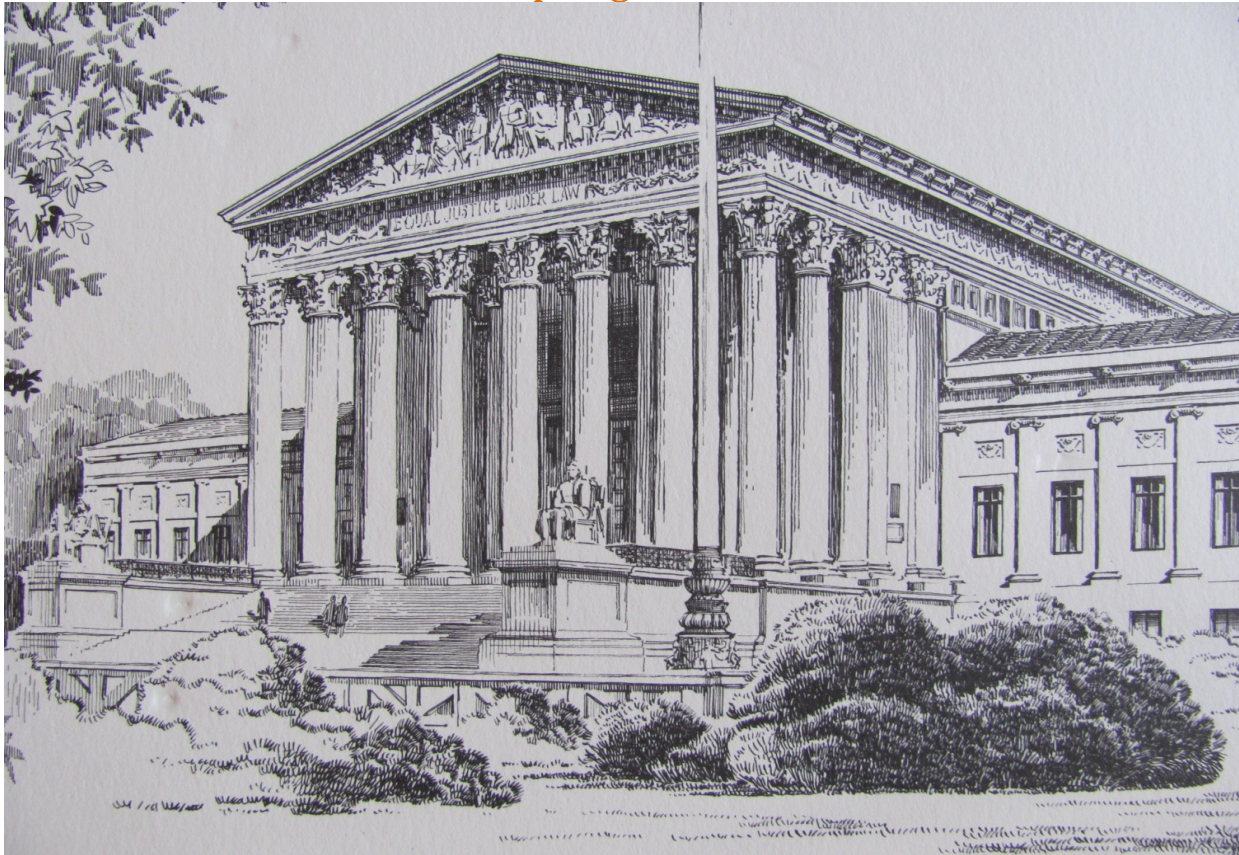


POLS 4321 – American Constitutional Law  
MWF 10:10AM – 11:05AM  
Arts and Sciences, Room 104  
University of Texas at Tyler  
Spring 2023



Professor Eric A. Lopez

Office: CAS 115

Office Phone #: (903) 566-7371

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

Email: [elopez@uttyler.edu](mailto:elopez@uttyler.edu)

- Expect a response within 24 hours
- I will only reply to email from an official UT-Tyler email account

### Course Description and Objectives

By constitutional design, governmental authority in the United States is divided not only between three co-equal branches of government, but also among the State governments. While the Constitution specifies each branch's power and defines the relationship between the Federal government and the States, questions arise over the breadth and scope of these powers, rarely making the Constitution's divisions and separations of government authority evident. Through its responsibility to say what the law is, the Supreme Court has been considered the primary decision maker regarding the proper scope of governmental authority as it relates to separation of powers and federalism. In this course, students

will critically examine the controversies and issues where the Supreme Court has attempted to define the limitations of government power for the Federal and State governments.

### Required Texts

- 1) Lee Epstein, Kevin T. McGuire, and Thomas G. Walker. 2022. *Constitutional Law for a Changing America: Institutional Powers and Constraints* (11th Edition). CQ Press.
- 2) The Professor, through Canvas, will post additional readings.

### Requirements, Dates, and Grades

The composition of the student's final grade will consist of two in-class exams (a midterm exam and a non-cumulative final exam), a legal brief, and eight in-class (unannounced) quizzes.

