

**Politics, Policy, and Law in American Federalism**  
Lafayette College  
**Spring 2021**

**Government 310, Sec. 01 (W+)**

Tues. & Thurs.  
1:15 - 2:30 p.m.  
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[Feel free to contact me during class or by email to set up a meeting.]

**Rationale**

This course seeks to introduce you to the theories and practices of American federalism and intergovernmental relations. The United States has been the world's preeminent federal polity--the model most often consulted, adopted, or adapted by other nations seeking to establish federal arrangements (e.g., Canada, Australia, Mexico, and Switzerland).

The aim of the course is not only to show how and why the federal system operates in distinctive ways but also to understand federalism as a form of democracy, namely, federal democracy, a system of self-rule and shared rule that seeks to combine unity and diversity in the pursuit of peace, prosperity, and liberty. Two key concerns in the course will be the ways in which federalism structures law, politics, and policy in the United States and the ways in which Americans have evaluated the benefits and costs of federalism, past and present.

Today, virtually every field of public policy, both domestic and foreign, is intergovernmental in one way or another. Although efforts were made in the past to keep the federal government and the states locked into separate spheres of power, the power-sharing requirements as well as competitive political dynamics of federalism have drawn the federal government, state governments, and local governments into every sphere of public law and policy.

In the course, we will seek to analyze and understand (1) the place of federalism in Western political thought and theology, (2) the theoretical and political origins of American federalism, (3) the American contributions to the theory and practice of federal democracy, (4) the constitutional and legal bases of the federal system, (5) the historical phases and changing conceptions of federalism in the United States, (6) the legal, political, administrative, and fiscal dynamics of relations among the nation's more than 90,056 governments, (7) the intergovernmental institutions and processes that shape the formation, implementation, and outcomes of public policy, and (8) the impacts of federalism on specific policy issues, such as civil rights and liberties, economic regulation, environmental protection, crime, health care, and foreign affairs.

**Your Learning Outcomes**

By the end of this course, if you have attended classes, participated in classroom activities, asked questions, analyzed ideas, read all assigned readings, visited with the professor when necessary, paid attention to news about federalism in government and politics, and studied diligently, then you will be able to, among other things,

- Explain key constitutional, legal, political, and sociological features of U.S. federalism
- Explain the key federalism provisions of the U.S. Constitution
- Explain how federal democracy is a distinctive form of democracy
- Evaluate political ideas pertinent to federalism
- Distinguish among the key functions of the federal, state, and local governments
- Apply rationales for the distributions of particular powers in a federal system
- Identify and explain the key dual, cooperative, and coercive historical phases and continuing dimensions of American federalism
- Explain the impacts of Congress, the president, and the Supreme Court on U.S. federalism
- Analyze a U.S. Supreme Court case pertaining to federalism
- Recognize the intergovernmental nature of public policy in the United States
- Analyze the intergovernmental dimensions and dynamics of public policy
- Propose possible intergovernmental solutions to public policy challenges

### Required Texts

There is no textbook for this course. Readings marked **M**, listed below for class sessions, are among the materials available to you on Moodle. Readings marked **OL** are available electronically online through the Kirby and Skillman libraries. Please bring each day's readings to class for discussion.

### Class Reading and Discussion Schedule

- TU: Feb 9 Introduction of the Course, Participants, and Requirements.
- TH: Feb 11 Federalism Today and The Idea of Federalism – (1) Peter Nivola, “[Why Federalism Matters](#)” (2005), (2) Jacob Brown, “[Why Federalism Still Matters](#)” (2019), (3) John Kincaid, “Federalism,” *Civitas: A Framework for Civic Education*, pp. 1-7 **M**.
- TU: Feb 16 Understanding Federalism: Concepts and Values – John Kincaid, “Federalism,” *Civitas: A Framework for Civic Education*, pp. 8-14 **M**.
- TH: Feb 18 Historical Roots of Federalism -- (1) Daniel J. Elazar, “The Political Theory of Covenant: Biblical Origins and Modern Developments,” *Publius: The Journal of Federalism* 10 (Fall 1980): 3-30 **OL**; (2) Preamble to the Massachusetts Constitution of 1780 **M**; and (3) Henry Steele Commager, *The Empire of Reason* (Garden City, NY: Anchor Books, 1978), pp. 206-214 **M**.

FR: Feb 19 **Deadline** for adding and dropping courses and converting to pass/fail or audit.

