Course Description

The United States Constitution is the foundation upon which all American government is built. The document is now more than 225 years old; it is the oldest, written, nation-state constitution in the world. And it is also amazingly concise: the Constitution contains a preamble, seven articles, twenty-seven amendments, and just over 7,000 words.

This course will examine how the Constitution has been implemented and interpreted over the past two centuries, with particular focus on the relationship among the three branches of government (the legislative branch, the executive branch, and the judicial branch), and on the relationship between the federal government and the states, as interpreted by the United State Supreme Court.

Course Goals

This course is intended to serve both as a preview for classes in law school and as a primer for students to become more informed citizens. The class is ultimately designed to teach students to think, write, and argue like a lawyer. (That’s a good thing, I promise!)
Course Objectives

At the completion of this course, a student should be able to:

- identify contemporary issues of Constitutional Law, particularly as they relate to conflicts among the three branches of the federal government (the legislative, executive, and judicial branches) or between the federal government and the states;
- articulate the competing interests posed by those issues of Constitutional Law;
- identify Supreme Court precedent relevant to those issues, including the evolution of Supreme Court thought with respect to particular doctrines (e.g., war powers);
- interpret the relevant Supreme Court precedent; and
- formulate arguments for applying a particular precedent to or distinguishing it from a contemporary issue of Constitutional Law.

In achieving those objectives, the student will:

- read the text of the United States Constitution;
- read and discuss materials (like the Federalist Papers) that provide context for interpreting the Constitution;
- learn the structure of the federal court system;
- learn how to brief a Supreme Court decision;
- learn how to interpret a Supreme Court decision; and
- learn how to write a bench memorandum summarizing relevant case law.

Required Readings

The required readings will be drawn primarily from the following textbook: David Schulz, John R. Vile, and Michelle D. Deardorff, Constitutional Law in Contemporary America: Institutions, Politics, and Process, Volume 1. New York: Oxford University Press, 2011. ISBN: 978-0-19-539009-4 (referred to on the syllabus as “textbook”). I have made a reserve copy of the textbook available at WIU’s Malpass Library. It is also available at the university book store and on Amazon.com. **PLEASE NOTE: This is NOT the same textbook we used in POLS 411G. (It’s Volume 1, rather than Volume 2, by the same authors.)**

Additional readings will be made available in the supplemental readings folder on Western Online.

General information about Netiquette can be found at https://www.education.com/download-pdf/reference/26794/.
Course Schedule and Readings

Week 1 Monday, August 20, 2018—Sunday, August 26, 2018

Topics: Foundations of the United States Constitution, the vocabulary of a lawsuit

Objectives: After you have completed this week’s module, you should be able to:

- identify the three branches of the United States government;
- identify the basic elements of a lawsuit;
- describe the historical context for the U.S. Constitution; and
- brief a Supreme Court case.

Readings:

Professor’s Introduction.

Course Syllabus.

Textbook, p. 18, “A Special Note on Briefing Cases and Preparing for Classes.”


Richard J. Hardy, “Founding of the American Political System,” 21st Century Political Science Handbook, Volume 2, No. 80, by John Ishiyama and Marijke Breuning, eds. Sage, 2011, pp. 685-698. (This article is available in the supplemental readings folder on Western Online.)

Video: Craig Benzine (host), “Separation of Powers and Checks and Balances: Crash Course Government and Politics #3,” PBS Digital Studios, February 6, 2015. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=0bf3CwYCxXw.)

Week 2 Monday, August 27, 2018—Sunday, September 2, 2018

Topics: Article III of the Constitution—the creation of the federal judiciary and the scope of the Supreme Court’s power, Federalist 78—the powers and limitations of the judicial branch, Judicial Review: What is it and where does it come from?

Objectives: After you have completed this week’s module, you should be able to:

- define the concept of judicial review and describe how it was established;
- analyze the arguments in favor of judicial review as set forth in Marbury v. Madison (1803) and against judicial review as set forth in Eakin v. Raub (1825); and
- identify arguments in support of the proposition that the judiciary is the weakest of the three branches of government, identify arguments in support of the proposition that the judiciary is the
strongest of the three branches of government, and identify arguments in support of the proposition that the judiciary is a co-equal branch of government.

**Readings:**

Professor’s Introduction.

