

POLS 3300 – Development of the First Amendment
MWF 11:15am – 12:10pm
Arts and Science, Room 210
The University of Texas at Tyler
Spring 2022

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Professor Eric A. Lopez

Office: CAS 115

Office Phone #: (903) 566-7371

Office Hours: MWF, 12:15 – 2:15pm & by Appointment

Email: elopez@uttyler.edu

- I will only reply to email from an official UT-Tyler email account
- Expect a response within 24 hours (except on weekends)

Course Description and Objectives

The First Amendment protects individual liberties by limiting government's regulatory power, making the Supreme Court an important catalyst for constitutional change through its responsibility to "say what the law is." By examining the Supreme Court's jurisprudence, this course will scrutinize the legal and political controversies where the Supreme Court was asked to balance the scope of governmental regulation with an individual's religious, political, and expression-based freedoms. Additionally, students will analyze the role the judiciary plays in social and political change through its interpretation of the First Amendment.

Required Texts

- 1) Epstein, Lee and Thomas G. Walker. 2019. *Constitutional Law for a Changing America: Rights, Liberties, and Justice* (10th Edition). CQ Press.
- 2) The Professor, through Canvas, will post additional readings.

Requirements, Grades, and Dates

The composition of the student's final grade will consist of three take-home exams and a research paper. The instructions for each of these assignments will be explained as the semester progresses, with ample amount of time for students to work on them before their due date. Canvas will be used to submit assignments and will be the medium used to deliver class content.

Grade Distribution

The following are the weights given to the exams, the research papers, and the quizzes and the date each will be held:

Assignment	Date (Subject to Change)	Grade Percentage
Exam 1	Wednesday, February 23, 2022	25%
Exam 2	Wednesday, March 30, 2022	25%
Exam 3	Wednesday, April 27, 2022	25%
Research Paper	TBD	25%

Final grades will be granted on the following scale: A=100%-90%, B=89%-80%, C=79%-70%, D=69%-60%, and F=59%-50%.

Class and University Policies

Attendance Policy

Your attendance in this course is not mandatory and your grade in this course will not suffer directly from missing class. However, the examination material in this course is not only based on the required readings, but on class participation and class discussions, which means that your grade will almost certainly suffer by missing too many classes. Further, borderline grades will be determined by the quality of your overall contribution to the course.

In response to COVID-19 lectures will be streamed, simultaneously, through Zoom. There will be no recordings of Zoom lectures that will allow students to watch outside of scheduled class time.

Class notes, either of my own or transcribed by other students, will only be made available to those students whom miss class due to their observance of holidays and special events by organized religions or to students that have a pre-approved absence by the Dean of Students. For those students that attend lecture, photography of any class notes/lectures is strictly prohibited. Any student found in violation will be asked to leave class for the day. And, electronic devices must be silenced during class (if possible, please turn off all electronic devices) unless you have received prior permission from the Professor. Any such device that interrupts class will be confiscated and returned to the student during the Professor's office hours.

“Make-Up” Policy

Make-up exams will only be offered to those students that have a University approved absence, a doctor’s note detailing your inability to take the exam on the date provided on this syllabus, or a sudden emergency (e.g., a death in your family, a sudden illness) that prohibits your attendance for an exam. Anyone who has not satisfied any of these requirements and does not take the exam will be given a grade of “0.”

If any conflict (others tests, travel plans, etc.) with either of the exams exists, notify me by Wednesday, January 19, 2022. Be advised that allowances will only be given in extreme cases with my discretion as to what I define as extreme. Late assignments will only be accepted, without penalty, in the case of an unforeseen event, such as a sudden emergency, or if you have an approved absence by the Dean of Students (see also: *Student Absence for University-Sponsored Events and Activities* and *Student Absence Due to Religious Observance* sections of the syllabus).

Class Discussion and Threatening Behavior

Given the nature of political discourse, some of the topics discussed and debated in class may be sensitive to some students. It is expected that students, regardless of the subject matter, maintain civility in their class comments. The University and the Professor seek to promote a safe environment where students may participate in debates, discussion, and other objectives concurrent with the educational process without compromising their health, safety, and welfare. Concurrent with this ideal, mutual courtesy and respect should govern all classroom conduct. Therefore, threats of physical harm or verbal abuse will not be tolerated in this class.

UT-Tyler Honor Code

Every member of the UT-Tyler community joins together to embrace: Honor and integrity that will not allow me to lie, cheat, or steal, nor to accept the actions of those who do.