TU: Feb 23 The Founders' Invention of Federalism – (1) Articles of Confederation **M**; (2) James Madison, *Federalist* 10, 39, and 51 **M**; (3) Letter of Robert Yates and John Lansing to the Governor of New York, 1787 **M**; and (4) George Mason, “Objections to the Proposed Constitution” **M**.

TH: Feb 25 Federalism and the U.S. Constitution – The U.S. Constitution **M**.

TU: Mar 2 Federalism and the U.S. Constitution -- The U.S. Constitution **M**.

TH: Mar 4 Early Debates about the Federal Republic – (1) The Kentucky Resolutions, 1798 **M**; (2) *McCulloch v. Maryland*, 17 U.S. 316 (1819) **M**; (3) *Dartmouth College v. Woodward* (1819) **M**; (4) *Sturges v. Crowninshield* (1819) **M**; (5) *Gibbons v. Ogden*, 22 U.S. 1 (1824) **M**; (6) John C. Calhoun, “A Discourse on the Constitution and Government of the United States” **M**; and (7) Daniel Webster, “Second Reply to Hayne” **M**.

TU: Mar 9 Dual Federalism, the Crisis of Union, and Emerging Nationalism – (1) Rozann Rothman, “Political Method in the Federal System: Albert Gallatin’s Contribution,” *Publius: The Journal of Federalism* 1 (Winter 1972): 123-141 **OL**; (2) *Prigg v. Commonwealth of Pennsylvania* 41 U.S. (16 Pet.) 539 (1842) **M**; (3) *Dred Scott v. Sandford*, 19 Howard 393 (1857) **M**; (4) Abraham Lincoln, “Speech at Springfield,” “Speech at Chicago,” “A House Divided” Speech (1858) **M**; and (5) Theodore Roosevelt, “The New Nationalism” (1910) **M**.

TH: Mar 11 The New Deal and the Rise of Cooperative Federalism – (1) John Kincaid, “Frank Hague and Franklin Roosevelt: The Hudson Dictator and the Country Democrat,” *Franklin D. Roosevelt: The Man, The Myth, The Era*, eds., Herbert D. Rosenbaum and Elizabeth Bartelme (Westport, CT: Greenwood, 1987), pp. 13-39 **M** and (2) John Kincaid, “How the protesters of the ‘60s eased the way for the occupiers,” *The Providence Journal*, December 30, 2011, B7 **M**.

### **Exam 1**

TU: Mar 16 Cooperative Federalism – (1) The Declaration of Interdependence (1937) **M** and (2) Daniel J. Elazar, “Cooperative Federalism,” *Competition among States and Local Governments: Efficiency and Equity in American Federalism*, eds., Daphne A. Kenyon and John Kincaid (Washington, DC: Urban Institute Press, 1991), pp. 65-86 **M**.

**Inform** professor of your U.S. Supreme Court case choice.

- TH: Mar 18 The Rise of Coercive Federalism -- (1) John Kincaid, "The Rise of Social Welfare and Onward March of Coercive Federalism," *Networked Governance: The Future of Intergovernmental Management*, eds., Jack W. Meek and Kurt Thurmaier (Los Angeles: Sage/CQ Press, 2011), pp. 8-38 **M** and (2) States' Federalism Summit Statement (October 1995) **M**.  
**Paper 1** due in class today.
- TU: Mar 23 Contemporary Coercive Federalism with Dual and Cooperative Survivals – (1) John Kincaid, "Introduction: The Trump Interlude and the States of American Federalism," *State and Local Government Review* 49:3 (September 2017): 1-14 **OL**.
- TH: Mar 25 The Centralization Trend and Competitive Federalism – (1) John Kincaid, "Dynamic De/Centralization in the United States, 1790-2010," *Publius: The Journal of Federalism* 49:1 (Winter 2019): 166-193 **OL** and (2) John Kincaid, "The Competitive Challenge to Cooperative Federalism: A Theory of Federal Democracy," *Competition among States and Local Governments: Efficiency and Equity in American Federalism*, eds., Daphne A. Kenyon and John Kincaid (Washington, DC: Urban Institute Press, 1991), pp. 87-114 **M**.
- March 30-31 Spring Study Break.
- TH: Apr 1 The U.S. Supreme Court and Federalism -- *United States v. Alfonso Lopez, Jr.*, 514 U.S. 549 (1995) **M**.
- TU: Apr 6 The New Judicial Federalism – (1) John Kincaid, "State Court Protections of Individual Rights Under State Constitutions: The New Judicial Federalism," *Journal of State Government* 61 (Sept./Oct. 1988): 163-169 **M** and (2) *Michigan v. Long* (1983) **M**.
- TH: Apr 8 Federalism in Congress – (1) John Dinan, "Strengthening the Political Safeguards of Federalism: The Fate of Recent Federalism Legislation in the U.S. Congress," *Publius: The Journal of Federalism* 34:3 (Summer 2004): 55-83 **OL** and (2) J. Wesley Leckrone, "Trying Not to Lose Ground: State and Local Government Advocacy during Passage of the 2017 Tax Cuts and Jobs Act," *Publius: The Journal of Federalism* 49:3 (Summer 2019): 407-436 **OL**.
- TU: Apr 13 The Intergovernmental Fiscal System – Raymond C. Scheppach and Frank Shafroth, "Intergovernmental Finance in the New Global Economy,"