*Textbook*, pp. 731-734 (The Declaration of Independence); and pp. xxiii-xxxviii (the Constitution of the United States and Amendments).

*Textbook*, pp. 740-747 (Federalist 51 and Federalist 78).

*Textbook*, Chapter I, “Foundation, Interpretation, and Amendment of the Constitution,” pp. 1-29, including the following:


Section 13 of the Judiciary Act of 1789 (available under the supplemental readings folder on Western Online).

Marbury v. Madison (1803) case brief (available under the supplemental readings folder on Western Online).

**Video:** Craig Benzine (host), “Judicial Review: Crash Course Government and Politics #21,” PBS Digital Studios, June 26, 2015. (This video is available in the supplemental readings folder on Western Online or at [https://www.youtube.com/watch?v=mWYFwI93uC.](

“Marbury v. Madison: What Was the Case About?” History, September 14, 2017. (This video is available in the supplemental readings folder on Western Online or at [https://www.youtube.com/watch?v=hOvsZyqRfCo.](https://www.youtube.com/watch?v=hOvsZyqRfCo.))

**Week 3 Monday, September 3, 2018—Sunday, September 9, 2018**

**Topics:** Supreme Court review of state action; the basis for federal court jurisdiction

**Objectives:** After you have completed this week’s module, you should be able to:

- define the jurisdiction of the federal courts, identify the source of and limitations on that jurisdiction, describe Congress’s role in establishing jurisdiction, and analyze the effect of Congress’s role in establishing jurisdiction on the balance of power between the branches; and

- identify and analyze the basis for the Supreme Court’s authority to review state court decisions.

**Readings:**

Professor’s Introduction.
Textbook, Chapter I, “Foundation, Interpretation, and Amendment of the Constitution,” pp. 29-33, including the following:


**Week 4 Monday, September 10, 2018—Sunday, September 16, 2018**

**Topics:** Limits on federal court jurisdiction: justiciability, standing, ripeness, and the Political Questions Doctrine

**Objectives:** After you have completed this week’s module, you should be able to:

- explain the concepts of justiciability, standing, ripeness, and the Political Question Doctrine;
- identify how those concepts relate to the debate about the relative strength or weakness of the judicial branch relative to the executive and legislative branches; and
- identify and analyze present-day issues involving justiciability and standing.

**Readings:**

Professor’s Introduction.

Textbook, Chapter I, “Foundation, Interpretation, and Amendment of the Constitution,” pp. 34-64, including the following:

- *Luther v. Borden*, 7 HOW. 1; 12 L. ED. 581 (1849), pp. 54-56.

Erwin Chemerinsky, “Bush v. Gore Was Not Justiciable,” 76 Notre Dame L. Rev. 1093 (2001). (This article is available under the supplemental readings folder on Western Online or at [http://scholarship.law.nd.edu/ndlr/vol76/iss4/1](http://scholarship.law.nd.edu/ndlr/vol76/iss4/1).)

**Podcast:** Elizabeth Joh and Roman Mars, “Judicial Legitimacy,” What Trump Can Teach Us About Con Law, Radiotopia, episode 1, June 8, 2017. (This podcast is available in the supplemental readings folder on Western Online or at [https://trumpconlaw.com](https://trumpconlaw.com).)

**Video:** Craig Benzine (host), “Structure of the Court System: Crash Course Government and Politics #19,” PBS Digital Studios, June 5, 2015. (This video is available in the supplemental readings folder on Western Online or at [https://www.youtube.com/watch?v=tGvz5UEwgtA](https://www.youtube.com/watch?v=tGvz5UEwgtA).)
Week 5 Monday, September 17, 2018—Sunday, September 23, 2018

Topics: Powers of the executive branch: the Take Care Clause and executive orders

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional sources of executive authority;
- discuss how the constitutional directive that the president “take Care that the Laws be faithfully executed” both empowers and limits the executive branch; and
- identify and analyze present-day issues involving the president’s faithful execution (or unfaithful non-execution) of the laws.

Readings:

Professor’s Introduction.

Federalist 69. (This article is available under the supplemental readings folder on Western Online or at http://avalon.law.yale.edu/18th_century/fed69.asp.)


Video: Christina Greer, “How Do Executive Orders Work?” Ted-Ed, September 18, 2017. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=oyOf3g-PJ94.)

