POLS 4310 – American Constitutional Law I

FALL 2025 (3 Credit Hours)

Course Description

The political process is often viewed as a game where the players pursue their interests. Like any game, the rules matter. In American politics, the rulebook is the U.S. Constitution. However, since the U.S. Constitution is short and can be quite vague, disputes often arise over what the rules mean or how they are applied. When the rules are in dispute, players often appeal to the umpires or referees. In the U.S., the umpire is the Supreme Court. Over the past 235+ years, the Supreme Court has played an active role in defining the powers of each branch of government, outlining where those powers overlap with other branches of government, and placing limits on the use of those powers. In this course, we will explore these rules and how they have changed over time.

Course Information

Instructor: Professor Christine (Chris) Bailey

Department of Political Science and Public Management

Email: baileyc1@apsu.edu

Class Schedule: Tue/Thurs 12:45 pm – 2:10 pm (Clement 157)

Office Phone Number: (931) 221-7197

Office: Clement Building 143B

Office Hours: Tue/Thurs 10:00 am – 12:30 pm [in person], Zoom by appointment [online]

Zoom: https://apsu.zoom.us/j/6463412650

Course Learning Objectives

On completion of this course, students will be able to:

1. Demonstrate understanding of the basic principles that define the powers of the three branches of government and their relationship with each other
2. Demonstrate understanding of the complex, evolving relationship between the federal government and the states.
3. Improve critical reading, writing, and organizational skills
4. Demonstrate the ability to brief a court case
5. Explain and define key methods of judicial decision-making

Required Materials

There is one required textbook for the course. To save funds, you are welcome to purchase this textbook used, utilize the eBook, or rent the textbook for the semester. Be sure you have the correct edition (12th) and iteration (Institutional Powers and Constraints), as there are MANY versions of this textbook. Additionally, there will be supplemental readings and podcasts that will be posted on D2L and are noted in the course schedule.

1. Epstein, Lee; Kevin T. McGuire; and Thomas G. Walker. 2025. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. 12th Edition. Sage University Press: CA
    a. Book ISBN: 9781071934470
    b. eBook ISBN: 9781071934500

Communication Policy

Class communication will primarily be via email. The best way to contact me directly is by email at baileyc1@apsu.edu. PLEASE REFRAIN from emailing me in D2L. I do not check this frequently, so your correspondence may get missed if you use the mail feature in D2L. If needed, Zoom video conferences, phone calls, or office visits can be scheduled via email. Please be sure to check your APSU email and D2L on a regular, if not daily, basis.

I will respond to student emails within 48 hours Monday through Friday from 9:00 am -5:00 pm. Response times may vary during weekends and holidays.

- ## Statement of Academic Freedom
  - Students have the right to engage in polite, reasoned disagreement with the professor and other students with no penalty to their grades whatsoever.
  - Everyone has the right to participate in a learning environment that emphasizes mutual respect, tolerance, and free inquiry.
  - This class is a forum for critical discussion in pursuit of the truth. Both the professor and students have the right to challenge any beliefs, world-views, ideology, or attitudes, even those that many hold sacred.

Technology Requirements

- Web Browsers - Online course content is delivered through the D2L learning management system which is accessible through any web browser; however, Distance Education recommends the most up-to-date versions of Google Chrome or Apple Safari. Please use the D2L System Check to ensure that your web browser is properly configured.
- Free Microsoft Office 365 - You will need software for word processing. Currently enrolled APSU students receive access to Microsoft Office 365 for free and can install it on up to 5 compatible PCs or Macs. Additional information is available through the GOVSTECH website. Contact GOVSTECH at govstech@apsu.edu with questions.

Technology Skills Required for Course

- Accessing and navigating D2L
- Sending/receiving email
- Proficiency with Microsoft Office

Technology Assistance

- For Austin Peay email and OneStop login issues, contact (931) 221-HELP (4357) or govstech@apsu.edu. Go to GovsTech for more information.
- For D2L questions/concerns, contact (931) 221-6625 or online@apsu.edu. Go to Distance Education for more information.