*Intergovernmental Management for the 21<sup>st</sup> Century* (Washington, DC: Brookings, 2008), pp. 42-74 **M**.

**Exam 2**

- TH: Apr 15 Interstate and State-Local Relations – (1) Crady deGolian, “The Evolution of Interstate Compacts,” *The Book of the States* (2012), pp. 61-64 **M**; (2) Daniel C. Vock, “The Pact Changing How Governments Respond to Disaster,” *Governing* (March 2018) **M**; (3) Eric M. Fish, “The Uniform Law Commission: Preserving the Roles of Federal and State Law,” *The Book of the States* (2012), pp. 65-69 **M**; and (4) Lori Riverstone-Newell, “The Rise of State Preemption Laws in Response to Local Policy Innovation,” *Publius: The Journal of Federalism* 47:3 (Summer 2017): 403-425 **OL**.
- M: Apr 19 **Preregistration** for Fall 2021 classes starts today.
- TU: Apr 20 Tribal Governments in the Federal System – (1) Ronald Reagan, “American Indian Policy,” January 24, 1983 **M**; (2) President’s Executive Order 13084, “Consultation and Coordination with Indian Tribal Governments” **M**; and (3) David E. Wilkins and Keith Richotte, “The Rehnquist Court and Indigenous Rights: The Expedited Diminution of Native Powers of Governance,” *Publius: The Journal of Federalism* 33:3 (Summer 2003): 83-110 **OL**.
- TH: Apr 22 Representation in the Federal System – (1) Randall E. Adkins and Kent A. Kirwan, “What Role Does the “Federalism Bonus” Play in Presidential Selection?” *Publius The Journal of Federalism* 32:4 (Fall 2002): 71-90 **OL**; (2) Richard J. Powell, “The Strategic Importance of State Factors in Presidential Elections,” *Publius The Journal of Federalism* 34:3 (Summer 2004): 115-130 **OL**; (3) Kevin Arceneaux, “Does Federalism Weaken Democratic Representation in the United States?” *Publius: The Journal of Federalism* 35:2 (Spring 2005): 297-311 **OL**; and (4) Kay Stimson, “Preventing Disasters from Disrupting Voting: National Task Force Urges States to Plan for Election Emergencies,” *The Book of the States* (2014), pp. 185-188 **M**.
- M: Apr 26 **Deadline** for withdrawing from classes with WD.
- TU: Apr 27 Homeland Security and Disaster Relief in the Federal System – (1) William Lester, “Disaster Response 2020: A Look into the Future,” *Networked Governance: The Future of Intergovernmental Management*, eds., Jack W. Meek and Kurt Thurmaier (Los Angeles: Sage/CQ Press, 2011), pp. 150-171 **M**; (2) Beverly Bell, “Another Major Disaster Reveals Stubborn Battle Lines Between Disaster Relief and Fiscal Restraints,” *The Book of the States* (2013), pp. 439-444 **M**.
- TH: Apr 29 Social Welfare in the Federal System – (1) National Conference of State Legislatures, “Medicaid,” (2018) **M**; (2) Marcia K. Meyers, Janet C. Gornick, and

Laura R. Pecj, “More, Less, or More of the Same? Trends in State Social Welfare Policy in the 1990s,” *Publius: The Journal of Federalism* 32:4 (Fall 2002): 91-108 **OL**; and (3) Frank J. Thompson, Michael K. Gusmano, and Shugo Shinohara, “Trump and the Affordable Care Act: Congressional Repeal Efforts, Executive Federalism, and Program Durability,” *Publius: The Journal of Federalism* 48:3 (Summer 2018): 396-424 **OL**.

