

PLS 422 – SEMINAR IN POLITICAL SCIENCE:  
THE SUPREME COURT, THE CONSTITUTION, AND INSTITUTIONAL POWERS  
Mondays and Wednesdays, 10:20 AM to 12:10 PM  
Four Credits  
G028 Hubbard Hall  
Fall 2019

### INSTRUCTOR INFORMATION AND ACCESSIBILITY

Instructor: Jessica Schoenherr, Ph.D. Candidate in Political Science

Email: schoen31@msu.edu  
Office: 237 South Kedzie Hall  
Office Hours: Mondays, 1 PM to 3 PM or by appointment

### COURSE DESCRIPTION AND OBJECTIVES

Anyone who has taken a government class knows the United States federal government has three different branches: a legislative branch that writes the laws, an executive branch that oversees their execution, and a judicial branch that interprets them. While government classes make this separation of powers seem clear, the reality is that the division of power is complex and layered. Can the Supreme Court get involved in legislative apportionment cases? Can Congress exclude a duly-elected representative from participating in activities? Can the president utilize a line-item veto?

When the waters are muddy, the other branches frequently turn to the Supreme Court for help and guidance. This course is designed to examine the federal government's institutions and their roles through the eyes of the Supreme Court's rulings on institutional power and constraint.

By the end of this course, you should:

1. Develop a substantive understanding of historical and modern developments in the constitutional law of institutional powers and constraints.
2. Understand the factors that influence Supreme Court decision-making, including political and legal factors.
3. Feel comfortable reading and interpreting Supreme Court decisions.
4. Improve small group skills, including listening, communication, and collaboration.
5. Enhance your written and oral presentation skills through class discussion, writing assignments, and presentations.

### COURSE MATERIALS

Please obtain a copy of the following book for this class:

- Epstein, Lee and Thomas G. Walker. 2020. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. 10<sup>th</sup> Edition. Sage CQ Press.

There are several previous editions of this book. I will be teaching and testing out of the 10<sup>th</sup> edition and expect you to have that version. If you use an older version, you do so at your own risk.

You will also have to purchase ONE of the following three books in either digital or hard copy (see "Writing Assignment" under "Course Requirements" below for more details):

- Biskupic, Joan. 2019. *The Chief: The Life and Turbulent Times of Chief Justice John Roberts*. Basic.
- deHart, Jane Sherron. 2018. *Ruth Bader Ginsburg: A Life*. Knopf Publishing.
- Thomas, Evan. 2019. *First: Sandra Day O'Connor*. Random House.

## COURSE REQUIREMENTS

Your grade will be determined using the following weights:

Area	Weight
In-Class Quizzes	30%
Group Writing Assignment	30%
- Part 1: 5%	
- Part 2: 5%	
- Part 3: 5%	
- Final Paper: 15%	
Presentation	10%
Attendance	15%
Final	15%
<b>Total</b>	<b>100%</b>

### In-Class Quizzes (30%):

Over the course of the class, you will be taking five in-class quizzes. Each quiz will have between 10 and 15 multiple choice questions and 2-3 short answer questions (3-5 sentences). These quizzes are not cumulative. The first quiz will cover the material from the first three weeks of the class. Each subsequent quiz will cover the material examined since the last quiz, meaning each quiz will cover approximately two weeks' worth of material.

The quiz schedule is included at the end of the syllabus. Quizzes will always be at the beginning of the class. I will start these classes by asking if you have any questions about the recent material. After I answer all the questions, I will begin the quiz. You will have approximately 25 minutes to complete it. All quizzes will be closed-note and closed-book.

Because we will be taking these quizzes frequently, you will not be able to make them up if you miss class that day. Exceptions will be made only in extreme circumstances, including (1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; or (4) observance of a religious holiday. If you miss a quiz for one of these reasons, you must provide documentation that allows me to verify your absence falls into one of these categories. All claims must, when possible, be made prior to the quiz that you will miss. Failure to follow these guidelines will result in a grade of "0" being awarded for that quiz.

