

American Constitutional Law

PLSC 471
Professor Christopher Zorn
Pennsylvania State University
Fall 2025

Contact Information

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Course Time: Tuesday & Thursday, 10:35-11:50 a.m. ET

Course Location: Carpenter 107

Office Hours: By appointment

Course Description

This is a course on judicial policy making and the law of the United States Constitution. It examines the decisions of the U.S. Supreme Court in the areas of national government power, federal-state relations, government involvement in commerce, regulation, and taxation, and individual property rights. The course thus combines elements of history, politics, and the law to illustrate and discuss the development of governmental power over the past two centuries, and to suggest potential directions for the evolution of that power in the future.

All readings for the course will be listed on this syllabus, and will be made available on the course Github repository.

Grading

For this course, there are two options with respect to grading:

- *Option A:*
 - Midterm Examination (35%)
 - Final Examination (65%)
- *Option B:*
 - Midterm Examination (20%)
 - Final Examination (40%)
 - Course Paper (40%)

Students are required to choose between these options **no later than September 25, 2025**. More information regarding examinations and the scope and nature of the course paper will be presented in class. The instructor reserves the right to change the distribution of percentages across examinations as necessary. Students unable to take exams at their scheduled times must obtain permission to do so **prior to the exam date** so that alternative arrangements may be made. Students who miss an exam without prior permission will be allowed to take a make-up exam with an automatic reduction of one full letter grade for each class period between the make-up and the scheduled exam date.

Classroom participation is essential to the success of this class. Many of the topics discussed in this course remain the subject of debate among policy makers and legal scholars today.

Obligatory Statement on Academic Integrity

Academic integrity is the pursuit of scholarly activity in an open, honest and responsible manner. Academic integrity is a basic guiding principle for all academic activity at The Pennsylvania State University, and all members of the University community are expected to act in accordance with this principle. Consistent with this expectation, the University's Code of Conduct states that all students should act with personal integrity, respect other students' dignity, rights and property, and help create and maintain an environment in which all can succeed through the fruits of their efforts.

Academic integrity includes a commitment by all members of the University community not to engage in or tolerate acts of falsification, misrepresentation or deception. Such acts of dishonesty violate the fundamental ethical principles of the University community and compromise the worth of work completed by others.

In cases of any violation of academic integrity it is the policy of the Department of Political Science to follow procedures established by the College of the Liberal Arts. More information on academic integrity and procedures followed for violation can be found [here](#).

Obligatory Statement on Accommodations for Disabilities

Penn State welcomes students with disabilities into the University's educational programs. Every Penn State campus has an office for students with disabilities. Student Disability Resources (SDR) website provides contact information for every Penn State campus ([here](#)). For further information, please visit the Student Disability Resources website ([here](#)).

In order to receive consideration for reasonable accommodations, you must contact the appropriate disability services office at the campus where you are officially enrolled, participate in an intake interview, and provide documentation: See documentation guidelines [here](#). If the documentation supports your request for reasonable accommodations, your campus disability services office will provide you with an accommodation letter. Please share this letter with your instructors and discuss the accommodations with them as early as possible. You must follow this process for every semester that you request accommodations.

Obligatory Statement on Counseling and Psychological Services

Many students at Penn State face personal challenges or have psychological needs that may interfere with their academic progress, social development, or emotional wellbeing. The university offers a variety of confidential services to help you through difficult times, including individual and group counseling, crisis intervention, consultations, online chats, and mental health screenings. These services are provided by staff who welcome all students and embrace a philosophy respectful of clients' cultural and religious backgrounds, and sensitive to differences in race, ability, gender identity and sexual orientation.

Counseling and Psychological Services at University Park (CAPS)
(<http://studentaffairs.psu.edu/counseling/>): 814-863-0395

Counseling and Psychological Services at Commonwealth Campuses
(<http://senate.psu.edu/faculty/counseling-services-at-commonwealth-campuses/>)

Penn State Crisis Line (24 hours / 7 days/week): 877-229-6400. Crisis Text Line (24 hours / 7 days/week): Text LIONS to 741741.

Obligatory Statement on Educational Equity and Reporting Bias

Penn State takes great pride to foster a diverse and inclusive environment for students, faculty, and staff. Consistent with University Policy AD29, students who believe they have experienced or observed a hate crime, an act of intolerance, discrimination, or harassment that occurs at Penn State are urged to report these incidents as outlined on the University's Report Bias webpage (<http://equity.psu.edu/reportbias/>).