TU: May 4 Environment and Education – (1) Denise Scheberle, “The Evolving Matrix of Environmental Federalism and Intergovernmental Relationships,” *Publius: The Journal of Federalism* 35:1 (Winter 2005): 69-86 **OL**; (2) David M. Konisky and Neal D. Woods, “Environmental Federalism and the Trump Presidency: A Preliminary Assessment,” *Publius: The Journal of Federalism* 48:3 (Summer 2018): 345-371 **OL**.

**First draft of Full Research Paper 2** due to instructor.

TH: May 6 Education -- (1) Ashley Jochim and Lesley Lavery, “The Evolving Politics of the Common Core: Policy Implementation and Conflict Expansion,” *Publius: The Journal of Federalism* 45:3 (Summer 2015): 380-404 **OL**; and (2) Andrew Saultz, Lance D. Fusarelli, and Andrew McEachin, “The Every Child Succeeds Act, the Decline of the Federal Role in Education Policy, and the Curbing of Executive Authority,” *Publius: The Journal of Federalism* 47:3 (Summer 2017): 426-444 **OL**.

TU: May 11 Social Issues in the Federal System – (1) Robert McKeever, “Abortion, the Judiciary and Federalism in North America,” *The Federal Nation*, eds., Iwan W. Morgan and Philip J. Davies (London: Palgrave Macmillan, 2008), pp. 223-239 **M**; (2) J. Mitchell Pickerill and Paul Chen, “Medical Marijuana Policy and the Virtues of Federalism,” *Publius: The Journal of Federalism* 38:1 (Winter 2008): 22-55 **OL**; (3) Sam Kamin, “Marijuana Regulation and the State-Federal Balance,” *The Book of the States* (2014): 393-395 **M**; and (4) Robyn Hollander and Haig Patapan, “Morality Policy and Federalism: Innovation, Diffusion and Limits,” *Publius: The Journal of Federalism* 47:1 (Winter 2017): 1-26 **OL**.

TH: May 13 The States and Foreign Affairs – (1) John Kincaid, “The International Competence of US States and Their Local Governments,” *Regional & Federal Studies* 9:1 (Spring 1999): 111-130 **M**; (2) Robert Stumberg and Matthew C. Porterfield, “Who Preempted the Massachusetts Burma Law?” *Publius: The Journal of Federalism* 31:3 (Summer 2001): 173-204. **OL**; and (3) Chris Whatley, “Growing State Interest in Trade Promotion,” *The Book of the States* (2008), pp. 546-550 **M**.

TU: May 18 Course Wrap Up and Final-Exam Review – (1) John Kincaid and J. Wesley Leckrone, “Partisan Fractures in U.S. Federalism’s COVID-19 Policy Responses,” *State and Local Government Review*, 2021.**OL** and (2) Bill Clinton,

“Address by William Jefferson Clinton,” *Publius: The Journal of Federalism* 29:4 (Fall 1999): 23-32 **OL**.

**Research Paper 2** is due in class today or on the day of the final exam. Persons who deliver their paper in class on May 18, 2021, will receive three extra points on the paper grade. A late paper will be one that is handed in after the final-exam time.

May 22-29 **Final Exams (Exam 3** date to be announced by the College.)

June 1 Senior grades due to Registrar

June 8 All other grades due to Registrar

### Research and Writing Assignments

Please type or computer print in 12 pt. font all writing assignments double spaced on 8.5” x 11” white paper with 1” margins on all sides.

Do not put paper in a covering binder; just staple it in the upper left corner.

Do not add a cover page; just left-justify your paper title at the top of the first page and left-justify your name under the title.

Print your paper on both sides of the paper if you can do so.

For all research-source citations, follow the APSA’s Style Manual for Political Science, which can be found at

<https://connect.apsanet.org/stylemanual/>

**In-Class Oral Reports on Readings:** For each class session, selected students will be asked to report and reflect orally on one or more readings for that day. Your oral report should be 5 minutes in length (which is 650-700 words). Your report should be written and emailed to the professor no later than 12 noon on the day the report is due. You will then present your report orally in class. Your report should include the following sections: (1) a clear and accurate summary of the reading(s), (2) a discussion of what you think is the most important point of the reading(s) and why the point is important, and (3) an intelligent question about the reading.

There are two assignments involving original research and writing.

**Research Paper 1:** The first paper assignment, due in class on or before **March 18**, 2021, is to write a creative and intelligent 2,500-3,000-word, double-spaced essay addressing the three questions below. The paper’s purpose is to learn about and weigh the pros and cons of having a federal system in which the constituent states have policy preferences that differ not only from other states but also from the federal government. You should conduct background research on each topic so you are well informed about each topic.

