

# FED CON LAW (FCGL)

## FCGL 0102. CONSTITUTIONAL LAW. (4 Credits)

A study of the United States Constitution, judicial review and limitations, and separation of powers (both in relation to federal governmental powers and between federal and state governments), as well as the federal government's powers to tax, declare war, and regulate commerce. This course also explores constitutional rights, including the Due Process and Equal Protection clauses, as well as segregation, disenfranchisement and discrimination based on race, sex, disability and sexual orientation.

Spring 2018, Professor Powell

This foundational course introduces students not only to the cases and doctrines concerning the U.S. Constitution, but also to the historical arc of how constitutional law has evolved and competing theories of constitutional interpretation. The course covers the scope of judicial review in our constitutional democracy, addresses separation of powers, and examines basic fundamental rights. As an entry point to constitutional law, this course provides an overview that should help orient students to upper level offerings that more specifically focus on constitutional provisions such as equality, the right to privacy, free speech, and religious freedom.

Four-credit courses that meet for 150 minutes per week require three additional hours of class preparation per week on the part of the student in lieu of an additional hour of formal instruction.

**Attributes:** JD, LMCO.

## FCGL 0129. LEGISLATION & REGULATION. (4 Credits)

Statutes and administrative regulations are fundamental to modern legal systems and their interpretation is central to much of contemporary legal practice. This course introduces students to the processes by which legislation and regulations are enacted, to the rules, conventions, and dilemmas that characterize their interpretation by courts and agencies, and to the basic structure of administrative law. Four-credit courses that meet for 150 minutes per week require three additional hours of class preparation per week on the part of the student in lieu of an additional hour of formal instruction.

## FCGL 0202. LAW OF THE CITY OF NEW YORK. (2 to 3 Credits)

The seminar examines the intersection of law and urban policy that makes New York City so fascinating and distinctive. Questions of authority, structure, and individual rights play a central but unheralded role in nearly every aspect of the life and governance of New York City. The course begins with an introduction to the division of power between the state and local governments. We then move to the distribution of power within local government by examining intra-local conflicts, such as those between the Mayor and the City Council. We then turn to a study of significant City institutions. Finally, the course turns to current events. I have selected several issues for us to explore but I may change the syllabus based on current events. We will select additional issues together during the first weeks of class based on your interests.

In my view, it is important for you to hear from and engage with scholars and practitioners in the field. Thus, many of our classes will include guest speakers. The course will be highly interactive and student participation will be an important component.

**Attribute:** PIE.

## FCGL 0204. SUPREME COURT SEMINAR. (2 Credits)

This seminar will focus on significant cases pending before the United States Supreme Court during the 2018-2019 term. We will simulate the work of the Court by requiring students to write one or two briefs or bench memos to prepare the class for the cases we discuss.

**Attribute:** LLM.

## FCGL 0260. CONSTITUTIONAL RIGHTS & HUMAN RIGHTS IN COMPARATIVE PERSPECTIVES. (2 to 3 Credits)

This seminar will compare the international law of human rights with the constitutional law of rights in the United States and other national systems. The seminar will examine the history, theory, and sources of rights in these systems, the institutions for implementing them, and the remedies for violations. The course is largely organized around comparing the treatment of particular rights in various systems: for example, equality (with a focus on race, gender, sexuality, and marriage equality), speech rights and privacy (on and off line), and economic and social rights. Students will develop papers on policy projects concerning cutting edge human rights matters, working in teams, under the supervision of the professor.

**Attributes:** ICE, INLJ, PIE.

## FCGL 0262. RELIGION, LAW & THE STATE. (2 to 3 Credits)

This seminar will examine the relationship among religious institutions, secular society, and the state. Readings and discussion will focus on the free exercise and establishment clauses of the U.S. Constitution but will also include comparative and international counterparts to these constitutional provisions as well as relevant readings in political theory. The course will consider such questions as the role of religious institutions in secular society, their relationship to the state, the degree to which religious minorities may demand exemption from the laws and norms of secular society, the accountability of such institutions under civil and criminal law, among others. Each student will be expected to participate in class discussion and submit a term paper. No final examination will be given. This course may be used to satisfy the writing requirement.

