

PLSC 305: Law & Policy in a Constitutional Democracy

Eastern Michigan University Department of Political Science

Winter 2016

Section 0; CRN 22614

Tuesday/Thursday 11:00am-12:15pm

Pray-Harrold 419

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Office Hours: Tues. and Thurs. 8:15-9:15am & 12:30-1:45pm (or by appointment)

COURSE DESCRIPTION

This course is about how law and policy are really made in the United States. While introductory accounts of government tend to convey the process of "how a bill becomes a law" as straightforward, and portray the judiciary as neutrally and mechanically applying law, it is easy to recognize from a cursory review of U.S. politics that however pedagogically convenient these textbook representations may be, they are not realistic.

The purpose of this class is to build a comprehensive understanding of the institutional design of Congress, the American legal system, and state government, and how variations in institutional design as well as strategic interactions between the branches and levels of government affect policy outcomes and implementation. Indeed, the themes of this course will be that institutions matter, and institutions behave strategically. Accordingly, this course will evaluate the procedures followed by government institutions, identify strategic behavior within and between institutions, and we will also examine the role of the people as direct and indirect forces on institutional behavior. Furthermore, we will engage traditional presentations of these institutions as well as major theories of the policy process in an effort to assess whether and how academic theory reflects or enhances our understanding of real-world practices. Our exploration of law and policy will be linked to a variety of specific policy areas, and in the final part of the semester, we will apply the institutional framework that we build during the term to a series of current issues in U.S. politics to understand the context in which those policies are being debated and to attempt to predict future policy outcomes.

This course will provide a solid foundation in principles and practices of U.S. government and will be excellent preparation for any person interested in careers in government, policy, administration, education, law, or who simply wish to be more informed citizens.

LEARNING OBJECTIVES

The primary goals for this course are as follows:

- 1) Develop a substantive understanding of the institutions of U.S. government and policymaking, specifically the U.S. Congress, the federal and state judiciaries, and state governments.
- 2) Construct a theoretical framework for critically evaluating the American policy process and the consequences of institutional design and reform.
- 3) Apply these substantive understandings to a range of policy issues so as to understand the dynamics of the policymaking process, the legal-institutional context of contemporary issues in American policymaking, and to attempt to predict future policy outcomes.
- 4) Build proficiency in reading academic literature, including empirical social science studies.
- 5) Enhance writing, research, critical analytical, and oral communication skills by generating a research question on a current policy topic, evaluating that topic using the conceptual framework built in this class, iteratively carrying out the research project, and presenting findings to the class.

COURSE POLICIES AND RESOURCES

Communicating with the Instructor: Please feel welcome to visit my office hours with any questions about the course, or arrange for an individual appointment. You are also welcome to contact me via e-mail. ***I prefer for you to e-mail me directly as opposed to using the Canvas e-mail tool.*** You can expect an acknowledgement of your e-mail within 24 hours on weekdays, or 48 hours on weekends. Communications should be focused on course-related matters. Please note that university regulations require me to only communicate with students about the course through their official “@emich.edu” accounts. Therefore, please use your “@emich.edu” account when contacting me. I reserve the right to respond, “it’s in the syllabus,” if you ask a question that is readily answered by reading the syllabus. Additionally, please note that although I am a licensed attorney, I cannot serve as your personal legal counsel, so I will not be able to engage requests for legal advice or representation.

Course Canvas Page: This course has a supplemental Canvas page, which will be used to store the syllabus, post supplemental readings, and post grades. It is possible that we will also use it to turn in assignments. To access the page, visit <http://canvas.emich.edu>. If you have any technical difficulties with Canvas, either use the “Help” link on the Canvas user dashboard, or contact the 24/7 Canvas Helpdesk at 844-326-6322.

Electronics in Class: The use of cell phones is prohibited in class. (Exceptions will be made if you have a legitimate emergency situation that requires you to be “on-call.” Please inform me of this BEFORE class begins.) Computers/tablets may be used for note-taking, digital textbook reading, and other course-related purposes. If you use a cell phone or use the computer or other electronics for purposes unrelated to class and it becomes a distraction to others in the class or to the professor, your Attendance & Professionalism grade will be reduced as described elsewhere in this syllabus.