You must examine relevant books and articles at the library and consult online sources. You also can interview relevant people. All research sources must be cited properly in your paper. If you interview someone, the citation should read like this: Personal/Telephone Interview, Harry Pothead, Vice President of National Organization for the Reform of Marijuana Laws, Washington, DC, 13 February 2020.

For this paper, imagine you are participating in drafting a constitution for a new federal union and you must decide whether to delegate authority over abortion, marijuana, and daylight saving time to the new national government or to the states.

In terms of answering the question for each topic, it will not be enough to say you support or oppose abortion or daylight saving time, let's say, and that therefore the states should or should not be allowed to restrict or outlaw abortion or deviate from daylight saving time. You must justify your arguments in terms of logic and principles, which should be applied consistently across all three topics.

Regardless of whether you support or oppose abortion, marijuana, or daylight saving time, the key focus of this assignment is which order of government should make the decisions about the issue: the federal or state governments and why. Also, current policy is not relevant to this assignment because policy can be changed. The fact that the U.S. Supreme Court legalized abortion nationwide in 1973 is not binding on your paper because the decision could be overturned and abortion policy returned to the states.

(1) In *Roe v. Wade* (1973), the U.S. Supreme Court struck down all state laws that prohibited abortion. The decision continues to be very controversial. As a result, many states have enacted regulations that, in practice, make it difficult to obtain an abortion; a few states have sought to outlaw all abortions. Should individual states be allowed, if they choose to do so, to regulate abortion services, and to what extent, and/or outlaw abortion? If yes, why; if no, why?

(2) The U.S. Controlled Substances Act (1970) makes it illegal to use, sell, or possess marijuana anywhere in the United States; yet 47 states have legalized some type of medical marijuana, 11 states have legalized the personal possession and consumption of cannabis by adults, and some other states have decriminalized non-medical cannabis. Should individual states be allowed to violate federal law, if they choose to do so, by legalizing marijuana under state law? If yes, why; if no, why?

(3) Daylight saving time was first introduced in the United States in 1918. It had a checkered history until recent decades. Daylight saving time is controversial. In recent years, many states have considered ending the requirement that clocks be set one hour forward in the spring and one hour backward in the fall so as to remain on standard time or daylight saving time all year. What is the current law on daylight saving time? Should individual states be allowed to establish their own time system, if they choose to do so, or should all states be required to conform to a uniform, national time system? If yes, why; if no, why?

**Research Paper 2.** The second writing assignment, due finally and in class on or before **May 18, 2021**, will be a 12-14 double-spaced page (3,000-3,500 words) analysis of a significant U.S. Supreme Court decision on federalism. Below is a list of cases from which you can make your choice. Each student will analyze a different case. Please inform the instructor of your case selection no later than March 16, 2021. Instructor will approve cases on a first-come, first-served basis. This first draft of the full paper for review will be due in class on Thursday, May 4, 2021.

Your case analysis should follow these guidelines, and your paper must be subdivided into these seven sections: (1) what are the key facts of the case? (2) what are the constitutional or legal issues at stake in the case? (3) what are the key federalism issues in the case? (4) what was the majority ruling in the case and what were the majority's key arguments in support of its ruling? (5) what were the dissenting opinions in the case, if any, and what were the dissenters' key arguments in support of their dissents? (6) how and why would you have decided the case if you had been a justice on the U.S. Supreme Court? and (7) what are the implications of the case for the future of federalism in the United States? Note that these sections will not be of equal length.

You must read the entire official case from the Supreme Court Reports or another authoritative source. You must also consult and cite *amicus* briefs filed in the case, law-review articles, and social-science articles relevant to your case.

### U.S. Supreme Court Cases to be Selected for Analysis on or before March 16

*Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985). [Overturned *National League of Cities* and held that states must rely on political safeguards of federalism]

*South Dakota v. Dole*, 483 U.S. 203 (1987). [Congress can condition state receipt of federal-aid highway funds on state enactment of minimum alcoholic-beverage purchase age]

*Missouri v. Jenkins*, 495 U.S. 33 (1990). [Upheld federal district-court order requiring school district to increase taxes to pay for implementation of court order]

*Perpich v. Department of Defense*, 496 U.S. 334 (1990). [Congress can order National Guard members to active federal duty without consent of their state governor]

*Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990). [Conditioning the hiring of public employees on the basis of political affiliations is impermissible under the First Amendment]

