**THE SUPREME COURT AND PUBLIC POLICY**

**SYLLABUS**

Erwin Chemerinsky Fall 2022

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1. Assignments: The required text is Chemerinsky, Constitutional Law (6th ed. 2020) and its 2022 Supplement. A detailed schedule of assignments is attached. The average assignment will be approximately 60 pages per week.

2. Course content: What should be the role of the Supreme Court in the American system of government? That is the central question for this course. We will explore it by examining the Court’s role in some of the most important issues confronting society. There will be six units to the course. Unit I looks at the power of judicial review and the issue of how the Constitution should be interpreted. Unit II examines the Supreme Court and its relationship to the electoral system. Unit III focuses on the Supreme Court and issues of privacy and autonomy. Unit IV considers the Supreme Court and equality. Unit V looks at the Supreme Court and religion. Finally, Unit VI focuses on proposals for reforming the Supreme Court.

3. Evaluation: The grade for the course will be based on: a) two mid-term examinations, each worth 20% of the final grade, b) a final examination, worth 50% of the final grade, and c) participation in the discussion section, worth 10% of the final grade. The mid-terms will be on September 29 and November 10. The final exam will be at the time scheduled by the campus. All of the exams will be entirely essay questions and will be open-book, open-notes. Each exam will cover the course units that have been completed to that point in the semester. The mid-term on September 29 will cover the materials from Units I and II. The mid-term on November 10 will cover the materials from Units I-IV. The final examination will cover the material from the entire course. The exams, and expectations for them, will be discussed in class and sample questions will be provided in advance of the exam.

4. Course method: The class will proceed by lecture and discussion. Students are expected to attend and encouraged to participate in the discussions. Students are expected to attend their assigned discussion section and to participate in the discussions.

5. Office hours: I will have office hours exclusively for students in this class on Thursdays, from 7:30-8:30 am. Additionally, I am glad to schedule other times to meet and appointments can be scheduled either with me or my assistant (Whitney Mello, [wmello@law.berkeley.edu](mailto:wmello@law.berkeley.edu)). The Graduate Student Instructors will announce their office hours.

**The Supreme Court and Public Policy**

**Fall 2022**

Assignment Sheet

Assignments are to the required texts, Chemerinsky, Constitutional Law (6th ed. 2020), and its 2022 Supplement.

Unit I

The Power of Judicial Review and the Question of How the Constitution Should Be Interpreted

August 25. Introduction: The Supreme Court, Article III, and its Role in Society

August 30. The power of judicial review

Chemerinsky, pp. 1-11

September 1. How should the Constitution be interpreted? The example of the Second Amendment I

Chemerinsky, pp. 11-32

September 6. How should the Constitution be interpreted? The example of the Second Amendment II

Supplement, pp. 1-30

Unit II

The Supreme Court and the Electoral Process

September 8. Protecting the right to vote

Chemerinsky, pp. 1053-1071

September 13. The Voting Rights Act and the Supreme Court

Chemerinsky, pp. 263-274

September 15. Malapportionment and the principle of one-person, one-vote

Chemerinsky, pp. 1071-1083

September 20. Partisan gerrymandering

Chemerinsky, pp. 95-109

September 22. Campaign spending

Chemerinsky, pp. 1492-1523

Unit III

The Supreme Court and Rights of Privacy and Autonomy

September 27. The protection of rights of family autonomy

Chemerinsky, pp. 909-950

September 29. Mid-term examination #1 (covering material from Units I and II)

October 4. Reproductive autonomy I

Chemerinsky, pp. 950-981

October 6. Reproductive autonomy II

Supp., pp. 157-206

October 11. Sexual autonomy; medical care decisions

Chemerinsky, pp. 1015-1042

Unit IV

The Supreme Court and Equality

October 13. The concept of rational basis review

Chemerinsky, pp. 689-711

October 18. Race, the Supreme Court, and the Constitution I

Chemerinsky, pp. 711-731

October 20. Race, the Supreme Court, and the Constitution II

Chemerinsky, pp. 732-738, 760-771, 1121-1127

October 25. Race, the Supreme Court, and the Constitution III

Chemerinsky, pp. 790-832

October 27. Sex discrimination

Chemerinsky, pp. 836-866

November 1. Other types of discrimination

Chemerinsky, pp. 876-901

Unit V

The Supreme Court and Religion

November 3. Free exercise of religion and the Supreme Court I

Chemerinsky, pp. 1675-1689

Supp., pp. 251-262

November 8. Free exercise of religion and the Supreme Court II

Chemerinsky, pp. 1690-1700

Supp., pp. 306-315

November 10. Mid-term examination #2 (covering material from Units I-IV)

November 15. The Establishment Clause and the Supreme Court I

Chemerinsky, pp. 1737-1762

Supp., 316-341

November 17. The Establishment Clause and the Supreme Court II

Chemerinsky, pp. 1762-1790

November 22. The Establishment Clause and the Supreme Court III

Chemerinsky, pp. 1703-1715, 1790-1818,

Supp., pp. 291-306

Unit VI

Conclusion: Reforming the Supreme Court

November 29. Proposals for reforming the Supreme Court I

Materials to be distributed

December 1. Proposals for reforming the Supreme Court II

Materials to be distributed