

Political Science 2100

The American Constitution

Fall 2023

Version 1

Beracha Hall 221

Tu Th 9:30-10:45

Instructor Information

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Office Hours: Tuesday, 1:30 to 2:30; Thursday, 11:00 to 12:00; or by appointment.

Catalog Description

This course explores basic themes in the American Constitution - popular sovereignty, separation of powers, and federalism - and the historical struggles between various government actors over the allocation of political power in the American constitutional system from the Constitutional Convention in 1789 to the recent conflict over terrorism and state power.

Additional Course Description

What is the proper role of government? How should government be limited, if at all? What are the roles of the branches and how should they interact? What is the role of the Constitution in defining institutions and their functions? How has our understanding of institutional powers and constraints developed and changed? In this class, we endeavor to answer these

questions, among others. Our investigation will primarily focus on the role of the United States Supreme Court and its decisions in the development of these powers and constraints, and will include considering the role of precedent. Furthermore, our investigations will be carried out in a variety of contexts. This course fulfills the **Ways of Thinking: Social and Behavioral Sciences requirement of the Saint Louis University Core**.

This course is part of the Saint Louis University Core, an integrated intellectual experience completed by all baccalaureate students, regardless of major, program, college, school or campus. The Core offers all SLU students the same unified approach to Jesuit education guided by SLU's institutional mission and identity and our nine undergraduate Student Learning Outcomes (SLOs).

Course Objectives & Learning Outcomes

This course is designed to help students broaden their knowledge, skills, and values so that they will be able to:

- Identify the structure and operation of the U.S. Constitution, Supreme Court, and judicial review in the United States.
 - Understand the factual and historical background relating to the development of powers and constraints in the United States.
 - Understand the structure of the United States Constitution and its history as it pertains to institutional powers and constraints.
 - Understand the structure of the United States Supreme Court and its history as it pertains to powers and constraints.
 - analyze the use of decisions and precedent by the Supreme Court in development of constitutional law.
- SLO 2: Integrate knowledge from multiple disciplines to address complex questions regarding governmental powers and constraints and constitutional interpretation.
 - Understand a range of social or behavioral theories and principles.
 - Use these theories and principles to acquire knowledge about individual, cultural, political, economic, or social events/processes.
 - Describe competing paradigms of knowledge (from the dominant discipline or field).
 - Apply social and behavioral knowledge to better understand contemporary issues and challenges.
- SLO 3: Assess evidence and draw reasoned conclusions.
 - Draw reasoned conclusions through the use of evidence and theories.

- Use conceptual tools and methodologies to analyze and understand their social world in the context of the American Constitution.
- Think, speak, and write critically about human behavior and community in the context of governmental powers and constraints and the American Constitution.
- Discuss and defend ideas orally, as part of discussion and presentations.
- Engage in meaningful and productive dialogue with others.

Course Materials

AC - Howard Gillman, Mark Graber, and Keith Whittington. 2013. *American Constitutionalism: Volume I, Structures of Government*. Oxford University Press. Ch. 1 - “Introduction to American Constitutionalism.” ERes

AV - Reynolds, William Bradford. 1987. “Another View: Our Magnificent Constitution.” *Vanderbilt Law Review* 40: 1343. ERes

B11 - Brutus No. 11 ERes

F23 - Federalist No. 23 ERes

F78 - Federalist No. 78 ERes

CL - Epstein, Lee, Kevin T. McGuire, and Thomas Walker. 2022. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. CQ Press. 11th Edition.

PS - Schauer, Frederick. 1987. “Precedent.” *Stanford Law Review* 39:3. ERes

QG - BerkeleyLaw. 2020. “A Quick Guide to ‘Issue-Spotter’ Questions.” (linked).

