The Supreme Court & Public Policy
PPHA xxxx

Professor Douglas Spencer
University of Chicago
Spring 2019

Class
Keller Room XXX
Tuesday & Thursday
2:00 - 3:20 p.m.

Contact
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Course Description
Courts play an important role in shaping dozens of national and local policy issues such as voting rights, redistricting, affirmative action, abortion, birth control, same sex marriage, transgender rights, gun rights, criminal law, economic justice, and more. Learning how courts interpret policy has become an important component of the policymaker’s toolkit. The course content is divided into four broad units, all of which are essential for understanding the courts’ role in the promotion and interpretation of national policy. These are (1) federal courts, their nature, and their limited powers, (2) the courts’ role in social movements and as “protectors” of individual rights and liberties, (3) political questions and immunity, and (4) the complicated relationship between courts and administrative agencies.

By the end of the course, you should be able to:

1. Understand when federal courts will and will not intervene in a policy dispute, particularly with regard to political issues.
2. Understand when a government actor can be sued in federal court (and by whom).
3. Think critically about, and assess the ability of courts as instruments of social change.
4. Understand the scope of federal courts jurisdiction over administrative agencies.

Readings will include cases decided by the Supreme Court (including cases from recent terms), and also contemporary scholarship on judicial politics and decisionmaking. Throughout, the emphasis will be on what policy makers can expect from the courts in terms of federal and state policy interpretation.
Who Should Take This Course?

- Students who are interested in pursuing a JD degree at some point, or who want to bridge law and public policy.
- Students who think they might want to use the courts to further policy.
- Students who may work for administrative agencies and want to understand when courts might review their actions.
- Students who want to understand the limits of federal power versus state power.
- International students at Harris looking to gain an understanding of the US legal system.

Prerequisites

There are no prerequisites for this course. Students who have taken at least one semester of constitutional law (or administrative law) at the law school level will find some overlapping coverage, though the focus of this course is different than a traditional law school course. Students who have taken both constitutional law and administrative law at the law school level may take this course only with the permission of the instructor.

Grading

Your grade in this class will comprise class participation and two short (5–7 pages) policy memos that will ask you to make a recommendation on an important policy issue:

- 40% - Paper #1 (due April 29, by 4pm CDT)
- 40% - Paper #2 (due June 3, by 4pm CDT)
- 10% - Class participation and engagement

Paper Extension Policy

Papers must be submitted online through the course website by the due date and time. Attempting to turn a paper in late is extremely unfair to your colleagues. For all papers (including the final paper), extensions will be granted only in case of (1) a death in the family or (2) an unforeseen medical emergency. In case of such an emergency, please let me know as soon as possible; in most cases, I will require supporting documentation (e.g., a doctor’s note) out of fairness to the other students. Also in the interest of fairness, (1) unsubstantiated requests for extensions will be denied summarily and (2) retroactive extensions (e.g., extensions requested after the paper is submitted) will never be granted.

If you do not have an extension, and you turn in a paper late, you will be docked one third of one letter grade for every 24 hours that the paper is late, with late penalties accruing from the time the paper is due. For example, if your paper earned a B+, but you turned it in a few hours past the time it was due, you will receive a B; if you turned it in 30 hours past the time it was due, you will receive a B-.
Schedule and Readings

Note: This schedule subject to change, depending on how far we get in each class meeting.

UNIT 1: INTRO TO THE LEGAL SYSTEM & ENUMERATED POWERS

Week 1: Separation of Powers and “Cases & Controversies”

- Case excerpts: Marbury v. Madison, City of Los Angeles v. Lyons

Week 2: Theories of Judicial Politics

- Jeffrey A. Segal and Harold J. Spaeth, The Supreme Court and the Attitudinal Model Revisited (Chapters 2–3).
- Lee Epstein and Jack Knight, The Choices Justices Make (Chapters 1–3)

Week 3: Enumerated Powers and the Commerce Clause


UNIT 2: INDIVIDUAL RIGHTS AND LIBERTIES

Week 4: Individual Rights and Equal Protection

- Gerald N. Rosenberg, The Hollow Hope, Chapters 2-3.

April 29: Paper #1 due by 4pm CDT

Week 5: Criminal Law Jurisdiction, Habeas Corpus, and the Death Penalty


UNIT 3: POLITICAL QUESTIONS AND IMMUNITIES

Week 6: Voting Rights and Political Questions

- Case excerpts: Baker v. Carr, Shelby County v. Holder, Walter Nixon v. United States
Week 7: Sovereign Immunity and Qualified Immunity

Week 8: Executive Immunity and Emoluments
- Case excerpts: Clinton v. Jones, United States v. Richard Nixon

UNIT 4: STATUES AND ADMINISTRATIVE AGENCIES

Week 9: Statutory Interpretation

June 3: Paper #2 due by 4pm CDT
Week 10: Agency Delegation and Separation of Powers


- Administrative Procedure Act


Week 11: Agency Rulemaking and Judicial Review


Week 12: Judicial Review and Agency Compliance