*New York v. United States*, 505 U.S. 144 (1992). [Upheld incentives in Low-Level Radioactive Waste Policy Amendments Act of 1985, but voided "take title" provision as violation of Tenth Amendment and republican guarantee clause]

*U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). [States do not have authority to impose term limits on their members of Congress]

*Seminole Tribe v. Florida*, 517 U.S. 44 (1996). [Upheld states' Eleventh Amendment protection against lawsuits]

*City of Boerne, Texas v. P. F. Flores and United States*, 521 U.S. 507 (1997). [Struck down the federal Religious Freedom Restoration Act of 1993, which required governments to give special deference to claims of religious freedom]

*Jay Printz v. United States*, 521 U.S. 898 (1997). [Congress may not compel local law-enforcement officials to conduct background checks on handgun buyers under the Brady Act]

*Washington v. Glucksberg*, 521 U.S. 702 (1997) and *Vacco v. Quill*, 521 U.S. 793 (1997). [States can continue to make it a crime for physicians to help terminally ill persons end their lives, i.e., physician-assisted suicide]

*United States v. Morrison*, 529 U.S. 598 (2000). [Civil remedy provision of Violence Against Women Act overreached the commerce clause and violated the Eleventh Amendment]

*Nevada Department of Human Resources v. Hibbs*, 538 U.S. 721 (2003). [State employees can sue their state in federal court to enforce rights under the federal Family and Medical Leave Act of 1993]

*United States v. American Library Association*, 539 U.S. 194 (2003). [Condition of aid compels recipient public libraries to install anti-pornography filters under the Children's Internet Protection Act]

*Tennessee v. Lane*, 541 U.S. 509 (2004). [Court rejected Eleventh-Amendment immunity claim by holding that "states that fail to make their courthouses accessible to people with disabilities can be sued for damages under the" Americans with Disabilities Act]

*Gonzales v. Raich*, 543 U.S. 1 (2005). [State medicinal-marijuana laws are preempted by the federal Controlled Substances Act]

*Granholm v. Heald*, 544 U.S. 460 (2005). [States cannot prohibit out-of-state wineries from shipping wine to consumers if in-state wineries are permitted to do so]

*Kelo v. City of New London*, 545 U.S. 469 (2005). [New London satisfied the public use requirement of the U.S. Constitution's takings clause when it used its eminent domain power to take Ms. Kelo's home to give to a private corporation for economic development purposes.]

*Gonzales v. Oregon*, 546 U.S. 243 (2006). [U.S. Attorney General has no authority under federal Controlled Substances Act to deprive physicians who prescribe lethal doses of drugs under Oregon's Death With Dignity Act of their federal license to prescribe controlled substances]

*Wyeth v. Levine*, 555 U.S. 555 (2009). [State juries can award damages for harms caused by drugs even when their manufacturers comply with federal regulations]

*McDonald v. City of Chicago*, 561 US 742 (2010). [The Second Amendment to the U.S. Constitution guarantees individuals the right to bear arms; therefore, the Second Amendment, like most other provisions of the U.S. Bill of Rights, must be applied to the states under the Fourteenth Amendment]

*Bond v. United States*, 564 U.S. 211 (2011). [A citizen has standing to argue that a federal statute enforcing the Chemical Weapons Convention violates state sovereignty because it has no link to interstate commerce and encroaches upon Tenth Amendment police powers reserved to the states]

*Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 564 U.S. 721 (2011). [Arizona matching-funds law that provided additional campaign money to a publicly funded candidate when spending by a privately financed candidate and independent groups exceeded the funding allotted to the publicly financed candidate violated the First Amendment]

*Arizona v. United States*, 567 U.S. 387 (2012). [Federal immigration laws held to preempt three of four contested provisions of Arizona's immigration law]

*National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012). [Individual mandate under the Patient Protection and Affordable Care Act is a valid exercise of Congress's tax power, although not a proper use of Congress's commerce or necessary-and-proper powers, but the condition of aid for state expansions of Medicaid is not a valid exercise of Congress's spending power]

*Schuette v. Coalition to Defend Affirmative Action*, 572 U.S. 291 (2014). [Federal judiciary lacks standing to overturn state constitutional amendment banning race- and sex-based affirmative action in public universities]

*McCullen v. Coakley*, 573 U.S. \_\_\_\_ (2014). [The Massachusetts' 35-foot fixed abortion-protest buffer zone violated the First Amendment]

