

# CONSTITUTIONAL LAW 509A-3 (§ 001)

## POWERS OF GOVERNMENT

PROFESSOR CINDY G. BUYS  
FALL 2022

**Meeting Place and Times:** Room 202  
Mondays and Wednesdays, 3-4:15 p.m.

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Office Hours: MW 1:30-2:30 pm or by appointment

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### Course Description and Objectives:

The U.S. Constitution is not only the foundation for our government and legal system but is part of our culture as well. In this course, students will become familiar with the structure and text of the Constitution of the United States and how it has been interpreted by the U.S. Supreme Court to resolve some of the most difficult legal questions of the times. During Constitutional Law Part A, we will concentrate on the structure of government and the respective powers of the three branches of the federal government, the Legislature, the Executive, and the Judiciary, as well as the division of power between the state and federal governments.

When you have completed this course, you should be able to:

1. Identify and explain the respective powers of the three branches of federal government in the U.S. Constitution, the areas of overlap between these powers, and the resulting tensions;
2. Articulate the concept of federalism and the source and scope of state power;
3. Analyze whether particular governmental actions violate principles of separation of powers or federalism;
4. Construct a constitutional law argument using various sources and doctrines common to U.S. Supreme Court jurisprudence; and
5. Understand and intelligently discuss the values and political or policy considerations that drive the development of constitutional law and who gains and loses as a result of U.S. Supreme Court decisions.

This course will also help you develop other skills necessary to be an effective lawyer, including:

1. Interpersonal skills necessary to work effectively as a member of a team; and
2. Independent learning skills necessary to be a life-long learner.

### Required Reading:

Most of the reading assignments for this course will be drawn from Massey & Denning, *AMERICAN CONSTITUTIONAL LAW: POWERS AND LIBERTIES* (6th ed. 2019) [hereinafter M&D]. Newer case excerpts,

reading assignments, and other assigned activities for the course will be posted on the class TWEN page at appropriate times or made available in class.

The M&D book is a Connected Casebook meaning that there are some helpful resources available online to students who have purchased the book, including some practice multiple-choice (MC) questions. I encourage you to register for and utilize this online resource.

**Other Helpful Resources:**

Each year, students ask for recommendations of secondary materials to consult to help them understand difficult aspects of constitutional law. Here are a few suggestions:

Erwin Chemerinksy’s treatise, CONSTITUTIONAL LAW (Aspen 6th ed. 2019)  
Attanasio & Goldstein, UNDERSTANDING CONSTITUTIONAL LAW (5<sup>th</sup> ed. 2020)

For practice questions and answers, students may wish to consult:  
Brannon Denning, THE GLANNON GUIDE TO CONSTITUTIONAL LAW  
Ides & May, CONSTITUTIONAL LAW EXAMPLES AND EXPLANATIONS  
McGreal, Eads & Rhodes, QUESTIONS AND ANSWERS: CONSTITUTIONAL LAW

These resources are completely optional, and you do not need to buy them.

**Reading Assignments:**

Your first reading assignment for Monday, Aug. 22 is to read this syllabus, the U.S. Constitution, preamble and art. I-VI and to begin reading M&D, Chapter One (*Marbury v. Madison*). Also read articles, “*Effective vs. Ineffective Teams*” and “*What Really Makes Teams Work*” (on the TWEN page).

The schedule of reading assignments and activities for the semester will be posted on the class TWEN page at appropriate times.

**Course Structure and Teaching Methodology:**

TEAM = Together everyone achieves more.

*Team-Based Learning:*

Lawyers routinely collaborate with others to solve legal problems in both public and private practice. The ability to work well with others is an important skill that leads to successful careers. Moreover, studies have repeatedly shown that higher learning outcomes result when resources are pooled. Accordingly, we will follow a modified version of a teaching method called Team-Based Learning (TBL) this semester to enhance your learning and improve your collaboration skills.

*Law Firms:*

During the first class, I will assign you to a “law firm” consisting of approximately five students. You will work in your law firm throughout the semester. You are each responsible to and for each other and for making the group work effectively. During the first week, I will ask you to create guidelines regarding how your law firm will function during the semester (more information will be provided). If you have problems with your firm, I expect you to work it out in a professional and civil manner and to treat one another as you would wish to be treated. If the problem is not resolved using these team guidelines, you may talk with me and I will assist in facilitating a resolution.

In TBL, there will be fewer in-class lectures by the professor as compared to some of your other classes. Instead, we will spend time working on application activities that apply the rules we derive from the Constitution and the Supreme Court’s case law to new factual scenarios. For each class, you are expected to have carefully read the assigned cases and other material outside of class in preparation for in-class quizzes and work with your group to apply what you have learned to hypothetical problems that I have designed to test your understanding of the material and its application to new fact patterns.

I will call on you by law firms. Most of the time, you will not know in advance which day your law firm will be on call. You may decide among the law firm which members will be responsible for responding on behalf of the firm on any given day. However, I require each member of the firm to substantially participate in the class discussion on behalf of the firm at least once during the semester. Failure to do so will result in a grade reduction.

