CONSTITUTIONAL LAW I

LAW 504

FALL SEMESTER, 2021

PROFESSOR CONSTANCE FAIN

COURSE SYLLABUS
## Table of Contents

- The Professor, Class Time, & Office Hours Information ........................................ 3  
- Course Books & Materials ....................................................................................... 3  
- Course Description & Objectives ............................................................................ 4  
- Student Learning Outcomes .................................................................................. 5  
- Grading .................................................................................................................... 6  
- Accommodations .................................................................................................... 6  
- Class Format, Participation, Attendance, Professionalism, Etc. ......................... 7  
- Academic Calendar .................................................................................................. 8  
- Policies & Procedures .............................................................................................. 9  
- Constitutional Law I: Topics and Assignments (Fall, 2021) .................................. 10  
- Health and Safety on Campus ............................................................................... 13  
- Title IX Information .................................................................................................. 16
THE PROFESSOR, CLASS TIME, & OFFICE HOURS INFORMATION

NAME: CONSTANCE FRISBY FAIN

TELEPHONE: 713-313-7393

EMAIL: constance.fain@tmslaw.tsu.edu

LOCATION: ROOM 221-F

CLASS TIME: MONDAY, WEDNESDAY, AND FRIDAY 11:00AM TO 11:50AM

OFFICE HOURS: • TUESDAY, THURSDAY AND FRIDAY
(TENTATIVE) • 1:00PM TO 3:00PM (TELEPHONE CONFERENCES)
(PLEASE PROVIDE A TELEPHONE NUMBER IF YOU WOULD LIKE ME TO CALL YOU DURING THESE HOURS.)
• OTHER TIMES BY APPOINTMENT
• TIMES MAY CHANGE IF NECESSARY

COURSE BOOKS & MATERIALS

REQUIRED TEXTS:


(2) Supplement text to Constitutional Law: Principles and Policy (2021) (Contains United States Supreme Court Cases that were decided after the main text above was published.)

REFERENCE TEXTS:


(2) Nowak & Rotunda, Constitutional Law, West Group (latest edition).

❖ IMPORTANT NOTE: Please include a telephone number in your emails. I prefer to answer most questions by phone. If you are not able to answer your phone when I respond to your email, I will leave a detailed voicemail which will include an answer(s) to your question(s). Please be sure to listen to my voicemail responses.
COURSE DESCRIPTION & OBJECTIVES

Students will be introduced to basic theories of Constitutional Law, including policy considerations. There will be an in-depth study of judicial review, limitations on judicial review, national powers, state powers, executive and congressional relations, procedural due process, and substantive due process. Equal protection, state action and First Amendment topics (freedom of expression and freedom of religion) will be covered in Constitutional Law II (Spring Semester). The overall objective is for the student to master and demonstrate competency of the topics listed above.
The following are the analytical skills students are expected to develop and master in order to achieve the course objectives or student learning outcomes for Constitutional Law I. Students will continue to sharpen the skills in their study and application of various concepts in their third year as they prepare to take the bar exam.

I. Critical Reading, Case Analysis, And Thinking Skills

Upon completion of Constitutional Law I, these skills will enable students to:

- Read, comprehend, analyze, synthesize, and assess court opinions by:
  1. dissecting them into components by identifying such elements as:
     (a) litigation status of the parties in the trial and appellate court(s); (b) cause(s) of action; (c) defense(s); (d) elements of the cause(s) of action; (e) procedural history of the case; (f) facts; (g) issue(s); (h) holding(s); (i) plaintiff's arguments; (j) defendant's arguments; (k) rule(s) of law; (l) policy rationale; (m) disposition; and (n) student's own commentary;
  2. learning and understanding the meaning of the components of each constitutional law cause of action;
  3. breaking rules of law or legal principles into parts in order to understand what the rules mean and how to apply them;
  4. comparing and contrasting the various cases and philosophies of the U.S. Supreme Court Justices; and
  5. learning and understanding what the relevant provisions of the U.S. Constitution mean as they are interpreted by the U.S. Supreme Court.

II. Problem Analysis And Oral Advocacy Skills

Upon completion of Constitutional Law I, these skills will enable students to:

- Read, comprehend, analyze, and argue (orally and in writing) Constitutional Law problems by:
  1. identifying the relevant Constitutional Law cause(s) of action;
  2. identifying the relevant issues;
  3. identifying the elements of the relevant cause(s) of action;
  4. identifying the relevant rule(s) of law;
  5. applying the rule(s) of law to the relevant facts completely;
  6. identifying pro-arguments, counter arguments and rebuttal arguments;
  7. identifying relevant policy arguments; and
  8. articulating legal arguments clearly, efficiently, completely, and professionally.