But, because life happens, I will drop your lowest quiz score (meaning your final quiz grade will be from your four best quizzes). That means you can miss one quiz without incurring a penalty.

### Group Writing Assignment (30%):

Throughout the semester, you will be working on a group writing project with your classmates. The objective of this assignment is to get to know a Supreme Court justice better. I selected three new books about two current justices (Ruth Bader Ginsburg and Justice John G. Roberts) and one former justice (Sandra Day O'Connor). You, along with your group, will be responsible for reading one of these books and producing a paper about one of these justices.

Because students are busy, we will have dedicated class time to work on this with your group. Anything that does not get completed in class will need to be completed outside of it.

You will be writing the papers in sections and turning them in throughout the semester. I will read the papers and provide feedback that can be incorporated into the final draft. The turn-in schedule is as follows:

Due Date	Paper Section
9/22	Part 1: Introduction + Background
10/13	Part 2: Pre-Supreme Court Career
11/3	Part 3: Three Most Important Cases
11/24	Complete Paper, including Part 4: Why This Justice is Important to the Court's History

Each written assignment should be submitted on D2L (Assessments > Assignments > Group Writing Assignment Part #). They should be completed in Times New Roman 12 pt. font, double spaced, with 1" margins. All written assignments must be submitted as a PDF. Written assignments must be completed by 11.59 PM East Lansing time on the due date; late submissions will be penalized as follows:

- 1-15 minutes late: -10% of grade
- 16-60 minutes late: -20% of grade
- 60-180 minutes late: -30% of grade
- More than 180 minutes late: not accepted

I will provide more details about these assignments, including the grading rubric, in a separate document that will be posted on D2L in the first two weeks of the semester.

#### Presentation (10%):

Spending the semester studying a justice will make you a subject matter expert on that justice (congratulations!). Consequently, you will be teaching your classmates about your justice. During the last week of the course, each group will be responsible for putting together a presentation about their justice, covering the four sections covered in the paper, and presenting that information to the class.

To make it fun, the information covered during these presentations will be included on the final exam.

I will provide more details about the presentation, including the grading rubric and expectations, in a separate document that will be posted on D2L later in the semester.

#### Attendance (15%):

Coming to class is important! I will provide a sign-in sheet at the start of each class; it is your responsibility to sign it when you walk in. Students who come in late can sign in at the end of class. If you do not sign in, then I have no record of your attendance, and you will receive a "0" for attendance for that day.

Occasionally, I will ask students to turn in something at the end of class (for example, group work or a sample quiz question). These assignments are your exit tickets to get full attendance points for that class.

Attendance for each class will be worth three points. If you show up on time and do not leave early, then you get all three points. If you show up late, you lose one point. If you leave early, you lose one point. If you fail to turn in an end of class assignment, you lose one point. So, for example, if you get to class late and leave early, your attendance grade for that class will be 1/3.

I will drop your two lowest attendance grades, which means that you can miss class two times before you start losing attendance points. Exceptions will be made in the event of an emergency (medical or otherwise), religious holiday, or university-sponsored activity for which you can provide documentation (see the "In-Class Quizzes" section for details).

### Final (15%):

To evaluate all that you learned throughout the semester, there will be a final for the class. This final will be cumulative and will consist of 50 multiple-choice questions and two essay questions. 40 of the multiple choice questions will come from previous in-class quizzes, while 10 will be new questions based on the information gathered during the final presentations.

The final for this class is on Friday, December 13<sup>th</sup> from 7.45 AM to 9.45 AM in our usual classroom (G028 Hubbard Hall).

Like the quizzes, the final will be closed-book and closed-note.

All exams must be taken during the period in which they are scheduled. Exceptions will be made only in extreme circumstances, including (1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; (4) observance of a religious holiday; or (5) three or more exams are scheduled for the same day during finals week. You must provide documentation that allows me to verify your absence was valid. All claims must, when possible, be made at least two weeks prior to when the exam is scheduled. Failure to follow these guidelines will result in a grade of "0" being awarded for the final. I reserve the right to have the makeup exam be of a different format than the exam that is given during class.

