



TEXAS SOUTHERN UNIVERSITY  
THURGOOD MARSHALL SCHOOL *of* LAW

# **CONSTITUTIONAL LAW II**

**LAW 513**

**SPRING SEMESTER, 2022**

**PROFESSOR CONSTANCE FAIN**

**COURSE SYLLABUS**



TEXAS SOUTHERN UNIVERSITY  
THURGOOD MARSHALL SCHOOL *of* LAW

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# TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL of LAW

## THE PROFESSOR, CLASS TIME, & OFFICE HOURS INFORMATION

**NAME:** CONSTANCE FRISBY FAIN

**TELEPHONE:** 713-313-7393

**EMAIL:** [constance.fain@tmslaw.tsu.edu](mailto:constance.fain@tmslaw.tsu.edu)

**LOCATION:** ROOM 221-F

**CLASS TIME:** MONDAY, WEDNESDAY, AND FRIDAY 11:00<sup>AM</sup> TO 11:50<sup>AM</sup>

**OFFICE HOURS:**

- TUESDAY AND THURSDAY
- 12:00 NOON 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

(TENTATIVE)

## COURSE BOOKS & MATERIALS

### REQUIRED TEXTS:

- (1) Barron, Dienes, McCormack & Redish, Constitutional Law: Principles and Policy, Carolina Academic Press (8<sup>th</sup> edition 2012).
- (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 printed).

### REFERENCE TEXTS:

- (1) Tribe, American Constitutional Law, Foundation Press (latest edition).
- (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.



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## COURSE DESCRIPTION & OBJECTIVES

Students will be introduced to basic theories of Constitutional Law, including policy considerations. There will be an in-depth study of equal protection, First Amendment topics (freedom of expression and freedom of religion), and state action. Substantive due process (covered in Constitutional Law I) will be briefly reviewed and discussed for the second time during the Spring semester, and will be re-tested. The overall objective of this course is for the student to master and demonstrate competency in the topics listed above.

**\*NOTE:** See your casebook and the “Topics and Reading Assignments” section of this Syllabus for a further breakdown of the topics to be addressed under Substantive Due Process, Equal Protection, First Amendment, and State Action.



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### STUDENT LEARNING OUTCOMES

The following are the analytical skills you are expected to develop and master in order to achieve the course objectives or student learning outcomes for Constitutional Law II. Students learned these skills in their study and application of various concepts in Constitutional Law I, and students will continue to sharpen their skills this semester and 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 II, these skills will help the student to be able 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) add your 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 II, these skills will help the student to be able 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.**



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### GRADING

There will be approximately two (2) cumulative real interim exams and a final exam at the end of the semester. One of the three (3) exams will be a Midterm and another one will be an Essay. The exams that are not essays will be multiple choice exams since Constitutional Law is tested mostly as a multi-state subject on the Bar Examination. If there is a tutor, I require that her/him create and administer a minimum number of quizzes. The points students receive on these assessments will be counted as part of their final grade. Therefore, all interim real exams and quizzes are mandatory. Failure to take those 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 interim exams, the final exam, and 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 distributed and discussed in class periodically. Excess absences and unpreparedness will result in the course grade being lowered. Class participation will be considered in arriving at your final grade. If you cannot be prepared for class, inform me in writing the day before class, and you will be excused from participation on the day of class.

Extra credit opportunities may be available, which could enhance your grade in the course. Extra credit projects, if any, will be announced at the appropriate times if they become available.

### ACCOMMODATIONS

Students that require or feel that they need accommodations must contact the Dean's office as soon as possible to fill out the necessary forms. Your prompt attention to this matter will allow for timely accommodations to be provided by the Law School once you have submitted your application and medical documentation. Your application and other documentation will remain confidential.



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### **CLASS FORMAT, PARTICIPATION, ATTENDANCE & PROFESSIONALISM, ETC.**

- Class meets on Monday, Wednesday and Friday from 11:00<sup>AM</sup> to 11:50<sup>AM</sup>. However, I will inform the class whenever I plan to end class at a later time. 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 textbook. 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.
- Blackboard may be used for the following course information: (1) Announcements; (2) Content; (3) Exams; (4) Syllabus; (5) etc.
- Students are expected to attend class on a regular basis. You 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 by the Professor or Law School Administration depending on the number of excess absences and the reason for them. Points will be deducted from the grades of persons who are unprepared for class when called on to respond. You are expected to conduct yourself in a professional manner at all times, which includes respecting your classmates and the professors. Refrain from side conversations or other distracting conduct during class. Once class begins, you should remain fully engaged in the discussion unless you have a medical problem. Make sure you inform the Dean’s office of your situation.