*Grading and Evaluation:*

Your grade will be based on several components: (1) your combined score on closed-book multiple choice (MC) quizzes called Readiness Assessment Tests (RATs) given close to the beginning of a chapter. (These quizzes are initially taken individually (approximately one quiz per chapter; lowest score dropped); (2) your law firm score based on group quiz scores and other group work; (3) your individual score on at least one bar-style multi-state essay exam (MEE); (4) your individual score on a timed final essay exam, and (5) your score on a peer assessment of your contributions to the group. You will also be expected to complete other writing assignments, most of which will be graded on an S/U basis. If you do not receive an “S” on your first submission, you must re-write the assignment until you receive an “S” to receive credit. Any late assignment will result in a deduction of points from the final examination score. Likewise, failure to follow class rules may result in a reduction in your grade or withdrawal from the course.

The date and time of the final exam is TBD.

The relative weight of the graded components will be negotiated in class based on the following possible grade weights:

Individual performance on MC quizzes, MEEs, and other assignments	25-40%
Individual performance on Final Exam	30-45%
Team performance on MC quizzes and other group work	15-30%
Peer Assessment	5-10%
Total must equal	100%

### *Readiness Assessment Tests (RATs)*

As the name suggests, Readiness Assessment Tests (RATs) are given to gauge your understanding of the material you have read and prepared for class. As a result, they are usually administered at the beginning of a unit rather than at the end. Because one of the goals of this course is to prepare you to be a life-long, independent learner, this is a good way for you to assess your ability to learn new legal material on your own and to develop needed skills. RATs will primarily test the assigned readings for the new unit but may include material from previous units. Other assignments will be given after we have covered the material for the unit. This will allow assessment of how well you understand the material and are able to apply it to new fact patterns after having spent some time studying and working with it.

As a general rule, multiple choice quizzes will be taken individually in class through TWEN, so bring a laptop or other device with you to class on the days when quizzes are scheduled. Immediately after the individual quiz, your law firm will take the quiz again as a group using a scratch off card. 3 points are allocated for a correct answer on the first try; 1 point is allocated for a correct answer on the second try. We will then review the quiz together in class. If your law firm disagrees with the correct answer, the law firm may file a group appeal (no individual appeals are allowed). Appeals are for the purpose of enhancing your understanding of the material and ensuring the quizzes are fair. An appeal must be in writing and must be supported by reference to class materials. Unless otherwise instructed, appeals must be submitted to Professor Buys by email within 24 hours. An appeal will be granted in the professor's discretion if it demonstrates that the reading material or the question or answer were ambiguous or incorrect. All quizzes must be returned at the end of the class period, except that your group may retain a copy of the quiz for 24 hours for purposes of writing the appeal. No copies of the quizzes may be made or kept.

Each appeal should clearly identify and recite the text of the question(s) and answer(s) being appealed. If the appeal is based on ambiguity of the question or answer, you must identify the source of the ambiguity and offer alternative wording that would avoid the ambiguity. If the appeal is based on either inadequacy in the reading material or in the "correct" answer, you must state the reason(s) for disagreeing with the "correct" answer, provide specific references from the reading material to support your position, and explain why another answer is at least as good or better.

When an appeal is granted on a question the law firm has missed, the points missed will be added to the group score and to the individual score of any member of the group who missed that question. Only those groups that file an appeal may gain additional points. Group member(s) who had the original answer correct will still receive credit for that question.

### *Application Activities:*

The class will frequently engage in one or more application activities that will allow you to further apply the material you have read to new factual scenarios and deepen your understanding of the material for that unit. You will likely be assigned material to prepare individually outside of class, but most of these activities will be done together in your law firm in class. I will try hard to minimize the amount of time your law firm will be required to meet outside of class. I will give feedback on these activities, but most of them will not be graded. However, failure to turn in a satisfactory assignment in a timely manner will result in a grade reduction.

**Attendance Policy:**

You are expected to attend class regularly and to be on time. Being on time demonstrates respect for the professor and your classmates and minimizes disruptions to the class. If for some unavoidable reason you are late to class, you will be asked to sing a ditty (a short, simple song), recite a short poem, or contribute \$.50 towards an end-of-the-semester snack. If you arrive late to class, you also must write late on the attendance sheet next to your signature. More than three tardy arrivals will count as an absence.

If you must be absent on a day when a quiz is being given, that quiz normally will be the one that is dropped. However, if extraordinary circumstances are present, you may contact me to discuss whether other arrangements may be made for the quiz.

I will take attendance each day. You are responsible for keeping track of your absences. Signing the attendance sheet signifies that you have read the assigned material and are prepared to discuss it in an intelligent fashion.

In accordance with the law school rules, you may be absent up to six times without a grade or other penalty by the professor. However, if you do not attend regularly and contribute to your law firm, it likely will be negatively reflected in your final grade on your peer assessment. Absences in excess of the allowable number will be dealt with in accordance with the law school rules and are likely to result in a grade reduction or withdrawal from the course.

