

Syllabus
Constitutional Law: Equal Protection, Fundamental Rights, Due Process
Law A 590 (Spring 2019)
Fridays, 3:30-5:35; Room 117

Instructor

Professor: Terry J. Price
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Office Hours: By appointment.

Student Learning Objectives:

This course will prepare students to do the following:

1. List and quote (with only minor paraphrasing) the rights-protecting provisions of the U.S. Constitution.
2. For each provision, identify important words and phrases whose meaning has been interpreted by the Supreme Court in a way that varies from the literal meaning.
3. Synthesize and summarize (to the extent the cases allow) the body of Supreme Court case law we have studied, taking into account factual and doctrinal distinctions the Court has articulated and the standards of review (*e.g.*, “rational basis” or “strict scrutiny”) the Court has defined for various categories of claims. Our goal is not simply to remember whether the government or the individual prevailed based on a particular set of facts; it is to synthesize the case law and the Court’s “doctrine” sufficiently to predict how the Court would decide cases containing *different* facts. It is not necessary to memorize case names or dates or to identify the authors of individual opinions.
4. Analyze and predict the outcome of hypothetical fact situations using the categories and concepts found in the Constitution and in Supreme Court case law.

Textbook: Gregory E. Maggs & Peter J. Smith, *Constitutional Law: A Contemporary Approach* (4th ed. 2018); 2018 Supplement (posted on Canvas in Course Materials).

Note re reading assignments: Our foremost goal in this course is to understand how the Supreme Court would likely interpret and apply the Constitution to resolve various kinds of constitutional challenge in the near future, based on case law precedent. In decisions where an opinion is issued for “the Court” (a majority; five if all nine justices are sitting), there is no need to read concurring or dissenting opinions.

Preparing for Class:

Please read each assignment before class; make a note of any questions that occur to you. Bring all readings to class. You may find it useful to look over the executive summary at the end of a chapter before reading the individual cases. In most decisions an opinion is issued for “the Court” (five of the nine justices), so there is generally no need to read concurring or dissenting opinions.

Questions in Class:

Please feel welcome to ask questions at any time during the lectures.

Computers and cell phones:

In class, please use computers only for class purposes. Please keep cell phones silent. If you need to take an urgent call during class, please step into the hallway to do so.

Classroom Demeanor:

Constitutional law presents many controversial, emotionally sensitive issues. As members of a learning community, we must all do our best to treat the views of others respectfully.

Office Hours and Questions:

Because I work full-time at the law school, I do not have set office hours. If you have questions, please e-mail me at tprice@uw.edu and we can arrange a time to meet.

You are also welcome to e-mail me with questions at any time.

Law School Attendance Policy:

Under American Bar Association Accreditation Standard 304, a law school must require regular and punctual class attendance. At any time after the fifth week of a course, a student who has been determined by the instructor to have attended fewer than 80 percent of the class sessions up to that point will be dropped from the course. Please let me know by e-mail if you are unable to attend class because of illness or other unavoidable circumstances.

Class Recordings:

Classes are recorded by the Law School's Technical Services staff. They can be accessed via <https://courses.law.washington.edu> or by using the Class Recordings button on the Canvas course site.

Grading and Final Examination:

The final grade will consist of 3 in-class short quizzes with bar exam questions (weeks 3, 5, and 7) for a total of 10 questions and 20 points; class participation (based mainly on the student's expert day) worth 10 points; and a final examination worth 70 points that will be given Tuesday, May 28, from 1:00-4:00 p.m. For the final examination, you may bring your casebook and notes (on paper) to the exam room. You will not be able to consult computer files or internet sources during the exam. You may write your answers by hand or on a laptop, but the examination software is "secure;" it will not allow you to consult computer files or internet sources during the exam.

Individual examinations will be identified only by a code number provided by the Office of Academic Services.

The examination will include both essay questions and multiple-choice questions. Each question will present a story problem concerning a hypothetical constitutional challenge to some statute or other government action, and call for you to predict the result. The subject matter of the questions will be roughly proportioned to the material covered by the readings. No questions will concern the merits of current doctrine, history or future developments, or the views of individual justices. There is no need to remember case names or details like dates or the names of states or cities.

