Fight for Your Rights: Courts and Constitutions
Winter 2021

Faculty
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Office Hours By Appointment: Use https://calendly.com/doughtym/15min

Time
Weekend 1: Remote (Zoom)
Fri Jan 28th, 5-9p
Sat-Sun Jan 29th -30th, 9a-5p

Weekend 2: In person (SEM 2 D1105-Lecture, SEM 2 D1107-Workshop)
Fri Feb 18th, 5-9p
Sat-Sun Feb 19th-20th, 9a-5p

Salish Tribal Land Statement: The Evergreen State College is located on the ceded territories of the Medicine Creek Treaty Tribes, which include the Squaxin Island Tribe, the Nisqually Indian Tribe, and the Puyallup Tribe of Indians. The Olympia area was historically a center for trade and exchange among many Salish Sea tribes, including the Chehalis, the Skokomish, and others. With this awareness, we honor the ancestors and pay respect to elders past and present of the Medicine Creek Treaty Tribes, and to all Native peoples of this land.

Course Description: This course examines the ways in which the U.S. Court system and the Constitution shapes public administration. You will explore the dynamic relationship between the federal judiciary and civil servants. You will also gain a better understanding of their rights as individuals interacting with public administration. This course will instill in students the non-technical constitutional competence required to function effectively in modern administrative agencies.

Learning Objectives
1. Identify the core areas of administrative law and explain how they apply to public administration
2. Develop a foundational understanding of how the federal judiciary influences public administration agencies processes
3. Analyze the way constitutional rights, for both bureaucrats and individuals, have changed over time
Skill Objectives

1. Improve analytical and formal writing skills
2. Learn and/or improve ability to write a formal policy brief
3. Practice research skills
4. Practice presentation skills

Credit Policy: Students will receive 4 graduate credits in Public Administration at the end of the course if all requirements have been satisfactorily completed. Students will be evaluated based upon their progress towards the learning objectives, assessed from classroom, seminar, and assignment performance.

Plagiarism (i.e., using other peoples’ work as your own) may result in total loss of credit for the class and may result in dismissal from the MPA program. See the the MPA Handbook College statement on academic honesty more information.

Failing to meet course requirements (ex. not completing one or more assignments, completing one or more assignments late, or multiple absences) may constitute denial of credit at the discretion of the faculty. Students at risk of losing credit will receive written notification prior to the end of the quarter.

Participation & Attendance: Students are required to attend each class meeting in its entirety. Participation includes focusing on class content, speaking in class and seminar, listening to others, taking notes, completing class interactive exercises, avoiding distractions, and listening to and dialoging with the guest speakers. If an absence is unavoidable, faculty should be notified prior to a class and/or seminar absence.

After an absence, make-up work may be assigned. Makeup work must be completed by the end of the quarter in question for course credit. After reoccurring absences (being late to class; regularly missing more than one class), you may be denied credit. Finally, if you do miss a class, you are expected to do the reading for that class meeting and turn in any assignments that were due that class date.

Late Assignments: If there is an unavoidable need to turn in an assignment late, the student should contact me via email no later than the original assignment due date to discuss options. Late assignments must be completed by the revised due date to ensure full receipt of course credit.

Evaluation: A written self-evaluation and faculty evaluation are required. All final evaluations are to be submitted via our online evaluation system no later than one week after the last class.
Required Readings

All readings are posted on Canvas

Reading Suggestions

You will be reading legal cases for this class. Do not read the whole case word for word, skim it or google around for a summary of the case. Do not be afraid to ask for clarification in class. The point of reading these cases is not the technical legal material, but the impact of the decision on public administration practice. A good place for Supreme Court case summaries: https://www.oyez.org/.

Weekend 1

Friday, 1/28 (5pm-9pm)

Module 1: The Need for Constitutional Competence
Location: Zoom

- Readings

- Assignment Due
  - Persuall Post

January, 1/29 (9-12pm)

Module 2: Due Process and Property Rights
Location: Zoom

- Readings and Court Cases
  - Jacobson v. Massachusetts, 197 U.S. 11 (1905) (link)
  - Cavalieri, S. (2021) Mask mandates are constitutionally permissible. The Hill. (link)

- Assignment Due
  - Persuall Post

Module 3: Judicial Structure and Process Recorded Lecture (1-4p)
Location: Recorded Lecture
• Readings