RB - Marshall, Thurgood. 1987. “Reflections on the Bicentennial of the United States Constitution.” *Harvard Law Review* 101:1. ERes

SA - Stevens, John Paul. 2014. *Six Amendments: How and Why We Should Change the Constitution*. Ch. IV - “Sovereign Immunity.” ERes

WP - Liptak, Adam. Feb. 6, 2012. “‘We the People’ Loses Appeal With People Around the World.” *The New York Times*. ERes

WP2 - Ackerman, Bruce. 2000. *We the People: Volume 1: Foundations*. Ch. 2 - “The Bicentennial Myth.” Belknap Press. ERes

WS - Solanki, Sneha. January 30, 2023. “What is Stare Decisis in Simple Terms?” *Legal Topics Blog - Thomason Reuters* (linked)

When appropriate, I will supplement the text with additional readings. These readings will be available via ERes (the Electronic Reserves at SLU Library) with the password “constitution.” You can access the reserves here: <https://libguides.slu.edu/eres>.

Requirements and Evaluation

Class Participation & Attendance

Absences

Class participation is an essential part of this class, and, thus, your attendance is very important. If you must miss class for a legitimate reason, such as illness, family emergency, or University-sponsored activity, you should contact me via email as soon as possible (which means at least one hour before the missed class whenever possible). The most important factor is communicating to me your need for an excuse. If you have more than two unexcused absences, your class participation grade, which is **worth 10% of your final grade**, will be lowered by 2% for each additional day. For example, if you have three total unexcused absences, your class participation grade will be no more than 0% (of the total 10%) and your overall grade in the class can be no more than 90%.

Students are expected to be prepared to discuss the assigned materials every class. Additionally, students will be assigned on-call days on which they will be expected to act as experts on the material - this will include answering in-depth questions about the material and leading class discussion and group work. The following schedule regarding the material may change. Thus, it is very important that you stay abreast of what material will be covered on your on-call days. When in doubt, ask. On-call days will collectively be **worth 10% of your final grade**.

Discussion is an essential part of the learning process during which we deepen our understanding of the material, draw conceptual connections, and apply theoretical and legal frameworks to new scenarios. You are expected to be prepared to discuss the assigned materials every class. Students will be graded on their participation based on well reasoned answers, taking part in conversations, thoughtfulness in comments, and active listening. Disagreement and debate is a part of healthy intellectual discourse, and is strongly encouraged. Students must, however, remain civil with and respectful to all members of the class at all times.

Exams

There will be two exams in this course: a mid-term and final. The purpose of the exams is to test your mastery of the material in terms of both factual knowledge and conceptual understanding. Thus, the exams will consist of multiple question types including multiple choice, short answer, and essay. Essay questions will take the form of hypothetical fact patterns that require students to analyze new situations and construct arguments based on the materials from the course. The final will be cumulative for the entire course.

Make-up exams will only be allowed for excused absences. In all other cases, the student will receive no points for missed exams.

Assignments

Additional information regarding the following assignments will be provided in handouts on the Canvas page.

Briefs

As part of this course, you will be asked to brief four cases. These briefs will be short reports about the cases that will follow a version of standard legal briefing format similar to IRAC (<http://en.wikipedia.org/wiki/IRAC>). The purpose of these assignments is to help you learn to organize and clarify information regarding legal opinions. Further information regarding these assignments will be provided in a handout.

Issue Spotter Exercise

You will be asked to complete an issue spotter exercise that will be graded on completion. In this exercise, you will be presented with a hypothetical fact pattern and asked to analyze relevant legal issues based on legal precedents (prior case opinions) and doctrines. This type of question is very common in law school exams, as it asks students to engage in analogical reasoning, which is at the heart of what lawyers and judges do their professions. It will also help prepare the students for the midterm and final exams in this course, which will include this type of question, and the opinion assignment.