- Distance education has put together a list of resources for you to help you navigate online courses. Find it here.
- You can locate university policies related to the accessibility and privacy policies of D2L, Turnitin, and other approved university technology vendors here.

Grading & Assessment Policies

Assignments & Assignment Weights

Participation and Attendance (20%)

As this is a 4000-level class, participation is vital for you to grasp the material. You are expected to come to class, actively participate in the discussion, comment on the readings, and engage in the discussion with your fellow students. You must sign the sign-in sheet for each class. However, if I catch you texting or inappropriately using classroom technology (shopping on amazon, scrolling through Instagram, etc), you will receive a "zero" grade for attendance and participation for that day.

Case Briefs (10%)

This course does not have a research paper. Instead, you will brief 5 select cases throughout the semester. Briefing will help you better understand the cases, and make studying for the exams much easier. Early in the semester, I will go over the proper format for briefs and provide examples. All briefs must be typed and turned in online in D2L through Turnitin. Briefs are due BEFORE class on the date the reading is assigned. My expectation is that your case briefs will progressively get better over the course of the semester. Thus, the grading standards used early in the semester will be more lax than later in the semester. Be sure to read the feedback in Turnitin to help you improve your briefs. NOTE: I have intentionally made these briefs extremely low stakes- that is to say that each brief will have little impact on your final grade. The reason for this is to discourage you from using AI for writing briefs. DO NOT utilize AI for this assignment. See the calendar of assignments and/or the course schedule below for a list of due dates and cases to brief.

Quizzes (20%)

Periodically throughout the semester, I will administer unannounced quizzes. These quizzes will be given at the start of class and will consist of multiple choice, true/false, fill-in-the-blank, and/or short answer questions. They can cover anything previously discussed in class or anything from that day's readings. If you do the readings and pay attention in class, it should be easy to obtain full credit on all the quizzes. Quizzes will be passed out at the start of class and no quizzes will be passed out after that time, so it is imperative you arrive on time to class. I will administer seven quizzes and take your top five quizzes over the course of the semester to compile your total quiz score. Quizzes cannot be made up, therefore it is imperative that you attend class regularly, read for class, and are on time for class.

Midterm Exam (25%)

A midterm exam will be given during class time on **October 16th.** The exam will be inclusive of all material covered from the start of class until this point. The exam will not be open-note, so it is imperative that you study for the exam.

Final Exam (25%)

A final exam will be given during the university-scheduled exam time on December 10th between 10:30 am and 12:30 pm. The exam will be inclusive of all material covered in the second half of class. The exam will not be open-note, so it is imperative that you study for the exam.

Grading Scale

- A = 90-100%
- B = 80-89%
- C = 70-79%
- D = 60-69%
- F = 59% and under

To calculate your percentage/letter grade at the end of the course, multiply the points per assignment by their associated weight and sum the resulting totals.

This will give you the percentage associated with the letter grades. In order to pass a course in Political Science, you must achieve a "D" or better grade.

Calendar of Assignments

- Quizzes: given randomly throughout the semester
- Brief #1: 9/9
- Brief #2: 9/18
- Brief #3: 9/30
- Midterm Exam: 10/16
- Brief #4: 10/23
- Brief # 5: 11/11
- Final Exam: 12/10

Testing Procedures

The quizzes, midterm, and final exams will be given in-person during class time.

Assessment of Written Work

The largest writing component of this course are the case briefs. Early in the semester, I will provide guidance for how to brief a case. The briefs will be assessed and graded based on this outline.

University Attendance Policy

The Department of Education requires that all universities receiving federal financial aid report attendance on the 14th day of classes each semester. Please be aware that if you do not attend class or manifest your attendance online through the submission of academic work within the first 14 days, you will be dropped from the class by the university and may be liable for repayment of any received financial aid for the course.

Instructor Grading and Feedback Response Time

All assignments will be graded with feedback attached in D2L within two weeks of the due date.

Late and Missing Work Policy

Assignment deadlines are carefully crafted to ensure I can provide feedback on your assignments in a timely manner. This is important because many of the assignments build upon other assignments. Thus, I will not accept late case briefs. Quizzes are not able to be made up and must be taken on the date and time they are given.

