

POLS 413: Civil Liberties 1: Speech & Religion TTh 3:00 - 4:40, Room: Flagg 103.

Department of Politics, SUNY Potsdam, Fall 2021

Instructor. Daniel Lempert, Associate Professor of Politics. email: lemperds@potsdam.edu

Office Hours. Online: Mondays, 1:00–3:00. In-Person: Tuesdays 2:00-3:00*, in Satterlee 309B.

Course Description and Objectives. This course considers civil liberties related to speech and religion under the U.S. Constitution. Thus, we focus on case law that interprets the First Amendment. Areas addressed include the freedom from establishment of religion, freedom to practice religion, the freedom of speech and related freedoms (press, assembly, association). Because we cover a relatively narrow swath of constitutional law in the course, we will have the ability to analyze topics and cases in some detail.

By the end of this course, students should understand the history and current state of First Amendment law, and have an informed opinion about what the law *should* be. Students should also be able to read Supreme Court opinions and to extract and summarize relevant information therefrom.

Grading. Course grades will be based on the following components:

- Case briefs 15%
- Quizzes in each class 20%
- Participation in Class Discussion: 15%
- Midterm test: 15%
- Major Paper 15%
- Final exam: 20%

Grading Scale. The grading scale is standard: 92 – 100% = 4.0, 90 – 92% = 3.7, 88 – 90% = 3.3, 82 – 88% = 3.0, 80 – 82% = 2.7, 78 – 80% = 2.3, 72 – 78% = 2.0, 70 – 72% = 1.7, 68 – 70% = 1.3, 60 – 68% = 1.0, 0 – 60% = 0.0.

Extra Credit. Extra credit, worth up to 2% of the overall grade may be available. Details to be given later in the semester.

Late Paper Policy. I will collect case briefs at the end of each class session in which they are due. Students with excused absences should upload their briefs to Moodle before class time. Late briefs less than 24 hours late will be awarded at most 50% credit. Late briefs more than 24 hours late will not be accepted. For each day that the major papers is late, I will subtract 3 points from the grade; those that are more than 14 days late will be awarded no credit.

Exam Policy. Failure to take the final exam or mid-term at the scheduled time will result in a 30% reduction of the test grade.

Attendance, Participation, and Quizzes. Class attendance is required, and is part of the participation grade. Only absences for medical reasons, certified by a doctor, and absences for religious holidays will be considered excused. Coming to class on time and prepared—having read and thought about the readings—is crucial for the ability to understand lecture and contribute intelligently in the class. During class discussion, remain respectful of opposing viewpoints, and refrain from personal attacks. Do not browse the internet or use your phone to text in class. Laptop use is discouraged. Repeated cell phone use or other inappropriate behavior will result in a 0 for the participation grade. Because we cover fundamental information that will be crucial to your success in the class, make every effort to avoid absences in the first several weeks of class.

Assistance. I want to give you any help with the course that you need. My office hours are listed at the beginning of the syllabus. Feel free to send me an email when you have a question or concern; my e-mail address is listed also. If you'd like to meet outside of office hours, it is safest to email, to set up an appointment. If you notice that you are struggling with any aspect of the course, it may be a good idea to meet with me as soon as possible, so that we can discuss ways of overcoming the struggles before there is a serious impact on your grade.

Academic Honesty. Please review the Honor Code:

<http://www.potsdam.edu/studentlife/studentconduct/honorcode/index.cfm>. I expect all of the work you do in this course to be your own. Explicitly, one of the things that this means is that unless directly authorized by me in writing, “working together” on assignments is not allowed, and will be considered plagiarism. I will tolerate absolutely no cheating or plagiarism (using someone else’s words or ideas without proper citation). Any case of cheating, plagiarism, or other academic dishonesty will be reported to the Office of Student Conduct and Community Standards, where it will be handled according to college policy. If I determine that plagiarism has occurred, the penalty is 0 on the plagiarized assignment or 1.0 grade reduction in the course for a first offense (whichever reduction is greater), and a 0 in the class for any subsequent offense. Students are not allowed to leave the room before turning in exams.

Accommodations/Disability. I rely on Accommodative Services for assistance in verifying the need for accommodations and developing accommodation strategies. If you are a student with a disability who will require accommodations in this course, please meet with Accommodative Services in Sisson Hall Room 111 for assistance in developing a plan for accommodations. If you are already working with Accommodative Services, please set up a time to meet with me, or come by during office hours, to discuss accommodations. For more information, visit the Accommodative Services website at <https://www.potsdam.edu/studentlife/support/accommodative-services>.