### **GRADING SCALE**

I will use the following scale to assign course grades:

<b>Percentage</b>	<b>Grade</b>
90-100%	4.0
87-89%	3.5
82-86%	3.0
77-81%	2.5
72-76%	2.0
67-71%	1.5
62-66%	1.0
61% or less	0.0

Percentages greater than or equal to 0.5 will be rounded up to the next highest whole percentage (Example: 86.5% will round up to an 87%).

### **AVAILABILITY OF COURSE PERSONNEL**

Email is the best way to contact me. My email address is [schoen31@msu.edu](mailto:schoen31@msu.edu). If you email me, include "PLS 422" in the subject line to make sure the email does not get missed. Please allow 24 hours for a response during the week (Monday-Thursday) and 36 hours during the weekend (Friday-Sunday). If you do not get a response in that time, please resend your email, as I probably (unintentionally) missed it.

I will have office hours every Monday from 1 to 3 PM. My office is in South Kedzie Hall (368 Farm Lane), office 237. I set aside this time for you to ask questions about course material outside of class, so please utilize it. If you cannot make it to office hours, I am also available by appointment or via Skype if you have anything you would like to discuss.

### **HONORS OPTION**

If you are interested in completing an Honors Option in this class, please contact me by Friday, September 13<sup>th</sup>, 2019 for further discussion.

## COURSE PROCEDURES

### Course Communications

All course communication will go through Desire2Learn (D2L), including occasional updates and notes. Those emails will go to your MSU email address. If you use an alternative email address, it is your responsibility to ensure the MSU emails forward to the correct address.

I will typically use the "Announcements" section of D2L to send class-wide messages, so please make sure you either check that part of D2L frequently or get the announcements emailed to you when they are posted (see the D2L help page for more information on how to do that).

### Classroom Content Recording and Sharing:

As members of a learning community, students are expected to respect the intellectual property of course instructors. All course materials presented to students are the copyrighted property of the course instructor and are subject to the following conditions of use:

- Students may record lectures or any other classroom activity and use the recordings only for their own course-related purposes.
- Students may share the recordings with other students enrolled in the class. Sharing is limited to using the recordings only for their own course-related purposes.
- Students may not post the recordings or other course materials online or distribute them to anyone not enrolled in the class without the advance written permission of the course instructor and, if applicable, any students whose voice or image is included in the recordings.

Any student violating the conditions described above may face academic disciplinary actions.

I will record lectures and post them on D2L after each class. You are welcome to record your own versions of class, though mine will probably be better quality.

### Grade Appeals:

If you receive a grade and see that it contains an arithmetic error (i.e., I mis-calculated your grade), please inform me of the problem. If you have a question or concern about your performance on any course work, please me. All concerns must be stated in writing (paper or email), beginning with a statement that concisely explains why you believe your grade should be altered.

All concerns, whether arithmetic or otherwise, must be raised within one week of that assignment/quiz's release to students. It is your responsibility to attend the class session in which materials are returned; the one-week clock starts when I make the initial attempt to distribute the exam/assignment regardless of whether or not you were there to collect it. If you do not raise your question within this one-week period, you forfeit your ability to appeal your grade.

### Unclaimed Coursework Policy:

Per the MSU Code of Teaching Responsibility, I will retain any unclaimed physical materials related to the course (your quizzes and final) for one semester after the course is over. At the end of the Spring 2020 semester, I will purge my files of all coursework still in my possession.

## COURSE POLICIES

### General Statement:

I take academic integrity seriously. As a student, you are responsible for familiarizing yourself with all relevant university policies governing your conduct in this course. This includes plagiarism, academic integrity, and accommodations for students with documented disabilities.

