POLS 4321 - American Constitutional Law
MW 2:30PM – 3:50PM
College of Arts and Science, Room 212
University of Texas at Tyler
Fall 2018

Professor Eric A. Lopez
Office: CAS 227
Office Phone #: (903) 566-7371
Office Hours: MW, 10:00am - 2:15pm & by Appointment
Email: elopez@uttyler.edu
  • Expect a response within 24 hours
  • I will only reply to email from an official UT-Tyler email account

Course Description
By constitutional design, governmental authority in the United States is divided not only between three co-equal branches of government, but also among the State governments. While the Constitution specifies each branch’s power and defines the relationship between the Federal government and the States, questions arise over the breadth and scope of these powers, rarely
making the Constitution’s divisions and separations of government authority evident. Through its responsibility to say what the law is, the Supreme Court has been considered the primary decision maker regarding the proper scope of governmental authority as it relates to separation of powers and federalism. In this course, students will critically examine the controversies and issues where the Supreme Court has attempted to define the limitations of government power for the Federal and State governments.

Required Texts
2) The Professor, through Blackboard, will post additional readings.

Requirements, Dates, and Grades
*The composition of the student’s final grade will consist of 2 exams (a midterm and a non-cumulative final exam), 2 legal briefs, and eight in-class (unannounced) quizzes.*

The exams will be held, in class, on the dates specified below. The format of each exam will be detailed during the class period prior to the exam, at which point a review session will also be held (each exam will have a take-home component). Secondly, the instructions for the legal briefs will be explained as the semester progresses, with ample amount of time for students to prepare and complete the briefs before they are due. Lastly, eight in-class, unannounced quizzes will be given throughout the semester and five will count towards your final grade (i.e. your three lowest quiz scores will be dropped). **Absolutely no make-ups will be allowed on these quizzes.**

The following are the weights given to the exams, the legal briefs, and the quizzes, and the date that each is due:

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Date (Subject to Change)</th>
<th>Grade Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Midterm</td>
<td>Wed., October 17, 2018</td>
<td>30%</td>
</tr>
<tr>
<td>Final Exam</td>
<td>Wed., December 12, 2018</td>
<td>30%</td>
</tr>
<tr>
<td>Legal Brief 1</td>
<td>TBD</td>
<td>15%</td>
</tr>
<tr>
<td>Legal Brief 2</td>
<td>TBD</td>
<td>15%</td>
</tr>
<tr>
<td>Quizzes</td>
<td>Weekly</td>
<td>10%</td>
</tr>
</tbody>
</table>

Final grades will be granted on the following scale: A=100%-90%, B=89%-80%, C=79%-70%, D=69%-60%, and E=59%-50%.

**UT Tyler Honor Code & Students’ Rights and Responsibilities**
Every member of the UT Tyler community joins together to embrace: Honor and integrity that will not allow me to lie, cheat, or steal, nor to accept the actions of those who do. Students
Rights and Responsibilities To know and understand the policies that affect your rights and responsibilities as a student at UT Tyler, please follow this link:
http://www.uttyler.edu/wellness/rightsresponsibilities.php

Attendance Policy
Your attendance in this course is not mandatory and your grade in this course will not suffer directly from missing class. However, the examination material in this class is not only based on the required readings, but on class participation and class discussions (which means that your grade will almost certainly suffer by missing too many classes).

- Keep in mind:
  - There are no make-ups allowed for the in-class quizzes.
  - Borderline grades will be determined by the quality of your overall contribution to the course (i.e. come to class and participate).

Class notes, either of my own or transcribed by other students, will only be made available to those students whom miss class due to their observance of holidays and special events by organized religions or to students who have a pre-approved absence by the Dean of Students (see also: Student Absence for University-Sponsored Events and Activities and Student Absence due to Religious Observance sections of the syllabus).

For those students who attend lecture, photography of any class notes/lectures is strictly prohibited. Any student found in violation will be asked to leave class for the day.

“Make Up” Policy
Make up exams will only be offered to those students that have a University approved absence, a doctor’s note detailing your inability to take the exam on the date provided on this syllabus, or a sudden emergency (e.g. death in your family, illness) that prohibits your attendance for the exam on the date provided on this syllabus. Anyone who has not satisfied any of these requirements and does not take the exam will be given a grade of “0.” If any conflict (other tests, travel plans, etc.) with the exams exists, notify me by Friday, September 7, 2018. Be advised that allowances will only be given in extreme cases with my discretion as to what I define as extreme. (see also: Student Absence for University-Sponsored Events and Activities and Student Absence due to Religious Observance sections of the syllabus).