Opinion Assignment

You will also be part of an opinion writing assignment. This will be a group project focused on issues surrounding the law and theory of civil liberties and rights in the United States. It will also focus on the act of judicial decisionmaking on a collegiate court, including opinion assignment, bargaining, etc. Students will be grouped on “courts” and randomly assigned roles as justices. Collectively, the courts will produce written opinions regarding an actual case that could have been heard by the Supreme Court. Students will be asked to produce brief written assignments at beginning (Initial Impressions) and end (Final Impressions) of the assignment regarding their assessment of the political and legal issues. The Final Impression assignment will also include an assessment of the extent to which the opinion that the student signed onto relates to the Component-level Student Learning Outcomes:

- Analyze the cultural-institutional conditions and causes of just and unjust social systems using such concepts as social location, relationships, power, privilege, and vulnerability
- Apply such ethical concepts as human dignity, equity, well-being justice, and the common good to critically evaluate both existing social systems and proposals for social change
- Envision and articulate systemic social changes and other ways to promote flourishing, well-being, equity, justice, and the dignity of the human person

Further information and the case materials will be handed out in class.

Policies

All assignment should be in 12 point font, double spaced with 1-inch margins. All assignments are due via Canvas by the start of the relevant class.

Students will be penalized 10% per day on unexcused late assignments. For an example, a brief that would normally receive a 91% would be recorded as 71% if the student turned it in two days late without a legitimate reason. Late penalties are capped at 50% if the late assignment is turned in by the last day of class.

Course Evaluations

Students are required to fill out a course evaluation at the end of the course.

Grading

Your grade for this course will consist of the following components and relative weights:

Type	Item	Grade Value
<i>Verbal</i>	Class Participation	10%
	On-Call Days	10%
<i>Briefing</i>	Case Briefing Assignments (4)	20% (5% each)
<i>Issue Spotting</i>	Issue Spotter Exercise	5%
<i>Opinion Writing</i>	Initial Impressions	5%
	Opinion (Group Project)	10%
	Final Impressions	5%
<i>Examination</i>	Midterm Exam	15%
	Final Exam	20%

Barring unusual circumstances, I will provide feedback and grades to you on assignments, on-call days, and exams within one week of you completing the items. In the case of the court assignment, all individual assignments (initial impressions, opinions, and final impressions) will be graded within a week of receiving the final impressions. If for some reason I need longer than one week, I will let you know that is the case and when you can expect the feedback and grades before the week has ended. Regarding class engagement, I will provide you with feedback and a grade approximately every three weeks (excluding the midterm week and holidays).

Grades will be assigned by the following scale:

Percent of Pts	Letter Grade
≥ 93	A
≥ 90	A-
≥ 87	B+
≥ 83	B
≥ 80	B-
≥ 77	C+
≥ 73	C
≥ 70	C-
≥ 60	D
< 60	F

The above scale represents the highest requirements for a particular letter grade. That is, I may, at my discretion, alter the grading scale to require fewer percentage points to obtain a particular letter grade. If you are taking the course on a pass/fail basis, please see me to discuss the requirements for a passing grade. Students auditing the course are expected to attend class and participate in our discussions. Grades of “Incomplete” will only be given after extensive consultation with a student and only in the most exceptional of circumstances.

Important Matters

Academic Integrity and Honesty

Academic integrity is honest, truthful and responsible conduct in all academic endeavors. The mission of Saint Louis University is “the pursuit of truth for the greater glory of God and for the service of humanity.” Accordingly, all acts of falsehood demean and compromise the corporate endeavors of teaching, research, health care, and community service via which SLU embodies its mission. The University strives to prepare students for lives of personal and professional integrity, and therefore regards all breaches of academic integrity as matters of serious concern. The full University-level Academic Integrity Policy can be found on the Provost’s Office website at: <https://www.slu.edu/provost/policies/academic-and-course/academic-integrity-policy.pdf>.

Additionally, each SLU College, School, and Center has its own academic integrity policies, available on their respective websites.

Disability Services Academic Accommodations

Students with a documented disability who wish to request academic accommodations must formally register their disability with the University. Once successfully registered, students also must notify their course instructor that they wish to use their approved accommodations in the course.

