Law and Policy
(RPOS 328) Class # 9236  (RPAD 328) Class # 9288
MWF 1:40–2:35pm  HU 0137  3 Credits
University at Albany  Fall 2017

Professor Phil Nicholas
Rockefeller College Contact Office: Humanities B-16
Office Hours: Mondays 3:00 – 4:30, Wednesdays 3:00 – 4:00 pm
or by appointment

- Course Description –

This course provides an examination of the role of the courts in the public policy process and in substantive policy fields; integrates the literature of law and policy and applies it to numerous policy areas including for example crime and law enforcement, public employment, and environmental protection. Students will present a Supreme Court case in class and discuss its impact on society and or government.

Learning Objectives

Acquire an understanding of the power relationship between the governmental branches

Gain an understanding of how groups use courts to pursue public policy change

Assess the impact courts and judges have on policy outcomes

Examine the extent that influential members of the Supreme Court affect public policies

Understand the relationship between statutes and case law

Gain and practice legal reasoning and analysis skills

Assess the strength of legal arguments in cases by analyzing how case precedent was used and applied to the facts of cases

Required Textbook


The Following Readings are on Blackboard (or will be soon)


Brigid Harrison and Jean Harris, American Democracy Now 2nd Ed. (Boston: McGraw-Hill 2010), 82-86, 100, 101.


Additional Readings will be posted on blackboard as we proceed through the course.

**Course Schedule**

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<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Readings/Articles</th>
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<tbody>
<tr>
<td>8/28/17</td>
<td>Course Introduction</td>
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<tr>
<td>8/30/17</td>
<td>Assign Court Case Presentations</td>
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<td></td>
<td>US Constitution and Federal Court System</td>
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<tr>
<td>9/1/17</td>
<td>Federal Court System continued</td>
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<td></td>
<td>Read Patterson, <em>The American Democracy</em>, 357-367</td>
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<tr>
<td>9/6/17</td>
<td>Federalism</td>
<td>Read Harrison, <em>American Democracy</em></td>
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<tr>
<td>9/8/17</td>
<td>State Constitutions and Judiciaries</td>
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<tr>
<td>9/11/17</td>
<td>The Courts and Public Policy Stages</td>
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<td>Read Barbour and Wright, <em>Keeping the Republic</em>, and another reading TBA</td>
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<tr>
<td>9/13/17</td>
<td>Constitutional versus Statutory and Administrative Law</td>
<td>Read Melnick, “Courts and Agencies”</td>
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<td>9/15/17</td>
<td>The Dynamic and Constrained Court</td>
<td>Read <em>Hollow Hope</em>, Chapter 1</td>
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<td>9/18/17</td>
<td>The Early Civil Rights Movement</td>
<td>Read <em>Hollow Hope</em>, pp. 39-41, 57-58, and 157-169</td>
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Read Hollow Hope, chapters two and three

9/22/17  Brown v. Board of Education (1954) continued

9/25/17  First Exam

9/27/17  To be announced

9/29/17  Civil Rights Court Case Presentations
Reed v. Reed (1971) (2)
Grove City College v. Bell (1984)
and the Civil Rights Restoration Act of 1988 (2)

10/1/17  Civil Rights Court Case Presentations continued
Ledbetter v. Goodyear Tire and Rubber Co. (2007) and
Lilly Ledbetter Fair Pay Act of 2009 (3)

10/4/17  Civil Rights Court Case Presentations continued
Boy Scouts of America v. Dale (2000) (2)
Goodridge v. Department of Public Health (Massachusetts 2003) (2)
For Goodridge, read Hollow Hope, pp. 339-341 and 347-354

10/6/17  Civil Rights Court Case Presentations continued

10/8/17  Women’s Reproductive Rights
Readings for the above two cases are in Hollow Hope, pp. 173-265 (only
present material from these chapters that apply to these two cases)

10/11/17  Public Employment Case Presentations
Cleveland Board of Education v. LaFleur (1974) (2)
National Treasury Employees Union v. Von Raab (1989) (2)

10/13/17  Public Employment Case Presentations continued
10/16/17  **Elected Leaders and Corruption Case Presentations**

*U.S. v. Mark Ciavarella, Jr.*, Appellant (3rd Cir. 2013) (2)
*U.S. v. Sheldon Silver*, Appellant (2nd Cir. 2017) (2)

10/18/17  Police and District Attorneys as Street Level Law Enforcement
Readings to be announced

10/20/17  **Environmental Law Case Presentations**

*Tennessee Valley Authority v. Hill* (1978) (2)

10/23/17  **Second Exam**

10/25/17  Interstate Commerce


10/27/17  **Environmental Law Case Presentations continued**

*Massachusetts v. EPA* (2)
*Concerned Area Residents for the Environment v. Southview Farm* (2nd Cir. 1994) (2)

