

Constitutional Law

PCSI 4241

University of Colorado-Boulder

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Office Hours: Monday, Wednesday 10-11 and by appointment

Course Objectives

The main purpose of this course is to introduce you to classical and contemporary theories of constitutional law and to examine the role of the Supreme Court in defining constitutional law in the United States such as limiting political power, federal power, judicial power and rights and liberties. In our system of separated powers, among the duties of the Supreme Court is to be the final arbiter in balancing the rights of the individual against the common good. We will examine the inherent tension in supporting the will of the democratic majority and the principles of limited power. By the end of the course, rather than having memorized dozens of Supreme Court cases (though we will be reading many of them), you should be able to think critically about the logical foundations of the cases and the historical development of the justification for having a constitution, and to “think like a lawyer” as a tool for critical thinking.

By the end of the semester you should have:

- investigated the theoretical foundations of constitutional law, and the historical development of their application in the United States.
- developed a deeper understanding of the intersection between law and politics.
- improved your critical thinking skills.
- engaged in several critical analyses of important theoretical assumptions, claims, and arguments in particular aspects of civil rights or civil liberties.

Course Requirements

You are required to come to every class day and to bring your textbook. We will be reading important areas of the text during class most days.

We will spend a great deal of time discussing issues in a seminar format. Everyone is expected to have done all the reading and be prepared for each class. Each person is responsible for sharing their unique understanding of the topics.

My style of teaching will include use of the **Socratic Method**, which generally involves the instructor calling on students at random to respond to points made in the materials of the day

and responding in turn to points made by the other participants in the class. Each person's contribution is highly valued and necessary for a successful seminar.

For this reason, 10% of your grade will be composed of attendance and 15% for class participation. Attendance will be taken. I will call on students in class to comment on readings or to add to discussion. Your participation will be graded on a dichotomous basis each session, where you get credit for making a good faith effort, and no credit if you are not present for an unexcused absence, or if you do not make a good faith effort to contribute. **Good faith** means you have done the reading and are prepared to comment on it.

There are three papers. The first one is worth 15% of your grade and the second one worth 25% of your grade. The final paper will be one 10-12 page research paper (35%). Detailed descriptions of expectations for each paper are on Canvas and will be discussed in class in advance of each paper due date.

Over the course of the semester, I may decide to add or subtract some materials to enable us to focus on issues that are topical or need more in-depth discussion. **Any changes in the assigned readings will be announced in class and notification will be provided via email at least a week in advance.**

You are expected to keep a copy of your work in case something is lost. **Incompletes are strongly discouraged by the College.**

Required Text

Epstein, Lee and Thomas Walker. *Constitutional Law for a Changing America: Rights, Liberties and Justice*, 10th ed. Congressional Quarterly.

Course Outline

Week	Topics	Assignments
Week 1	How to Think Like a Lawyer	"Logic for Law Students," by Aldisert, Clowney and Peterson. Available on Canvas.
Week 2	Introduction to the Supreme Court and Decision Making	Chapter 1 Epstein and Walker, textbook
Week 3	Incorporation of the Bill of Rights	Chapter 3 Epstein and Walker
Week 4	Religious Exercise	Chapter 4 Epstein and Walker
Week 5	Religious Establishment	Chapter 4 Epstein and Walker, continued

Week 6	Blaine Amendments	Article on Blaine Amendments: <i>Secularism's Laws: State Blaine Amendments and Religious Persecution</i> in Fordham Law Review (2003) on Canvas
Week 7	Freedom of Speech First one page paper due on Monday, Oct. 7, at 11:59 pm to the Canvas Dropbox for the paper	Chapter 5 Epstein and Walker Paper question: <i>In what manner and to what extent are the Blaine Amendments constitutional?</i>
Week 8	Symbolic Speech	Chapter 5 Epstein and Walker, continued
Week 9	Freedom of the press	Chapter 6 Epstein and Walker
Week 10	Boundaries of Free Expression	Chapter 7 Epstein and Walker
Week 11	Privacy: The Early Years	Chapter 9 Epstein and Walker
Week 12	Privacy	Chapter 9 Epstein and Walker, continued
Week 13	Equal Protection: Race Second one page paper due on Monday, Nov. 18, at 11:59 pm to the Canvas Dropbox for the paper	Chapter 13 Epstein and Walker Paper question: <i>Given Griswold, is consensual sex allowed to be criminalized?</i>
Week 14	Equal Protection: Gender, LGBTQ, and other classes	Chapter 13 Epstein and Walker, continued
Week 15	Voting and Representation: Elections and the Supreme Court	Chapter 14 Epstein and Walker