You can find the relevant university policies at the following link:

<https://www.msu.edu/unit/ombud/academic-integrity/index.html>

### Academic Integrity and Honesty:

The [Spartan Code of Honor](#) states, "As a Spartan, I will strive to uphold values of the highest ethical standard. I will practice honesty in my work, foster honesty in my peers, and take pride in knowing that honor is worth more than grades. I will carry these values beyond my time as a student at Michigan State University, continuing the endeavor to build personal integrity in all that I do." In addition, Article 2.III.B.2 of the Student Rights and Responsibilities (SRR) states that "The student shares with the faculty the responsibility for maintaining the integrity of scholarship, grades, and professional standards." The (insert name of unit offering course) adheres to the policies on academic honesty as specified in General Student Regulations 1.0, Protection of Scholarship and Grades; the all-University Policy on Integrity of Scholarship and Grades; and Ordinance 17.00, Examinations (see [Spartan Life: Student Handbook and Resource Guide](#) and/or the MSU Web site: [www.msu.edu](http://www.msu.edu).)

Therefore, unless authorized by your instructor, you are expected to complete all course assignments, including homework, lab work, quizzes, tests and exams, without assistance from any source. You are expected to develop original work for this course; therefore, you may not submit course work you completed for another course to satisfy the requirements for this course. Also, you are not authorized to use the [www.allmsu.com](http://www.allmsu.com) Web site to complete any course work in this course. Students who violate MSU academic integrity rules may receive a penalty grade, including a failing grade on the assignment or in the course. Contact your instructor if you are unsure about the appropriateness of your course work (see also the [Academic Integrity](#) webpage).

### Grief Absence Policy:

MSU is committed to accommodating the bereavement process of a student who has lost a family member or who is experiencing emotional distress from a similar tragedy so that the student is not academically disadvantaged in their classes or other academic work (e.g. research).

According to the MSU Grief Absence Policy (adopted Spring 2015 as part of the [Classroom Policies and Attendance Policies](#)):

"For undergraduate and master's (Plan B) students without research responsibilities, **it is the responsibility of the student to:** a) notify the Associate Dean or designee of their college of the need for a grief absence in a timely manner, but no later than one week from the student's initial knowledge of the situation, b) provide appropriate verification of the grief absence as specified by the Associate Dean, and c) complete all missed work as determined in consultation with the instructor. **It is the responsibility of the Associate Dean or designee to:** a) determine with the student the expected period of absence - it is expected that some bereavement processes may be more extensive than others depending on individual circumstances, b) notify the faculty that the student will be absent, and c) receive verification of the authenticity of a grief absence request upon the student's return. **It is the responsibility of the instructor to** work with the student to make reasonable accommodations and to include appropriate language describing such accommodations in their course syllabus, so that the student is not penalized due to a verified grief absence."

Students seeking a grief absence should complete the Grief Absence Request Form found on the RO home page (<https://reg.msu.edu/>) under "Student Services - Grief Absence Request Form." Once

completed, the information is routed to the Associate Dean of the student's college and must be received prior to the student leaving campus. The student will receive a confidential message confirming the submission and reminding them that supporting documentation must be provided and who to send it to. If approved, instructors will be notified by the appropriate dean's office of the period of absence.

TurnItIn Policy:

Consistent with MSU's efforts to enhance student learning, foster honesty, and maintain integrity in our academic processes, I have chosen to use a tool called Turnitin to compare your papers with multiple sources. The tool will compare each paper you submit to an extensive database of prior publications and papers, providing links to possible matches and a 'similarity score.' The tool does not determine whether plagiarism has occurred or not. Instead, I will make a complete assessment and judge the originality of your work. All submissions to this course may be checked using this tool.

You should submit papers to TurnItIn Dropboxes without identifying information included in the paper (e.g., name or student number), the Desire2Learn system will automatically show this information to me when I view the submission, but the information will not be retained by Turnitin. If you forget and submit your paper with your identifying information on it, it will be retained in the Turnitin repository.