Student Absence Due to Religious Observance
Students who anticipate being absent from class due to a religious observance are requested to inform the Professor of such absences by the second class meeting of the semester.

Student Absence for University-Sponsored Events and Activities
If you intend to be absent for a university-sponsored event or activity, you (or the event sponsor) must notify the Professor at least two weeks prior to the date of the planned absence. At that time the Professor will set a date and time when make-up assignments will be completed.

**Student Standards of Academic Conduct**

The UT Tyler community regards cheating as an extremely serious matter and deals severely with those who violate the standards of academic integrity. Disciplinary proceedings may be initiated against any student who engages in scholastic dishonesty, including, but not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts.

“Cheating” includes, but is not limited to:

- copying from another student’s test paper;
- using, during a test, materials not authorized by the person giving the test;
- failure to comply with instructions given by the person administering the test;
- possession during a test of materials which are not authorized by the person giving the test, such as class notes or specifically designed “crib notes”. The presence of textbooks constitutes a violation if they have been specifically prohibited by the person administering the test;
- using, buying, stealing, transporting, or soliciting in whole or part the contents of an un-administered test, test key, homework solution, or computer program;
- collaborating with or seeking aid from another student during a test or other assignment without authority;
- discussing the contents of an examination with another student who will take the examination;
- divulging the contents of an examination, for the purpose of preserving questions for use by another, when the instructors has designated that the examination is not to be removed from the examination room or not to be returned or to be kept by the student;
- substituting for another person, or permitting another person to substitute for oneself to take a course, a test, or any course-related assignment;
- paying or offering money or other valuable thing to, or coercing another person to obtain an un-administered test, test key, homework solution, or computer program or information about an un-administered test, test key, home solution or computer program;
- falsifying research data, laboratory reports, and/or other academic work offered for credit;
- taking, keeping, misplacing, or damaging the property of The University of Texas at Tyler, or of another, if the student knows or reasonably should know that an unfair academic advantage would be gained by such conduct;
misrepresenting facts, including providing false grades or resumes, for the purpose of obtaining an academic or financial benefit or injuring another student academically or financially.

“Plagiarism” includes, but is not limited to, the appropriation, buying, receiving as a gift, or obtaining by any means another’s work and the submission of it as one’s own academic work offered for credit.

“Collusion” includes, but is not limited to, the unauthorized collaboration with another person in preparing academic assignments offered for credit or collaboration with another person to commit a violation of any section of the rules on scholastic dishonesty.

All written work that is submitted will be subject to review by plagiarism software.

If a student is suspected of academic dishonesty, the classroom instructor may ask the student to meet with him or her to discuss the incident. A student may admit to allegations of academic dishonesty, waive the right to a hearing and accept penalties imposed by the instructor. The student may also deny all allegations and ask to see the Dean of Student Affairs. An accused student may accept the decision of the Dean of Student Affairs or ask for a hearing before an impartial hearing officer appointed by the university. Witnesses may be called and evidence presented. The hearing officer will consider all evidence and make a decision. The decision of the hearing officer may be appealed to the President by either the student or the Dean of Student Affairs. For further discussion of academic dishonesty and possible penalties, please see: http://www.uttyler.edu/judicialaffairs/scholasticdishonesty.php

Class Conduct and Threatening Behavior
Given the nature of political discourse, some of the topics discussed and debated in class may be sensitive to some students. It is expected that students, regardless of the subject matter, maintain civility in their class comments. The University and the Professor seek to promote a safe environment where students may participate in debates, discussion, and other objectives concurrent with the educational process without compromising their health, safety, and welfare. Concurrent with this ideal, mutual courtesy and respect should govern all classroom conduct. Therefore, threats of physical harm or verbal abuse will not be tolerated in this class.