Week 6 Monday, September 24, 2018—Sunday, September 30, 2018

Topics: Powers of the executive branch: the pardon power

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional provision setting forth the executive’s pardon power and evaluate Supreme Court precedent interpreting that provision;
- discuss how the president’s pardon power affects his strength and weakness relative to the legislative branch and to the judicial branch; and
- identify and analyze present-day issues involving the president’s use of the pardon power.

Readings:

Professor’s Introduction.

Textbook, Chapter IV, “Congress and the President,” pp. 310-315, including the following:
Federalist 74 (available under the supplemental readings folder on Western Online or at http://avalon.law.yale.edu/18th_century/fed74.asp).

Brian C. Kalt, “Pardon Me: The Constitutional Case Against Presidential Self-Pardons,” 106 Yale L.J. 779 (1996-1997). (This article is available under the supplemental readings folder on Western Online.)

Podcast: Elizabeth Joh and Roman Mars, “Pardon Power,” What Trump Can Teach Us About Con Law, Radiotopia, episode 3, June 22, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Video: Ford Pardons Nixon - September 8, 1974. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=eM9dGr8ArR0.)

**Week 7 Monday, October 1, 2018—Sunday, October 7, 2018**

Topics: Powers of the executive branch: the appointment and removal powers, the veto power

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional provision setting forth the executive’s appointment and removal powers and evaluate Supreme Court precedent interpreting that provision;
- identify the Constitutional provision setting forth the executive’s veto power and evaluate Supreme Court precedent interpreting that provision;
- discuss how the executive’s appointment power, removal power, and veto power affect the executive’s strength and weakness relative to the legislative branch and to the judicial branch; and
- identify and analyze present-day issues involving the executive’s appointment, removal, and veto powers.

Readings:

Professor’s Introduction.

Textbook, Chapter IV, “Congress and the President,” pp. 263-265 and 269-277, including the following:


Textbook, Chapter IV, “Congress and the President,” pp. 305-310, including the following:


Jones v. Clinton, 869 F. Supp. 690 (E.D. Ark. 1994) and 879 F. Supp. 86 (E.D. Ark. 1994). (These orders are available under the bench memorandum folder on Western Online.)

Jones v. Clinton, 72 F.3d 1354 (8th Cir. 1996). (This decision is available under the bench memorandum folder on Western Online.)
Petitioner’s Opening Brief, Respondent’s Response Brief, and Petitioner’s Reply Brief in Clinton v. Jones. (These briefs are available under the bench memorandum folder on Western Online.)

Podcast: Elizabeth Joh and Roman Mars, “The Appointments Clause and Removal Power,” What Trump Can Teach Us About Con Law, Radiotopia, episode 2, June 15, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Video: James Comey, Opening Statement before the Senate Intelligence Committee, June 8, 2017. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=1JV8AdY3myA.)

Donald Trump on firing James Comey, NBC Nightly News, interview with Lester Holt, May 11, 2017. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=5Wvuw_Zmubg.)

Week 8 Monday, October 8, 2018—Sunday, October 14, 2018

Topics: Powers of the executive branch: executive privilege and immunity

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional provisions that support the principles of executive privilege and executive immunity;
- evaluate Supreme Court precedent interpreting those provisions;
- analyze the current scope of executive privilege and executive immunity; and
- discuss how executive privilege and executive immunity affect the executive’s strength and weakness relative to the legislative branch and to the judicial branch.

Readings:

Professor’s Introduction.

Textbook, Chapter IV, “Congress and the President,” pp. 290-305, including the following:

In re Grand Jury Subpoena Duces Tecum, 112 F.3d 910 (8th Cir. 1997), pp. 302-305.

Nixon v. Fitzgerald, 457 U.S. 731 (1982). (This decision is available in the supplemental readings folder on Western Online.)

Brett M. Kavanaugh, “Separation of Powers During the Forty-Fourth Presidency and Beyond,” 93 Minnesota Law Review 1454 (2009). (This article is available under the supplemental readings folder on Western Online or at http://www.minnesotalawreview.org/wp-content/uploads/2012/01/Kavanaugh_MLR.pdf.)
Audio: Supreme Court oral argument in Clinton v. Jones, 520 U.S. 681 (1997). (This audio is available in the supplemental readings folder on Western Online or at https://www.oyez.org/cases/1996/95-1853.)

