows:

- 1-60 minutes late: -10% of grade
- 60-120 minutes late: -15% of grade
- 121-180 minutes late: -20% of grade
- 181-360 minutes late: -30% of grade
- 361-720 minutes late: -40% of grade
- More than 720 minutes late: -100% of grade

I will provide more details about these memos, including the grading rubric and associated due dates, in a separate document that is posted on eCampus.

Final (15%):

To evaluate all that you learned throughout the semester, there will be a final for the class. This final will be cumulative, timed, and will consist of ~50 multiple-choice questions and several short answer questions. ~40 of the multiple-choice questions will come from previous in-class quizzes, while ~10 will be new questions from over the semester. Like quizzes, the final will be open-book and open-note.

All exams must be taken during the period in which they are scheduled. Exceptions will be made only in extreme circumstances, including (1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; (4) observance of a religious holiday; or (5) three or more exams are scheduled for the same day during finals week. All claims must, when possible, be made at least two weeks prior to when the exam is scheduled. Failure to follow these guidelines will result in a grade of "0" being awarded for the final. I reserve the right to have the makeup exam be of a different format than the exam that is given during class.

Attendance (5%):

Coming to class is important. Throughout the semester, we will have random attendance “quizzes” on topics covered in either the previous or current lecture. Quizzes will be given randomly throughout lectures (so, not always at the beginning of lecture). These quizzes will be graded for attendance only (you will not lose points if you get the answer wrong). Of these quizzes, I will drop at least 4 quizzes, no questions asked. You do not need to email me if you miss class. This corresponds to missing at least two full weeks of class. Any additional missed quizzes will detract from your attendance grade. For example, if we have 14 attendance quizzes, 4 are automatically dropped making it a total of 10 graded attendance quizzes. Of these, if you only take 9 of the 14 quizzes, you will receive a 9/10 (90%) attendance grade.

You are prohibited from taking quizzes for classmates who are absent. Students suspected of engaging in this activity will receive a grade of zero for the *entire* quiz portion of the course and will have formal disciplinary proceeding for academic dishonesty initiated against them. The same action will be taken against the student(s) with quizzes taken for them.

GRADING SCALE

I will use the following scale to assign course grades:

Percentage	Grade
90-100%	A
87-89%	B+
80-86%	B
77-79%	C+
70-76%	C
67-69%	D+
60-66%	D
59% or less	F

AVAILABILITY OF COURSE PERSONNEL

Email is the best way to contact me. My email address is jonathan.king@mail.wvu.edu. If you email me, include "POLS 313" in the subject line to make sure the email does not get missed. Please allow 24 hours for a response during the week (Monday-Thursday) and 36 hours during the weekend (Friday-Sunday). If you do not get a response in that time, please resend your email, as I probably missed it.

I will have office hours every Tuesday and Thursday from 12 to 2:00 PM. I set aside this time for you to ask questions about course material outside of class, so please utilize it. If you cannot make it to office hours, I am also available by appointment if you have anything you would like to discuss.

COURSE PROCEDURES

Course Communications

All course communication will go through eCampus, including occasional updates and notes. You can set up eCampus such that it will email or text you whenever a new announcement is posted. If you choose not to do so, you are still responsible for checking eCampus for any course updates.

Classroom Content Recording and Sharing:

As members of a learning community, students are expected to respect the intellectual property of course instructors. All course materials presented to students are the copyrighted property of the course instructor and are subject to the following conditions of use:

- Students may record lectures or any other classroom activity and use the recordings only for their own course-related purposes.
- Students may share the recordings with other students enrolled in the class. Sharing is limited to using the recordings only for their own course-related purposes.
- Students may not post the recordings or other course materials online or distribute them to anyone not enrolled in the class without the advance written permission of the course instructor and, if applicable, any students whose voice or image is included in the recordings.

Any student violating the conditions described above may face academic disciplinary actions.