• **Assignment Due**
  o Supreme Court Opinion
  o Persuall Post

**January, 1/30 (9-12p)**
Location: Zoom

Module 4: Equal Protection

• Readings (Court Cases)
  o *Hawkins v. Town of Shaw, Mississippi*, 437 F.2d 1286 (5th Cir. 1971). ([link](https://www.law.cornell.edu/supct/cases/1971/437f2d1286))
  o *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731, 590 U.S., 207 L. Ed. 2d 218 (2020). ([link](https://www.law.cornell.edu/supct/cases/2020/140us1731))

• Podcast Episode

• **Assignment Due**
  o Case Memo

Module 6: Federal Indian Law, **Recorded Lecture** (1-4p)

• Readings

• Podcast

• **Assignment Due**
  o Persuall Post
Weekend 2 (In Person)

Friday, 2/18 (5pm-9pm)
Location: SEM 2 D1105

Module 7: Substantive and Procedural Rights
- Readings and Court Cases
- Assignments Due
  - Persuall Post

Saturday 2/19
Location: SEM 2 D1105

Module 8: The Individual as Government Worker
- Readings and Court Cases
- Assignments Due
  - Persuall Posts

Module 9: The Individual as Inmate in Administrative Institutions
- Readings and Court Cases
- Assignments Due
  - Persuall Posts
Sunday 2/20  
Location: SEM 2 D1105

Module 10: Historical Overview of Administrative Law in the US

- Readings

- Assignments Due
  o Policy Brief and Presentation
  o Persuall Post

Module 11: Presentations

Assignments

Format: Unless otherwise stated, all papers should be typed, double spaced, 12 point font, and follow APA format and citation style. [APA Style http://www.apastyle.org/learn/index.aspx Purdue Writing & Grammar Guide http://owl.english.purdue.edu/] All written work will be of high quality, grammatically correct, clear and without spelling errors.

Students may request resource writing assistance from faculty and/or the Graduate Writing Assistant. You can contact our graduate programs writing support at: EvergreenWritingAssistant@gmail.com. Additional writing resources can be accessed through the campus Writing Center: https://www.evergreen.edu/writingcenter/resources

PersuAll Posts
You are required to post at least TWO times per article. The first posts is in response to the reading. The second post is in reply to a classmate’s responses.

The purpose of these posts is to demonstrate that you have done the reading, that you are critically thinking about the content and that you are attempting to engage in a constructive discussion with your classmates. Your post must advance the discussion or pose new issues for the group to consider. You are, of course, permitted (and encouraged) to submit additional posts.

Watch How-To video (link), Due: January 14th
Posts on each article for Weekend One, Due: January 27th
Posts on each article for Weekend Two, Due: February 17th

Case Memo
Each student will present a legal case to the class and lead a brief class discussion. We will sign up for these on the first day of class.
**Instructions:** Once assigned, each student is responsible for reading their case and writing a one-page memo (not including works cited), which is due on the day of their presentation. For guidelines on how to format a memo please use Purdue OWL: (link)

The memo should summarize the facts of the case and why/how this affects public administration agencies.

**Policy Brief**

**Policy Brief Work Sheet #1 Due:** January 30th

**Annotated Bibliography Due:** February 6th

**Instructions:** This is the bibliography that will accompany your policy brief. List the specific decision-maker to whom you are directing your policy brief at the top of the document. There should be at least 10 sources, at least 5 must be peer-reviewed. Using APA citation cite the source then underneath provide a 3-5 sentence description and 1-3 sentence assessment of the source. Purdue Owl provides a sample of an APA annotated bibliography. Remember this is aimed at a decision maker who might want to read more about the topic. Your description and assessment should have that audience in mind.

**Final Policy Brief Due:** February 20th

**Length:** 7 page double spaced brief. Use APA format for references and cite all of your sources (direct quotes and paraphrases).

**Description:** A policy brief requires succinct consideration of policy options for a particular audience (e.g., officials, bureaucrats, politicians, development practitioners, donors). This means that the format will be different from a typical research paper. Some might say that a policy brief is more “professional” because it is geared towards readers who have a limited amount of time to make a practical decision, while a research paper is more “academic” because it pays more attention to the scholarly roots of particular arguments and judges their merit on intellectual and logical criteria.

- Identify a court case related to tribal crime and justice.
- Identify a target for your brief (who has the power to do something about the topic?)
- Outline specific, actionable steps this policymaker/stakeholder can take to address the issue.

**Instructions:** Your brief should have at least 10 sources and the following nine components:

1. **Executive Summary:** This should be a short summary (approx. 150 words) of the purpose of the brief and its recommendations. It typically appears single-spaced on the cover of a brief or position paper. *(Because you are not really writing this brief as part of your job, please indicate in an additional sentence the audience for whom the brief is intended, e.g., a particular non-profit organization, government agency, legislator/politician, branch of an international organization. Be as specific as possible.)*
Assume that someone beyond Evergreen would appreciate your research and recommendations, and this assignment may turn into a ticket for an internship or full-time employment upon graduation.

