THE CONSTITUTION AND FEDERALISM

Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment…. I am certainly not an advocate for frequent and untried changes in laws and constitutions…. But I know also, that laws and institutions must go hand in hand with the progress of the human mind…. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regiment of their barbarous ancestors.

- Thomas Jefferson (1816)

Though Americans rarely appreciate it, federalism has profoundly shaped their nation’s past, present and future. Federalism – the division of government authority between the national government and the states – affects and is affected by nearly every major element of the constitutional system. Indeed, it is impossible to fully understand American government without a basic understanding of the Constitution and federalism. The most bitter and spectacular political conflicts in American history have arisen over the interpretation of government power in our federal system. Of course, the most dramatic (and bloody) of all was the question of the states’ right to dissolve the union, but federalism also underlies questions regarding government’s role in managing labor and business, instituting political reform, and initiating responses to problems of race, poverty, climate change, abortion, and gay rights among many other issues. Indeed, federalism has been used as a political weapon to shape every major political conflict in American history.

In this course, we will explore the connections between the Constitution and federalism. Hopefully this will enhance the student’s understanding of both the evolution of the Constitution and federalism, as well as their reflection in contemporary politics and policy. To this end, we will investigate the origins, theory and constitutional underpinnings of American federalism, explore the development of cooperative federalism, and examine the current understanding of intergovernmental relationships and their impact on contemporary politics and policy.
Learning Objectives:

Over the course of the semester we will attempt to engage in a critical examination of federalism in the context of the constitution. We will try to think critically about various matters related to fundamental questions regarding basic constitutional principles and federalism, and how they are related to American democracy. In the process, students will develop the ability to:

- Understand the historical circumstances in which the constitution’s federal principles were drafted.
- Identify and describe the place of federalism within the American constitutional framework.
- Understand and apply the doctrines of interpretation and legal principles relevant to analyzing problems pertaining to federalism.
- Identify and describe competing values underlying federalism in constitutional law.
- Develop logical reasoning and critical thinking skills.
- Develop greater capacity for political analysis by considering contemporary issues in historical perspective.
- Develop habits of attention to and respect for viewpoints other than one’s own.
- Understand the implications of federalism for contemporary constitutional issues.

Course Requirements:

Please read the course requirements listed below with care. It is important that there be no misunderstanding concerning them, so if you have any questions concerning them be sure to ask. They constitute the "ground rules" for the course, and I will operate under the assumption that you are aware of and understand them.

Attendance and Participation – Class attendance will significantly enhance your ability to perform well on exams and in the class more generally. I will introduce additional material in class and we will explore issues raised in the text in greater depth. Moreover, some of the more rewarding aspects of the course will come during discussions with other students. To assure the best and most enlightening in-class experience, I also expect each student to be aware of what is going on in contemporary American politics – that is, to follow the news. Much of what is going on is relevant to the study of the Constitution and federalism, and there are many legitimate news outlets to choose from available on broadcast media, the internet, and in Bell library at no cost.

Required Readings -- all the readings listed in the syllabus that follows are considered required. However, the required readings are not limited to those listed in the syllabus. There are several reasons for this. I have limited the materials I ask you to purchase to keep your costs to a minimum, other important material may be published during the course of the semester, and our discussion may lead us in directions that make other readings useful. The basic texts for the course are: Michael Stokes Paulsen and Luke Paulsen, The Constitution: An Introduction and Larry N. Gerston, American Federalism: A Concise Introduction.

Reading Response Assignments – Class discussion will be in part structured around and informed by the required readings. To make the discussions work and be most productive, students should have read the material prior to attending class. The reading assignment is designed to encourage such reading and thought about the text material. For each text chapter and reading assignment, each student will be responsible for preparing a Reading Response prior to or as we are discussing the material in class. The
The purpose of this assignment is to assure that we are all “on the same page” for discussions and to aid you in reading the material “actively” and thinking about it more critically and thoroughly. A guide for preparing the Reading Response Assignments will be provided.

**Team Investigative Assignments:** Each student will have the opportunity to further explore a specific issue area of interest to them as part of an investigative team. The nature of the investigative assignment generally is to explore an issue and have each member of the team focus on one element of the issue for analysis. The Team Investigative Assignments take the place of the traditional term paper, and involve the development of a bibliography and shorter reports (typically 5-7 pages) and presentations. A list of issue areas and more specific information on the nature and expectations of the assignments will be provided separately.

**Course Evaluation:**

Evaluation of the above requirements will be based on the point distributions and policies indicated below. Weights for those choosing to write a research paper are indicated in parentheses.

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<td>Reading Response Assignments</td>
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**Course Policies:**

**Late Assignments** -- Due to the importance of timeliness to the function of reading assignments, those turned in late will be assessed a penalty of 40%. Other course assignments will be assessed a 10% penalty if late. If you have a valid reason for a late assignment (verified illness, accident, unavoidable or university excused absence) you may receive an exemption from the above penalties. I should be notified before the due date or, in the case of a sudden emergency, within 24 hours after the due date.

**Extra Credit:** No individual extra credit opportunities will be available, but circumstances may arise during the semester for which extra-credit opportunities for the entire class would enhance the learning experience.

**Grading** -- My primary concern in grading your work is to maintain fair standards and assure that you learn what it is you should know. Thus, I think you should have the right to appeal if you feel that you have received a grade which does not reflect the quality of your work, or if you just don't understand why you received the grade you did. If you can orally demonstrate the knowledge that I felt absent in your written work, I will be happy to give you a more appropriate grade.
Assignment Turn-around Time -- Students have the right to expect assignments returned promptly. Therefore, I promise, barring unforeseen disasters, that your assignments will be returned within one week of their due date.

