

THE 14TH AMENDMENT and SUING LOCAL GOVERNMENT

Course Policies and Syllabus

MWF 9:00-9:50

Professor Sanders

SYLLABUS

Course Description: The course will be divided into three sections. The first part of the course will explore the historical, doctrinal, and theoretical underpinnings of the 14th Amendment, including notable Supreme Court decisions interpreting the 14th Amendment and its various clauses. The second part of the course will explore various federal statutes such as section 1983 and doctrines such as qualified immunity involved in suing state and local governments. In the final part of the course you will learn how to sue (and to a limited extent, defend) local governments for violations of the 14th Amendment. You will also learn how to use the 14th Amendment to redress violations of the 4th Amendment, specifically in the context of police misconduct. This portion of the course will bring all the doctrines learned in the first two parts of the course together in a practical way. Using the fact pattern on which your midterm exam will be based, you will litigate (pretrial litigation) a mock suit against a municipal government. You will learn how to handle all the major parts of the pretrial litigation process. You will draft a complaint, conduct discovery (including interrogatories, requests for production, requests for admission, and depositions) and respond to defense motions to dismiss and/or motions for summary judgment.

Grading.

Midterm	50%
Final	30%
Discovery Exercises	20%

Contact Info: Office: 236D
E-Mail: docksanders@gmail.com

Office Hours: MWF 2:00-3:30, 5:00-6:00

Required Materials: Scott Gaylord, Chris Green *Federal Constitutional Law: Vol. 5, The Fourteenth Amendment*. Carolina Press, ISBN 978-1-53100-22015.

TWEN. This class will use the TWEN webcourse. You must register for the TWEN Webcourse so you can receive emails from me. Once registered, you are responsible for logging on to TWEN to access handouts, exercises, assignments, and announcements.

Assignments. An outline of tentative reading assignments (syllabus) is provided below. However, reading assignments for upcoming classes will be adjusted based on progress and need. Students should bring the required materials listed above and all handouts with them to class. You may also regularly be given questions, problems, quizzes, and other assignments to work on outside of class.

Attendance, Preparation and Participation. You should come to class on time and be prepared to discuss the assignments for that class. You may be quizzed frequently on reading assignments as well as on any material covered in the two-week period preceding the day of the pop quiz. This means, in preparation for each class, you should not only read the cases, you

should study, understand, memorize and be able to apply the rules announced in each case. Furthermore, you should review and study notes and rules (student notes and any notes I have provided) from the prior class. Also, before the beginning of each class week, you should review and study all notes and rules from the prior week.

A failure to attend class regularly, or to be prepared in class, will adversely affect your grade. Students must miss no more than 5 classes over the course of the semester in order to receive credit for the course. Moreover, because quizzes may be given on a regular basis, missing classes also means missing quizzes. This will directly affect your grade.

In the event of an absence, any request to make up a quiz, exam or other assignment should be made only after an excuse is obtained from Dean Mouton in the Dean of Student's office.

Class Discussions. All students will be on call each and every class period. Each student should be prepared to be orally examined on the assigned cases, problems, and materials. Students should also be prepared to answer hypotheticals designed to test their understanding of the rules and rationales underlying the rules as well as to engage in debates with other students concerning the issues, rules and rationales.

Each student is awarded four (4) passes that he or she may use at his or her discretion. Thereafter, a percentage point (1.0) will be deducted from your final grade total for each instance of un-readiness.

Technology. The use of laptops is limited to course-related activity. Other unauthorized uses will result in point deductions. Internet usage is not allowed during class for any purpose unless under the express direction of the professor. The audio or video recording of the lecture and/or class discussion is not allowed.

Professionalism. You are expected to treat your colleagues like you want to be treated. You are also expected to be respectful of the teaching process and to abstain from any activity that might detract from the learning environment, included but not limited to engaging in distracting side-conversations and not waiting to be acknowledged before you speak. You are expected to be in class on time and to remain in class throughout the class period, barring an emergency such as a restroom need.

READING and OTHER ASSIGNMENTS

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 - 2. The Public Functions Exception 13
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PART II: Section 1983 and Government Immunity (handouts)

- **Section 1983**
 - **State Interference with Civil Rights**
 - **Elements of a Plaintiff’s section 1983 Claim—**
 - Introduction
 - Action “Under Color of” Law
 - **Deprivations of Constitutional Rights**
 - 4TH AMENDMENT AND POLICE MISCONDUCT
 - SUBSTANTIVE DUE PROCESS
 - EQUAL PROTECTION
 - **Remedies**
 - Compensatory Damages
 - Punitive Damages
 - Injunctive Relief
- **Government Immunity**
 - **Sovereign Immunity**
 - **Government Official Immunity**
 - Absolute Immunity
 - JUDICIAL IMMUNITY
 - PROSECUTORIAL IMMUNITY
 - **Qualified Immunity**
- **Local Government Liability**
 - Municipal immunity
 - NOTICE-OF-CLAIM REQUIREMENT
 - DELIBERATE INDIFFERENCE
- **Standing, Ripeness and Mootness**

PART III: Pretrial Litigation for 14th Amendment Violations (handouts, simulations, and exercises)

- **Initial Pleadings**
 - *FRCP* 3, 5.1, 7.1, 8
 - Jurisdiction
 - Drafting the complaint
 - Government Responses
 - *FRCP* 8,12
 - Answer to Complaint
 - Motion to Dismiss
- **Conducting Discovery**
 - *FRCP* 26
 - **Interrogatories**
 - *FRCP* 33
 - Strategy
 - Drafting interrogatories
 - Dealing with government objections
 - **Requests for Production**

- *FRCP* 34
- Strategy
- Drafting production requests
- Dealing with government objections
- Subpoenaing documents and other items from non-parties
 - *FRCP* 45
- **Requests for Admissions**
 - *FRCP* 36
 - Strategy
 - Drafting requests for admission
- **Depositions**
 - *FRCP* 30
 - Preparing client to be deposed
 - Preparing to depose Defendants, witnesses and other parties
 - Objections
- **Summary Judgment**
 - *FRCP* 56
 - **Responding to Summary Judgment Motion**
 - Summary Judgment Standard
 - Citing the record