If you have two exams scheduled for the same day, you can apply to the Registrar's office for permission to take one of the exams at a different time.

Access and Accommodation:

If you have already established accommodations with Disability Resources for Students (DRS), please communicate your approved accommodations to the instructor at your earliest convenience so we can discuss your needs.

If you have not yet established services through DRS, but have a temporary health condition or permanent disability that requires accommodations (conditions include but not limited to; mental health, attention-related, learning, vision, hearing, physical or health impacts), you are welcome to contact DRS at 011 Mary Gates Hall or 206-543-8924 or uwdrs@uw.edu or disability@uw.edu. DRS offers resources and coordinates reasonable accommodations for students with disabilities and/or temporary health conditions. Reasonable accommodations are established through an interactive process between you, your instructor(s) and DRS. It is the policy and practice of the University of Washington to create inclusive and accessible learning environments consistent with federal and state law.

Course Evaluation

Course evaluations will be made available online during the last week of classes. I will provide time to complete evaluations during our final class on May 24. Please bring a laptop or mobile device to class on this date to participate in the evaluation.

Class and Reading Schedule:

Class 1 (April 5): Equal Protection, Part I (Race)

Casebook, pp. 735-743, 747-752, 757-840. You can skim pp. 799-824 about the Affirmative Action cases, read pp. 825-833 (*Seattle School Dist. No. 1*), and then skim 834-840 (race and redistricting).

[Note: *Dred Scott v. Sandford* and *Plessy v. Ferguson* are no longer considered valid precedent, but they are famous decisions.]

Class 2 (April 12): Equal Protection, Part II; Privileges or Immunities

Casebook: pp. 841-895, 897-938 (skim); pp. 543-553.

For cases, focus on *United States v. Virginia*, *Cleburne v. Cleburne Living Center*, *Romer v. Evans*, *Bush v. Gore*, and *San Antonio Independent School District v. Rodriguez*.

Class 3 (April 19): Procedural Due Process

Guest Lecturer-- Carrie Sanford

Casebook: pp. 723-33.

Additional cases:

Mathews v. Eldridge, 424 U.S. 319 (1976) (public assistance benefits);

Addington v. Texas, 441 U.S. 418 (1979) (civil commitment);

City of New York v. Antonette R., 630 N.Y.S.2d 1008 (April 21, 1995) (quarantine);

Amunrud v. Board of Appeals and Dept. of Social and Health Services, 124 Wash. App. 884 (2004) (child support).

Class 4 (April 26): Substantive Due Process

Casebook: pp. 583-640 (skim 585-597), 646-695

For cases, focus on *Skinner v. Oklahoma*, *Griswold v. Connecticut*, *Roe v. Wade*, *Michael H. v. Gerald D.*, and *Obergefell v. Hodges*.

Class 5 (May 3): Freedom of Expression, Part I

Casebook, pp. 987-1090.

For cases, focus on *Reed v. Town of Gilbert*, *United States v. O'Brien*, *Barnes v. Glen Theater*, *New York Times v. Sullivan*, and *Snyder v. Phelps*.

Class 6 (May 10): Freedom of Expression, Part II

Casebook, pp. 1090-1159.

For cases, focus on *Texas v. Johnson*, *RAV v. City of St. Paul, MN*, *Buckley v. Valeo*, *Citizens United v. FEC*, and *Janus v. American Federation* (in Supplement located under Files tab).

Class 7 (May 17): Religion

A. No “Establishment of Religion”

Casebook: pp. 1231-1333

B. “Free Exercise” of Religion

Casebook: pp. 1334-1382

For cases, focus on *Lemon v. Kurtzman*, *Zelman v. Simmons-Harris*, *Wallace v. Jaffree*, *Employment Division of OR v. Smith*, *Church of the Lukumi Babalu Aye v. City of Hialeah* and *Van Orden v. Perry*.

Class 8 (May 24): The Right to Keep and Bear Arms and the Takings Clause

Casebook: 23-36, 563-573, 1406-1432

For cases, focus on *District of Columbia v. Heller*, *McDonald v. City of Chicago*, *Yee v. City of Escondido*, *Penn Central Transportation v. City of New York*, and *Kelo v. City of New London*.