Podcast: Elizabeth Joh and Roman Mars, “Prosecuting a President,” What Trump Can Teach Us About Con Law, Radiotopia, episode 14, December 14, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Elizabeth Joh and Roman Mars, “Presidential Immunity,” What Trump Can Teach Us About Con Law, Radiotopia, episode 5, July 13, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Friday, October 12, 2018: Fall Break

Week 9 Monday, October 15, 2018—Sunday, October 21, 2018

Topics: Powers of the executive branch: executive power in wartime

Objectives: After you have completed this week’s module, you should be able to:

- identify the wartime powers possessed by each branch of government and the Constitutional basis for those powers;
- discuss how war powers affect the executive’s strength and weakness relative to the legislative branch and to the judicial branch; and
- identify and analyze present-day issues involving the exercise of war powers.

Readings:

Professor’s Introduction.

Textbook, Chapter VIII, “Federal Power in Foreign Affairs,” pp. 503-507, pp. 516-538, 554-561, and 576-600, including the following:

The Prize Cases, 67 U.S. 635 (1863), pp. 520-521.
Ex parte Endo, 323 U.S. 283 (1944), pp. 557-561.
Podcast: Elizabeth Joh and Roman Mars, “War Powers,” What Trump Can Teach Us About Con Law, Radiotopia, episode 11, October 20, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Video: Craig Benzine (host), “Presidential Powers 2: Crash Course Government and Politics #12,” PBS Digital Studios, April 17, 2015. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=fnHb-zyWh14.)

Week 10 Monday, October 22, 2018—Sunday, October 28, 2018

Topics: Limitations on the executive branch: impeachment, Emoluments Clause

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional provision regarding impeachment;
- identify the Constitutional provisions regarding emoluments;
- evaluate court opinions interpreting those provisions;
- discuss how those provisions affect the executive’s strength and weakness relative to the legislative branch and to the judicial branch; and
- identify and analyze present-day issues involving impeachment and the Emoluments Clause.

Readings:

Professor’s Introduction.

Cass R. Sunstein, “Impeaching the President,” University of Pennsylvania Law Review, Vol. 147, No. 2, p. 279 (December 1998). (This article is available under the supplemental readings folder on Western Online or at https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=3404&context=penn_law_review.)

Alan M. Dershowitz, “Why Donald Trump can’t be charged with obstruction,” Maclean’s, December 14, 2017. (This article is available under the supplemental readings folder on Western Online or at https://www.macleans.ca/opinion/why-trump-cant-be-charged-with-obstruction/.)

Laurence H. Tribe, “Why Donald Trump can be charged with obstruction,” Maclean’s, December 15, 2017. (This article is available under the supplemental readings folder on Western Online or at https://www.macleans.ca/opinion/why-trump-can-be-charged-with-obstruction/.)

Podcast: Elizabeth Joh and Roman Mars, “Impeachment,” What Trump Can Teach Us About Con Law, Radiotopia, episode 10, October 9, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Elizabeth Joh and Roman Mars, “The Emoluments Clauses,” What Trump Can Teach Us About Con Law, Radiotopia, episode 6, July 20, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)
Week 11 Monday, October 29, 2018—Sunday, November 4, 2018

Topics: Powers of the legislative branch: delegation of legislative power, legislative investigations and contempt, congressional immunity and internal affairs, and legislative vetoes

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional source and scope of legislative power;
- discuss the manner and extent to which Congress may delegate legislative authority;
- discuss the constitutional basis for and scope of legislative hearings;
- interpret the Speech or Debate Clause; and
- identify and analyze present-day issues involving Congress’s ability to delegate legislative power and to conduct hearings.

Readings:

Professor’s Introduction.

Textbook, Chapter IV, “Congress and the President,” pp. 245-250, 259-263, and pp. 274-289, including the following:


Textbook, Chapter I, “Foundation, Interpretation, and Amendment of the Constitution,” pp. 64-69, and Chapter II, “Nature of the Federal Union,” pp. 122-125, including the following:


Textbook, Chapter IV, “Congress and the President,” pp. 255-259, including the following:


Textbook, Chapter I, “Foundation, Interpretation, and Amendment of the Constitution,” pp. 47-49, including the following:


Video: What is Administrative Law? Tech Policy Lab, University of Washington, March 17, 2016. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=ow5hZmU7Yfw.
**Week 12 Monday, November 5, 2018—Sunday, November 11, 2018**

**Topics:** Powers of the legislative branch: the Commerce Clause and the Necessary and Proper Clause

**Objectives:** After you have completed this week’s module, you should be able to:

- define commerce;
- identify the Constitutional provision setting forth Congress’s authority to regulate commerce;
- evaluate Supreme Court precedent interpreting that provision;
- discuss the evolution of Supreme Court thought with respect to the Commerce Clause; and
- articulate arguments for interpreting the Commerce Clause expansively or narrowly.