Late Work Policy: All assignments must be turned in at the beginning of class in paper form (unless otherwise instructed) by the due date, and all in-class assignments must be performed at the scheduled time. Assignments that are more than 24 hours late will receive no credit. Those turned in up to 12 hours late will be reduced by one letter grade. Those turned in 12-24 hours late will be reduced by 2 letter grades. The only exceptions are for properly-documented emergencies, medical conditions, religious observances, jury duty, military service, or other circumstances recognized by the University.

Accommodations for Students with Disabilities: It is my goal that this class be an accessible and welcoming experience for all students, including those with disabilities that may affect their learning in this class. If you believe you may have trouble participating or effectively demonstrating learning in this course, please meet with me (with or without an accommodation letter from the Disability Resource Center) to discuss reasonable options or adjustments. During our discussion, I may suggest the possibility/necessity of your contacting the DRC (240 Student Center; (734) 487-2470; swd_office@emich.edu) to talk about academic accommodations. You are welcome to talk to me at any point in the semester about such issues, but it is best if we can talk at least one week prior to the need for any modifications. EMU Board of Regents Policy 8.3 requires that anyone wishing accommodation for a disability first registers with the Disabilities Resource Center (DRC) in 240 EMU Student Center, telephone: (734) 487-2470. Students with disabilities are encouraged to register with the DRC promptly as you will only be accommodated from the date you register. No retroactive accommodations are possible.

Academic Dishonesty and Plagiarism: Academic dishonesty will not be tolerated in this course. Section V.A of the Eastern Michigan University Conduct Code and Judicial Structure for Students and Student Organizations provides that “engaging in academic dishonesty in any form with respect to examinations, course assignments, research projects, grades, and/or academic records” is “subject to disciplinary action.” This includes “cheating, falsification, and plagiarism.” The full policy is available at <http://www.emich.edu/policies/policy.php?id=124&term=student%20conduct>. The EMU library also offers a slideshow tutorial regarding plagiarism at

<http://www.emich.edu/library/help/plagiarism/>. Examples of academic dishonesty include, but are not limited to:

- Submitting a paper prepared by another person, in whole or in part, as your own.
- Submitting a paper for this course that is identical, or substantially similar, to one you submitted in another course.
- Copying the work of another, or assisting a person in copying your work.
- Including direct quotations or paraphrases without citing the source. [Avoid copying and pasting from electronic sources to prevent this from happening.]
- Failing to cite a source from which you obtained an argument, idea, theory, hypothesis, data, statistical results, or any other material that you are using to support positions taken in your own written work, but which you did not generate based on your own analysis of the materials. [When in doubt, cite.]
- Reproducing lecture notes without properly citing the notes and instructor.
- Falsely citing a work as representing an argument that it does not.

Written assignments in this class are subject to review by plagiarism-detecting software. Penalties for academic dishonesty will range from the student being assigned a grade of “0” for an individual assignment to a grade of “0” for the entire course. Incidents of dishonesty may also be reported to the Department and/or University, which may result in further disciplinary action as provided in the Student Conduct Code.

University Policies: For more information about University policies, please visit the Student Handbook at: <http://www.emich.edu/studenthandbook/>.

Withdrawal Deadlines: The last day to withdraw from this class for a 100% refund is January 15, 2016. The last day for a “W” grade (no refund) is March 23, 2016.

COURSE TEXTS

Required Books:

Baum, Lawrence. 2015. *The Supreme Court, 12th Ed.* Thousand Oaks: Sage/CQ Press.

Sinclair, Barbara. 2011. *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress.* Thousand Oaks: Sage/CQ Press.

Nolette, Paul. 2015. *Federalism on Trial.* Lawrence: University Press of Kansas.

Supplemental Cases and Articles: Additional materials referenced in the schedule of readings will be made available on the course Canvas page.

COURSE REQUIREMENTS AND GRADING

This course will be graded on a points system (Points Earned divided by Points Possible). A summary of course requirements and associated point totals appears below.