For Southview Farm, read Knauf, “Southview Farm Case”

10/30/17  **Crime and Law Enforcement Case Presentations**


11/1/17  **Crime and Law Enforcement Case Presentations continued**


11/3/17  **Crime and Law Enforcement Case Presentations continued**


11/6/17  **Crime and Law Enforcement Case Presentations continued**


11/8/17  **Freedom of Speech Case Presentations**


11/10/17  **Policy Paper Due**

11/13/17  Presidents, Congress and the Courts
Read Ivers, *American Constitutional Law*
Third Exam

Rulemaking Adjudication and Judicial Review
Readings to be announced

To be announced

Health Care and End of Life Policy


Final Paper Consultations

Final Paper Consultations

Final Paper Due

Brief Paper Presentations will take place on our last three class meetings 12/6/17, 12/8/17, and 12/11/17

Final Grades will be computed as follows:

Three midterms (16% each) Final Paper 17%

Class participation 12% Class attendance 3%

Court case analysis paper 9%

State law policy paper 8%

Supreme Court case presentation 2%

Brief final paper presentation 1%

**Grading Scale:** A 94 and above A- 90-93.9 B+ 86.7-89.9 B 83-86.6 B- 80-82.9 C+ 77-79.9 C 73-76.9 C- 70-72.9 D 63-69.9 D- 60-62.9 F below 60

The exams will be closed book and comprise a mix of short essay, short answer, and may include some multiple-choice questions. Any material we cover in class is fair game for the exams and this includes student presentation material and current events. Some exam material will come from sections of the readings that we did not cover in class, and some will be the professor’s own material that will not be straight from the readings. Students must only write exam answers on exam paper or booklets provided by the professor. During exams, students cannot leave the classroom for bathroom breaks or other reasons, but must leave when they finish their exams.

In order to perform well on the exams, students should always take notes in class. Students are responsible for reviewing exam grades in a timely matter. Any questions about graded material must be discussed with the professor immediately. Make-up exams will only be given in extreme circumstances (illness; death in the family), and students who miss exams must contact the professor immediately (within 24 hours) and present documentation.
Final Paper

In the final paper, students will analyze a Supreme Court decision of their choice, except for a few we will cover extensively in class, which are noted at the end of this assignment.

Please include the following material in the paper.

1. What part of the Constitution was the Court interpreting (or which federal law)? In the majority opinion, what was the policy the Supreme Court established or supported? Did it create a new precedent or build on existing precedent? (25% of the paper grade)

2. Do you agree with the majority ruling? If so, why? If not, how would you interpret the Constitution differently? In addition, you can offer your opinion on a dissenting opinion in the case (but you are not required to discuss any dissents). (25% of the paper grade)

3. How did Congress, the president, or states take actions that conflicted with the policy preference of the Court, or were there a variety of actions taken by public officials to support the Supreme Court decision? For example, the Supreme Court’s policy or new precedent in *Brown v. Board of Education* (1954) was school desegregation. As noted in our textbook, the Court did not monopolize education policy. Congress passed laws to achieve desegregation, and presidents signed these laws and issued executive orders to achieve similar policy objectives. Some states and many school districts offered various forms of resistance. (25% of the paper grade)

4. What difference did the court decision make? In other words was this a decision that had a huge affect on government or society, or an impact that was quite limited. Some Court decisions affect the rights of the people or the ability of governments to regulate corporations or administer government social programs in a substantial way, much more so than others.

Make an argument over what the impact of the case was. Your argument needs to be developed and supported with evidence. For example, *Roe v. Wade* had a large impact on both society and government by expanding reproductive freedom of women in states that had restricted it, and led to the adoption of new state laws that sought to either enhance abortion rights or restrict them, along with a handful of future Supreme Court decisions that further defined the boundaries of state control versus personal privacy. (25% of the paper grade)

The required length of the final paper is eight full double spaced pages of writing that is in 12 point Times New Roman font with 1 ¼ inch margins. The 8 full pages of writing does not include the work cited section, running headers, or spacing that exceeds double spacing between paragraphs or sentences, or a cover page should you choose to have one. So the entire paper will exceed eight pages, but should not exceed 15 pages. While students have the academic freedom to use a variety of sources for the final paper, they should not rely heavily upon Wikipedia or other online encyclopedia sources for analysis of Supreme Court cases. Rely instead on the case itself, law journal or law review articles, books, and peer reviewed journals. National news sources like the *Washington Post* may also provide accurate and thorough coverage of certain cases.

Please submit all three course papers in **hard copy**. I do not accept electronic papers for any reason (if you cannot hand the paper in yourself, email it to a friend and have the friend print it out and hand it in for you).