Grade Appeals:

If you receive a grade and see that it contains an arithmetic error (i.e., I mis-calculated your grade), please inform me of the issue. If you have a question or concern about your performance on any course work, please contact me as soon as possible. All concerns must be stated in writing (email), beginning with a statement that concisely explains why you believe your grade should be altered.

All concerns, whether arithmetic or otherwise, must be raised within one week of that assignment/quiz's release to students. This includes attendance concerns. If you do not raise your question within this one-week period, you forfeit your ability to appeal your grade.

COURSE POLICIESGeneral Statement:

I take academic integrity seriously. As a student, you are responsible for familiarizing yourself with all relevant departmental, college, and university policies governing your conduct in this course. This includes, but is not limited to, policies relating to plagiarism, academic integrity, and accommodations for students with documented disabilities. If ever in doubt, please ask!

You can find the relevant university policies at the following link:

<https://tlcommons.wvu.edu/syllabus-policies-and-statements>

Academic Integrity and Honesty:

The integrity of the classes offered by any academic institution solidifies the foundation of its mission and cannot be sacrificed to expediency, ignorance, or blatant fraud. Therefore, instructors will enforce rigorous standards of academic integrity in all aspects and assignments of their courses. For the detailed policy of West Virginia University regarding the definitions of acts considered to fall under academic dishonesty and possible ensuing sanctions, please see the West Virginia University [Academic Standards Policy](#). Should you have any questions about possibly improper research citations or references, or any other activity that may be interpreted as an attempt at academic dishonesty, please see your instructor before the assignment is due to discuss the matter.

Therefore, unless authorized by your instructor, you are expected to complete all course assignments, including homework, lab work, quizzes, tests and exams, without assistance from any source. This includes your classmates, using GroupMe to get answers from your classmates, ChatGPT, and online

sources such as Oyez and Justia. Unless authorized by the instructor, all coursework is expected to be completed without assistance from others unless explicit permission for group or partner work is given. You are expected to develop original work for this course; therefore, you may not submit course work you completed for another course to satisfy the requirements for this course. Students found using GroupMe for course answers will be subject to academic integrity violations. Students who violate WVU's academic integrity rules may receive a penalty grade, including a failing grade on the assignment or in the course. Contact your instructor if you are unsure about the appropriateness of your course work (see also the [Academic Integrity](#) webpage).

Grief Absence Policy:

University sanctioned absences are absences in which instructors provide opportunities to make up substantial class work or activities (e.g., assignments, exams) and will not penalize students for those absences. University sanctioned absences include mandatory military obligation, mandatory court appearances, and participation in university activities at the request of university authorities. According to WVU's [Emergency Leave Policy and Procedures](#), "students are responsible for notifying their instructors of expected university sanctioned absences within two weeks of the event or as soon as possible. Instructors may require written documentation in advance of the university sanctioned absence from the academic or athletic unit sponsoring the activity for students participating in official activities. Instructors may request additional verification from the Center for Veteran, Military, and Family Programs website for students serving military obligations. Students who are absent are responsible for contacting their instructors promptly, unless the instructors' policy require otherwise."

For university sanctioned absences totaling more than three weeks of course work resulting from military obligation, see WVU's [Military leave section of the undergraduate catalog](#). For students who will miss more than a week of course work due to health condition or personal trauma, refer to WVU's [Emergency Leave Policy](#).

Campus Carry:

Consistent with BOG Finance and Administration Rule 5.14, Deadly Weapons, Dangerous Objects, & W.Va. Campus Self-Defense Act, this statement serves as notice that my office is a sole occupancy office and concealed pistols and revolvers are prohibited in it. Students visiting my office, whether scheduled or unscheduled, are required to appropriately secure any firearms in their possessions before entering the office premises. For more information about Rule 5.14, please see <https://safety.wvu.edu/campus-carry>.

TurnItIn Policy:

Consistent with WVU's efforts to enhance student learning, foster honesty, and maintain integrity in our academic processes, I have chosen to use a tool called Turnitin to compare your papers with multiple sources. The tool will compare each paper you submit to an extensive database of prior publications and papers, providing links to possible matches and a 'similarity score.' The tool does not determine whether plagiarism has occurred or not. Instead, I will make a complete assessment and judge the originality of your work. All submissions to this course may be checked using this tool.

