

CONSTITUTIONAL LAW I

Professor Charlow

Fall 2016

Syllabus

Course Description:

This course covers the fundamental principles of the structural provisions of the United States Constitution, as well as provisions relating to economic rights. It surveys the reach and limits of the powers of each of the three branches of the federal government (the judiciary, Congress, and the President), examines how these powers intersect (separation of powers), considers the interplay between federal and state authority (federalism), and looks at potential economic constitutional rights (substantive due process, takings, and the Contracts Clause). In the course of studying these specific subjects, the course will also explore broader theories of constitutional interpretation and interpretive legitimacy.

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 I am *more*, not *less*, available. 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. 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.

You may NOT record this class without my express permission, which is not routinely given.

Attendance & Lateness:

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.

You are expected to arrive on time and prepared for each class. Late arrivals are disruptive. 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, with the rare exceptions noted below. 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 breaches of professional decorum.

Assignments:

Casebook: CHOPER, FALLON, KAMISAR, SHIFFRIN, DORF & SCHAUER,
CONSTITUTIONAL LAW: CASES, COMMENTS, AND QUESTIONS (12th edition),
plus 2016-2017 Supplement.

Please note that ABA rules require that we assign a minimum of two hours of out of class preparation work for each hour of in class time; consequently, expect at least six hours of homework each week. Assignments refer to pages in the casebook. You should read approximately 40-45 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 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. If you are unsure what to read, please ask. Pages in brackets are background material that you should read but which will not necessarily be discussed in class. This Syllabus may be changed or supplemented, as indicated orally in class.

Chapter 1: Judicial Review	pp. 1-31, 50-62, 31-50, [62-69]
Chapter 2: National Legislative Power	pp. 71-185
Chapter 3: Executive Power & Separation of Powers	pp. 187-274
Chapter 4: State Regulation	pp. 275-349
Chapter 5: Substantive Protection for Economic Interests Substantive Due Process	pp. 361-399

Takings pp. 399-406
Contract Clause pp. 406-409

Chapter 12: Limitations on Judicial Power and Review

Introduction pp. 1755-1756
Advisory Opinions [pp. 1757-1760]
Standing pp. 1760-1791
Mootness & Ripeness [pp. 1791-1801]