Consulting Rights -- You have a right to reasonable access to me for outside-of-class help. I will always be available during office hours, and will welcome students that “drop-in” at other times when I am in my office.

Freedom of Speech -- Students have the right to have their hand acknowledged for the purpose of asking questions or making comments at any time in class. Reducing confusion, providing clarification, or responding to student curiosity will be treated as an important part of the classroom process. We will also be discussing subjects and ideas that may be controversial. Students should feel free to express themselves on such matters, but also respect the opinions of those with whom one may disagree. Class discussion animated by questions and thoughtful opinions makes for a better class.

Freedom to Learn -- Universities must maintain standards of academic etiquette in order to effect an atmosphere conducive to learning. Students are expected to help maintain such an atmosphere by demonstrating courtesy to one another both in and out of the classroom. In the classroom all students should consider the right of others to have the opportunity to learn, and behave in a manner that best preserves that right. Talking to one's neighbor(s) during class lectures or general discussions, chronic lateness, leaving class before it has been dismissed, etc., is inherently disruptive and thus injurious to others' opportunity to learn. Students who are unable to respect the right of others to learn may be asked to leave.

Academic Integrity -- Cheating or plagiarism on an assignment or test, or failure to complete any of the course requirements will result in a zero grade for the assignment in question. If you are in doubt about what practices might constitute plagiarism, consult with me or your academic advisor.

Dropping a Class I hope that you never find it necessary to drop this or any other class. However, events can sometimes occur that make dropping a course necessary or wise. Please consult with your academic advisor, the Financial Aid Office, and me, before you decide to drop this course. Should dropping the course be the best course of action, you must initiate the process to drop the course by going to the Student Services Center and filling out a course drop form. Just stopping attendance and participation WILL NOT automatically result in your being dropped from the class. (April 6) is the last day to drop a class with an automatic grade of “W” this term.
Notifications

**Academic Advising** -- The College of Liberal Arts requires that students meet with an Academic Advisor as soon as they are ready to declare a major. Degree plans are prepared in the CLA Academic Advising Center. The University uses an online Degree Audit system. Any amendment must be approved by the Department Chair and the Office of the Dean. All courses and requirements specified in the final degree plan audit must be completed before a degree will be granted. The CLA Academic Advising Office is located in Driftwood #203. For more information please call 361-825-3466.

**Grade Appeals Process** -- As stated in University Procedure 13.02.99.C2.03, *Student Grade Appeals*, a student who believes that he or she has not been held to appropriate academic standards as outlined in the class syllabus, equitable evaluation procedures, or appropriate grading, may appeal the final grade given in the course. The burden of proof is upon the student to demonstrate the appropriateness of the appeal. A student with a complaint about a grade is encouraged to first discuss the matter with the instructor. For complete details, including the responsibilities of the parties involved in the process and the number of days allowed for completing the steps in the process, see University Procedure 13.02.99.C2.03, *Student Grade Appeals*. These documents are accessible online at: [http://academicaffairs.tamucc.edu/rules_procedures/assets/13.02.99.C0.03_student_grade_appeals.pdf](http://academicaffairs.tamucc.edu/rules_procedures/assets/13.02.99.C0.03_student_grade_appeals.pdf). For assistance and/or guidance in the grade appeal process, students may contact the Associate Dean’s office in the college in which the course is taught. For complete details on the process of submitting a formal grade appeal in CLA, please visit the College of Liberal Arts website, [http://cla.tamucc.edu/about/student-resources.html](http://cla.tamucc.edu/about/student-resources.html).

**Disability Accommodations** -- The Americans with Disabilities Act (ADA) is a federal anti-discrimination statute that provides comprehensive civil rights protection for persons with disabilities. Among other things, this legislation requires that all students with disabilities be guaranteed a learning environment that provides for reasonable accommodation of their disabilities. If you believe you have a disability requiring an accommodation, or if you are a returning veteran and are experiencing cognitive and/or physical access issues in the classroom or on campus, please contact the Disability Services office for assistance at (361) 825-5816.
SYLLABUS

Part I: Background and Basics

1. Federalism Overview
   \textit{READINGS:} Gerston, Chapter 1

2. Origins: Background and Framing of the Constitution and Federalism
   \textit{READINGS:} Gerston, Chapter 2
   Paulsen, Chapter 1

3. Constitution Overview
   \textit{READINGS:} Paulsen, Chapter 2

4. The Power Equation
   \textit{READINGS:} Gerston, Chapter 3
   Paulsen, Chapter 3

5. The Constitution’s Struggle with Darkness and Light
   \textit{READINGS:} Paulsen, Chapters 4 & 5

Part II: Evolution of Constitutional Federalism

6. Agents of Change: An Overview
   \textit{READINGS:} Gerston, Chapters 4 & 5

7. Diving Deeper: Constitutional Law and Federalism 1790 - 1860
   \textit{READINGS:} Paulsen, Chapter 6

8. Diving Deeper: Constitutional Law and Federalism 1860 - 1876
   \textit{READINGS:} Paulsen, Chapter 7

9. Diving Deeper: Constitutional Law and Federalism 1876 - 1936
   \textit{READINGS:} Paulsen, Chapter 8

    \textit{READINGS:} Paulsen, Chapter 9
Part III: Modern Constitutional Federalism

11. Vertical Federalism
   **READINGS**: Gerston, Chapter 6

12. Horizontal Federalism
   **READINGS**: Gerston, Chapter 7

   **READINGS**: Paulson, Chapter 10

14. Federalism in the 21st Century
   **READINGS**: Gerston, Chapter 9