*Arizona State Legislature v. Arizona Independent Redistricting Commission*, 576 U.S. \_\_\_\_ (2015). [Elections clause of U.S. Constitution does not prohibit a state from creating an independent redistricting commission]

*Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015). [State statutory and constitutional prohibitions of same-sex marriage violate the due process and equal protection clauses of the Fourteenth Amendment]

*Murphy v. National Collegiate Athletic Association*, 584 U.S. \_\_\_\_ (2018). [The Professional and Amateur Sports Protection Act of 1992 violated the Supreme Court's anti-commandeering doctrine]

*South Dakota v. Wayfair, Inc.*, 585 U.S. \_\_\_\_ (2018). [States can require out-of-state sellers to collect their state's sales tax on purchases made by state residents, even if seller has no physical presence in the taxing state]

*Sturgeon v. Frost*, 577 U.S. \_\_\_\_ (2018). [Alaska's Nation River is not public land and is exempt under the Alaska National Interest Lands Conservation Act from National Park Service regulation]

*Gamble v. United States*, 587 U.S. \_\_\_\_ (2019). [Double jeopardy clause of the Fifth Amendment does not prohibit the federal government and state governments from each separately prosecuting a defendant for the same conduct]

*Parker Drilling Management Services, Ltd. v. Brian Newton*, No. 18-389 (2019). [A state's labor laws do not apply to an offshore area under the control of the federal government]

*Rucho v. Common Cause*, 588 U.S. \_\_\_\_ (2019), [Partisan gerrymandering is not suited for resolution by federal courts. Resolution must rely on the political process]

*Timbs v. Indiana*, 586 U.S. \_\_\_\_ (2019). [The “excessive fines” provision of the Eighth Amendment is applicable to the states, not just the federal government, thus incorporating this Eighth Amendment protection into the Fourteenth Amendment of the U.S. Constitution]

*Chiafalo v. Washington*, No. 19-465 and *Colorado Department of State v. Baca*, No. 19-518 (2020). [Must presidential electors follow their state’s popular vote when casting their electoral-college ballots?]

*Espinoza v. Montana Department of Revenue*, No. 18-1195 (2020). [Did a state court violate the religion clauses or equal protection clause of the U.S. Constitution by terminating a generally available and religiously neutral student-aid program because the program permitted students to attend religious schools?]

*New York State Rifle & Pistol Association v. City of New York*, No. 18-280 (2020). [Does New York City’s ban on transporting a handgun to a home or shooting range outside city limits violate the Second Amendment, the commerce clause, or the constitutional right to travel?]

### **General Style**

All sources used and/or quoted in your papers must be cited properly according to the Author-Date style found in the APSA’s Manual of Style. Grammar, punctuation, spelling, citation format, and so on will all count as part of your paper grade.

### **Chase Prize**

Please note that the Eugene P. Chase Government Prize is awarded for the best written exposition in the field of political science submitted to the Department of Government and Law during the academic year. Research papers done by students in regular courses are eligible to be nominated for the prize. You might, therefore, keep this prize in mind while writing your papers for this course.

### **Course Requirements**

You are expected to complete all reading and other assignments on time and to participate actively in class discussions. The readings assigned for each class day should be read before that class day. If you have any disability or difficulty that might affect your work in the course, please let the instructor know at the beginning of the semester. Otherwise, if you have any questions or problems during the semester, feel free to consult with the instructor. Your final course grade will be based on the activity distribution listed to the left below and grade scale listed to the right. When computing your final grade average, decimals of 0.5 to 0.9 will be rounded up to the next whole number.

Paper 1	15%	A	= 93-100	C	= 73-76
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Paper 2	20%	A-	= 90-92	C-	= 70-72
Exam 1	16%	B+	= 87-89	D+	= 67-69
Exam 2	16%	B	= 83-86	D	= 63-66
Exam 3	17%	B-	= 80-82	D-	= 60-62
Class Participation	15%	C+	= 77-79	F	= 00-59
Class Attendance	1%				

**Attendance** is expected at each class. Students in attendance at classes during which the instructor takes roll will earn points on final course average under Class Attendance. During the semester, there might be opportunities to earn additional attendance points for attending extracurricular academic events.

**Cheating** on an exam will result in a grade of zero on that exam.

**Classroom Decorum:** You are expected to arrive on time for class sessions, remain in the classroom for the duration of each class session, and have your camera on during class sessions.