Obligatory Statement on Religious Observances

The [Religious and Spiritual Observances Calendar](#) is compiled by the Center for Spiritual and Ethical Development in consultation with campus and community religious leaders. It specifies those holy days of the major world religions for which observance may require students to depart from their normal routine at the University. Please note that only those holy days which occur when Penn State classes are in session are listed. This is not, therefore, an exhaustive list of all major holy days in each religious tradition.

Non-Obligatory Statement on Generative AI, Large Language Models, etc.

You're undoubtedly well aware of the existence of large language models (LLMs) – e.g., [ChatGPT](#) – and other artificial intelligence (AI) tools for language / image creation. Having been described as everything from [making everyone their own version of Tony Stark](#) to a [Lovecraftian shoggoth](#) (and [most things in between](#)), LLMs are currently creating a sometimes-depressing, sometimes-hilarious panic among faculty in legacy academic disciplines and programs. Most of that panic revolves around the use of LLMs to “cheat,” in the traditional sense: to create work that deceptively gives the impression that the student knows something they do not. Beyond its intrinsically duplicitous nature, such use in a conventional classroom setting gives rise to concerns about equity and (potentially) devalues the experience / credential for other class members.

The other side of the LLM equation is that they are powerful tools for augmenting learning and creating new knowledge. Experience suggests that, in line with other technological advances (the printing press, personal

computers, search engines, etc.), it is wiser to adapt to LLMs than to attempt to limit or ban their use. This is especially true in a course like this one, where (a) LLMs are particularly useful tools for learning technical skills (e.g., the R programming language) and (b) the long-term, repeated nature of graduate school creates disincentives for “cheating” in a conventional sense. Accordingly, enrollees in PLSC 503 are welcome to use generative AI tools, such as ChatGPT, to assist them with their work in the course. In doing so, it is important to remember that such AI tools are capable of making errors, and that it is each student’s responsibility to verify the information they receive from the such a tool. In addition, any information obtained from a generative AI source must be noted/cited in the student’s work, just as they would cite any other source.

Course Schedule

Daily reading assignments are listed below. Readings whose source is listed as “Solberg (2024)” can be found in:

- Solberg, Rorie. 2024. *Government Powers and Limitations*, First Edition. Open Textbook Library: Oregon State University.

Note that reading assignments are listed according to the day on which the subject matter will be discussed; they should therefore be read prior to that date.

August 26: Introduction, discuss syllabus, etc. (no reading assignment).

August 28: Understanding the Supreme Court.

- Epstein, Lee, Kevin McGuire, and Thomas G. Walker. 2024. “Understanding the U.S. Supreme Court.” In *Constitutional Law for a Changing America: Institutional Powers and Constraints*. Sage Publications.

September 2: Reading the Constitution.

- *The Constitution of the United States of America*.

September 4: Federalism and the Separation of Powers.

- “Institutional Authority: Structuring the Federal System.” In Epstein, Lee, and Thomas G. Walker. 2020. *Constitutional Law for a Changing America*, 10th Edition, pp. 118-129.

September 9: Judicial Review and *Marbury v. Madison*.

- *Marbury v. Madison* (1803).
- Bernhardt, David. 2025. “The U.S Supreme Court: Legal Precedent and the Consequences of Non-Compliance.” *The New Global Order*, June 13, 2025.

September 11: Limits on Judicial Power.

- In Solberg (2024):
 - *Martin v. Hunter's Lessee* (1816).
 - *Baker v. Carr* (1962).
 - *Flast v. Cohen* (1968).
 - *De Funis v. Odegaard* (1974).
 - *Nixon v. U.S.* (1993).
 - *Patchak v. Zinke* (2018).
- Cole, Devan, and Katelyn Polantz. 2025. “[Judge is Skeptical of Justice Department’s Lawsuit Against 15 Federal Judges as Trump tries to Limit Power of Judiciary.](#)” *CNN*, August 13, 2025.

September 16: The Legislature: Institutional Procedures.

- In Solberg (2024):
 - *Powell v. McCormack* (1969).
 - *Gravel v. United States* (1972).
 - *U.S. Term Limits, Inc. v. Thornton* (1995).
- Mosher, Thomas. 2025. “[Pros and Cons of Congressional Term Limits.](#)” *The Fulcrum*, June 20, 2025.