**Workload Expectations:**

The American Bar Association (ABA) standards for accrediting law schools contain a formula for calculating the amount of work required to earn one hour of law school credit. Pursuant to these standards, each credit hour should reasonably approximate one hour of in-class instruction and two hours of out-of-class work per week for fifteen weeks. Accordingly, for this three-credit-hour class, you should spend three hours per week in class and at least six hours per week preparing for class or engaging in other class-related activities.

**Make-up Classes**

To ensure compliance with ABA Standard 304, this class is required to hold an additional class session or engage in an out-of-class assignment to make up for Labor Day holiday (Monday, Sep. 5). More information will be provided in class.

**Class Recordings**

The class will be recorded on a regular basis. If you wish to view a recording of the class, please contact the professor. Absent extraordinary circumstances, viewing a recording does not count towards class attendance. If you wish to make an audio recording of the class using your own recording device, you may do so as long as you obtain the advance permission of the professor.

**TWEN (The West Education Network):**

You should register for this course on TWEN no later than the first week of classes. I will post the syllabus and reading assignments on TWEN, as well as other relevant class readings and material. Therefore, you are expected to check TWEN regularly and are responsible for any materials posted on TWEN. I send class-related e-mails to the address you list on TWEN, so be sure you list an e-mail address that you check regularly.

**Classroom Etiquette:**

Please be courteous and respectful to the others in the classroom by keeping distractions to a minimum, turning off any noise-making devices, and giving the class your full attention. Unless otherwise instructed, you may use electronic device(s) in the classroom only for class-related tasks. Other uses of devices are likely to be distracting and possibly even offensive to other persons in the classroom and are therefore prohibited. If I believe there is a problem with improper usage of electronic devices in class, I reserve the right to ban their use.

I consider it part of my responsibility as a professor to address the learning needs of all of the students in this course. I will do my best to present materials in a manner that is respectful of diverse viewpoints and personal characteristics. I also believe that the diversity of student experiences and perspectives is essential to the deepening of knowledge in a course. A good attorney must learn to listen carefully to what others say without interrupting even if they disagree with the viewpoint being expressed. During this class, we will discuss topics on which personal and political views are likely to vary greatly. In order to test ideas, I strongly encourage open discussion and the expression of different viewpoints. Keep in mind that successful attorneys make statements and arguments based in facts, legislative authority, and case law, not based on generalizations, assumptions, or stereotypes. The goal of class discussion is not that everyone agrees, but that everyone in the class gains new insights and experiences. In sum, I expect professional, respectful, and courteous behavior and commentary at all times that would be appropriate in a courtroom, legislative hearing, or public meeting. Students whose behavior is disruptive to the class or that violates the rules may be asked to leave the classroom or may face other consequences based on the circumstances.

**Statement on Collaboration and Plagiarism:**

In this class, there will be some assignments, both graded and ungraded, where collaboration is allowed and even encouraged and others where it is not. It is your responsibility to pay strict attention to the instructions regarding whether and what form of collaboration is allowed.

Violating classroom rules or plagiarizing another's work, in whole or in part, is a violation of the Honor Code and can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. The Honor Code defines plagiarism as:

passing off another's ideas, words, or work as one's own, including written, oral, multimedia, or other work, either word for word or in substance, unless the student author credits the original author and identifies the original author's work with quotation marks, footnotes, or other appropriate designation in such a way as to make clear the true author of the work.

**EMERGENCY PROCEDURES:** We ask that you become familiar with **Emergency Preparedness @ SIU**. Emergency response information is available on posters in buildings on campus, on the Emergency Preparedness @ SIU website, and through text and email alerts. To register for alerts, visit <http://emergency.siu.edu/>.

**DISABILITY POLICY.** SIU Carbondale is committed to providing an inclusive and accessible experience for all students with disabilities. Disability Support Services coordinates the implementation of accommodations. If you think you may be eligible for accommodations but have not yet obtained approval, please contact DSS immediately at 618-453-5738 or [disabilityservices.siu.edu](http://disabilityservices.siu.edu). You may request accommodations at any time, but timely requests help to ensure accommodations are in place when needed. Accommodations and services are determined through an interactive process with students and may involve consideration of specific course design and learning objectives in consultation with faculty. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreements for each course to the School of Law Registrar's Office to ensure the School of Law provides the proper classroom and examination accommodations.

**SALUKI CARES.** The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students, and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-2461, or [siucares@siu.edu](mailto:siucares@siu.edu), <https://salukicare.siu.edu/>. Assistant Dean Judi Ray is available at the School of Law to help students access university resources. Please email her at [judiray@siu.edu](mailto:judiray@siu.edu), or call 618- 453-3135.

**COVID-19.** SIUC's policy on face masks and social distancing is consistent with the guidance from the Centers for Disease Control and Prevention and the Illinois Department of Public Health. For up-to-date information, students, faculty, and staff should visit SIUC's COVID website (<https://siu.edu/coronavirus>), which includes the Saluki Safety Plan. People can also send email to [pandemicinfor@siu.edu](mailto:pandemicinfor@siu.edu).