Textbooks (Required):

- Collins, Creeley, and Hudson, *First Things First*, FIRE 2019.
- Robson, *First Amendment: Cases Controversies, Contexts*, Second Ed., CALI eLangdell Press 2020.
- Zick, *The First Amendment in the Trump Era*, Oxford UP 2019.

Schedule of Readings and Topics. Readings are to be read before the session for which they are listed. Do the readings for a given session in the order listed. I will post non-textbook readings to Moodle. I recommend printing and bringing to class each session's non-textbook reading; also bring your textbook to class if we are discussing it on a given day. The case listed in bold is the case you should brief for a given class.

- Session 1, 9/1. Introduction. No readings.
- Session 2, 9/3. SCOTUS basics; powers & constraints. Epstein & Walker, *Rights, Liberties, and Justice*, Ch.1, pp. 11-21 (until start of SUPREME COURT DECISION MAKING: LEGALISM heading) and Ch. 2.
- Session 3, 9/8. Speech basics. Robson (R), Ch. 1; Collins, Creeley, and Hudson (C), Chs. 1–3.
- Sessions 4, 9/10. Equality and speech. R, **WV Board of Education v. Barnette**, p. 269; C, Ch. 4.
- Session 5, 9/15. Unconstitutional conditions and compelled speech. R, Ch. 6, Sec. I and II. Brief **Boy Scouts v. Dale** (in R).
- Session 6, 9/17. Hate speech. C, Ch. 5; R, **WI v. Mitchell** p. 87.
- Session 7, 9/22. Sexual expression. C, Ch. 6; R, **U.S. v. Stevens**, p. 654.
- Session 8, 9/24. Dangerous speech. C, Ch. 7; R, **Holder v. HLP**, p. 50.
- Session 9, 9/29. Fighting words and threats. C, Ch. 8. Brief **Gooding v. Wilson** (on Moodle).
- Session 10, 10/1. Lies, defamation, and invasion of privacy. C, Ch. 9; R, **Schacht v. U.S.**, p. 103.
- Session 11, 10/6. Symbols. C, Ch. 10; R, **Spence v. WA**, p. 67.
- Session 12, 10/8. Student speech. C, Ch. 11; R, **CLS v. Martinez**, p. 343.
- Session 13, 10/13. Commercial speech and campaign contributions. C, Chs. 12–13. No brief due.
- Session 14, 10/15. Speech of government employees. C, Ch. 14; R, **Lane v. Franks**, p. 227.
- Session 15, 10/20. Press and music. C, Chs. 15–16. No brief due.

- Session 16, 10/22. Midterm.
- Session 17, 10/27. Defining religion; establishment and schools. R, Ch. 11 and Ch.12 Part I. Brief **U.S. v. Seeger**.
- Session 18, 10/29. Establishment and schools, cont. R, Ch. 12 Parts II–III. Brief **Lemon v. Kurtzman**.
- Session 19, 11/3. Establishment in the public square. R, Ch. 13, Part I. Brief **Town of Greece v. Galloway**.
- Session 20, 11/5. Establishment in the public square, cont. R, Ch. 13, Parts II–III. Brief **American Legion v. AHA**.
- Session 21, 11/10. Free exercise. R, Ch. 14, Parts I–II. Brief **Employment Division v. Smith**.
- Session 22, 11/12. Free exercise, cont. R, Ch. 14, Part III. Brief **Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal**.
- Session 23, 11/17. Free exercise, cont. R, Ch. 14, Part IV. Brief **Church of the Lukumi Babalu Aye v. City of Hialeah**.
- Session 24, 11/19. Free exercise, cont. R, Ch. 14, Part V. No brief due.
No Class 11/24 and 11/26.
- Session 25, 12/1. Trump era: Free press and sedition. Zick (Z), Chs. 1–2.
- Session 26, 12/3. Trump era: Anti-orthodoxy principle and public fora. Z, Chs. 3–4.
- Session 27, 12/8. Trump era: Hate speech and dissent. Z, Chs. 5–6.
- Session 28, 12/10. Catch up and review.

In-class Final Examination. Monday, December 13, 12:30 – 2:30 pm.

Good luck on the final exam!