**NOTE: “STUDENT LEARNING OUTCOMES”: TO BE MORE FULLY DEVELOPED AND ENHANCED.**
GRADING

There will be approximately two (2) or three (3) cumulative real interim exams (including the midterm) and a final exam at the end of the semester. One of the two or three exams will be a Midterm and another one will be a timed Essay. The exams that are not essays will be multiple choice exams since Constitutional Law is tested as a multi-state subject on the Bar Examination. Tentatively, an Exam will be administered in September, October, and November. All interim real exams and quizzes are mandatory. Failure to take these exams will result in a lower final score. Practice multi-state exams will be distributed during the semester to aid in preparing students for the multi-state component of the Bar Exam. Extra class meetings will be scheduled for all Real Exams unless otherwise informed. Hypothetical problems and newspaper articles containing Constitutional Law-related topics may be discussed in class periodically. Excess absences and unpreparedness will result in the course grade being lowered. Class participation will be considered in arriving at students’ final grades. If you are unprepared for class, inform me, and you will be excused from participation on that day.

Extra credit opportunities may be available, which could enhance students’ grades in the course. Extra credit projects will be announced at the appropriate times.

ACCOMMODATIONS

Students that require or feel that they need accommodations must follow the information provided by Dean Ratra’s office.
CLASS FORMAT, PARTICIPATION, ATTENDANCE, PROFESSIONALISM, ETC.

- Class meets on Monday, Wednesday and Friday from 11:00 AM to 11:50 AM. Each student is required to have read the assigned materials before they are discussed in class. Some of the cases will be assigned to individual students in advance. In addition, students are required to read all of the Notes following the cases and the 2021 Supplement cases. (See the 2021 Supplement Table of Contents as the class discusses the chapters in the main text so that you will know which pages you are required to read from the Supplement). Read all of the textual information in the casebook. Supplementary material listed under “Reference Texts” on page 3 of this syllabus should be helpful in clarifying constitutional law concepts. From time to time other reading materials will be assigned.

- This class will be taught in person. Blackboard will be used for the following course information: (1) Syllabus; (2) Reviews; (3) etc.

- Students are expected to attend class on a regular basis. Students are expected to be ready to participate when the class starts. The grade of any person who has been absent from regular class sessions more than five (5) times may be lowered one (1), two (2) or three (3) grades, depending on the number of excess absences, by the Professor or Law School Administration. Points will be deducted from the grades of persons who are unprepared for class when called on to respond. Students are expected to conduct themselves in a professional manner at all times, which includes respecting classmates and professors. Refrain from side conversations or other distracting conduct during class. Once class begins, students should remain seated and fully engaged in the discussion.
### FALL SEMESTER 2021

<table>
<thead>
<tr>
<th>Event</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)</strong></td>
<td></td>
</tr>
<tr>
<td>Orientation</td>
<td>August 9-13, 2021</td>
</tr>
<tr>
<td>First Day of Class</td>
<td>August 16, 2021</td>
</tr>
<tr>
<td>Last Day to ADD/DROP</td>
<td>August 18, 2021</td>
</tr>
<tr>
<td>Labor Day (NO CLASSES)</td>
<td>September 6, 2021</td>
</tr>
<tr>
<td>Mid Term Examinations</td>
<td>October 11-15, 2021</td>
</tr>
<tr>
<td>Last Day to Drop a Class</td>
<td>November 5, 2021</td>
</tr>
<tr>
<td>Last Day of Classes</td>
<td>November 23, 2021</td>
</tr>
<tr>
<td>First Year Professors' Grades due</td>
<td>November 23, 2021</td>
</tr>
<tr>
<td>Reading Period</td>
<td>November 24, 2021</td>
</tr>
<tr>
<td>Thanksgiving Holiday</td>
<td>November 25-26, 2021</td>
</tr>
<tr>
<td>Reading Period</td>
<td>November 27-28, 2021</td>
</tr>
<tr>
<td>Final Examinations</td>
<td>November 29-Dec. 10, 2021</td>
</tr>
<tr>
<td>Commencement Exercises</td>
<td>December 11, 2021</td>
</tr>
</tbody>
</table>

Please note that the calendar events and/or dates are subject to change.
POLICIES & PROCEDURES

Please reference the Thurgood Marshall School of Law Student Rules and Regulations Handbook concerning policies and procedures.

EXAMS AND REVIEWS
Real exams and reviews will be scheduled at times other than the times that the class meets unless informed otherwise. Attendance at reviews conducted by the professor or posted on Blackboard is not mandatory. If there is a Student Tutor, tutorial sessions will be scheduled and conducted by that person, who will develop and administer several quizzes during the semester as mandated by the professor. Therefore, these quizzes will count as part of the final grade.