2. **Statement of the Issue/Problem:** Indicate the topic of the brief concisely.

3. **Background of the Issue/Problem:** Include only the essential facts that a decision maker “needs to know” to understand the context of the problem. Assume that you have been hired to filter through reams of information on behalf of a very busy and sleep-deprived person. Be clear, precise, and succinct. Visuals (like graphs) can help make your point. If you use a graph or visual that you did not create, its source must be cited.

4. **Statement of your audience’s interests in the issue:** What is the hook? This is meant to remind the reader of why the issue matters for them. Why should they pay attention to you or this issue? Why should they care enough to devote limited resources and energy to the issue?

5. **Pre-existing Policies:** This summarizes what has been done by others about the problem thus far. Depending on your topic, some of the information may have already been presented in #3. The objective of this section is to inform the reader of policy options that have already been pursued, if any. Note that the absence of action may be considered a policy decision.

6. **Policy Options:** This section delineates the possible courses of action or inaction that your audience may pursue. Please provide the decision maker with at least three potential courses of action. Some of them may be wildly unrealistic in your opinion, but please pose them as policy options nonetheless. At the same time, it would not be prudent to overwhelm the decision maker with too many choices. I recommend capping the menu of options at 3 – 5 choices.

7. **Advantages and Disadvantages of Each Policy Option:** Write this section from the perspective of the person or entity that you are targeting. For clarity, you may present the pros and cons of the options in bullet points or outline format. This may seem like stacking the deck since some options may have only one advantage and several downsides, but it isn’t always that obvious.

   For instance, one measly advantage may conform most fully with the interests of the organization summarized in #4. It is up to you to advise the decision maker if it is worth it.

8. **Your Recommendation:** After prioritizing the relative pros and cons of the above options, please recommend one option to your employer. Yes, this may require going out on a limb on an extremely complex issue that challenges your ethical instincts. But if you have agreed to advise a particular country/organization/person, then you will be asked to make a recommendation on their behalf.

9. **Sources Consulted or Recommended:** This is the annotated bibliography in the event that the decision maker has the interest and time to read up on a specific issue. Please provide a one to three sentence description and evaluation of each source listed in this section. Aside from standard books and articles, on-line sources and personal interviews may be cited. Please contact me if you have any questions about the acceptability of your research materials.
Course Policies

Accessibility Statement: We all have different ways of learning. Faculty will actively work towards providing information in multiple formats: tactile, auditory, visual, experiential, etc. However, we are limited to means appropriate for the classroom environment. Surfing the internet, checking social media, reading e-mail, playing with cell phones are not appropriate behaviors in a learning community. I reserve the right to ask for no technology in the classroom if it becomes a distraction.

Reasonable Accommodations will be provided for any student who qualifies for them through a working relationship with Access Services. To request academic accommodations due to a disability, please contact the office of Access Services for Students with Disabilities (867-6348 or 6364). If the student is already working with the office of Access Services the faculty should have received a letter clearly indicating the student has a disability that requires academic accommodations. If any student has a health condition or disability that may require accommodations in order to effectively participate in this class, please do the following: Contact faculty before class and Contact Access Services to receive a letter of accommodation. Information about a disability or health condition will be regarded as confidential. Please refer to TESC’s Students with Disabilities Policy.

COVID-19 Consideration: With the continuation of online instruction and quarantine orders, faculty will respond on an individual basis to concerns resulting from our new environment. Please reach out with any concerns and accommodations, if possible, will be made.

To participate in class students will need a semi-stable internet connection. All readings will be posted on Canvas. Lectures will be delivered synchronously, “live”, through Zoom, and three recorded lectures will be posted on Canvas. It is not recommended to participate using a cellphone. If you are having trouble accessing class information please reach out and we will see what accommodations are available.

National and Religious Holidays Statement: Please inform us in writing within the first two weeks of class if you will miss specific class modules because of holidays of faith or conscience, or for an organized activity conducted as part of a religious denomination, church, or organization. If you let us know within that time frame, we will offer you reasonable accommodations, and the absence(s) will be excused. For more information, please refer to the Evergreen policy at: https://www.evergreen.edu/policy/religious-observanceLinks to an external site.

Disability and Chronic Illness Access: As program faculty, I am committed to creating an environment in which meaningful learning is accessible to every program member. Please tell me very early in the quarter if you have particular learning needs. If the needs are related to a disabling condition, I will keep the condition confidential unless you give me permission to speak to others.

