

Constitutional Law I
Syllabus
Weds/Fri 9:00–10:30

Prof. Daniel Pi

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1 Administrative Matters

1.1 Contact and Office Hours

My email address is daniel.pi@law.unh.edu. My office is 319, which is located in the quiet section of the law library. I will hold office hours after class on Wednesdays and Fridays. I am also available to meet privately upon request. In general, if the light is on in my office, then you are welcome to drop in for a chat.

1.2 Attendance and Homework

According to [Rule II\(A\)\(1\)](#) of the law school's rules and regulations, attendance is mandatory.

Readings are assigned for every class session. All students are expected to have read *and carefully thought about* the assigned readings. Note that it is not sufficient merely to have read through the assigned material. My expectation is that students will have *carefully contemplated* the problems, issues, and arguments implicated by the reading. Students should be prepared not only to recall what they read, but to engage in sophisticated discussion about the material which goes *beyond* the text.

Any students who are unable to complete the homework should email me before class. I will not call on those students requesting a pass. There is no limit on the number of "free passes" that a student may be granted throughout the semester, and there is *no* penalty for exercising the privilege. However, extreme abuse of this privilege may affect a student's participation score in exceptional cases.

1.3 Electronic Devices

The use of electronic devices is strictly prohibited in my classroom. This includes phones, tablets, and laptops. Devices which function passively without user interaction (e.g., wristwatches, audio recording devices) are presumptively permitted. This policy is non-negotiable.

Any electronics brought into the classroom must be set to silent or powered off. Any student whose electronic device produces noise during class (for example, receiving a text message notification) will incur a one increment reduction in their final grade. For example, upon the first infraction, if the offending student would have otherwise received a B+, then they will instead receive a B. Upon the second infraction, their grade will be further reduced to a B-. And so forth.

NOTE: The electronic devices policy does not apply to students requiring disability accommodations.

1.4 Class Recordings

Students are permitted to make audio recordings of class sessions for their personal use. Additionally, I will endeavor to record video of the class sessions and post it to Canvas. Anyone registered for the course may access the videos at any time.

Recordings of class sessions may not be shared with anyone who is not a student in the class. Distributing recorded material from the class sessions will constitute an honor code violation and will result in administrative action.

1.5 Accommodations

According to the Americans with Disabilities Act (as amended, 2008), each student with a disability has the right to request services from UNH to accommodate their disability. If you are a student with a documented disability or believe you may have a disability that requires accommodations, please contact Student Accessibility Services (SAS). Accommodation letters are created by SAS with the student. Please follow-up with your instructor as soon as possible to ensure timely implementation of the identified accommodations in the letter. Faculty have an obligation to respond once they receive official notice of accommodations from SAS, but are under no obligation to provide retroactive accommodations.

NOTE: Students are welcome to go through SAS if they prefer, however I do not require an “official” accommodation letter. I presume students are honest, and I do not require formal “proof” of the need for accommodations.

1.6 Inclusion

In 2020, the faculty adopted a resolution on systemic racism that includes a pledge to promote diversity and inclusion in the curriculum.

1.7 Information Literacy

The law school has adopted a policy that requires students in all courses to be exposed to relevant components of information literacy.

2 Course Objectives

There are two main objectives for this course. The primary objective is to expose students to common patterns of reasoning which recur throughout the Supreme Court's jurisprudence, and which motivate the Court's reasoning when deciding cases. The secondary objective is to understand the structure of the federal government and its relationship to the states. This knowledge will emerge through a reading of the caselaw, and it will be reinforced through Socratic questioning.

3 Assessment

Performance in this course will be evaluated along two dimensions: participation and the final exam.

3.1 Midterm

There will be no midterm examination, however I will provide a mock examination for your self-assessment midway through the semester. You are not obliged to complete the mock exam.

3.2 Participation

The core of this course is the Socratic method. Accordingly, active participation is crucial to the process. For each case, one or two students will be called upon to answer questions about the reading. Students who are not called are expected to spectate actively, reflecting on the arguments and counterarguments raised in the discussion. Students are welcome to raise their hands if they have questions, or if they wish to rescue a stumped classmate.

On rare occasions, I will bump a student's grade up or down one increment for participation. I am generally reluctant to exercise this right—it is reserved for exceptional circumstances.

3.3 Final Exam

The exam for this course will consist of one long fact pattern (i.e., approximately ten pages of text describing a series of events), which you will analyze, identifying potential liabilities, formulating possible arguments for both the plaintiffs and defendants. Each argument will be assessed along three dimensions: (1) clarity and rigor

of the logic; (2) fidelity to the given facts; (3) identification and application of legal rules. Each argument will be assigned between zero and one point, depending upon its quality. The final exam score will be the sum of points received.

3.4 Grading

The grading weights for the course are:

Participation	10%
Final Exam	90%

The mathematical computation of grades should not affect anyone's approach to this course. The 90-10 breakdown of grading weights is all any student *needs* to know. However, in the interest of transparency, I think it worth explaining precisely how grades are computed. Let x represent a student's participation score, normalized on the interval $[0, 1]$, and let y represent a student's exam score, normalized on the interval $[0, 1]$. The final grade score is computed $g = 0.1x + 0.9y$. The average g for the class is equivalent to the grade B, and each half standard deviation above or below the mean demarcates one grade increment. For example, if a student's g -value were a *half* standard deviation above the mean, then that student would receive a final grade of B+. If a student's g -value were *two* standard deviations above the mean, then that student would receive an A+. Typically, the highest scoring students in my courses have g -values 2.5–3 standard deviations above the mean (however, there is no grade better than an A+).

4 Course Materials

The textbook for this course is Irwin Chemerinsky's *Constitutional Law* (7th. ed., Aspen 2023). As electronics are not allowed in the classroom (*see supra* §1.3 of this syllabus), students are strongly encouraged to purchase the casebook in hard copy.

5 Homework

Date	Topic	Subtopic	Casebook	
Jan. 17	The Judiciary	Judicial Review	pp. 1–9	
Jan. 19		Limitations and Judiciability	10–22	
Jan. 24		Standing		22–34
Jan. 26				34–48
Jan. 31				48–62
Feb. 2		Ripeness & Mootness	62–72	
Feb. 7		Political Question Doctrine	72–97	
Feb. 9	The Legislature	<i>McCulloch</i>	99–108	
Feb. 14		<i>NFIB v. Sibelius</i>	108–129	
Feb. 16		Commerce Clause	129–147	
Feb. 21		Class Cancelled		
Feb. 23		(Commerce Clause cont'd)		147–157
Feb. 28				157–180
Mar. 1		SPRING BREAK		
Mar. 6				
Mar. 8		(Commerce Clause cont'd)		181–201
Mar. 13		Tax & Spend Clause		201–218
Mar. 15	Post-Civil War Powers		218–227	
Mar. 20	The Executive	Inherent Presidential Power	229–243	
Mar. 22		The Administrative State		243–269
Mar. 27				269–288
Mar. 29		Foreign Policy		288–305
Apr. 3		Detentions		305–315
Apr. 5		War Tribunals		315–329
Apr. 10		Immigration		329–345
Apr. 12		Checks on the President		345–368
Apr. 17	The States	Preemption	369–390	
Apr. 19		Dormant Commerce Clause		390–413
Apr. 24				413–432
Apr. 26		Privileges & Immunities		432–445