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The Constitution itself can be viewed as a set of formal institutions or rules that help to determine policy outcomes (i.e., who wins and who loses). However, for this simple notion to be true, the Constitution must be unambiguous concerning the “correct” or “true” definitions of power and process as well as right and wrong. It does not take a great leap of faith to realize that the Constitution cannot by itself resolve all the conflicts it was designed to address as well as those it could not foresee. Instead, the Constitution requires at least interpretation and at most augmentation. For this reason, to understand policy and the policy process within a constitutional system, it is necessary to discern how institutions (i.e., Supreme Court, Congress, and the Executive as well as the States) and various individuals, as well as [1] groups (i.e., interest groups and non-governmental actors), use the Constitution as a [2] loose policy framework for the resolution of political, legal, and social questions. As such, the formal structure of the Constitution gives way to political and legal realities.

Consequently, our first task will be to investigate the various types of law and legal policy systems. We will conclude that the formal policy system described by the Constitution does not always fit reality. This task and conclusion will be the orienting focus for the entire course. We will find the Congress is not the only actor who participates in the creation of law and policy. To that end, we will view law and policy as an ongoing policy dialogue between institutions, individuals and groups within a political, historical, and philosophical context that produces a dynamic policy process and every changing public policy. Let me be clear: The process of making the legal system [3][4][5] under the US Constitution is unordered and often irrational. Attempts to make the policy process ordered and rational serve only to confuse, distort, and, ultimately, depress. [6][7]

Please see the University's policy on plagiarism and academic dishonesty at <https://www.emich.edu/policies/policy.php?id=124s> "Plagiarism – [is defined as the] deliberate and knowing use of someone else's work or ideas as one's own. Examples of plagiarism are: quoting a source verbatim, or paraphrasing text from a given source, without properly citing the source; turning in a research paper that was written by someone else; or in any other way passing off someone else's work as one's own; or failing to give credit for ideas or materials taken from someone else." The Halle Library site contains more information about plagiarism at http://portal.emich.edu/emulib_cite.html. I WILL NOT TOLERATE STEALING THE WORK OF OTHERS. I WILL HAVE NO PROBLEM TURING YOUR CASE OVER TO STUDENT JUDICIAL SERVICES.

Notes about electronics in class:

- 1) NO CELL PHONES UNLESS THERE ARE EXTRAORDINARY CIRCUMSTANCES (I.E., SICK RELATIVE) [8][9][10]
- 2) NO TEXTING IN CLASS
- 3) COMPUTERS MAY BE USED FOR NOTE TAKING AND CLASS RELATED ACTIVITIES – FACEBOOK AND OTHER SOCIAL NETWORK SITES AS WELL AS EBAY ET AL. ARE NOT CLASS RELATED.
- 4) VIOLATIONS OF THESE POLICIES WILL RESULT IN POINTS BEING DEDUCTED FROM YOUR PARTICIPATION GRADE (10% REDUCTION PER INFRACTION and participation is not free).

I believe that the most important part of the college experience relates to what goes on in the classroom. If you are not engaged with the material, you are not learning. THAT BEING SAID I RESERVE THE RIGHT TO TAKE ATTENDANCE AND COUNT THE LACK THEREOF AGAINST YOUR GRADE. [11][12]

REQUIRED TEXTS: The following book is required reading in this course.

Public Policy: Preferences and Outcomes, 3rd Edition by Christopher A. Simon

Various materials presented in the syllabus and assigned as we go along...