If you are Deaf, or a person living with a disabling condition and with needs that require arrangements, technology or expense to meet, please talk to staff in the Evergreen Access
Evergreen’s Assistive Technology (AT) Lab is available to everyone on campus, regardless of disability status. Staff provide help with specific software, hardware, and strategies for learning. You can find the AT lab in its own room toward the back of the main floor of the Evergreen Library proper.

Inclusive Practices Policy: Generous response to others’ requests for inclusive practices counts people in. Requests that someone speak more loudly or slowly, read aloud, follow inclusivity guidelines for presentations, write in large letters on the board, or enable captioning when available are requests to be included.

Faculty Title IX Responsibility to Report Sexual Harassment: The College’s Title IX Policy and Procedure provides for prompt, fair, and effective response to reports and complaints of sex discrimination, including sexual harassment, sexual misconduct, sexual assault and related retaliation.

Examples of situations that can be reported to the Title IX Office:

- Gender discrimination or sexual harassment: any discriminatory conduct based on your gender, gender expression, or perceived gender.
- Sexual assault or rape: Actual or attempted nonconsensual or forced intercourse or contact.
- Dating violence or domestic violence: physical, sexual, emotional, or psychological abuse or threats of abuse in a romantic or intimate relationship, family, or household.
- Stalking: conduct that would cause a reasonable person to fear for their safety or the safety of others, or to feel intimidated or harassed.

To speak to someone confidentially, get support, and learn about your widest range of options, the best place to start is Evergreen’s Title IX Office. Students may also access services confidentially through Student Wellness Services, 360.867.6200, or by contacting Evergreen Chaplain Melissa Bennett, M.Div. (she/her); Umatilla, Nez Perce, Sac & Fox, Anishinaabe; at bennettm@evergreen.edu. She is the Student Activities Assistant Director of Spirituality and Meaning Making.

If you choose to tell a faculty or staff member about an incident, be aware that almost all other Evergreen employees (including faculty) are required to report to the Title IX Coordinator information from students about sexual assault, sexual harassment, dating or domestic violence, and stalking. Although we must notify the Title IX Coordinator, it will be up to you to control how your case is handled, including whether or not to pursue a formal complaint or legal action.

After receiving information from staff or faculty, the Title IX Coordinator will contact you. The goal here is to make sure you are aware of a range of options available to you and that you have access to the resources you need.
To speak to someone at the Title IX office, call 360.867.5224 or email titleixcoordinator@evergreen.edu. You may also report anonymously at evergreen.edu/incidentreport.

Permission to Record Lecture, Workshop and Other Similar Discussion: If a participant in class would like to obtain an audio or video recording of another participant in class speaking, discussion, lecture or other related communications in class, and this falls beyond the scope of Reasonable Accommodations, then this participant would need written permission, via email or other acceptable forms of documentation, and would need to give a reasonable time period in advance of the recording; usually a week (5 business days) and written consent would need to occur before the recordings begin.

Conduct & Conflict Resolution: Discuss any problems involving others in the learning community directly with the individuals involved (so long as the concerned party feels safe doing so). Possessing respect for others is fundamental to an open, free, and educational dialogue. All students are expected to support and contribute to a well-functioning MPA classroom and learning community. Behavior that disrupts the learning community may be grounds for disciplinary action, including dismissal from the MPA program. All students will be held accountable for maintaining the highest of academic standards.

The procedure to resolve conflict is outlined in the MPA Student Handbook: https://www.evergreen.edu/mpa/studenthandbook/conflictresolution

Included on this page is the Evergreen State College Conflict Resolution Process Matrix.

We will abide by the social contract: WAC 174-121-010 College philosophy.

We will abide by the student conduct code (including academic integrity and plagiarism): Chapter 174-123 WAC, Student Conduct Code & Grievance/Appeals Process

We will abide by the non-discrimination policies and procedures at TESC

Guest Policy: Guests are welcome to visit our learning community during class time and seminar meetings with discretionary approval from course faculty in advance of the requested visit. It is the host student’s responsibility to contact the faculty with details about the requested guest visit and await approval. Guests must abide by all social contract conduct code, and nondiscrimination policy guidelines as aforementioned in this syllabus.

Inclement Weather: In the event of bad weather or emergencies students should check with for announcements of campus closures. Students can call the main campus line 867-6000 to get the latest news regarding a campus closure or delay. Faculty may decide to cancel a class meeting even if campus is open and we will send an all-class email prior to 3:00 pm the day of class. Students are responsible for checking email and ensuring viable transportation options are available to them https://evergreen.edu/emergencyresponse