Students Rights and Responsibilities

To know and understand the policies that affects your rights and responsibilities as a student at UT-Tyler, please follow this link: <http://www.uttyler.edu/wellness/rightsresponsibilities.php>

Student Absence for University-Sponsored Events and Activities

If you intend to be absent for a university-sponsored event or activity, you (or the event sponsor) must notify the Professor at least two weeks prior to the date of the planned absence. At that time the Professor will set a date and time when make-up assignments will be completed.

Student Absence Due to Religious Observance

Students who anticipate being absent from class due to a religious observance are requested to inform the Professor of such absences by the second class meeting of the semester.

Student Standards of Academic Conduct

Disciplinary proceedings may be initiated against any student who engages in scholastic dishonesty, including, but not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, any act designed to give unfair advantage to a student or the attempt to commit such acts.

- i. “Cheating” includes, but is not limited to:

- copying from another student’s test paper;
 - using, during a test, materials not authorized by the person giving the test;
 - failure to comply with instructions given by the person administering the test;
 - possession during a test of materials which are not authorized by the person giving the test, such as class notes or specifically designed “crib notes”. The presence of textbooks constitutes a violation if they have been specifically prohibited by the person administering the test;
 - using, buying, stealing, transporting, or soliciting in whole or part the contents of an un-administered test, test key, homework solution, or computer program;
 - collaborating with or seeking aid from another student during a test or other assignment without authority;
 - discussing the contents of an examination with another student who will take the examination;
 - divulging the contents of an examination, for the purpose of preserving questions for use by another, when the instructors has designated that the examination is not to be removed from the examination room or not to be returned or to be kept by the student;
 - substituting for another person, or permitting another person to substitute for oneself to take a course, a test, or any course-related assignment;
 - paying or offering money or other valuable thing to, or coercing another person to obtain an un-administered test, test key, homework solution, or computer program or information about an un-administered test, test key, home solution or computer program;
 - falsifying research data, laboratory reports, and/or other academic work offered for credit;
 - taking, keeping, misplacing, or damaging the property of The University of Texas at Tyler, or of another, if the student knows or reasonably should know that an unfair academic advantage would be gained by such conduct; and
 - misrepresenting facts, including providing false grades or resumes, for the purpose of obtaining an academic or financial benefit or injuring another student academically or financially.
- ii. “Plagiarism” includes, but is not limited to, the appropriation, buying, receiving as a gift, or obtaining by any means another’s work and the submission of it as one’s own academic work offered for credit.
- iii. “Collusion” includes, but is not limited to, the unauthorized collaboration with another person in preparing academic assignments offered for credit or collaboration with another person to commit a violation of any section of the rules on scholastic dishonesty.
- iv. All written work that is submitted will be subject to review by plagiarism software.
- If a student is suspected of academic dishonesty, the classroom instructor may ask the student to meet with him or her to discuss the incident. A student may admit to allegations of academic dishonesty, waive the right to a hearing and accept penalties imposed by the instructor. The student may also deny all allegations and ask to see the Dean of Student Affairs. An accused student may accept the decision of the Dean of Student Affairs or ask for a hearing before an impartial hearing officer appointed by the university. Witnesses may be called and evidence presented. The hearing officer will consider all evidence and make a decision. The decision of the hearing officer may be appealed to the President by either the student or the Dean of Student Affairs. For further discussion of academic dishonesty and possible penalties, please see: <http://www.uttyler.edu/judicialaffairs/scholasticdishonesty.php>

Campus Carry

We respect the right and privacy of students 21 and over who are duly licensed to carry concealed weapons in this class. License holders are expected to behave responsibly and keep a handgun secure and concealed. More information is available at:

<http://www.uttyler.edu/about/campus-carry/index.php>

UT-Tyler a Tobacco-Free University

All forms of tobacco will not be permitted on the UT-Tyler main campus, branch campuses, and any property owned by UT-Tyler. This applies to all members of the University community, including students, faculty, staff, University affiliates, contractors, and visitors. Forms of tobacco not permitted include cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff, chewing tobacco, and all other tobacco products. There are several cessation programs available to students looking to quit smoking, including counseling, quitlines, and group support. For more information on cessation programs please visit: www.uttyler.edu/tobacco-free

Disability/Accessibility Services

In accordance with Section 504 of the Rehabilitation Act, Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA) the University of Texas at Tyler offers accommodations to students with learning, physical and/or psychological disabilities. If you have a disability, including a non-visible diagnosis such as a learning disorder, chronic illness, TBI, PTSD, ADHD, or you have a history of modifications or accommodations in a previous educational environment, you are encouraged to visit <https://hood.accessiblelearning.com/UTTyler> and fill out the New Student application.

The Student Accessibility and Resources (SAR) office will contact you when your application has been submitted and an appointment with Cynthia Lowery, Assistant Director of Student Services/ADA Coordinator. For more information, including filling out an application for services, please visit the SAR webpage at <http://www.uttyler.edu/disabilityservices>. Also, the SAR office is located in the University Center, #3150 or call 903.566.7079.