Please contact the Center for Accessibility and Disability Resources (CADR) to schedule an appointment to discuss accommodation requests and eligibility requirements. Most students on the St. Louis campus will contact CADR, located in the Student Success Center and available by email at accessibility_disability@slu.edu or by phone at 314.977.3484. Once approved, information about a student's eligibility for academic accommodations will be shared with course instructors by email from CADR and within the instructor's official course roster. Students who do not have a documented disability but who think they may have one also are encouraged to contact CADR. Confidentiality will be observed in all inquiries.

Title IX

Saint Louis University and its faculty are committed to supporting our students and seeking an environment that is free of bias, discrimination, and harassment. If you have encountered any form of sexual harassment, including sexual assault, stalking, domestic or dating violence, we encourage you to report this to the University. If you speak with a faculty member about an incident that involves a Title IX matter, that faculty member must notify SLU's Title IX Coordinator that you shared an experience relating to Title IX. This is true even if you ask the faculty member not to disclose the incident. The Title IX Coordinator will then be available to assist you in understanding all of your options and in connecting you with all possible resources on and off campus.

Anna Kratky is the Title IX Coordinator at Saint Louis University (DuBourg Hall, room 36; anna.kratky@slu.edu; 314-977-3886). If you wish to speak with a confidential source, you may contact the counselors at the University Counseling Center at 314-977-TALK or make an anonymous report through SLU's Integrity Hotline by calling 1-877-525-5669 or online at <http://www.lighthouse-services.com/slu>. To view SLU's policies, and for resources, please visit the following web addresses: <https://www.slu.edu/about/safety/sexual-assault-resources/index.php>.

Student Success Center

The Student Success Center (SSC) supports students in reaching their goals in and out of the classroom. Providing a variety of resources, the Student Success Center houses both the Center for Accessibility and Disability Resources (CADR) and Academic Support, which includes Tutoring, Supplemental Instruction, University Writing Services, and Student Success Coaching. The Student Success Center is located in the Busch Student

Center, Suite 331, and students can make an appointment with any SSC resource via EAB Navigate. To learn more about the Student Success Center and its resources, please visit: <https://www.slu.edu/life-at-slu/student-success-center/index.php>.

University Writing Services

University Writing Services offers one-on-one consultations with trained writing consultants who help with everything from brainstorming, outlining, and proposing research questions to documenting sources, revising, and implementing feedback. These consultations can take place in-person, asynchronously, or via Zoom and can be scheduled through EAB Navigate Student. Getting feedback benefits writers at all skill levels on different writing projects (including but not limited to class assignments, conference papers, cover letters, dissertations, group projects, multimedia assignments, personal statements, senior capstone projects, short answer questions on applications, speeches, and theses). For additional information, visit <https://www.slu.edu/life-at-slu/student-success-center/academic-support/university-writing-services/index.php> or send an email to writing@slu.edu.

University Counseling Center Syllabus Statement

The University Counseling Center (UCC) offers free, short-term, solution-focused counseling to Saint Louis University undergraduate and graduate students. UCC counselors are highly trained clinicians who can assist with a variety of issues, such as adjustment to college life, troubling changes in mood, and chronic psychological conditions. To make an appointment, call 314-977-8255 (TALK), or visit the clinic on the second floor of Wuller Hall. For after hours needs, please press #9 after dialing the clinic number.

Wellness

All students experience stressors and challenges at some point, and seeking support is beneficial. Such challenges may be the result of academic concerns (such as those related to particular assignments or content in a course), or they may be more personal in nature (such as concerns related to relationships, mental health, loss, identities, alcohol or drugs, housing or food security, or finances, among other things). If you experience these or other difficulties, please consider seeking support from the resources available to you.

- For concerns related to this course, please contact me. I am invested in your success and will support your success in the ways I can.
- Additionally, you have access to the many resources SLU provides in support of your personal wellness. You will find a list of available resources on the Well-being page of the SLU website.

If you or someone you know is experiencing a crisis: please consult the Crisis Support and Warning Signs on the University Counseling Center website.