<u>Assignment</u>	<u>Due Date</u>	<u>Points</u>
Attendance & Participation	Daily	50
Reading Quizzes	Random	50
Paper Topic	Tues, Feb. 9	10
Take-Home Midterm	Tues, Mar. 8	100
Paper Bibliography	Tues, Mar. 29	40
Current Issues Paper & Presentation	Tues, Apr. 12	100 25
<u>Take-Home Final Exam</u>	<u>Tues, Apr. 26</u>	<u>125</u>
		500

Grading Scale: The following scale will be used to assign final course grades:

A	94-100%	C	76-74%
A-	93-90%	C-	73-70%
B+	89-87%	D+	69-67%
B	86-84%	D	66-64%
B-	83-80%	D-	63-60%
C+	79-77%	F	0-59%

When considering “close cases” at the end of the semester (students who are within 1% of the next highest final grade), I will consider demonstrated effort throughout the semester, improvement throughout the semester, engagement in the course (as demonstrated through attendance, attentiveness, and participation), communication with the instructor, and responsiveness to instructor feedback.

Reading Quizzes: On six occasions during the semester, I will conduct short in-class reading quizzes to make sure that you are keeping up with readings. The quizzes will be worth 10 points each and consist of a few short answer questions that ask about broad key concepts, themes, or facts from the reading. Your grade will be based on the top 5 out of 6 quizzes. If you are not in class on a day that a quiz is administered, there is no make-up. If you take all six quizzes, your score on the sixth quiz will count for bonus points.

Take-Home Midterm and Final Exam: You will take two take-home essay exams. The final will primarily address material from the second half of the semester, but will require a comprehensive engagement of the theoretical framework that we build throughout the semester. Writing prompts will be handed out approximately one week in advance, and will be designed to have you synthesize course readings, engage them from your own perspective, and potentially apply lessons we have learned in class to current events.

Final Paper and Presentation: You will write an approximately 6-8 page paper on a current issue or policy in American politics that is being engaged by Congress, the Judiciary, and at least one or more states. You will be expected to assess the legal-political history of the issue, and analyze how actions taken at each level of government are presently shaping the policy area. You will also make a short presentation of your paper to the class at the end of the semester. To help you develop your paper, you will turn in a paper topic on February 9, and a short annotated bibliography on March 29. I will provide much more detail about the paper project in class and via Canvas.

Attendance and Professionalism: I will take attendance each day. Attendance points are awarded on an additive basis: each class period is worth 2 points, so you will earn 2 points for each day you are in class. There are 28 class meetings, not including the final exam. Attendance is worth 50 points total, so **you may miss 3 classes without explanation without any effect on your final grade.** To be clear, even if your first 3 absences are “excused,” that does not mean that you can then miss 3 more without explanation. Absences after the first 3 (whether or not the first 3 were “excused”) will only be excused due to documented illness, bereavement, military or jury service, religious observance, or other university-recognized reason.

Attendance Bonus Points: You may continue earning attendance points after you reach the maximum 50 points. Therefore, if you do not miss any classes, it is possible that you will earn 6 extra credit points. Bonus points are not awarded by proxy (i.e. you cannot claim to have bonus-point-worthy perfect attendance because all of your absences were “excused.”)

Tardiness, leaving early, and other unprofessional behavior: If you are late to class, leave early, or frequently leave your seat during class, you will lose 1 point for that day’s attendance. If you engage in other unprofessional conduct during the class including but not limited to cell phone use, violations of the electronics policy, side conversations, and any other disruptive, rude, disrespectful, or obnoxious behavior, you will forfeit your attendance points for the day.

SCHEDULE OF TOPICS, READINGS, AND ASSIGNMENTS

- We will follow this schedule as closely as possible. I reserve the right to delete or add readings throughout the semester. Any adjustments will be announced in class and via e-mail and/or Canvas.
- Readings from Sinclair, Baum, and Nolette refer to the required textbooks. All other readings may be provided by handout (in class and/or Canvas), or accessed via the EMU Library using the bibliographic citations at the end of this syllabus.

<u>DATE</u>	<u>TOPIC</u>	<u>READING</u>
R, Jan. 7	Syllabus and Course Introduction	None