# TEXAS SOUTHERN UNIVERSITY THURGOOD MARSHALL SCHOOL of LAW

## ACADEMIC CALENDAR



### THURGOOD MARSHALL SCHOOL OF LAW

TEXAS SOUTHERN UNIVERSITY  
ACADEMIC CALENDAR 2021 – 2022

#### SPRING SEMESTER 2022

##### SPRING SEMESTER 2022 (SEVENTY DAYS OF CLASSES)

School Opens	Monday	January 3, 2022
First Day of Class	Monday	January 10, 2022
Last Day to ADD/DROP	Friday	January 14, 2022
<b>M L K Holiday (No Classes)</b>	<b>Monday</b>	<b>January 17, 2022</b>
<i>Purge of all unpaid course selections</i>	Monday	February 7, 2022
Mid Term Examinations	Mon – Fri	March 7 - 11, 2022
Spring Break	Mon – Fri	March 14 - 18, 2022
Last Day to Drop a Class	Monday	April 11, 2022
<b>Good Friday (No Classes)</b>	<b>Friday</b>	<b>April 15, 2022</b>
Last Day of Classes	Wednesday	April 27, 2022
First Year Professors' Grades Due	Wednesday	April 27, 2022
<b>Reading Period (No Classes)</b>	Thur – Sun	April 28 - May 1, 2022
Final Examinations	Mon- Fri	May 2 – May 13, 2022
Hooding Ceremony	Friday	May 13, 2022
Commencement Exercises	Saturday	May 14, 2022

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





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### **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.

#### **FIREARMS**

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

#### **COMPUTERS, ETC.**

Cell phones, laptops, Apple watches and other electronic devices are prohibited during exams and exam review conferences.

#### **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.



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**CONSTITUTIONAL LAW II: TOPICS AND READING ASSIGNMENTS**  
**(SPRING, 2022)**

**WEEK I (Jan. 10-14)**

• pp. 507-610 & 2021 Supplement

- Forms of Substantive Due Process (Economic Substantive Due Process; Fundamental Rights Substantive Due Process) (Chap. 6)  
(Focused Review - This chapter was covered in Constitutional Law last semester)
- 

**WEEK II (Jan. 17-21)**

• pp. 610-691 & 2021 Supplement

- **Martin Luther King Holiday (Jan. 17th)**
  - Forms of Substantive Due Process (Fundamental Rights Substantive Due Process) (Chap. 6)  
(Focused Review - This chapter was covered in Constitutional Law last semester)
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**WEEK III (Jan. 24-28)**

• pp. 693-756 & 2021 Supplement

- The Meaning of Equal Protection (Traditional Equal Protection; Suspect Classifications - Race)  
(Chap. 7)
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**WEEK IV (Jan. 31-Feb. 4)**

• pp. 756-834 & 2021 Supplement

- The Meaning of Equal Protection (Suspect Classifications – Race) (Chap. 7)
- 

**WEEK V (Feb. 7-11)**

• pp. 834-915 & 2021 Supplement

- The Meaning of Equal Protection (Not-So-Suspect Classifications; Quasi Suspect Classifications – Gender and Illegitimacy) (Chap. 7)
- 

**WEEK VI (Feb. 14-18)**

• pp. 915-984 & 2021 Supplement

- The Meaning of Equal Protection (Fundamental Rights and Interests) (Chap. 7)
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**WEEK VII (Feb. 21-25)**

• pp. 985-1071 & 2021 Supplement

- First Amendment - Freedom of Expression (Free Speech) (Chap. 8)
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**WEEK VIII (Feb. 28-March 4)**

• pp. 1071-1149 & 2021 Supplement

- First Amendment - Freedom of Expression (Free Speech) (Chap. 8)
- 

**Week IX (March 7-11)**

• pp. 1149-1245 & 2021 Supplement

- First Amendment - Freedom of Expression (Free Speech) (Chap. 8)
- 

**Week X (March 14-18)**

- Spring Break
- 

**Week XI (March 21-25)**

• pp. 1245-1310 & 2021 Supplement

- First Amendment – Freedom of Expression (Free Speech) (Chap. 8)
- 

**Week XII (March 28- April 1)**

• pp. 1310-1381 & 2021 Supplement

- First Amendment – Freedom of Expression (Freedom of Press; Freedom of Association) (Chap. 8)
- 

**Week XIII (April 4-8)**

• pp. 1381-1429 & 2021 Supplement

- First Amendment – Freedom of Expression (Freedom of Association) (Chap. 8)
- 

**Week XIV (April 11-15)**

• pp. 1431-1468 & 2021 Supplement

• pp. 1468-1544 & 2021 Supplement

- First Amendment – Freedom of Religion (Establishment Clause) (Chap. 9)
  - First Amendment - Freedom of Religion (Establishment Clause and Free Exercise Clause) (Chap. 9)
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**Week XV (April 18-22)**

• pp. 1545-1589 & 2021 Supplement

- State Action (The Origins of the State Action: Limitation; Modern Theories of State Action) (Chap. 10)
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**Week XVI (April 25-27)**

- pp. 1589-1605 & 2021 Supplement

- State Action (Legislating Against Private Action: Under the 14<sup>th</sup> and 13<sup>th</sup> Amendments)  
(Chap. 10)
- 

**Week XVII (May 2-6)**

- Final Exam Period
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**Week XVIII (May 9-13)**

- Final Exam Period
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