FIREARMS
My office is a gun-free zone. Therefore, guns are banned in my office (Room 221-F).

COMPUTERS, ETC.
Cell phones, laptops, and tablets are allowed in class. These devices are prohibited during exam review conferences when exam questions and answers are discussed.

TOPIC AND ASSIGNMENT ADJUSTMENTS
The professor reserves the right to adjust the schedule, classroom topics, and other activities as needed to achieve course objectives or student learning outcomes.
WEEK I (Aug. 16-20)
- The U.S. Constitution
- Brief Overview of American Constitutionalism (Introduction)
- Judicial Review & Limitations on Judicial Review (Chap. 1)

Roman numeral pp. XVII to XXXIII
pp. 1-46 & 2021 Supplement

WEEK II (Aug. 23-27)
- Judicial Review & Limitations on Judicial Review (Chap. 1)
- Limitations on Judicial Review (Chap. 11)

pp. 46-59 & 1607-1624 & 2021 Supplement

WEEK III (Aug. 30-Sept. 3)
- Limitations on Judicial Review (Chap. 11)

pp. 1624-1698 & 2021 Supplement

WEEK IV (Sept. 6-10)
- LABOR DAY (Sept. 6th)
- National Powers and Federalism (Chap. 2)

pp. 61-112 & 2021 Supplement

WEEK V (Sept. 13-17)
- National Powers and Federalism (Chap. 2)

pp. 112-182 & 2021 Supplement

WEEK VI (Sept. 20-24)
- National Powers and Federalism (Chap. 2)
- State Power in American Federalism (Chap. 3)

pp. 183-217 & 219-248 & 2021 Supplement

WEEK VII (Sept. 27-Oct. 1)
- State Power in American Federalism (Chap. 3)

pp. 248-285 & 2021 Supplement
### WEEK VIII (Oct. 4-8)
- pp. 287-367 & 2021 Supplement
- Executive and Congressional Relations: Separation of Powers (Chap. 4)

### Week IX (Oct. 11-15)
- pp. 367-446 & 2021 Supplement
- Executive and Congressional Relations: Separation of Powers (Chap. 4)

### Week X (Oct. 18-22)
- pp. 447-505 & 2021 Supplement
- Limitations on Governmental Power (Chap. 5)
- Procedural Due Process (Chap. 5)

### Week XI (Oct. 25-29)
- pp. 507-621 & 2021 Supplement
- Forms of Substantive Due Process (Chap. 6)

### Week XII (Nov. 1-5)
- pp. 621-691 & 2021 Supplement
- Forms of Substantive Due Process (Chap. 6)

### Week XIII (Nov. 8-12)
- Forms of Substantive Due Process (Chap. 6) (Continued)
- Makeup Sessions will be used to finish discussing Constitutional Law chapters if necessary.

### Week XIV (Nov. 15-19)
- Makeup Sessions

### Week XV (Nov. 22-23)
- November 22nd (Monday) is the Last Class.
- November 23rd (Tuesday) is the Last Day of classes for the semester.
Week XV (Nov. 29-Dec. 3)

- Final Exam Period

Week XV (Dec. 6-10)

- Final Exam Period
COVID-19 INFORMATION SHEET

HEALTH AND SAFETY ON CAMPUS

1. The University does not require COVID-19 vaccination as a condition for attending school. As a protective measure, students are encouraged to get vaccinated. The St. Luke’s vaccination clinic, located on campus in the Nabrit Science Building, is open and accessible to the entire University community, Monday-Friday, 9 a.m. – 7 p.m. There is no cost for the vaccination.

2. Students are expected to continuously self-screen for the symptoms of COVID-19. If you have symptoms and are not fully vaccinated, you should call the Student Health Center at (713) 313-7173. Please remember to exercise caution and be courteous of your fellow students.

3. Students who experience a medical emergency on campus should call (713) 313-7000. If off campus, call 911. Please inform the dispatch operator if you are experiencing shortness of breath, difficulty breathing, coughing, or have a fever.

4. Students who are unable to attend classes for health reasons, including those relating to COVID-19, should immediately contact the Associate Dean of Student Services, Amy Ratra (miamy.ratra@tsu.edu), for further guidance.

5. Students who contract the COVID-19 virus must report the information to the Associate Dean of Student Services, Amy Ratra, and the Student Accessibility Services Office (SASO), by phone at 713-313-4210 or by email at disabilityservices@tsu.edu.

6. Students who contract the COVID-19 virus will be required to quarantine under the advice of Student Accessibility Services Office (SASO). Such students are required to submit Release of Care documentation from a licensed health care professional to SASO and notify the Associate Dean of Student Services, Amy Ratra, before they return to the law school.