Students are encouraged to review university policies regarding academic honesty. [http://www.albany.edu/undergraduate_bulletin/regulations.html](http://www.albany.edu/undergraduate_bulletin/regulations.html) In short, plagiarism is taking something that is not yours and passing it off as your own work. This can happen through sloppy research that fails to cite where information comes from, or by copying published or website text without quotation. When borrowing material (whether quoting or paraphrasing), students are required to cite sources in-text. When quoting material, use quotation marks and provide an immediate reference to the source of the material, and if paraphrasing feel free to cite sources on a paragraph by paragraph basis. Failure to cite sources on papers or cheating on examinations is academically dishonest and severely punished at the University at Albany.

All three of the course papers require in-text citation. **Papers that lack in-text citation will be penalized 20%.**

**Court Case Analysis Paper**

Students will write their own court case analysis papers, and participate in an in-class presentation with one or more students. The readings for this assignment differ depending on the particular federal Supreme Court decision, federal appellate court decision, or state court decision. A handful of these cases are well covered in our textbook and reading material is assigned there. Other cases have specific assigned readings, and a number of the cases are not found in the textbook (or not discussed in very much detail), but can be found in either the University library database Lexis Nexis Academic, or on the web. Cornell Law School has a useful website containing a large number of Supreme Court cases. More recent Supreme Court cases can also be found on the Supreme Court’s website. The required content of your court case analysis paper is the following:

1. Discuss the majority opinion in the case. This opinion usually consists of the court’s constitutional ruling (how a majority of justices apply the Constitution to rule one way or another on a particular case). A few of the assigned cases involve interpretations of federal laws or criminal convictions, so students writing about these cases discuss what the majority on the court concluded regarding the meaning or application of federal law.

2. What was the policy the Supreme Court or other court established or supported? What difference did the court decision make? In other words was this a decision that had a huge affect on government or society, or one that was quite limited in its governmental or societal impact. Did it establish a new precedent or build on existing precedent?

3. The required length of the paper is two full double spaced pages (12 point Times New Roman font 1 ¼ inch margins, not including running headers, or spacing that exceeds double spacing between paragraphs or sentences). Have a work cited page in addition to the two full double spaced pages. **The court case papers are due** at the beginning of class on the day of your presentation.

In the class presentation, each student asks a different question to the class about the Supreme Court case they present. (a few of the assigned cases are federal appeals court cases or state level decisions, not Supreme Court cases). Each group must discuss #1 above in their presentation, and
discuss #2. Students have the option of discussing related cases or actions taken by presidents, Congress, government agencies, or the states that are related to the court cases.

Policy Paper

Write a policy paper to a state government official in one of the 50 states. Write the paper in memo format, from one to two full pages single-spaced, with double spacing between the paragraphs. Although the ‘spacing’ format differs from the other two papers, the font and margins are the same. The paper is a policy memo, written to an existing state government official you are advising (for example, a government official in the New York State Division of the Budget). The person must exist and currently be a government official either elected or appointed, but cannot be a governor. You approach the paper from the standpoint of a policy analyst. In the policy paper: 1. Summarize a state law that has been adopted by a state legislature or through other means in the past five years. 2. Note whether the law has been or is being challenged in state court or federally. 3. Recommend one way the official could seek to change the law (through working with the governor or particular legislators to advance bills for example). 4. Contrast the costs and benefits of your recommendation, in economic terms, or in how other government leaders and/or interest groups may react to particular changes in the law. Cite all sources you use, both in-text and fully at the end in a work cited section. Late policy papers will be downgraded.

Class Participation

The class participation grade is not an attendance grade, but is based on actual participation in class. The following actions are examples of highly valued participation and these include: Attempts to answer questions raised by the professor, asking the professor to clarify material in class or raising questions or comments about the material (either in class or through other communication), participating during class case presentations, and reacting to statements of other students. Prepare for class participation by completing the assigned readings. Class participation is graded on a class by class basis. If overall class participation is poor, the class will receive a warning (either in class, electronically, or both). If participation does not improve the professor will give short in-class writing assignments based on the readings to assess student understanding.

Class attendance. Students are permitted three class absences. For each additional absence students will lose 15% of their class attendance grade.

This syllabus will experience minor changes such as additional reading assignments. It is the responsibility of students to be aware of any alterations in the course schedule. Extra credit assignments are not provided on an individual basis. Students are required to retain their exams and written work and be able to produce them upon request. The professor will at times circulate a sign-in sheet. Students caught signing in other students on the sign-in sheet will forfeit half their class participation grade for each offense and be reported to the Dean’s Office on forgery charges.

Reasonable accommodations will be provided for students with documented physical, sensory, systemic, cognitive, learning and psychiatric disabilities. If you believe you have a disability requiring accommodation in this class, please notify the Director of the Disability Resource Center (Campus Center 137, 442-5490). That office will provide the course instructor with verification of your disability, and will recommend appropriate accommodations.