Statement of Academic Integrity

Familiarize yourself with the university policy regarding academic integrity. Do not violate it. Any form of cheating will be referred to the Dean of Students and dealt with in accordance with the university policies described in the Student Handbook: University Academic Policies.

The following is the definition of Academic Misconduct from APSU's Policies and Procedures Manual:

1. Plagiarism. The adoption or reproduction of ideas, words, statements, images or works of another person as one's own without proper attribution.
2. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. The term academic exercise includes all forms of work submitted for credit or hours.
3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.
4. Facilitation or Collusion. Assisting or attempting to assist another to violate a provision of the institution's student code of conduct regarding academic misconduct.

Academic and Classroom Misconduct

Students are expected to conduct themselves appropriately at all times. Academic and classroom misconduct will not be tolerated. Students must read the "Code of Student Conduct" in the new Student Handbook for an understanding of what will be expected of them within the academic setting. APSU Policy 3:005 Student

Academic and Classroom Misconduct will be followed in reporting any suspected cases of academic misconduct.

Rules Governing the Use of Artificial Intelligence

The use of AI tools, such as ChatGPT, is strictly prohibited for all assignments, projects, exams, and other coursework in this class. All work submitted must be your original creation. Students are FORBIDDEN from using AI to take notes for the course. This course represents my intellectual property, and I do not consent to having that property uploaded to any AI platform. Students are FORBIDDEN from using AI to brief a case. This exercise is designed to help you better read and understand case law, and using AI defeats this purpose. The unauthorized use of AI will be considered academic dishonesty and subject to disciplinary action, including but not limited to, receiving a failing grade on the assignment or in the course. If you are unsure whether a tool is considered AI or need clarification on this policy, please consult with the instructor before proceeding.

Copyright, Note Selling, and Recordings

The lectures and course materials, including lecture slides, assignments, tests, outlines and similar materials are protected by U.S. copyright laws and by university policy. You may take notes and make copies of course materials for your own use in this class. You may also share those materials with another student who is registered and enrolled in this course. You may NOT reproduce, distribute, upload, or display any lecture notes or recordings or course materials in any other way– whether or not a fee is charged – without my express written consent. If you do so, you may be subject to disciplinary action under the APSU Code of Student Conduct. This does not pertain to accommodations under the Americans with Disabilities Act (ADA), although recordings or sharing of course materials and notes for ADA accommodations should not be distributed beyond the students receiving the accommodations. Similarly, you own the copyright to your original papers and exam essays. If I am interested in posting your answers or papers on the course website, I will ask for your written permission. **Students may not record this course without the permission of the instructor.**

Students with Disabilities

Any student who has a disability that may affect his/her academic performance is encouraged to make an appointment with me to discuss this matter, or you may contact Student Disability Resource Center; telephone 221-6230; tty 221-6278; fax 221-7102.

Academic Support

- University Support

The university has a broad array of resources to help students succeed. These are detailed in the following document. If you need to borrow a laptop, get research and writing help, find a health care provider, or get tech support, the university has you covered.

Minors in the Classroom

Minors (any non-student under the age of 18) accompanying staff, faculty, students or visitors on campus are not permitted in the classroom.

Service Animals in the Classroom

Consult Policy 3:007 Animals on Campus for appropriate situations allowing service animals in the classroom.

Tentative Schedule of Readings and Assignments

A few notes about reading the course schedule:

- Please do the readings in the order listed on the syllabus
- "Epstein" refers to the required Epstein, McGuire, and Walker book
- "(D2L)" means the reading can be found on D2L
- Cases with an asterisk "*" should be briefed

Module 1: Course Introduction

- Tuesday, August 26
  - **Read** Course Syllabus

Module 2: Supreme Court Basics

- Thursday, August 28th- The Supreme Court's Procedures and Institutions
  - **Read** Epstein 3-46
  - **Complete** Syllabus Quiz (DUE 8/28)
- Tuesday, September 2nd- How Do the Justices Decide?
  - **Read** Scalia: Originalism: The Lesser Evil (D2L)
  - **Read** T. Marshall: "The Constitution: A Living Document" (D2L)
  - **Read** Miller, Mark. 2015. "Studying Decision Making on Appellate Courts" in *Judicial Politics in the United States*. Westview Press: Boulder CO (D2L)
  - **Read** "How to Brief a Case" Handout (D2L)
  - **Read** Example Brief