## COURSE OUTLINE AND DUE DATES

Please complete the assigned readings by the start of each class. This means reading the cases as well as the chapter commentary on the pages included for each class.

**Note: I reserve the right to modify this syllabus at any point in the course to suit the needs of the class. All changes will be noted on D2L and sent to students via email in advance of class.**

Class Date	Subject	Assignment
8/28	Syllabus Day	<ul style="list-style-type: none"> <li>• Online Lecture -- NO IN-PERSON CLASS</li> </ul>
NO CLASS ON SEPTEMBER 2ND -- LABOR DAY		
9/4	Judicial Process	<ul style="list-style-type: none"> <li>• E&amp;W p. 10-46</li> </ul>
9/9	Judicial Review	<ul style="list-style-type: none"> <li>• E&amp;W p. 54-83</li> <li>• <i>Marbury v. Madison</i> (1803)</li> <li>• <i>Martin v. Hunter's Lessee</i> (1816)</li> </ul>
9/11	Jurisdiction	<ul style="list-style-type: none"> <li>• E&amp;W p. 83-91</li> <li>• <i>Ex parte McCordle</i> (1869)</li> <li>• <i>Patchak v. Zinke</i> (2018)</li> </ul>
9/16	Justiciability and Standing	<ul style="list-style-type: none"> <li>• E&amp;W p. 91-116</li> <li>• <i>Baker v. Carr</i> (1962)</li> <li>• <i>Nixon v. United States</i> (1993)</li> <li>• <i>Flast v. Cohen</i> (1968)</li> </ul>
QUIZ 1 ON WEDNESDAY, SEPTEMBER 18TH		
9/18	Work Day	--
PART 1 OF WRITING ASSIGNMENT DUE ON SUNDAY, SEPTEMBER 22ND		
9/23	Congressional Independence	<ul style="list-style-type: none"> <li>• E&amp;W p. 119-141</li> <li>• <i>Powell v. McCormack</i> (1969)</li> <li>• <i>U.S. Term Limits, Inc. v. Thornton</i> (1995)</li> <li>• <i>Gravel v. United States</i> (1972)</li> </ul>
9/25	Legislative Powers I	<ul style="list-style-type: none"> <li>• E&amp;W p. 119-141</li> <li>• <i>Powell v. McCormack</i> (1969)</li> <li>• <i>U.S. Term Limits, Inc. v. Thornton</i> (1995)</li> <li>• <i>Gravel v. United States</i> (1972)</li> </ul>
9/30	Legislative Powers II	<ul style="list-style-type: none"> <li>• E&amp;W p. 159-180</li> <li>• <i>Watkins v. United States</i> (1957)</li> <li>• <i>Barenblatt v. United States</i> (1959)</li> <li>• <i>South Carolina v. Katzenbach</i> (1966)</li> </ul>
QUIZ 2 ON WEDNESDAY, OCTOBER 2ND		
10/2	The Executive	<ul style="list-style-type: none"> <li>• E&amp;W p. 181-194</li> <li>• <i>Bush v. Gore</i> (2000)</li> </ul>
10/7	Executive Toolbox	<ul style="list-style-type: none"> <li>• E&amp;W p. 195-207</li> <li>• <i>In re Nagel</i> (1890)</li> </ul>
10/9	Work Day	--
PART 2 OF WRITING ASSIGNMENT DUE ON SUNDAY, OCTOBER 13TH		
10/14	Veto and Appointments	<ul style="list-style-type: none"> <li>• E&amp;W p. 208-226</li> <li>• <i>Clinton v. City of New York</i> (1998)</li> <li>• <i>Morrison v. Olson</i> (1988)</li> <li>• <i>National Labor Relations Board v. Noel Canning</i> (2014)</li> </ul>