You should submit papers to eCampus without identifying information included in the paper (e.g., name or student number), the eCampus system will automatically show this information to me when I view the submission, but the information will not be retained by Turnitin. If you forget and submit your paper with your identifying information on it, it will be retained in the Turnitin repository.

Syllabus Adjustments:

I reserve the right to modify this syllabus at any point in the course to suit the needs of the class. All changes will be noted in eCampus and sent to students via email in advance of class. A revised version of the syllabus will be posted, as well.

COURSE OUTLINE AND DUE DATES

The schedule below follows our Tuesday/ Thursday class meeting times. Unless otherwise specified, readings should be completed before the scheduled lecture date. That is, you should come to class prepared having read the assigned materials listed. Module quizzes will be posted after the final lecture on the topic and are due at the time assigned on the syllabus. Written assignments may be turned in at any time before the assigned due date. Note: once submitted to eCampus, quizzes and written assignments are considered “final” and may be graded before the due date. Quizzes and written assignments must be completed by 11:59 PM Morgantown time on the due date; late submissions will be penalized as follows:

- 1-60 minutes late: -10% of grade
- 60-120 minutes late: -15% of grade
- 121-180 minutes late: -20% of grade
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- 361-720 minutes late: -40% of grade
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MODULE 0: SYLLABUS/ COURSE INTRODUCTION

August 22 (R)

Course Introduction

- Syllabus
- Pre-course quiz (Due 8/25 by 11:59PM)

MODULE 1 THE JUDICIARY

August 27 (T)

Judicial Process and Supreme Court Decision-Making

- EMW p. 1-55 (skim)

August 29 (R) – CLASS ONLINE (RECORDED LECTURE)

Judicial Review

- FIRAC Introduction
- EMW p. 57-83

September 3 (T)

Constraints on Judicial Power- Jurisdiction

- EMW p. 83-91
 - *Ex parte McCardle*

September 5 (R)- CLASS CANCELED

September 10 (T)

Justiciability and Standing

- EMW p.91-115
 - *Baker v. Carr* (1962)
 - *Nixon v. United States* (1993)
 - *Flast v. Cohen* (1968)
 - *Biden v. Nebraska* (2023)
- Module 1 quiz (due by 9/15 by 11:59PM ET)

MODULE 2: THE LEGISLATURE

September 12 (R)

Congressional Independence

- EMW p. 117-131
 - *Powell v. McCormack* (1969)
 - *U.S. Term Limits, Inc., v. Thornton* (1995)

September 17 (T)

Speech and Debate and Enumerated Powers

- EMW p. 131-153
 - *Gravel v. United States* (1972)
 - *McCulloch v. Maryland* (1819)
 - *McGrain v. Daugherty* (1927)

September 19 (R)

Investigations and Hearings

- EMW p. 153-166
 - *Watkins v. United States* (1957)
 - *Barenblatt v. United States* (1959)
 - *Trump v. Mazars* (2020)

September 24 (T)

Amendment Enforcement

- EMW p. 166-176
 - *South Carolina v. Katzenbach* (1966)
- Module 2 Quiz (due 9/29 by 11:59PM)

MODULE 3: THE EXECUTIVE

September 26 (R)

Elections and Powers

- EMW p. 177-200
 - *Bush v. Gore*
 - *In re Neagle* (1890)
 - *Trump v. Anderson* (2024)

October 1 (T)

Removal and Executive Privileges

- EMW p. 211-226
 - *Myers v. United States* (1926)
 - *Humphrey's Executor v. United States* (1935)
 - *United States v. Nixon* (1974)

October 3 (R)

Immunity

- EMW p. 226-246
 - *Mississippi v. Johnson* (1867)
 - *Clinton v. Jones* (1997)
 - *Trump v. Vance* (2020)
 - *Trump v. United States* (2024)
- Module 3 quiz (due by 10/8 by 11:59PM ET)