**Readings:**

Professor’s Introduction.

Reread Article 1, Section 8, Clause 3 of the Constitution.

**Textbook, Chapter III, “Legislative Powers over Commerce, Taxing, and Spending,”** pp. 175-232, including the following:

- Gibbons v. Ogden, 6 L.ED. 23 (1824), pp. 186-188.

**Podcast:** Elizabeth Joh and Roman Mars, “Commerce Clause,” What Trump Can Teach Us About Con Law, Radiotopia, episode 9, August 17, 2017. (This podcast is available in the supplemental readings folder on Western Online or at [https://trumpconlaw.com](https://trumpconlaw.com).)

**Week 13 Monday, November 12, 2018—Sunday, November 18, 2018**

**Topics:** Powers of the legislative branch: the power to tax and spend

**Objectives:** After you have completed this week’s module, you should be able to:

- identify the Constitutional provision setting forth Congress’s power to tax and spend;
- evaluate Supreme Court precedent interpreting those provisions; and
- identify and analyze present-day issues involving Congress’s taxing and spending powers.
Readings:

Professor’s Introduction.

Reread Article 1, Section 8, Clause 1 of the Constitution.

Textbook, Chapter III, “Legislative Powers over Commerce, Taxing, and Spending,” pp. 233-244, including the following:


National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012). (This decision is available in the supplemental readings folder on Western Online.)

Podcast: Elizabeth Joh and Roman Mars, “The Spending Clause,” What Trump Can Teach Us About Con Law, Radiotopia, episode 4, June 29, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Monday, November 19, 2018—Friday, November 23: Thanksgiving Break

Week 14 Monday, November 26, 2018—Sunday, December 2, 2018

Topics: Federalism (the relationship between the federal government and the states), the Tenth Amendment, the Supremacy Clause, and the preemption of state law

Objectives: After you have completed this week’s module, you should be able to:

- define federalism;
- identify the sources of federal power and state power;
- interpret the 10th Amendment;
- interpret the Supremacy Clause;
- define and apply the pre-emption doctrine; and
- identify and analyze present-day issues involving federalism and Congress’s pre-emption of state law.

Readings:

Professor’s Introduction.

Reread the 10th Amendment and Article VI, clause 2 of the Constitution.
Textbook, Chapter II, “Nature of the Federal Union,” pp. 79-92, pp. 137-142, and pp. 148-152, including the following:

McCulloch v. Maryland, 4 L.Ed. 579 (1819), pp. 89-92.

Textbook, Chapter VII, “State Authority in a Federal System,” pp. 442-450, pp. 465-467, and p. 485, including the following:


Arizona v. United States, 567 U.S. 387 (2012). (This decision is available in the supplemental readings folder on Western Online.)

Podcast: Elizabeth Joh and Roman Mars, “The Tenth Amendment,” What Trump Can Teach Us About Con Law, Radiotopia, episode 18, February 9, 2018. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Video: Craig Benzine (host), “Federalism: Crash Course Government and Politics #4,” PBS Digital Studios, February 14, 2015. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=J0gosGXSgsI.)

Dara Lind and Liz Scheltens, “How Sanctuary Cities Actually Work,” Vox, April 25, 2017. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=XaR5kR8h4es.)

Week 15 Monday, December 3, 2018—Sunday, December 9, 2018

Topics: The Takings Clause of the Fifth Amendment

Objectives: After you have completed this week’s module, you should be able to:

- identify the Constitutional provision authorizing the government to take private property for public use;
- define and discuss the terms eminent domain, public use, and just compensation;
- differentiate between physical and regulatory takings;
- identify and apply the Penn Central factors for determining the existence of a regulatory taking; and
- identify and analyze present-day issues involving the Takings Clause.

Readings:

Professor’s Introduction.

Reread the 5th Amendment to the U.S. Constitution.