7. While on campus and in classrooms, students are encouraged to conduct themselves in a manner conducive to the health and safety of the entire TSU community.
   a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
   b. Face coverings (over the nose and mouth) are not required as per the guidelines from the State of Texas. However, students are strongly encouraged to wear face coverings (over the nose and mouth) while in the law school building.
   c. Students should wash or disinfect their hands before each class and after physical interaction with other persons in the classroom.
d. Students should maintain classroom cleanliness. Students should create a clean
    classroom environment by putting away unnecessary personal items and cleaning their
    seating area intermittently.

e. Students who do not conduct themselves on campus in a manner conducive to the
    health and safety of those with whom they come in contact may be subject to discipline
    up to expulsion from law school.

ATTENDANCE POLICY

8. Law school classes will be fully in-person this fall. The law school attendance policy will be
   strictly enforced.

9. Students who contract the COVID-19 virus will be barred from attending in-person classes until
   submitting Release of Care documentation from a licensed health care professional to Student
   Accessibility Services Office (SASO). Such students will be required to study and keep up with the
   prescribed readings.

10. Students that are excused from in-person class attendance because they contracted the COVID-
    19 virus should designate a student in each of their classes to make audio recordings of the
    lectures. Professors are required to allow such recordings to be made. Furthermore, professors
    are required to meet with such students to answer questions about the materials covered
    during their COVID-19-related absence.

UNIVERSITY RESOURCES

11. COVID-19 TESTING

    Location: H&PE 109

    Hours of Operation: No appointments are necessary. Tuesday – Thursday 8 a.m. – 11:30 p.m.
    Results will be available within 24 hours if the test is taken by 11:30 a.m.

12. The St. Luke’s vaccination clinic is open and accessible to all University personnel and
    community, Monday – Friday, 9 am – 7 pm in the Nabrit Science Building.

13. STUDENT HEALTH SERVICES

    a. Student Health Services is open 8:00 a.m. – 5:00 p.m. Monday – Friday by appointment only.
    b. A nurse is available at (713) 313-7173, Monday – Friday, from 8:00 a.m. – 5:00 p.m. to
       schedule appointments.
    c. Appointments will be scheduled virtually and in-person, as needed.
    d. If you are currently enrolled and need a copy of your immunization record, go to
e. If you are off campus but in the local area and need assistance, contact the Harris County Health Department COVID-19 hotline: www.ReadyHarris.org. If you don’t have the internet, call (832) 927-7575 or Houston Health Department COVID-19 Call Center: (832) -393-4220.

14. UNIVERSITY COUNSELING CENTER

a. The University Counseling Center (UCC) is providing convenient Telemental Health Services to all students.

b. Students may call 713-313-7800 to request an appointment. If someone does not answer, please leave your T-Number, name, and a contact number. Students may also complete this form to request an appointment, and someone will contact them during business hours: https://forms.office.com/Pages/ResponsePage.aspx?id=ViJL7ZKUK05u4urH7Z-1ZFNJ2YNoWsVPstLk4r8W_X1U0Uk2SUxMRVoyVEdQk7V09YRVBLNu50T4u.

c. Students may receive a call from a blocked or private number, please answer, as it may be your counselor trying to contact you.

d. If a student experiences a crisis outside of regular business hours, the student can call 833-848-1765.

e. Other resources for support outside of the UCC include:

   i. Crisis text line – Text Steve to 741-741.

   ii. National Suicide Hotline - 800-273-TALK (8255).
TITLE IX INFORMATION

Texas Southern University is committed to fostering a safe learning environment. As professor, one of my responsibilities is to help create a safe learning environment in class. Texas Southern University and Federal Regulations (Title IX) policy prohibit discrimination based on sex and this includes sexual harassment, sexual violence and misconduct, dating violence, domestic violence, and stalking. Texas Southern University understands that these incidents can undermine a student’s academic success, so Texas Southern University encourages students who have experienced sexual conduct prohibited by university policy to report these incidents when they happen to the University’s Title IX Coordinator or University Confidential Resource so that the student can get the help they may need.

It is my goal that you feel able to share information related to your life experiences in classroom discussions, in your written work, and in one-to-one meetings. I will seek to keep information you share private to the greatest extent possible. However, I also have a mandatory responsibility to notify the University’s Title IX Coordinator when I become aware of incidents of prohibited conduct that violate the university’s Title IX policy.

Students may speak confidentially to the University Counseling Center. Please feel free to visit their website www.tsu.edu/ucc for more information about their services. Also, students may speak with the University’s Title IX Coordinator by calling 713.313.1371 or emailing titleix@tsu.edu.