October 8 (T) – CLASS CANCELED**MODULE 4: INTERBRANCH INTERACTIONS****October 10 (R)**

War Powers I

- EMW p. 265-277
 - *Prize Cases* (1863)
 - *Ex parte Milligan* (1866)

October 15 (T)

War Powers II

- EMW p. 277-290
 - *Korematsu v. United States* (1944)
 - *Youngstown Sheet and Tube Co. v. Sawyer* (1952)

October 17 (R)

War Powers III

- EMW p. 290-305
 - *Zivotofsky v. Kerry, Secretary of State* (2015)
 - *Hamdi v. Rumsfeld* (2004)
- Module 4 quiz (due by 10/20 by 11:59PM ET)

MODULE 5: FEDERALISM**October 22 (T)**

Nationalism and Dual Federalism I

- EMW p. 371-334
 - *McCulloch v. Maryland* (1819)
 - *Scott v. Sandford* (1857)

October 24 (R)

Nationalism v. Federalism II

- EMW p. 334-354
 - *New York v. United States* (1992)
 - *Printz v. United States* (1997)
 - *Murphy v. NCAA* (2018)

October 29 (T)

Sovereign Immunity and Preemption

- EMW p. 334-373
 - *Alden v. Maine* (1999)
 - *State of Missouri v. Holland* (1920)
 - *Crosby v. National Foreign Trade Council* (2000)
 - *Arizona v. United States* (2012)
- Module 5 quiz (due by 10/29 by 11:59PM ET)

MODULE 6: COMMERCE POWER**October 31 (R; Spooky)**

Foundations of the Commerce Clause

- EMW p. 375-381
 - *Gibbons v. Ogden* (1824)

November 5 (T) - NO CLASS, ELECTION DAY. GO VOTE!**November 7 (R)**

Commerce Clause and the Industrial Revolution

- EMW p. 381-397
 - *United States v. E.C. Knight Co.* (1895)
 - *Champion v. Ames* (1903)
 - *Hammer v. Dagenhart* (1918)

November 12 (T)

Commerce Clause and the New Deal

- EMW p. 397-446
 - *A.L.A. Schechter Poultry Corp. V. United States* (1935)
 - *NLRB v. Jones & Laughlin Steel Corp.* (1937)

November 14 (R)

Commerce Clause after the Switch in Time

- EMW p.416-430
 - *United States v. Darby* (1941)
 - *Wickard v. Filburn* (1942)
 - *Heart of Atlanta Hotel, Inc., v. United States* (1964)

November 19 (T)

Commerce Clause in Retreat

- EMW p. 430-443
 - *United States v. Lopez* (1995)
 - *United States v. Morrison* (2000)

November 21 (R)

Commerce Clause Defeated?

- EMW 443-456
 - *Gonzales v. Raich* (2005)
 - *NFIB v. Sebelius* (2012)
- Module 6 quiz (due by 11/24 by 11:59PM ET)

November 26 (T)- NO CLASS; FALL RECESS

November 28 (R)- NO CLASS; FALL RECESS

MODULE 7: ECONOMIC SUBSTANTIVE DUE PROCESS

December 3 (T)

Economic Liberty and Substantive Due Process

- EMW p. 573-594
 - *The Slaughterhouse Cases* (1873)
 - *Lochner v. New York* (1905)

December 5 (R)

Substantive Due Process Ascendant?

- EMW p. 594-608
 - *Muller v. Oregon* (1908)
 - *Adkins v. Children's Hospital* (1923)
 - *Nebbia v. New York* (1934)

December 10 (T)

The Decline of Economic Substantive Due Process

- EMW p. 608-620
 - *West coast Hotel v. Parrish* (1937)
 - *Williamson v. Lee Optical Company* (1955)
 - *BMW of North America v. Gore* (1996)

December 12 (R)

- Review Day
- Post-course quiz (Due 12/15 by 11:59PM)

Final Exam Due by 10 AM on Friday, December 20th.