Module 3: The Power to Decide: Judicial Review

- Thursday, September 4th – Judicial Review
  - **Read** Epstein 57-83
    - **Read** Cases: *Marbury v. Madison* (1803), *Martin v. Hunter's Lessee* (1816)
  - **Listen** WNYC Radio Lab. 2016. "Kittens Kick the Giggly Blue Robot All Summer." *More Perfect*. (D2L)
- Tuesday, September 9th -Judicial Review's Limits
  - **Read** Epstein 83-100, 103-106, 109-116
    - **Read** Cases: *Ex Parte McCardle* (1869), *Baker v. Carr* (1962)*****
  - **Listen** WNYC Radio Lab. 2016. "The Political Thicket." *More Perfect.* (D2L)
  - **Complete** Brief #1*: Baker v. Carr* (1962) (DUE before class 9/9)

Module 4: Congress

- Thursday, September 11th – Membership of Congress and Enumerated and Implied Powers
  - **Read** Epstein 119-125, 129-134, 140-156, 161-178
    - **Read** Cases *U.S. Term Limits v. Thornton* (1995), *McCulloch v. Maryland* (1819), *Barenblatt v. United States* (1959)

Module 5: The Executive

- Tuesday, September 16th – Inherent Powers and Amendments and Presidential Background
    - **Read** Epstein 181-204
        - **Read** Cases: *Bush v. Gore* (2000), *In re Neagle* (1890)
- Thursday, September 18th – The President's Domestic Powers
    - **Read** Epstein 205-217, 221-224
        - **Read** Cases: *Clinton v. City of New York* (1998)*****, *Morrison v. Olson* (1988), *Humphrey's Executor v. U.S.* (1935)
    - **Complete** Case Brief #2: *Clinton v. City of New York* (1998) (DUE before class 9/18)
- Tuesday, September 23rd – Executive Privilege
    - **Read** Epstein 224-238-246
        - **Read** Cases *United States v. Nixon* (1974), *Mississippi v. Johnson* (1867), *Clinton v. Jones* (1997), *Trump v. United States* (2024)
- Thursday, September 25th – The Delegation of Legislative Powers & Executive Power in Wartime
    - **Read** Epstein 257-262, 265-272, 274-285
        - **Read** Cases: *INS v. Chadha* (1983), *The Prize Cases* (1863), *Ex parte Milligan* (1866)
- Tuesday, September 30th – Executive Power and the Evolving Definition of War
    - **Read** Epstein 285-300, 305-316
        - **Read** Cases: *Korematsu v. United States* (1944)*****, *Youngstown Sheet and Tube Co. v Sawyer* (1952), *Dames & Moore v. Regan* (1981), *Hamdi v. Rumsfeld* (2004)
    - **Complete** Case Brief #3: *Korematsu v. United States* (1944) (DUE before class on 9/30)

Module 6: Nation-State Relations

- Thursday, October 2nd - Federalism
    - **Read** Epstein 325-344
        - **Read** Cases: *McCulloch v. Maryland* (1819), *Scott v. Sanford* (1857), *Coyle v. Smith* (1911)

- Tuesday, October 7th – New Judicial Federalism
    - **Read** Epstein 348-359, 362-367
        - **Read** Cases: *New York v. U.S.* (1992), *Printz v. United States* (1997), *Alden v. Maine* (1999)
- Thursday, October 9th- National Preemption of State Laws
    - **Read** Epstein 367-381
        - **Read** Cases: *Missouri v. Holland* (1920*), Crosby v. National Foreign Trade Council* (2000), *Arizona v. United States* (2012)
- Tuesday, October 14th – Fall Break (No Class)
- Thursday, October 16th – Midterm Exam