September 18: Sources of Legislative Power.

- In Solberg (2024):
 - *McCulloch v. Maryland* (1819).
 - *United States v. Curtiss-Wright Export Corporation* (1936).
 - *South Carolina v. Katzenbach* (1966).
- “[The Enumerated Powers Act.](#)” H.R. 2458, 109th Congress (2005-2006).

September 23: Congressional Investigatory Power.

- In Solberg (2024):
 - *McGrain v. Daugherty* (1927)
 - *Watkins v. United States* (1957)
 - *Barenblatt v. United States* (1959)
 - *United States v. Comstock* (2010)
- Parker, Kristy, et al. 2023. *Investigating and Prosecuting Political Leaders in a Democracy*, pp. 17-28 (“Congressional Oversight”). Report, ProtectDemocracy.org.

September 25: The Executive: Structure and Operations.

- *Bush v. Gore* (2000).
- “Impeaching Donald John Trump, President of the United States, for High Crimes and Misdemeanors.” H.Res. 353, 119th Congress (2025-2026).
- Wang, Hansi Lo. 2025. “Presidents Can Be Elected Twice. Trump Could Try End Runs Around That, Experts Say.” *NPR*, March 31, 2025.

September 30: Executive Power: Sources and Interpretations.

- In Solberg (2024):
 - *In Re Neagle* (1890)
 - *Clinton v. City of New York* (1998)
 - *U.S. v. Myers* (1925)
 - *Humphrey’s Executor v. U.S.* (1935)
- Howe, Amy. 2025. “Supreme Court Allows Trump to Fire FTC Commissioner.” SCOTUSBlog, September 22, 2025.

October 2: NO CLASS.

October 7: Executive Power II: Pardons, Privileges, and Immunity.

- In Solberg (2024):
 - *Ex Parte Grossman* (1925)
 - *U.S. v. Nixon* (1974)
 - *Nixon v. Fitzgerald* (1982)
 - *Clinton v. Jones* (1997)
 - *Trump v. Thompson* (2022)
- Biskupic, Joan. 2024. “The Inside Story of John Roberts and Trump’s Immunity Win at the Supreme Court.” *CNN*, July 30, 2024.

October 9: Executive Power: Foreign Policy and Emergencies

- In Solberg (2024):
 - *United States v. Curtiss-Wright Export Corporation* (1936)
 - *Korematsu v. United States* (1944)
 - *Youngstown Sheet and Tube v. Sawyer* (1952)
 - *Dames & Moore v. Regan* (1981)
 - *Trump v. Hawaii* (2018)

- Anderson, Scott R., and Elena Chachko. 2025. “‘One Voice’ and the Trump Administration’s Conduct of Foreign Affairs.” *Lawfare* blog, February 28, 2025.
- Wolfe, Alan. 2025. “What Should Guide the Supreme Court’s Decision on Trump’s Tariffs?” *Peterson Institute for International Economics* blog, October 7, 2025.

October 14: Midterm Examination.

October 16: Federalism.

- In Solberg (2024):
 - *McCulloch v. Maryland* (1819)
 - *Dred Scott v. Sandford* (1857)
 - *National League of Cities v. Usery* (1976)
 - *Garcia v. SAMTA* (1985)

October 21: [class cancelled]

October 23: Federalism, Part Deux.

- In Solberg (2024):
 - *New York v. U.S.* (1992)
 - *Printz v. U.S.* (1997)
 - *Alden v. Maine* (1999)
 - *Murphy v. NCAA* (2018)
- Schwinn, Steven D. 2025. “How the Constitution Constrains Presidential Overreach Against the States.” *State Court Report*, June 9, 2025.
- Boden, Anastasia. 2025. “The Dissent that Became a Constitutional Amendment.” *SCOTUSBlog*, August 18, 2025.

October 28: So you want to go to law school...

- No readings assigned.

October 30: No Class.

November 4: The Commerce Clause: Origins and Development.

- In Solberg (2024):
 - *New York v. U.S.* (1992)
 - *Printz v. U.S.* (1997)
 - *Alden v. Maine* (1999)
 - *Murphy v. NCAA* (2018)
- Schwinn, Steven D. 2025. “How the Constitution Constrains Presidential Overreach Against the States.” *State Court Report*, June 9, 2025.
- Boden, Anastasia. 2025. “The Dissent that Became a Constitutional Amendment.” *SCOTUSBlog*, August 18, 2025.