All electronic devices must be silenced during class (if possible, please turn off all electronic devices) unless you have received prior permission from the Professor. Any such device that interrupts class will be confiscated and returned to the student during the Professor’s office hours. For those students who attend lecture, photography of any class notes/lectures is strictly prohibited. Any student found in violation will be asked to leave class for the day.
ANYONE USING AN ELECTRONIC DEVICE WITHOUT PRIOR PERMISSION DURING AN EXAMINATION WILL RECEIVE A “0” ON THAT EXAM.

Campus Carry
We respect the right and privacy of students 21 and over who are duly licensed to carry concealed weapons in this class. License holders are expected to behave responsibly and keep a handgun secure and concealed. More information is available at: http://www.uttyler.edu/about/campus-carry/index.php

UT Tyler: A Tobacco-Free University
All forms of tobacco will not be permitted on the UT Tyler main campus, branch campuses, and any property owned by UT Tyler. This applies to all members of the University community, including students, faculty, staff, University affiliates, contractors, and visitors. Forms of tobacco not permitted include cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff, chewing tobacco, and all other tobacco products.

There are several cessation programs available to students looking to quit smoking, including counseling, quitlines, and group support. For more information on cessation programs please visit: www.uttyler.edu/tobacco-free

Disability/Accessibility Services
In accordance with Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA) the University of Texas at Tyler offers accommodations to students with learning, physical and/or psychological disabilities. If you have a disability, including a non-visible diagnosis such as a learning disorder, chronic illness, TBI, PTSD, ADHD, or you have a history of modifications or accommodations in a previous educational environment, you are encouraged to visit https://hood.accessiblelearning.com/UTTyler/ and fill out the New Student application. The Student Accessibility and Resources (SAR) office will contact you when your application has been submitted and an appointment with Cynthia Lowery, Assistant Director of Student Services/ADA Coordinator. For more information, including filling out an application for services, please visit the SAR webpage at http://www.uttyler.edu/disabilityservices, the SAR office located in the University Center, #3150 or call 903.566.7079

Grade Replacement/Forgiveness and Census Date Policies
Students repeating a course for grade forgiveness (grade replacement) must file a Grade Replacement Contract with the Enrollment Services Center (ADM 230) on or before the Census Date of the semester in which the course will be repeated. Grade Replacement Contracts are available in the Enrollment Services Center or at http://www.uttyler.edu/registrar
Each semester’s Census Date can be found on the Contract itself, on the Academic Calendar, or in the information pamphlets published each semester by the Office of the Registrar. Failure to file a Grade Replacement Contract will result in both the original and repeated grade being used to calculate your overall grade point average. Undergraduates are eligible to exercise grade replacement for only three course repeats during their career at UT Tyler; graduates are eligible for two grade replacements. Full policy details are printed on each Grade Replacement Contract.

The Census Date is the deadline for many forms and enrollment actions of which students need to be aware. These include:

- Submitting Grade Replacement Contracts, Transient Forms, requests to withhold directory information, approvals for taking courses as Audit, Pass/Fail or Credit/No Credit.
- Receiving 100% refunds for partial withdrawals. (There is no refund for these after the Census Date)
- Schedule adjustments (section changes, adding a new class, dropping without a “W” grade)
- Being reinstated or re-enrolled in classes after being dropped for non-payment
- Completing the process for tuition exemptions or waivers through Financial Aid State-Mandated Course

The Census Date for this semester is Monday, September 10, 2018.

State Mandated Course Drop Policy
Texas law prohibits a student who began college for the first time in Fall 2007 or thereafter from dropping more than six courses during their entire undergraduate career. This includes courses dropped at another 2-year or 4-year Texas public college or university. For purposes of this rule, a dropped course is any course that is dropped after the census date (See Academic Calendar for the specific date). Exceptions to the 6-drop rule may be found in the catalog. Petitions for exemptions must be submitted to the Enrollment Services Center and must be accompanied by documentation of the extenuating circumstance. Please contact the Enrollment Services Center if you have any questions.

Social Security and FERPA Statement
It is the policy of The University of Texas at Tyler to protect the confidential nature of social security numbers. The University has changed its computer programming so that all students have an identification number. The electronic transmission of grades (e.g. via e-mail) risks violation of the Family Educational Rights and Privacy Act; grades will not be transmitted electronically.

Emergency Exits and Evacuation
Everyone is required to exit the building when a fire alarm goes off. Follow your Professor’s directions regarding the appropriate exit. If you require assistance during an evacuation, inform
the Professor in the first week of class. Do not re-enter the building unless given permission by University Police, Fire department, or Fire Prevention Services.