**Attribute:** INLJ.

**FCGL 0299. LANGUAGE OF THE CONSTITUTION. (2 to 3 Credits)**

Professor Brettschneider: <br> Does the free speech guarantee of the First Amendment extend to obscenity? Does the Equal Protection clause ensure a right to gay marriage? An inquiry into these kinds of questions requires examination of the relationship between the language of the Constitution and its meaning. In this class we combine close analysis of the Constitution itself with examinations of scholarly debates over its interpretation and discussion of how these debates have played out in specific Supreme Court cases. We cover the debates over originalism, fundamental constitutional values, and the Constitution's reinforcement of democracy. We also delve deeply into Supreme Court case law in areas such as privacy, equal protection, free speech, free exercise, and establishment. Readings from Madison, Scalia, Breyer, Ely, Posner, Lawrence, MacKinnon, and Dworkin. Throughout the course our aim is to link issues of constitutional theory and Supreme Court doctrine. The grade will be based on class participation and a final paper. This class satisfies the writing requirement. <p>Professor Feerick: <br>This seminar is designed to create a greater awareness and understanding of the Constitution, examining where the language of the Constitution comes from and what values were intended to be expressed insofar as can be ascertained. It focuses on the Constitution's language, history, and creation. Primary sources, rather than cases, will be the material and emphasis of the class: English constitutional developments, colonial charters, early state constitutions, the Records of the Constitutional Convention of 1787 and the Ratifying Debates, the Federalist Papers, and the debates in early congresses. The step by step development of the Constitution (including the Bill of Rights) forms a major part of the classes. Several modern issues will also be treated, for example: Security and Freedom, Succession, Continuity in Government, and Electoral Reform. There will also be several guest speakers during the Seminar.<P>Class participation comprises 15% of the Final Grade. A paper on the subject of the Constitution will constitute 85% of the Final Grade. I am willing to work with a student who wants this class to qualify for their writing requirement.

**Attributes:** INLJ, JD, LLM, PIF.

**FCGL 0317. FIRST AMENDMENT. (4 Credits)**

This course covers many of the core issues of free speech, free press, freedom of religion, and the establishment clause. We will discuss Supreme Court cases, and surrounding commentary, on: political advocacy of unlawful action; fighting words; hate speech; libel; revelation of private facts; obscenity; pornography; commercial speech; prior restraints; content-based vs. content-neutral restrictions; the public forum doctrine; government speech, including government as educator; reporter's privilege; government as employer; the right not to speak and freedom of association; access to the mass media; broadcasting and content regulation; religious arguments in the lawmaking process; religious symbols in governmental space; prayer in public school; public funding of religious schools; and exemptions and accommodations for the practice of religion. Pre-requisites: Constitutional Law Four-credit courses that meet for 150 minutes per week require three additional hours of class preparation per week on the part of the student in lieu of an additional hour of formal instruction.

**Attributes:** INLJ, IPIF, LMCO, PIE.

**Prerequisite:** FCGL 0102.

**FCGL 0320. STATE & LOCAL GOVERNMENT. (2 or 3 Credits)**

This course addresses the major issues facing state and local governments in a time of rapid change, including (1) the distribution of power between federal, state and local governments; (2) the forms, structure, powers, financing and liability of local governments; (3) how state legislatures, the judiciary, and the state executive branch share power; and (4) the relationship of state and local governments to public employees and residents. The course will concentrate on legal developments across the country, but it also will highlight key aspects of New York State and New York City law in order to ground students in the developing jurisprudence of a single jurisdiction. A key course goal is to highlight the immediate relevance of state and local governance, given that law school courses often focus on federal regulation and federal decision making. We will supplement the textbook with case studies after becoming familiar with the basic structure of state and local relationships. This course has an in-class exam.