I reserve the right to (and I will) assign other materials outside the text. I will also address numerous topics and subjects outside the text. You must come to class. The reading for this course is relatively light, but it is far from easy. To do well in this course, most of you will have to prepare for every class by reading once before class and possibly a second time after class.[13]

STUDENT RESPONSIBILITIES: The required reading for this course is limited; however, it is challenging reading that demands your attention. As such, students are expected to keep up with the assigned readings and prepare for each class. This means coming to class prepared to follow the lecture, ask questions, and engage in class discussions. I reserve the right to administer quizzes, and [14][15][16] reserve the right to take attendance and call the roll every class period. I will also cold call on students and take note of those prepared and unprepared. Students are responsible for all the materials presented in the lectures and the texts. While the lectures and the texts will often overlap, some material will be exclusive to either source. Thus, to perform well on the exams, it is essential that you attend class, take notes, and do the required readings. [17][18][19]

Final grades will be determined as follows:

- | | |
|---|-----|
| 1) Class Participation (FORCED AND VOLUNTARY), Quizzes[20] & Attendance | 10% |
| 2) First Midterm Examination -- | 20% |
| 3) Second Midterm Examination- | 20% |
| 4) Policy Narrative Paper, Presentation and Prep Exercises (20+20+10) | 50% |

These percentages are not necessarily fixed. **I will reward improvement.**

Students are required to take the examinations and turn in written work on the dates given in the course outline and class. The final will be a policy paper due on December and mandatory discussion on April 19, 2018. There will be points awarded for attendance during the final. Class participation, attendance and, in-class case quizzes/exercises will be discussed the first week of class. I do not like to give make-up exams, and I will not give one unless you notify me at least one class period in advance and have a valid excuse that can be verified. I also understand that emergency situations may arise. These will be dealt with on an individual basis. [21][22] **Unless otherwise specified, if you hand in a take-home question late, it will be penalized at the rate of [23] 10 POINTS A DAY – NO EXCEPTIONS UNLESS WE HAVE DISCUSSED THE MATTER AHEAD OF TIME. I WILL NOT ACCEPT EMAILED Take Home Exams UNLESS YOU SPEAK WITH ME AHEAD OF TIME AND WE MAKE ARRANGEMENTS.** [24]

We will discuss the policy paper the first week of class.

	A	100-94
	A-	93-90

	B+	89-87
	B	86-84
	B-	83-80
	C+	79-77
	C	76-74
	C-	73-70
	D+	69-67
	D	66-64
	D-	63-60

Finally, please come and meet with me during my office hours or by appointment to discuss any questions, problems, or difficulties related to the course or anything else. I am more than willing to help you in any way I can. However, I cannot help you unless you ask.

COURSE SCHEDULE: We will follow this outline as closely as possible (i.e., Within reason). Any changes in the dates of the examinations will be announced at least one week in advance. I also reserve the right to post additional material for class consumption and discussion.^[25]

I. Foundations of Law, Politics, and Policy

- a. **September 6** - An Introduction: Law and Politics: Constitutional Policy-Making in the US
 - i. Approaches to Study Politics
 - ii. Five Foundational Concepts
 - iii. Formal Policy Process
 - iv. A Policy Dialogue
- b. **September 11-13** - The Notion and Concepts of Law: A Very Little Legal Theory
 - i. What is Law
 - ii. Theories of Law
 - iii. Code v. Common Law
 - iv. Sources and Types of American Law
 - v. Readings:
 - a. Case of the Spelunking Explorers
 - b. Declaration of Independence (Short Version)
 - c. US Constitution (Yes I expect you to actually read it).
- c. **September 18 – Let's discuss your Prospective Policy Topics: Chapters Assigned – Book Chapters one of 10-15**
- d. **Choose a Policy Area/ Policy Problem by September 18**
- e. **September 20-25** - Constitutional Government: A Formal Policy-Making System with a Purpose