Textbook, Chapter VI, “Property Rights and Eminent Domain,” pp. 393-441, including the following:

Podcast: Elizabeth Joh and Roman Mars, “The Takings Clause,” What Trump Can Teach Us About Con Law, Radiotopia, episode 8, August 10, 2017. (This podcast is available in the supplemental readings folder on Western Online or at https://trumpconlaw.com.)

Video: “Can the government seize your land?” NowThis World, October 6, 2015,. (This video is available in the supplemental readings folder on Western Online or at https://www.youtube.com/watch?v=rNIAFSkaEug.)

Week 16 Monday, December 10—Sunday, December 16, 2018—Final Exam Week

Communication

I will send an e-mail at the start of each week with an overview of that week’s activities. The information will be very similar to the information contained in the syllabus, but it may also include updates related to current events. If the past year has been any indication, the Constitution will be in the news A LOT.

If you need me for any reason at all, the best way to reach me is by e-mail. (yr-smith@wiu.edu) I won’t have office hours in the traditional sense, but I will check my e-mail several times each day and will respond to you within 24 hours (at the latest). I can also be available by telephone or live chat (Zoom) when necessary.

Please, please, please do not hesitate to contact me. Really. With anything. You will save yourself a lot of time and trouble if you just ask me about something you don’t understand. And if my explanation doesn’t make sense to you, tell me. Having you understand is what I’m here for.

Student Participation and Civility

Although this is not a class-room based course, student participation is still very important. I expect students to check their e-mail regularly for updates (2-3 times per week at a minimum) and to turn in all assignments by the deadlines specified.
Politics, as a topic, can be polarizing. Especially in today’s political climate, many people have strongly held positions on various issues. In discussing these issues, I hope it goes without saying that we will treat one another with civility, respect, and good faith.

But this class will not be about whether the government should do something—like build a border wall or impeach a president. Those are policy arguments that are the province of the political, or elected branches of government (Congress and the president). This class will be about whether the government has the authority to do something. As Chief Justice John Roberts noted in National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012), “We do not consider whether [Obamacare] embodies sound policies. That judgment is entrusted to the Nation’s elected leaders. We ask only whether Congress has the power under the Constitution to enact the challenged provisions.”

And so it doesn’t matter where we come out personally on these issues. What matters is what the Constitution (and the Supreme Court) have to say about them.

**Weekly Assignments**

Each week I will provide you with a written introduction to a topic in Constitutional Law (“Professor’s Introduction”) and a list of assigned materials, including readings, podcasts, and videos. The majority of the readings will be taken from the textbook and will consist primarily of excerpts from Supreme Court cases.

You will also have several weekly assignments:

**Discussion Board** On Monday morning, I will post a discussion board question and ask that you respond by Thursday at midnight (Central Standard Time). You should then reply to a classmate’s post no later than Sunday at 5:00 p.m. The posts will not be graded individually, but completing the posts will be counted toward your final participation grade. Regular participation, in other words, is important to your success.

**Written Assignment** Each week you will have a written assignment that you will hand in to me for comments and a grade. Some weeks, the writing assignment will consist of a 200-400 response paper addressing a question I have given you. Other weeks, I will ask you to turn in portions of larger assignments for feedback (like the Constitution Day Poster Presentation or the Bench Memorandum discussed below). Writing assignments will generally be posted on Monday morning and will be due on Sunday at midnight.

**Case Briefs** Briefing cases is an exercise that is regularly required of students in law school. A case brief is a 1-2 page document that identifies the following:

- the name, date, and citation for a case
- a brief summary of the facts (Who sued whom and why? What did the lower courts decide?)
- the legal question presented by the case
- the court’s holding (i.e., how the court answered the legal question presented)
- the court’s reasoning for its holding
- a brief summary of any concurrences or dissents
any additional notes.

A description of a case brief can be found on p. 18 of your text book in a section titled “A Special Note on Briefing Cases and Preparing for Classes.” Throughout the semester, I will ask you to brief various cases from the reading and turn them in to me by Sunday at midnight. The case briefs will not be graded individually, but completing the briefs will be counted toward your final participation grade. Regular participation, in other words, is important to your success.

