

CONSTITUTIONAL LAW II
Professor Charlow
Spring 2015

Syllabus

Course Description:

This course covers the fundamental principles of individual rights in American federal constitutional law. It surveys the areas of due process, equal protection, state action, and the first and second amendments (speech, religion, and arms). In the course of studying these specific subjects, the course will also explore broader theories of constitutional interpretation and evolution, and reinforce concepts covered in Constitutional Law I, such as federalism and the legitimacy of judicial and other governmental power.

Learning Objectives:

By the end of this course, students should:

- have acquired a knowledge of the basic rules, doctrines, and policies used by courts to enforce the federal Constitution in the areas covered;
- have perfected their ability to extract rules and rationales from cases, particularly U.S. Supreme Court cases;
- understand how to read, analyze, interpret, and argue for different interpretations of the constitutional provisions studied, and appreciate how courts (especially the U.S. Supreme Court) do this;
- recognize the roles that various institutions and constituencies play in the understanding and development of federal constitutional law;
- appreciate how and why our understanding of constitutional principles may seem to change over time;
- be able to identify legal issues in facts; apply rules, doctrines, and policy to facts; and weigh evidence to reach factual inferences and conclusions;
- be able to construct legal arguments and identify flaws in an argument;
- be able to present analysis orally and argue orally;
- know how to use policy to analyze and persuade.

Professor's Contact Information & Office Hours:

office	100P
phone	(516) 463-5166
email	robin.charlow@hofstra.edu
secretary	Frances Avnet, Room 104

I maintain an “open door” policy instead of limited, specific office hours. That means you are welcome to stop by *any* time, separately or in groups, to ask questions about the course content

or otherwise discuss school or related professional matters. Please formulate your questions beforehand so we can use the time productively. I am usually in Monday through Thursday from about 8-8:30 am until about 2:20 pm, except during classes (Tues, Thurs. 10:30 am-12:00 pm and Wed. 10:00 am - 12:00 pm). If you prefer to meet at a specific time, or are unsuccessful finding me in, feel free to contact me to set up an appointment that is convenient for you.

Although it is a rare occurrence, if there are any last minute or emergency announcements regarding class or the course, I will contact you by email. You are expected to check your law school email account every day, just in case.

Electronics & Recording Policy:

Studies, surveys, and course evaluations report that students learn better and are more satisfied with the law school learning environment in classes in which electronic devices are not permitted. Research shows that students who do not use computers to take notes are more likely to filter, comprehend, and retain the important aspects of the material covered. Moreover, the majority of students find that classrooms are quieter, they can hear the teacher and other students better, and they feel more engaged in the classroom experience with fewer distractions. Accordingly, **you may NOT use any electronic devices, including computers, during this class.** Students with a disability that requires special accommodation should make appropriate arrangements through the Office of Student Affairs as soon as possible.

Also, **you may NOT record this class** without my permission (which is not usually given).

Attendance & Lateness:

You are expected to arrive on time and prepared for each class.

The rules of the New York State Court of Appeals and the American Bar Association require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of the regularly-scheduled classes in this course. **Thus, you may miss no more than four class sessions.**

I will provide dated sign-in sheets for each regularly-scheduled class. **Your signature (or lack thereof) on these sheets shall presumptively determine your attendance at (or absence from) any given class; an empty assigned seat will also lead to the presumption that you are absent.** Each student is individually responsible for signing the attendance sheet. Falsification of sign-in sheets (by, for example, signing another student's name) is a violation of the Code of Academic Conduct.

The Office of Student Affairs has authority to excuse class absences for religious reasons and in cases of truly compelling hardship. If you wish to claim a particular absence as excused, and thus not counted against your maximum number of allowable absences, you must take that issue up with the Office of Student Affairs – NOT with me or my secretary. **My secretary will mark**

an absence as excused if and only if I receive a communication from the Office of Student Affairs to that effect.

If you exceed the permitted absences by not attending class, failing to sign in, or failing to occupy your assigned seat, you will be administratively withdrawn from the course. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation. Excessive absence may lead to additional sanctions, including but not limited to denial of certification of good and regular attendance to the New York State Board of Law Examiners or other state bar examiners.

Late arrivals are disruptive to the class. For this and other reasons, please make every effort to arrive on time to class, and to return on time from a class break. **If you are repeatedly late to class, your grade may be lowered.**

Grading:

Your grade for the course will be the grade you receive on the final examination. The final examination will be closed-book and will probably consist of both multiple-choice and essay questions. It will be graded anonymously, and the grades will comply with the parameters set by the Law School's mandatory grading curve. Although I rarely if ever do so, I reserve the right to increase or decrease your letter grade by one increment (e.g., from a "B" to a "B+" or a "B-") based on your in-class performance, your excessive lateness, or other serious and repeated breach of professional decorum throughout the semester.

Casebook:

CHOPER, FALLON, KAMISAR & SHIFFRIN, *CONSTITUTIONAL LAW* (11th edition), plus 2014 Supplement.

Assignments:

Assignments refer to pages in the casebook. You should read approximately 45 pages for each 75 minute class, though we will not cover exactly that much material each time—I will let you know at the end of each class what subjects we will cover in and how far to read for the next class. You are responsible for checking the Supplement to see if any new material updates any of the pages assigned. I may make adjustments to this syllabus orally in class.

Chapter 6: Due Process: Individual Rights

Incorporation	pp. 396-414
Privacy	pp. 414-560
Travel	pp. 560-563
Right to Keep and Bear Arms	pp. 564-581
Procedural Due Process	pp. 611-639

Chapter 9: Equal Protection	
Traditional	pp. 1290-1309
Race & Ethnic Ancestry	pp. 1309-1353
DeJure/ DeFacto	pp. 1353-1373
Affirmative Action	pp. 1373-1421
Gender	pp. 1421-1457
Sexual Orientation	pp. 1457-1471
Other Special Classifications	pp. 1471-1492
Fundamental Rights	pp. 1492-1587
Chapter 10: State Action	pp. 1588-1645
Chapter 8: Religion	
Establishment Clause	pp. 1158-1184, 1203-1238
Free Exercise Clause	pp. 1238-1263
Chapter 7: Freedom of Expression	
Introduction	pp. 640-641, 698-700 (Note 1), 650 (last sentence)-654
Advocacy of Illegal Action	pp. 641-645, 654 (¶ under “B”), 665- 687
Libel	pp. 688-698, 700-703
Fighting Words	pp. 765-767, 897-920
Hostile Audiences	pp. 767-771
Offensive Words	pp. 771-777
Hate Speech	pp. 803-808
Speech vs. (Expressive) Action	pp. 813-822
Commercial Speech	pp. 864-889
Prior Restraints	pp. 920-931, 943-952
<i>If time permits, we may</i> also cover one or more of the following:	
Obscenity	pp. 749-760
Freedom of Association	pp. 1115-1126