The exams will be held, in class, on the dates specified below. The format of each exam will be detailed during the class period before the exam, at which point a review session will also be held. The instructions for the legal brief will be provided later in the semester with ample time for students to complete the assignment. Lastly, eight in-class, unannounced quizzes will be given throughout the semester and five will count towards your final grade (i.e., your three lowest quiz scores will be dropped). **Absolutely no make-ups will be allowed on these quizzes.**

### Grade Distribution

The following are the weights given to the exams and the quizzes and the date that each is due:

Assignment	Date (Subject to Change)	Grade Percentage
Midterm Exam	March 1 and 3, 2023	30%
Final Exam	April 26, 2023	35%
Legal Brief	TBD	20%
Quizzes	Assigned Throughout	15%

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

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 submit the exam on the date provided on this syllabus, or a sudden emergency (e.g. death in your family, illness) that prohibits your completion of 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 assignments in this course exist, notify me by Wednesday, January 18, 2023. Be advised that allowances will only be given in extreme cases with my discretion as to what I define as extreme. Late papers (both the take-home exams and the research paper) will only be accepted, without penalty, in the case of an unforeseen event, such as a sudden emergency (death in your family, illness, etc.), 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 Conduct 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 instructor 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](http://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 23, 2023.**

## 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

It is important to take the necessary precautions to ensure a healthy and successful year. UT Tyler continues to urge you to protect yourselves against the flu, COVID and any new threats that may be developing. Be diligent about preventive measures such as washing hands, covering sneezes/coughs, social distancing and vaccinations, which have proven to be successful in slowing the spread of viruses. Encourage those who don't feel well to stay home, and if they show symptoms, ask them to get tested for the flu or COVID. Self-isolation is important to reduce exposure ([CDC quarantine/isolation guidelines](#)). Please work with your faculty members to maintain coursework and please consult [existing campus resources](#) for support.

### 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](mailto:writingcenter@uttyler.edu)
- UT-Tyler Tutoring Center (903.565.5964), [tutoring@uttyler.edu](mailto: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 9 – January 13)

##### *1/9: Introduction to the Course*

- Overview of the course, class policies, and the syllabus

##### *1/11 & 1/13: Introduction to the Constitution and Supreme Court*

- Epstein, McGuire, and Walker, pages 1-48
- Keer, Orin S. 2007. "How To Read A Legal Opinion." *The Green Bag* 11(1): 51-63 (Canvas)

##### *1/13, 1/18, & 1/20: The Judiciary*

- Epstein, McGuire, and Walker, pages 51-55 and Chapter 2

- A Closer Look (cases in Canvas): *United States v. Windsor* (2013), pgs. 1-13; *Gill v. Whitford* (2018); *Rucho v. Common Cause* (2019); *New York State Rifle & Pistol Association, Inc. v. City of New York* (2020)

Week 2 (January 16 – January 20)

**1/16: NO CLASS (Martin Luther King, Jr. Holiday)**

*1/18 & 1/20: continue, The Judiciary*

Week 3 (January 23 – January 27)

**1/23: CENSUS DATE**

*1/23, 1/25 & 1/27: The Legislature*

- Epstein, McGuire, and Walker, Chapter 3 (except Speech and Debate Clause & Power to Investigate sections)
- A Closer Look (cases in Canvas): *Trump v. Mazars, LLP* (2020)

Week 4 (January 30 – February 3)

*1/30 & 2/1: continue, the Legislature*

*2/3 & 2/5: The Executive*

- Epstein, McGuire, and Walker, Chapter 4 (except The Power of Appointment & The Power of Removal sections)
- A Closer Look (cases in Canvas): *Chiafalo v. Washington* (2020); *Trump v. Vance* (2020)

Week 5 (February 6 – February 10)

*2/6, 2/8, & 2/10: continue, The Executive*

Week 6 (February 13 – February 17)

*2/13, 2/15, & 2/17: Separation of Powers*

- Epstein, McGuire, and Walker, Chapter 5
- A Closer Look (cases in Canvas): *NLRB v. Canning* (2014); *Zivotofsky v. Kerry* (2015)

Week 7 (February 20 – February 24)

*2/20 & 2/22: continue, Separation of Powers*

*2/24: Catch-Up/Review for the Midterm*

Week 8 (February 27 – March 3)

*2/27: Catch-Up/Review for the Midterm*

*3/1: Midterm Part 1*

*3/3: Midterm Part 2*

Week 9 (March 6 – March 10)

*3/6, 3/8, & 3/10: Federalism*

- Epstein, McGuire, and Walker, pages 311-315 & Chapter 6 (except The Eleventh Amendment and Sovereign Immunity section)
- A Closer Look (cases in Canvas): *Gamble v. United States* (2019); *Murphy v. NCAA* (2018)



Week 10 (March 13 – March 17)  
**NO CLASS – SPRING BREAK**

Week 11 (March 20 – March 24)

**3/23: Last day to withdraw from one or more 15-Week courses**

*3/20 & 3/22: continue, Federalism*

*3/24: The Commerce Power, Expansive Interpretation*

- Epstein, McGuire, and Walker, Chapter 7 (specifically pages 375-430)

Week 12 (March 27 – March 31)

*3/27, 3/29, & 3/31: continue, The Commerce Power, Expansive Interpretation*

Week 13 (April 3 – April 7)

*4/3, 4/5, & 4/7: The Commerce Power, The Republican Court*

- Epstein, McGuire, and Walker, Chapter 7 (specifically pages 430-456)

Week 14 (April 10 – April 14)

*4/10: continue, The Commerce Power: The Republican Court*

*4/12 & 4/14: The Power to Tax and Spend*

- Epstein, McGuire, and Walker, Chapter 8 (except Intergovernmental Tax Immunity section & Restrictions on the Revenue Power of the States sections)

Week 15 (April 17 – April 21)

*4/17, 4/19, & 4/21: continue, The Power to Tax and Spend*

Final Exams (April 24 – April 28)

*4/26: Final Exam (10:15am – 12:15pm)*

**The University Final Exam Schedule for Spring 2023 can be found at:**

<https://www.utt Tyler.edu/schedule/files/spring-2023-final-exam-schedule.pdf?rand=1>