In the spirit of *cura personalis*, the University sees your academic success as connected to your health and well-being and provides resources to support your holistic wellness.

Basic Needs Security

Students experiencing food insecurity, housing insecurity, and any other challenges that are impacting their personal and/or academic wellbeing are encouraged to contact the Dean of Students Office for support. Students can submit an intake form, email deanofstudents@slu.edu, or call 314-977-9378 to connect with their office. Students may also communicate directly with their instructors about any challenges they are experiencing to receive support and resource referrals.

Course Schedule

What follows is a *tentative* outline of the topics to covered and when we will cover them. I may modify this schedule as necessary based on the dynamics of this particular class. If the schedule is modified, I will provide you with appropriate notice.

Week	Dates	Topic	Assignments
1		<i>Introduction & The U.S. Constitution</i>	
	Aug. 24	Structure of the Class	Syllabus
2		<i>The U.S. Constitution</i>	
	Aug. 29	The U.S. Constitution	CL Appendix 1, AC & WP
	Aug. 31	Stare Decisis & Legal Reasoning (Asynchronous Online)	WS & PS
3		<i>Institutional Authority</i>	
	Sept. 5	Understanding the U.S. Supreme Court	CL 1–24 RB; AV
	Sept. 7	Understanding the U.S. Supreme Court	CL 24–46 WP2
4		<i>Institutional Authority</i>	
	Sept. 12	Institutional Authority	CL 51–55 Briefing Handout
	Sept. 14	The Judiciary	F23, F78 & B11 CL 57–71 Brief: <i>Marbury v. Madison</i>

Week	Dates	Topic	Assignments
5		<i>Institutional Authority</i>	
	Sept. 19	The Judiciary	CL 71–95
	Sept. 21	The Judiciary	CL 95–123
6		<i>Institutional Authority</i>	
	Sept. 26	The Legislature	CL 123–154 Brief: <i>McCulloch v. Maryland</i>
	Sept. 28	The Legislature The Executive	CL 154–176 CL 177–185
7		<i>Institutional Authority</i>	
	Oct. 3	The Executive	CL 185–221 QG
	Oct. 5	The Executive	CL 221–245 <i>Issue Spotter Exercise Due</i>
8		<i>Institutional Authority</i>	
	Oct. 10	Interbranch Interactions	CL 247–283 Brief: <i>INS v. Chadha</i>
	Oct. 12	Interbranch Interactions	CL 283–306
9		<i>Midterms</i>	
	Oct. 17	Review	
	Oct. 19	Midterm Exam	
10		<i>& Fall Break</i>	
	Oct. 24	Opinion Assignment	Opinion Handout
	Oct. 26	Fall Break	No Class

Week	Dates	Topic	Assignments
11		<i>Opinion Assignment</i>	
	Oct. 31	Conference	<i>Initial Impressions Due</i>
	Nov. 2	Conference	
12		<i>Nation-State Relations</i>	
	Nov. 7	Interbranch Interactions	CL 309–336 <i>Opinions Due</i>
	Nov. 9	Federalism	CL 336–362 <i>Final Impressions Due</i>
13		<i>The Commerce Power</i>	
	Nov. 14	Federalism	CL 362–388
	Nov. 16	Federalism	SA CL 388–402 Brief: <i>Hammer v. Dagenhart</i>
14		<i>The Commerce Power</i>	
	Nov. 21	The Commerce Power	CL 402–423
	Nov. 23	Thanksgiving Break	No Class
15		<i>The Commerce Power</i>	
	Nov. 28	The Commerce Power	CL 423–443
	Nov. 30	The Commerce Power	CL 443–475
16		<i>The Power to Tax and Spend</i>	
	Dec. 5	The Commerce Power General Welfare	CL 477–479 CL 503–521
	Dec. 7	Review	

Week	Dates	Topic	Assignments
		<i>Finals</i>	
17	Dec. 15	Final	8:00 – 9:50 am - Final Exam