Final Paper Due: 11:59pm December 16th Monday to the Canvas Dropbox for the final paper

Rules and Regulations

Classroom Behavior

In this class, we will be dealing with a great number of sensitive issues. I encourage feedback on my teaching style and the materials, both anonymously by email and otherwise, for any reason

at any time, as long as it is respectful. Along those same lines, I always encourage students to disagree with anything I say at any time, again, as long as it is respectful. I expect all students to treat each other with respect as well.

If I feel that you have treated me or any other student with disrespect, I will ask you to meet me in my office. If you continue at any other time to treat me or other students with disrespect, I will ask you to leave the classroom. Potentially, this kind of behavior could result in being dropped from the class. If you have any questions about my policies or the University's policy regarding classroom behavior, do not hesitate to bring it up in class or talk to me about it in my office.

Students and faculty each have responsibility for maintaining an appropriate learning environment. Those who fail to adhere to such behavioral standards may be subject to discipline. Professional courtesy and sensitivity are especially important with respect to individuals and topics dealing with race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy. Class rosters are provided to the instructor with the student's legal name. I will gladly honor your request to address you by an alternate name or gender pronoun. Please advise me of this preference early in the semester so that I may make appropriate changes to my records.

The University's general Code of Conduct can be found at the following website: <http://www.colorado.edu/studentaffairs/judicialaffairs/code.html> and its code of conduct guidelines for the classroom can be found at the following website: <http://www.colorado.edu/policies/classbehavior.html>

Accommodation for Disabilities

If you qualify for accommodations because of a disability, please submit your accommodation letter from Disability Services to your faculty member in a timely manner so that your needs can be addressed. Disability Services determines accommodations based on documented disabilities in the academic environment. Information on requesting accommodations is located on the [Disability Services website](#). Contact Disability Services at 303-492-8671 or dsinfo@colorado.edu for further assistance. If you have a temporary medical condition or injury, see [Temporary Medical Conditions](#) under the Students tab on the Disability Services website.

Honor Code

All students enrolled in a University of Colorado Boulder course are responsible for knowing and adhering to the Honor Code. Violations of the policy may include: plagiarism, cheating, fabrication, lying, bribery, threat, unauthorized access to academic materials, clicker fraud, submitting the same or similar work in more than one course without permission from all course instructors involved, and aiding academic dishonesty. All incidents of academic misconduct will be reported to the Honor Code (honor@colorado.edu); 303-492-5550).

Students who are found responsible for violating the academic integrity policy will be subject to nonacademic sanctions from the Honor Code as well as academic sanctions from the faculty member. Additional information regarding the Honor Code academic integrity policy can be found at the [Honor Code Office website](#).

Sexual Misconduct, Discrimination, Harassment and/or Related Retaliation

The University of Colorado Boulder (CU Boulder) is committed to fostering a positive and welcoming learning, working, and living environment. CU Boulder will not tolerate acts of sexual misconduct intimate partner abuse (including dating or domestic violence), stalking, protected-class discrimination or harassment by members of our community. Individuals who believe they have been subject to misconduct or retaliatory actions for reporting a concern should contact the Office of Institutional Equity and Compliance (OIEC) at 303-492-2127 or cureport@colorado.edu. Information about the OIEC, university policies, [anonymous reporting](#), and the campus resources can be found on the [OIEC website](#). Please know that faculty and instructors have a responsibility to inform OIEC when made aware of incidents of sexual misconduct, discrimination, harassment and/or related retaliation, to ensure that individuals impacted receive information about options for reporting and support resources.

Religious Holidays

Campus policy regarding religious observances requires that faculty make every effort to deal reasonably and fairly with all students who, because of religious obligations, have conflicts with scheduled exams, assignments or required attendance. In this class, if you need an accommodation you must notify of this need in writing (email is fine) within the first two weeks of the semester. See the [campus policy regarding religious observances](#) for full details.