10/16	Removal and Executive Privilege	<ul style="list-style-type: none"> <li>• E&amp;W p. 226-242</li> <li>• <i>Myers v. United States</i> (1926)</li> <li>• <i>Humphrey's Executor v. United States</i> (1935)</li> <li>• <i>United States v. Nixon</i> (1974)</li> </ul>
10/21	Immunity	<ul style="list-style-type: none"> <li>• E&amp;W p. 242-260</li> <li>• <i>Mississippi v. Johnson</i> (1867)</li> <li>• <i>Nixon v. Fitzgerald</i> (1982)</li> <li>• <i>Clinton v. Jones</i> (1997)</li> </ul>
QUIZ 3 ON WEDNESDAY, OCTOBER 23RD		
10/23	War Powers: Civil War	<ul style="list-style-type: none"> <li>• E&amp;W p. 284-295</li> <li>• <i>Prize Cases</i> (1863)</li> <li>• <i>Ex parte Milligan</i> (1866)</li> </ul>
10/28	War Powers: World War II and Korea	<ul style="list-style-type: none"> <li>• E&amp;W p. 295-311</li> <li>• <i>Korematsu v. United States</i> (1944)</li> <li>• <i>Youngstown Sheet and Tube Co. v. Sawyer</i> (1952)</li> </ul>
10/30	Work Day	--
PART 3 OF WRITING ASSIGNMENT DUE ON SUNDAY, NOVEMBER 3RD		
11/4	War Powers: Middle East and War on Terror	<ul style="list-style-type: none"> <li>• E&amp;W p. 311-334</li> <li>• <i>Dames &amp; Moore v. Regan</i> (1981)</li> <li>• <i>Zivotofsky v. Kerry, Secretary of State</i> (2015)</li> <li>• <i>Hamdi v. Rumsfeld</i> (2004)</li> </ul>
QUIZ 4 ON WEDNESDAY, NOVEMBER 6TH		
11/6	The Commerce Clause	<ul style="list-style-type: none"> <li>• E&amp;W p. 405-412</li> <li>• <i>Gibbons v. Ogden</i> (1824)</li> </ul>
11/11	Commerce Clause and the Industrial Revolution	<ul style="list-style-type: none"> <li>• E&amp;W p. 412-428</li> <li>• <i>United States v. E.C. Knight Co.</i> (1895)</li> <li>• <i>Champion v. Ames</i> (1903)</li> <li>• <i>Hammer v. Dagenhart</i> (1918)</li> </ul>
11/13	Commerce Clause and the New Deal I	<ul style="list-style-type: none"> <li>• E&amp;W p. 428-449</li> <li>• <i>A.L.A. Schechter Poultry Corp v. United States</i> (1935)</li> <li>• <i>National Labor Relations Board v. Jones &amp; Laughlin Steel Corporation</i> (1937)</li> </ul>
11/18	Commerce Clause and the New Deal II	<ul style="list-style-type: none"> <li>• E&amp;W p. 449-463</li> <li>• <i>United States v. Darby</i> (1941)</li> <li>• <i>Wickard v. Filburn</i> (1942)</li> <li>• <i>Heart of Atlanta Motel, Inc. v. United States</i> (1964)</li> </ul>
11/20	Work Day	--
FINAL WRITING ASSIGNMENT DUE ON SUNDAY, NOVEMBER 24 <sup>TH</sup>		
11/25	Commerce Clause and the Federalism Revolution I	<ul style="list-style-type: none"> <li>• E&amp;W p. 463-478</li> <li>• <i>United States v. Lopez</i> (1995)</li> <li>• <i>United States v. Morrison</i> (2000)</li> </ul>
11/27	Commerce Clause and the Federalism Revolution II	<ul style="list-style-type: none"> <li>• E&amp;W p. 478-494</li> <li>• <i>Gonzales v. Raich</i> (2005)</li> <li>• <i>National Federation of Independent Business v. Sebelius</i> (2012)</li> </ul>

QUIZ 5 ON MONDAY, DECEMBER 2ND		
12/2	Work Day	--
12/4	Presentations	--
FINAL ON FRIDAY, DECEMBER 13TH FROM 7.45 AM TO 9.45 AM		