**UT Tyler Resources for Students**
- UT Tyler Writing Center (903.565.5995), writingcenter@uttyler.edu
- UT Tyler Tutoring Center (903.565.5964), tutoring@uttyler.edu
- The Mathematics Learning Center, RBN 4021, this is the open access computer lab for math students, with tutors on duty to assist students who are enrolled in early-career courses.
- UT Tyler Counseling Center (903.566.7254)

**Changes to the Syllabus**
*The information contained in this syllabus, other than the grade and absence policies, may be subject to change with reasonable advance notice, as deemed appropriate by the Professor.*

**Course Outline and Readings** (subject to change)

**Week 1 (August 27 – August 31)**
- 8/27 – Introduction to the Course
  - Overview of the course, class policies, and the syllabus
- 8/27 – Introduction to the Constitution and Supreme Court
  - Epstein and Walker, pages 1-52
- 8/29, 9/5, 9/10, & 9/12 – The Judiciary
  - Epstein and Walker, pages 55-120

**Week 2 (September 3 – September 7)**
- 9/3 – NO CLASS (LABOR DAY)
- 9/5, 9/10, & 9/12 – continue, The Judiciary

**Week 3 (September 10 – September 14)**
- 9/10 – FYI: CENSUS DATE
- 9/10 & 9/12 – continue, The Judiciary
- 9/12, 9/17, 9/19, & 9/24 – The Legislature
  - Epstein and Walker, pages 121-181

**Week 4 (September 17 – September 21)**
- 9/19, 9/21, & 9/24 – continue, The Legislature

**Week 5 (September 24 – September 28)**
- 9/24 – continue, The Legislature
- 9/24, 9/26, 10/1, & 10/3 – The Executive
  o Epstein and Walker, pages 183-267

Week 6 (October 1 – October 5)
- 10/1 & 10/3 – continue, The Executive
- 10/3, 10/8, 10/10, & 10/15 – Separation of Powers
  o Epstein and Walker, pages 269-340
  o A Closer Look: *NLRB v. Canning* (2014) (Canvas)

Week 7 (October 8 – October 12)
- 10/8, 10/10, & 10/15 – continue, Separation of Powers

Week 8 (October 15 – October 19)
- 10/15 – continue, Separation of Powers
- 10/15 – Review for Midterm
- **10/17 – MIDTERM**

Week 9 (October 22 – October 26)
- 10/22, 10/24, 10/29, & 10/31 – Federalism
  o Epstein and Walker, pages 341-414
  o A Closer Look: *Murphy v. NCAA* (2018) (Canvas)

Week 10 (October 29 – November 2)
- 10/29 & 10/31 – Continue, Federalism
- 10/31, 11/5, & 11/7 – The Commerce Power: Pre-“Republican” Court
  o Epstein and Walker, pages 415-472
  o A Closer Look: *Heart of Atlanta Motel, Inc. v. United States* (1964) (Canvas)

Week 11 (November 5 – November 9)
- **11/5 – FYI: Last Day to Drop/Withdraw From Classes**
- 11/5 & 11/7 – continue, The Commerce Power: Pre-“Republican” Court
- 11/7, 11/12, & 11/14 – The Commerce Power: “Republican Era”
  o Epstein and Walker, pages 472-501
  o A Closer Look: *NFIB v. Sebelius* (2012), pgs. 1-30 (Canvas)

Week 12 (November 12 – November 16)
- 11/14, 11/26, & 11/28 – Power to Tax and Spend
  o Epstein and Walker, pages 521-557
  o A Closer Look: *NFIB v. Sebelius* (2012), pgs. 31-59 (Canvas)

Week 13 (November 19 – November 23)
• **NO CLASS (THANKSGIVING HOLIDAY)**

Week 14 (November 26 – November 30)
- 11/26 & 11/28 – continue, Power to Tax and Spend

Week 15 (December 3 – December 7)
- 12/3 & 12/5 – Economic Substantive Due Process
  - Epstein and Walker, pages 585-587 & 625-667

Final Exam Week (December 10 – December 14)
- 12/10 – STUDY DAY (NO CLASS)
- 12/12 - FINAL EXAM
  - Time: 2:45pm – 4:45pm