Module 7: The Commerce Power

- Tuesday, October 21st – Commerce Clause General Background
    - **Read** Epstein 383-394, 397-404
        - **Read** Cases: *Gibbons v. Ogden* (1824), *U.S. v. E.C. Knight Co*. (1895), *Champion v. Ames* (1903), *Hammer v. Dagenhart* (1918)
- Thursday, October 23rd – The Expanding Commerce Power
    - **Read** Epstein 405-411, 414-437
        - **Read** Cases: *NLRB v. Jones & Laughlin Steel Corporation* (1937), *United States v. Darby* (1941), *Wickard v. Filburn* (1942), *Heart of Atlanta Motel v. U.S.* (1964)*****
    - **Complete** Case Brief #4 *Heart of Atlanta Motel v. U.S.* (1964) (DUE before class 10/23)
- Tuesday, October 28th – The Commerce Clause in the Late 20th Century
    - **Read** Epstein 437-449
        - **Read** Cases: *United States v. Lopez* (1995), *U.S. v. Morrison* (2000)
- Thursday, October 30th – Cannabis, Health Care, and the Commerce Clause
    - **Read** Epstein 450-462
        - **Read** Cases: *Gonzales v. Raich* (2005), *National Federation of Independent Business v. Sebelius* (2012)
- Tuesday, November 4th – State Commerce Power
    - **Read** Epstein 462-471, 477-483

        - **Read** Cases: *Cooley v. Board of Wardens* (1852), *Southern Pacific Company v. Arizona* (1945), *Maine v. Taylor* (1986), *Granholm v. Heald* (2005)

Module 8: The Power to Tax and Spend

- Thursday, November 6th – Income and Export Taxes & Tax Immunity
    - **Read** Epstein 485-503
        - **Read** Cases: *Pollock v. Farmers' Loan & Trust Co*. (1895), *U.S. v. United States Shoe Corp* (1998), *South Carolina v. Baker* (1988), *Davis v. Michigan Dept. of Treasury* (1989)
- Tuesday, November 11th – Taxation as a Regulatory Power
    - **Read** Epstein 504-510, 512-524
        - **Read** Cases: *McCray v. United States* (1904), *Bailey v. Drexel Furniture Co.* (1922), *U.S. v. Butler* (1936), *Steward Machine Co. v. Davis* (1937), *South Dakota v. Dole* (1987)*****
    - **Complete** Case Brief #5 *South Dakota v. Dole* (1987) (DUE before class 11/11)
- Thursday, November 13th – The State Revenue Power
    - **Read** Epstein 530-541
        - **Read** Cases: *Michelin Tire Corp v. Wages* (1976), *Complete Auto Transit v. Brady* (1977), *South Dakota v. Wayfair* (2018)

Module 9: Economic Liberties

- Tuesday, November 18th – The Contract Clause
    - **Read** Epstein 549-572
        - **Read** Cases: *Fletcher v. Peck* (1810), *Trustees of Dartmouth College v. Woodward* (1819), *Charles River Bridge v. Warren Bridge* (1837), *Stone v. Mississippi* (1880)
- Thursday, November 20th – The Contract Clause in the 20th Century and Beyond
    - **Read** Epstein 572-580
        - **Read** Cases: *Home Building & Loan Assn. v. Blaisdell* (1934), *Sveen v. Melin* (2018)
- Tuesday, November 25th – Economic Substantive Due Process
    - **Read** Epstein 581- 605, 616-620

        - **Read** Cases: *Munn v. Illinois* (1877), *Allgeyer v. Louisiana* (1897), *Lochner v. New York* (1905), *Muller v. Oregon* (1908), *West Coast Hotel v. Parrish* (1937)
- Thursday, November 27th – Thanksgiving (No Class)

Module 10: Takings and Eminent Domain

- Tuesday December 2nd- Takings
    - **Read** Epstein 629-639, 642-646
        - **Read** Cases: *U.S. v. Causby* (1946), *Penn Central Transportation Company v. City of New York* (1978), *Lucas v. South Carolina Costal Council* (1992)
- Wednesday, December 10th – Final Exam 10:30 am – 12:30 pm

Caveat

This syllabus is not a contract. The instructor reserves the right to make changes as necessary to this syllabus. If changes are made during the term of the course, the instructor will immediately notify students of such changes both by email communication and posting both the notification and nature of change(s) on the course announcements page in D2L.