If you are registered with the SAR office, please set up a meeting with the Professor to discuss what specific accommodations should be made to ensure your success in the class.

Grade Replacement/Forgiveness and Census Date Policies

Students repeating a course for grade forgiveness (grade replacement) must file a Grade Replacement Contract with the Enrollment Services Center (ADM 230) on or before the Census Date of the semester in which the course will be repeated. Grade Replacement Contracts are available in the Enrollment Services Center or at: <http://www.uttyler.edu/registrar>. Each semester's Census Date can be found on this syllabus, the Contract itself, on the Academic Calendar, or in the information pamphlets published each semester by the Office of the Registrar.

Failure to file a Grade Replacement Contract will result in both the original and repeated grade being used to calculate your overall grade point average. Undergraduates are eligible to exercise grade replacement for only three course repeats during their career at UT Tyler; graduates are eligible for two grade replacements. Full policy details are printed on each Grade Replacement Contract.

The Census Date is the deadline for many forms and enrollment actions of which students need

to be aware. These include:

- Submitting Grade Replacement Contracts, Transient Forms, requests to withhold directory information, approvals for taking courses as Audit, Pass/Fail or Credit/No Credit.
- Receiving 100% refunds for partial withdrawals. (There is no refund for these after the Census Date)
- Schedule adjustments (section changes, adding a new class, dropping without a “W” grade)
- Being reinstated or re-enrolled in classes after being dropped for non-payment
- Completing the process for tuition exemptions or waivers through Financial Aid

The Census Date for this semester is Monday, January 24, 2022.

State-Mandated Course Drop Policy

Texas law prohibits a student who began college for the first time in Fall 2007 or thereafter from dropping more than six courses during their entire undergraduate career. This includes courses dropped at another 2-year or 4-year Texas public college or university. For purposes of this rule, a dropped course is any course that is dropped after the census date (See Academic Calendar for the specific date).

Exceptions to the 6-drop rule may be found in the catalog. Petitions for exemptions must be submitted to the Enrollment Services Center and must be accompanied by documentation of the extenuating circumstance. Please contact the Enrollment Services Center if you have any questions.

Social Security and FERPA Statement

It is the policy of The University of Texas at Tyler to protect the confidential nature of social security numbers. The University has changed its computer programming so that all students have an identification number. The electronic transmission of grades (e.g., via e-mail) risks violation of the Family Educational Rights and Privacy Act; grades will not be transmitted electronically.

Emergency Exits and Evacuation

Everyone is required to exit the building when a fire alarm goes off. Follow your instructor’s directions regarding the appropriate exit. If you require assistance during an evacuation, inform your instructor in the first week of class. Do not re-enter the building unless given permission by University Police, Fire department, or Fire Prevention Services.

Important COVID-19 Information for Classrooms and Laboratories

Students are expected to wear face masks covering their nose and mouth in public settings (including classrooms and laboratories). The UT Tyler community of Patriots views adoption of these practices consistent with its Honor Code and a sign of good citizenship and respectful care of fellow classmates, faculty, and staff.

Students who are feeling ill or experiencing symptoms such as sneezing, coughing, digestive issues (e.g. nausea, diarrhea), or a higher than normal temperature should stay at home and are encouraged to use the [UT Tyler COVID-19 Information and Procedures](#) website to review protocols, check symptoms, and report possible exposure. Students needing additional accommodations may contact the Office of Student Accessibility and Resources at University Center 3150, or call (903) 566-7079 or email saroffice@uttyler.edu.

Recording of Class Sessions

Class sessions may be recorded by the instructor for use by students enrolled in this course. Recordings that contain personally identifiable information or other information subject to FERPA shall not be shared with individuals not enrolled in this course unless appropriate consent is obtained from all relevant students. Class recordings are reserved only for the use of students enrolled in the course and only for educational purposes. Course recordings should not be shared outside of the course in any form without express permission.

UT-Tyler Resources for Students

- UT-Tyler Writing Center (903.565.5995), writingcenter@uttyler.edu
- UT-Tyler Tutoring Center (903.565.5964), tutoring@uttyler.edu
- The Mathematics Learning Center, RBN 4021, this is the open access computer lab for math students, with tutors on duty to assist students who are enrolled in early-career courses.
- UT-Tyler Counseling Center (903.566.7254)

Changes to the Syllabus

The information contained in the course syllabus, with the exception of the grading criteria, attendance policy, and the make-up policy, may be subject to change with reasonable advance notice as long as the change is without prejudice to the students.