**Attribute:** PIE.

**FCGL 0409. BIRTHRIGHT CITIZENSHIP AND THE U.S. CONSTITUTION. (2 Credits)**

This seminar will examine the historical evolution of the two great principles of birthright citizenship—*jus sanguinis* or the law of blood, which flows from the Roman law tradition, and *jus soli* or the law of soil, which is rooted in English common law. We will then turn to how Americans, from the ratification of the Constitution to the present, have viewed the two great principles. Students may write short reactions papers or one long paper on a topic of their choosing.

**Attribute:** INLJ.

**FCGL 0415. FIREARMS LAW. (2 Credits)**

This course will cover federal and state statutes, regulations and case law surrounding the acquisition, possession, sale and use of firearms. The course also will examine background federal and state constitutional issues and firearms policy questions. This is a paper course that may be used to satisfy the the writing requirement.

**Attributes:** LLM, LWR, PIE.

**FCGL 0419. PUBLIC FINANCE LAW & PRACTICE. (2 or 3 Credits)**

This course examines legal issues that arise, and finance techniques used, by governments, underwriters and borrowers in public finance transactions. We will cover the Puerto Rico financial crisis, the infamous WPPSS default, the NYC fiscal crisis, the financing of the Brooklyn Bridge, the privatization of Coney Island hospital and SEC proceedings on Miami, New Jersey, Harrisburg and Boston's Big Dig. Areas explored include legal authority, public purpose, debt, securities regulation and disclosure obligations under the Federal antifraud statutes, and the contract clause. We look at finance structures involving affordable housing and stadiums and we will have guest speakers to address these topics.

**Attribute:** LAWB.

**FCGL 0609. Sharia and Secularism in MENA Constitutional Law. (2 Credits)****FCGL 0828. SLAVERY & THE CONSTITUTION. (2 Credits)**

This course will explore the institution of slavery as it developed in North America and the impact it has had on the United States Constitution, both its drafting and its interpretation over time. We will read and discuss both legal materials and non-legal historical materials. Students will be evaluated based on three short papers (each 2000 words max), submitted during the course of the semester. Outside research for the papers will be allowed but not required. In addition to the papers, 1/4 of the final grade will be based on class participation.

**Attributes:** JD, LLM, LWR, PIF.

**FCGL 0906. LEGISLATION AND REGULATION FOR NON-J.D.s. (3 Credits)**

From bankruptcy to labor law, and from automotive safety to securities regulation, the modern legal system is dominated by statutes and regulations. This course will introduce non-JD students to this body of law. The course will begin with an introduction to legislation, followed by an in-depth exploration of the role of federal administrative agencies in formulating policies and implementing statutes. The course will also consider executive, legislative and judicial oversight of administrative agencies. While the purpose of the course is an introduction to federal legislation and regulation generally, it will pay particular attention to the regulation of the financial services industry.

**Attribute:** LLM.

**FCGL 0929. CONSTITUTION AND THE PRESIDENCY. (4 Credits)**

Is the president's power to launch a nuclear attack unlimited? Does the Fourteenth Amendment's Equal Protection Clause constrain a president in matters of immigration and foreign policy? Can the President be criminally indicted while in office? In this course, we will explore in depth the powers granted to the president under Article II and expanded over time, the Bill of Rights, and the mechanisms created by the Constitution to give other branches of government the potential power to stop a president. We use as our guide founding documents (especially the Federalist Papers), case law, historical examples, and recent controversies. <p> The class is divided into three parts. Part I examines the formal and informal powers of the president (the Take Care Clause, the commander-in-chief power, and the power to hire and fire employees of the executive branch). Part II looks at the question of the extent to which the Bill of Rights contains a president (sedition and the First Amendment, "enhanced interrogation" and the Eighth Amendment, and Trump's travel ban and the Fourteenth Amendment Equal Protection Clause). Part III looks at the removal of a president, focusing on impeachment and criminal indictment. We discuss possible possible grounds for removal, including emoluments violations and obstruction of justice. <p> Although the course includes the study of the current presidency, it will aim to think about the presidency more generally as an office and the degree to which it is constrained by the Constitution. The grade will be based on two papers and a class presentation.

**Attribute:** LLM.