**Classroom Participation:** Participation is important because federal democracy is not a spectator sport and engaging classroom subject-matters is important for learning. You can score high on participation by the end of the semester by (1) asking questions and commenting on topics in class, (2) coming to class with a comment or question based on what you read, (3) responding to the professor's questions posed in class, (4) discussing what you found to be most interesting about the day's readings and also asking an intelligent question about the readings, (5) bringing a news item to class and discussing it briefly, and (6) participating in classroom debates.

**Disability Statement:** In compliance with Lafayette College policy and equal access laws, I am available to discuss appropriate academic accommodations that you may require as a student with a disability. Requests for academic accommodations need to be made during the first two weeks of the semester, except for unusual circumstances, so arrangements can be made. Students must register with the Office of the Dean of the College for disability verification and for determination of reasonable academic accommodations.

**Early Papers:** The paper deadlines in this syllabus are final deadlines. You are free to hand in a paper to the instructor before a deadline and the instructor will evaluate it within several days.

**Extra Credit:** Please concentrate on the assigned work for the course. Do not expect extra credit to be available to compensate for a low grade on an exam or paper.

**Free Speech and Free Thought:** Everyone is free to express their ideas and views in this class. Likewise, everyone is free to challenge respectfully the views expressed by others in class, including the professor. No one will be degraded or downgraded because of their views or for challenging the professor.

**Late Papers:** Two points will be subtracted from the grade of a paper for each day that it is late, including the day it's due (if delivered after class) and Saturdays and Sundays. This penalty will not be waived for any reason.

**Moodle** contains student information that is protected by the Family Educational Right to Privacy Act (FERPA). Disclosure to unauthorized parties violates federal privacy laws. Courses using Moodle will make student information visible to other students in this class. Please remember that this information is protected by these federal privacy laws and must not be shared with anyone outside the class. Questions can be referred to the Registrar's Office.

**Plagiarism:** Plagiarism on any written assignment or examination will result in an F grade for the course, no matter what your other assignment or exam grades, and a recommendation to the College for expulsion or other disciplinary action. The instructor reserves the right to make the sole determination of plagiarism by one of the following two methods: (1) producing the original source for the plagiarism or (2) examining the student orally at a time and place of his discretion. If, in the instructor's judgment, the student does not demonstrate understanding and mastery of his/her own writing assignment, the instructor will make a final determination of plagiarism.

**Recommendation Letters:** The instructor will be happy to write recommendation letters for prospective employers, graduate schools, law schools, or medical schools.

**Rewriting Papers:** If you receive a grade on a paper that is unsatisfactory to you, permission will not be given to rewrite the paper for a better grade. It is the student's responsibility to be clear about the assignment and to consult the instructor in advance about any questions or problems with the assignment.

**Syllabus Disclaimer:** The instructor reserves the right to change or deviate from the syllabus during the semester and to expect students to know assigned material that cannot be covered in class sessions.

**Syllabus Reference:** Please keep this syllabus for your reference. Reading assignments are to be completed by the dates indicated on the syllabus.

**Test/Exam Policies:** You are expected to take all tests at their scheduled times (March 11, April 13, and final-exam week TBA, 2021). Make-up tests will be scheduled at the convenience of the instructor, and will consist of 2-3 essay questions different from questions used on the regularly scheduled test. Exam 3 will be given only on its College-appointed date. College policy prohibits early final exams. Failure to take the regularly scheduled final exam or to arrange for a make-up with the instructor on or before May 25, 2021, will result in a final course grade based on the work completed as of that date unless there is a valid reason for you to request an Incomplete. In that case, you will be expected to take a make-up Final at 12 noon on August 31, 2021. Please plan your summer schedule accordingly.

### **Federal Compliance Statement**

The student work in this course is in full compliance with the federal definition of a four-credit hour course. Please see the Registrar's Office web site (<http://www.registrar.lafayette.edu/additional-resources/cep-course-proposal/>) for the full policy and practice statement.

### **Academic Honesty Rules**

To maintain the scholarly standards of the College and, equally important, the personal ethical standards of our students, it is essential that written assignments be a student's own work, just as is expected in examinations and class participation. A student who commits academic dishonesty is subject to a range of penalties, including suspension or expulsion. Finally, the underlying principle is one of intellectual honesty, if a person is to have self-respect and the respect of others, all work must be his/her own.

Please review closely and follow in letter and spirit the principles expressed in Lafayette College's academic integrity policy statement, which is located at <http://facultyadvising.lafayette.edu/policies/academic-integrity/academic-integrity-statement/>. The instructor should be consulted if there is any ambiguity about the rules for any assignment. All matters of academic honesty will be treated with utmost seriousness.