Course Outline and Readings (subject to change)

Week 1 (January 10 – January 14)

1/10: Introduction to the Course

- Overview of the course, class and university policies, and the syllabus
- Epstein and Walker, pages 1-42
- Keer, Orin S. 2007. "How To Read A Legal Opinion." *The Green Bag* 11(1): 51-63 (Canvas)

1/12 & 1/14: The Supreme Court and Marbury v. Madison (1803)

- Epstein and Walker, Chapter 2
- A Closer Look (case in Canvas): *Marbury v. Madison* (1803)

Week 2 (January 17 – January 21)

1/17: (NO CLASS) Martin Luther King, Jr. Holiday

1/19: continue, The Supreme Court and Marbury v. Madison (1803)

1/21: The Bill of Rights and (Selective) Incorporation

- *The Constitution of the United States*, pages 827-831 (Canvas)
- Epstein and Walker, Chapter 3
- A Closer Look (case excerpt in Canvas): *McDonald v. City of Chicago* (2010)

Week 3 (January 24 – January 28)

1/24: Census Date

1/24 & 1/26: continue, The Bill of Rights and (Selective) Incorporation

1/28: The Free Exercise Clause

- *The Constitution of the United States*, pages 836-847 (Canvas)

- Epstein and Walker, pages 87-126
- A Closer Look (case in Canvas): *Burwell v. Hobby Lobby Stores, Inc.* (2014); *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018); *Fulton v. City of Philadelphia* (2021); *Calvary Chapel v. Sisolak* (2020); *South Bay United Pentecostal Church v. Newsom* (2021); *Diocese of Brooklyn v. Cuomo* (2020)

Week 4 (January 31 – February 4)

1/31, 2/2, & 2/4: continue, The Free Exercise Clause

Week 5 (February 7 – February 11)

2/7, 2/9, & 2/11: continue, The Free Exercise Clause

Week 6 (February 14 – February 18)

2/14, 2/16, & 2/18: The Establishment Clause

- *The Constitution of the United States*, pages 832-847 (Canvas)
- Epstein and Walker, pages 126-182
- A Closer Look (case in Canvas): *American Legion v. American Humanist Association* (2019); *Espinoza v. Montana Department of Revenue* (2020)

2/18: Exam 1 Distributed

Week 7 (February 21 – February 25)

2/21, 2/23, & 2/25: continue, The Establishment Clause

2/23: Exam 1 Due

Week 8 (February 28 – March 4)

2/28, 3/2, & 3/4: continue, The Establishment Clause

Week 9 (March 7 – March 11)

SPRING BREAK: NO CLASS ☺

Week 10 (March 14 – March 18)

3/14, 3/16, & 3/18: Freedom of Speech

- *The Constitution of the United States*, pages 831-853
- Epstein and Walker, pages 187-235.
- A Closer Look (cases in Canvas): *Reed v. Town of Gilbert* (2015); *Minnesota Voters Alliance v. Mansky* (2018)

Week 11 (March 21 – March 25)

3/21, 3/23, & 3/25: continue, Freedom of Speech

3/25: Student Speech Under the First Amendment

- Epstein and Walker, pages 235-243
- A Closer Look (cases in Canvas): *Mahony Area School District v. Levy* (2021)

3/25: Exam 2 Distributed

Week 12 (March 28– April 1)

3/28: Last day to withdraw from one or more 15-Week courses

3/28 & 3/30: continue, *Student Speech Under the First Amendment*

4/1: *Protection Against Compulsory Expression*

- Epstein and Walker, pages 264-277
- A Closer Look (cases in Canvas): *Janus v. ARSCME* (2018); *National Institute of Family and Life Advocates v. Becerra* (2018)

3/30: Exam 2 Due

Week 13 (April 4 – April 8)

4/4 & 4/6: continue, *Protection Against Compulsory Expression*

4/8: *Government Speech*

- Epstein and Walker, pages 256-264
- A Closer Look (cases in Canvas): *Walker v. Sons of Confederate Veterans* (2015); *IANCU v. Brunetti* (2019)

Week 14 (April 11 – April 15)

4/11 & 4/13: continue, *Government Speech*

4/15: *Voting, Participation, and the First Amendment*

- Epstein and Walker, pages 693-720
- A Closer Look (cases in Canvas): *Rucho v. Common Cause* (2019), including Justice Kagan's Dissenting Opinion; *Americans for Prosperity Foundation v. Bonta* (2021)

Week 15 (April 18 – April 22)

4/18, 4/20, & 4/22: continue, *Voting, Participation, and the First Amendment*

4/22: Exam 3 Distributed

Final Exams (April 25 – April 29)

4/25: Study Day (No Class)

4/27: Exam 3 Due