**Constitution Day Poster**

Federal law mandates that every educational institution that receives federal funds must observe Constitution Day—a day commemorating the signing of the Constitution and celebrating United States citizenship. This year, WIU will celebrate Constitution Day on Monday, September 17, 2018, at the Multicultural Center (across from the Union). The theme for this year’s celebration will be “Citizenship and Immigration.”

In connection with the Constitution Day celebration, Dr. Rick Hardy, Director of WIU’s Centennial Honors College, has invited our class to make posters on leading Supreme Court cases related to the theme. You will be assigned a Supreme Court case to research, then will create a PowerPoint presentation identifying the case name and citation, a description of the litigants, a brief summary of the case, some historical background (i.e., the events leading up to the case or the historical setting in which the case occurred), the constitutional issue raised, the holding of the court, and the significance of the decision. I will give you further instructions for the project when I assign the Supreme Court cases. I have also posted additional guidance in the Constitution Day folder on Western Online (an instruction sheet, a poster template, sample poster presentations from past years, a FAQ sheet, and a grading rubric). Your Constitution Day poster will be due on **Wednesday, September 12, 2018**, at midnight.

The posters will be on display to the public at the Multicultural Center from 11:00 a.m.-1:00 p.m. on Monday, September 17, 2018, followed by a panel discussion by WIU professors from 12:00-1:00 p.m., addressing the topic Citizenship and Immigration. Both events are open to the public. (Professors are not permitted to give extra credit for in-person activities in an online class. But if you’re free and on campus that day, I would really encourage you to attend; it’s a terrific—and very informative—event.)

**Bench Memorandum**

Each student will be asked to write a 10-page bench memorandum summarizing the facts and legal arguments presented in a case before the Supreme Court. In order to write your bench memo, you will read actual briefs filed with the Supreme Court and complete several weekly assignments related to the memos. We’ll go over the guidelines for writing a bench memo before the first assignment and additional material related to the bench memos will be available in the Bench Memorandum folder on Western Online (an instruction sheet, court decisions, Supreme Court briefs, and a grading rubric). The bench memo will be due on **Sunday, October 28, 2018**, at midnight.
Final Exam

A final exam will be administered online during Week 16 (Monday, December 10, 2018—Sunday, December 16, 2018). Additional details about the exam will be provided.

Graduate Student Credit

Graduate students are expected to complete all of the requirements of this course, as well as to expand their bench memorandum into a 15- to 20-page judicial decision that includes both a majority opinion and a dissent. The decision will be due on Friday, December 14, 2018. Additional details about the decision will be provided.

Grading

Final grades for the semester will be calculated based on a total of 1,000 possible points, allocated as follows:

For Undergraduate Students
- Weekly Assignments: 30% (or 300 possible points)
- Ungraded Assignments (like discussion posts and case briefs) 10% (or 100 possible points)
- Constitution Day Poster Presentation: 10% (or 100 possible points)
- Bench Memorandum: 15% (or 150 possible points)
- Final Exam 35% (or 350 possible points).

For Graduate Students
- Weekly Assignments: 25% (or 250 possible points)
- Ungraded Assignments (like discussion posts and case briefs) 10% (or 100 possible points)
- Constitution Day Poster Presentation: 10% (or 100 possible points)
- Bench Memorandum: 10% (or 100 possible points)
- Judicial Decision 20% (or 200 possible points)
- Final Exam 25% (or 250 possible points).

Late assignments will generally not be accepted, except with permission of the professor. (Please e-mail me directly to discuss any special circumstances you may encounter.) There will be no extra credit.

Academic Honesty and Student Rights

Academic honesty is expected of all WIU students; cheating and plagiarism will not be tolerated. All violations of the academic integrity policy will be reported to the Council on Admission, Graduation, and Academic Standards or to the Graduate Council. The University’s academic integrity policy is set
forth at http://www.wiu.edu/policies/acintegrity.php and a more complete statement of student rights and responsibilities can be found at http://www.wiu.edu/provost/students.php.

Campus Resources for Student Support

In accordance with University values and disability law, students with disabilities may request academic accommodations where there are aspects of a course that result in barriers to inclusion or accurate assessment of achievement. To file an official request for disability-related accommodations, please contact the Disability Resource Center at (309) 298-2512, disability@wiu.edu, or 143 Memorial Hall. Please notify the instructor as soon as possible to ensure that this course is accessible to you in a timely manner. WIU’s policy on Students with Disabilities can be found at: http://wiu.edu/policies/disability.php.