November 6: State Police Powers and the Dormant Commerce Clause.

- Solberg (2024):
 - *Cooley v. Board of Wardens* (1852)
 - *Southern Pacific Co. v. Arizona* (1945)
 - *United States v. Lopez* (1995)
 - *United States v. Morrison* (2000)
 - *Gonzales v. Raich* (2005)
 - *National Federation of Independent Business v. Sebelius* (2012)

November 11: Taxing and Spending.

- From Solberg (2024):
 - *McCulloch v. Maryland* (1819) (review)
 - *Helvering v. Davis* (1937)
- Fishkin, Joseph R., William E. Forbath, and Erik M. Jensen. 2025. “The Sixteenth Amendment.” *The National Constitution Center*. Be sure to read the “Common Interpretation,” “Additional Thoughts on the Sixteenth Amendment,” and “Congress Has Broad Power to Tax.”

November 13: Regulatory Taxation.

- From Solberg (2024):
 - *Bailey v. Drexel Furniture Co.* (1922)
 - *United States v. Butler* (1936)

- *Steward Machine Co. v. Davis* (1937)
- *NFIB v. Sebelius* (2012) (review)
- Khardori, Ankush. 2025. “The Courts Might as Well Just Shut Down.” *Politico*, November 5, 2025.
- Wolf, Zachary B. 2025. “Are Tariffs a Tax? The Court’s View May Decide the Fate of Trump’s Tariff Battle.” *CNN Politics*, November 11, 2025.

November 18: Substantive Due Process – Introduction.

- From Solberg (2024):
 - *Loan Association v. Topeka* (1875)
 - *Lochner v. New York* (1905)
 - *Muller v. Oregon* (1908)
 - *Adkins v. Children’s Hospital* (1923)
- McBride, Alex. 2006. “The Slaughterhouse Cases.” *Supreme Court History: The First Hundred Years*. WNET.

November 20: Substantive Due Process and the New Deal.

- Solberg (2024):
 - *Nebbia v. New York* (1934)
 - *West Coast Hotel v. Parrish* (1937)
 - *Williamson v. Lee Optical Co.* (1955)

November 25: No Class - Thanksgiving Break.

November 27: No Class - Thanksgiving Break.

December 2: Substantive Due Process in the Postwar Era.

- Sandefur, Timothy. 2012. “Why Substantive Due Process Makes Sense.” *Cato Unbound*, February 6, 2012.
- Rosenthal, Lawrence. 2012. “Not So Fast, Mr. Sandefur.” *Cato Unbound*, February 8, 2012.
- Sandefur, Timothy. 2012. “Come to My Side, Prof. Rosenthal – We Have Humility and Prudence!” *Cato Unbound*, February 15, 2012.

December 4: The Takings Clause: Definitions and Concepts.

- From Solberg (2024):
 - *United States v. Causby* (1946)
 - *Penn Central Transportation Co. v. City of New York* (1978)
 - *Nollan v. California Coastal Commission* (1987)
 - *Lucas v. South Carolina Coastal Council* (1992)
- Two commentaries on *Cedar Point Nursery v. Hassid* (2021):
 - Hunter, Brittany. 2021. “A Farmer’s Relentless Bravery Has Led Him All The Way to the Supreme Court To Fight For Property Rights.” *Pacific Legal Foundation* blog, June 23, 2021.
 - Strom, Andrew. 2021. “The Court’s *Cedar Point* Opinion – Haven’t I Seen This Movie Before?” *OnLabor* blog, June 30, 2021.

December 9: Public Use and Other Recent Developments.

- From Solberg (2024):
 - *Berman v. Parker* (1954)
 - *Hawaii Housing Authority v. Midkiff* (1984)
 - *Kelo v. City of New London* (2005)
- Krocilick, George J., David Amerikaner, and Anna Wills. 2025. “Landlords Can Pursue Takings Claims Against U.S. Government for COVID-Era Eviction Moratorium, Court of Appeals for the Federal Circuit Confirms.” *Duane Morris*, June 30, 2025.

December 11: **No class.** Final examination review sessions via Zoom (TBA).

December 16: Final Examination (Tuesday, December 16, 2025; 4:40-6:30 p.m. ET, Carpenter Building Room 107).