- i. A Constitutional History
 - ii. Understanding the Five Basic Concepts of American Constitutional Formalism as a Formal Policy Process
 - iii. Readings:
 - a. Federalist Papers: 48, 51, & 84
 - b. *Marbury v. Madison* (1802)
 - c. *McCulloch v. Maryland* (1819)
 - iv. **Due September 25: Provide a brief discussion of how the Constitution and the nature of the policy process might impact how society deals with your policy issue/problem.**
- f. **September 27 - October 2** – Rethinking the Formal Constitutional Process: Starting Our Dialogue
 - i. A Different Policy-Process as Dialogue
 - ii. Beyond the Separation of Powers and Checks and Balances
 - iii. Readings:
 - a. Book Chapters 1, 2, and 4
- g. **October 2 - First Midterm – Due October 9**
- II. The “Five Branches of Government” and their Interconnectedness
 - a. **October 4-9** - *E Pluribus Pluribus*: Agendas, Policy-Making and Pluralism
 - i. I have seen the Government, and it is the US^[26]^[27]
 - ii. The role of Groups, Parties and Elections in Policy-Making
 - iii. Readings:
 - a. Federalist 10
 - b. Book Chapter 5
 - iv. **A Description of Key Groups and Party Positions in Your Policy Area Due on October 11**
 - b. **October 11-18** - Congress: Will the Real Policy-Maker Please Standup
 - i. The Framers’ Dirty Deed and Congress in the Filth
 - ii. It’s More or Less Than a Singing Piece of Paper
 - iii. Congress, Court Collide
 - iv. Readings
 - a. Book Chapter 6
 - b. Federalist 33
 - c. Civil Rights Act of 1964, DOMA, & RFRA
 - d. *City of Boerne v. Flores* (1997)
 - v. **A Description of Key Statutes or Congressional Positions in Your Policy Area Due on October 30**
 - c. **October 23-30** - Executive Branch: President, Executive Office of Presidency and the Bureaucracy
 - i. Two Hats and One Power
 - ii. The legacy of the New Deal: Deep State or Administrative State^[28]^[29]
 - iii. Does the Emperor have New Clothes?
 - iv. Readings:
 - a. Book Chapter 7-8

- b. Federalist 69
 - c. Selected Presidential Speeches
 - d. Signing Statements
 - e. Various Executive Orders
 - d. **A Description of Key Regulations or Presidential Positions in Your Policy Area Due on November 1**
 - e. **November 1-8** Judiciary and Courts as Law Givers – Policy Glue
 - i. Legal Functionalism and Determinism v. Realism and Politics
 - ii. What’s Under the Robe: Judicial Process or Judicial Policy?
 - iii. Trial Courts as Bureaucrats on the Bench
 - iv. Appellate Courts as Legal Policy Makers
 - v. Pyle to Blather On and On and On and On and On and On ¹⁰⁰⁰
 - vi. Readings:
 - a. Federalist 78
 - b. *Employment Division v. Smith* (1991)
 - c. *Plessey v. Ferguson* (1896)
 - d. *Brown v. Board of Education* (1954)
 - e. *Obergefell v. Hodges* (2015)
 - vii. **A Description of Key Cases in Your Policy Area Due on March 1**
 - f. **November 13-15** - Federalism: The State of the States
 - i. MAKE APPOINTMENTS WITH ME TO DISCUSS FINAL PAPER
 - ii. You Forgot Them and Their Police Powers
 - iii. Yes, they were once Important
 - iv. States as Policy-Makers and Enablers
 - v. Readings:
 - a. Book Chapter 3
 - b. Federalist 51 (The other part)
 - c. *New York v. US* (1992)
 - d. *Masterpiece Cakes v. Colorado Commission* (2017)
 - vi. **A Description of Key State Actions in Your Policy Area Due on November 13**
 - vii. **Second Midterm Given on 13 & Due on the 20**
- III. **November 20-27** Law and Policy as a Complex System of Dialogue and Struggle
 - a. Prepping for Paper
 - b. Linear and Nonlinear Policy Processes
 - c. Beyond Constitutional Formalism and Toward a Policy Process of Institutional Revision and Realism: Reactions to Framer’s Framework
 - d. Readings:
 - a. Book Chapter 9, 16, & Conclusion
- IV. December 4-13 And in the End: Policy Papers and Discussions

Paper Work Day on November 29, Papers are Due on December 4th, and we will schedule Short Presentations of your work 6-13³⁰th (Points will be awarded for Attending and Deducted for Missing Presentations).