INSTITUTIONS AND AGENDA SETTING IN AMERICAN LAW & POLICY

T, Jan. 12	Theories of the Policy Process	Sabatier chapter
R, Jan. 14	Constitutional and Institutional Context of Law & Policy	Sinclair, Ch. 1
T, Jan. 19	Legislating in the House of Representatives	Sinclair, Ch. 2
R, Jan. 21	Legislating in the Senate	Sinclair, Ch. 3
T, Jan. 25	Conferences and Omnibus Legislation	Sinclair, Ch. 4, 5
R, Jan. 27	Agenda Setting in Congress	Sinclair, Ch. 6, 7
T, Feb. 2	Institutions of the American Legal System	Baum, Ch. 1
R, Feb. 4	Judicial Selection	Baum, Ch. 2
T, Feb. 9	PAPER TOPIC DUE Agenda Setting in the Supreme Court	Baum, Ch. 3, p. 67-83
R, Feb. 11	Agenda Setting in the Supreme Court	Baum, Ch. 3, p. 83-99
T, Feb. 16	U.S. Supreme Court Decision-Making	Baum, Ch. 4
R, Feb. 19	Representation and Accountability in Legal and Policymaking Institutions	Bafumi & Herron (2010) Hall (2001)

T, Feb. 23 & R, Feb. 25: NO CLASS - WINTER BREAK

POLICY OUTPUTS, IMPLEMENTATION, AND THE ROLE OF THE STATES

T, Mar. 1	Judicial Policymaking	Baum, Ch. 5
R, Mar. 3	Implementing Judicial Policy	Baum, Ch. 6
T, Mar. 8	TAKE-HOME MIDTERM DUE Constitutional and Institutional Landscape of State Government and Federalism	Shortell (2012)
R, Mar. 10	Policy Diffusion	Baybeck et. al. (2011) Hume (2013)
T, Mar. 15	Direct Democracy	Gerber et. al. (2004) Lewis (2011)
R, Mar. 17	Emergence of National Policymaking by State Litigation	Nolette, Ch. 1, 2
T, Mar. 22	States and Health Policy	Nolette, Ch. 3, 4, 5
R, Mar. 24	States and Environmental Policy	Nolette, Ch. 6, 7, 8
T, Mar. 29	PAPER BIBLIOGRAPHY DUE Consequences and Future of State Litigation	Nolette, Ch. 9, 10

CASE STUDIES IN LAW AND POLICY

R, Mar. 31	The Affordable Care Act in Congress	Sinclair, Ch. 8
T, Apr. 5	The ACA in the States and the Courts	Tribe & Matz, Ch. 2
R, Apr. 7	Gun Rights and Gun Control	Tribe & Matz, Ch. 5 McLeod (2015)
T, Apr. 12	PAPER DUE / Presentations	None
R, Apr. 14	Presentations	None
T, Apr. 19	Presentations / Course Conclusion	None
T, Apr. 26	TAKE-HOME FINAL EXAM DUE - Submit at my office, 602F Pray-Harrold between 9:30 and 11:00 a.m.	

Bibliography of Supplemental Course Materials

- Bafumi, Joseph and Michael C. Herron. 2010. "Leapfrog Representation: A Study of American Voters and their Members in Congress." *American Political Science Review* 104(3): 519-542.
- Baybeck, Brady, William D. Berry, and David A. Siegel. 2011. "A Strategic Theory of Policy Diffusion via Intergovernmental Competition." *Journal of Politics* 73(1): 232-247
- Gerber, Elisabeth R., Arthur Lupia, and Mathew D. McCubbins. 2004. "When Does Government Limit the Impact of Voter Initiatives? The Politics of Implementation and Enforcement." *Journal of Politics* 66(1): 43-68.
- Hall, Melinda Gann. 2001. "State Supreme Courts in American Democracy: Probing the Myths of Judicial Reform." *American Political Science Review* 95(2): 315-330.
- Hume, Robert J. 2013. "Policy Initiation: The Diffusion of Same-Sex Marriage Cases Across the States." Ch. 5 in *Courthouse Democracy and Minority Rights: Same-Sex Marriage in the States*. New York: Oxford University Press.
- Lewis, Daniel. 2011. "Bypassing the Representational Filter? Minority Rights Policies Under Direct Democracy Institutions in the U.S. States." *State Politics & Policy Quarterly* 11(2): 198-222.
- McLeod, Ethan. 2015. "Gun Control." *CQ Researcher*. Aug. 6, 2015.
- Sabatier, Paul. 2007. *Theories of the Policy Process*. Boulder: Westview Press.
- Shortell, Christopher. 2012. "The End of the Federalism Five? Statutory Interpretation and the Roberts Court." *Publius: The Journal of Federalism* 42(3): 516-537.
- Tribe, Laurence, and Joshua Matz. 2014. *Uncertain Justice: The Roberts Court and the Constitution*. New York: Henry Holt and Company.