

POLITICAL SCIENCE 4130: LAW & POLITICS

**Wednesday and Friday, 2:20 p.m. to 3:40 p.m.
Townshend Hall 255
Fall 2014**

Professor Vladimir Kogan

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Office Hours: Thursdays, 9 to 11 a.m., and by appointment

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Top Hat Course URL: tophat.com/e/078306

Top Hat Course Code: **078306**

SMS Response Number: **+1 (315) 636-0905**

Course Description:

This class examines the intersection of law, politics, and political science. We will look at a variety of major issues — ranging from voter ID laws and voting machine technology to campaign finance and gerrymandering — that affect the way that elections and politics work. We will also carefully analyze the legal decisions that govern the electoral process and the academic research aimed at influencing policymakers and judges. Students will need to complete the assigned readings on time, come to class ready to discuss the material, work in groups to compose a legal brief, and argue their case before a mock Supreme Court.

Course Goals:

Upon completion of this course, students will:

1. Understand how election laws and rules shape the nature of political competition and electoral outcomes, appreciating how one can “write the rules to win the game”;
2. Gain familiarity with the structure of court opinions and be able to articulate arguments that courts would consider when weighing in on political disputes;
3. Be able to read empirical political science research, design their own research projects, and understand how such research can be used as evidence in court;
4. Recognize the role that normative values, subjective criteria, and political philosophy all play in shaping our views about contemporary political controversies and appreciate the unavoidable conflicts and tradeoffs that these issues engender.

Course Materials:

1. *All required course readings are posted on Carmen*
2. *Students need to create a free Top Hat account*

Top Hat is a mobile audience response system has been adopted campus-wide at OSU. Starting this fall, it is now free to use for students. We will use it extensively throughout the course for both reading quizzes and class participation. You can access the system via the URL on the front page of the syllabus or use an app on your iOS or Android device. At minimum, you will need a phone capable of sending SMS text messages, but to take advantage of the full functionality of the system (particularly for class participation), I strongly encourage those who do not have a laptop or tablet they can bring to class to purchase one. An inexpensive Android tablet can be found online for \$50 or less. A limited number of iPads are available for checkout for free at the library.

Assignments:

1. Class Participation (20% of Overall Grade)

Students can earn participation points by using Top Hat on their mobile devices to respond to questions incorporated into the course lecture and by taking part in class discussions. The bulk of the participation points will be earned through Top Hat. To receive full points in this category, students should expect to also speak in class and participate in class discussions once a week.

Points for Top Hat participation will be tracked automatically and can be viewed on the Top Hat course website. They will be updated on Carmen regularly as well. Points for taking part in class discussions will be posted on Carmen after each class. Extra credit will be available to students who participate regularly (more than once a week) in class discussions.

2. Daily Reading Quiz (25% of Overall Grade)

Students are required to complete the required readings for each day *prior* to the start of class. In the beginning of each lecture, students will use Top Hat to complete a short multiple-choice quiz testing basic comprehension and recall of major facts from the readings assigned for that day. There will be no trick questions, although students who do not do the readings carefully (e.g., just skim them) will not do well. *Quizzes missed due to absences cannot be made up, but the lowest four quiz scores will be dropped prior to the calculation of the final grades.*

3. Midterm (15% of Overall Grade)

The midterm will consist of two parts. Two take-home essay questions will be posted on Carmen on Friday, Oct. 2 and will be due *at the beginning of class* on Friday, Oct. 9. On Oct. 9, students will also complete a multiple choice/short-question exam on Carmen. Students will have previously seen at least of half of the multiple choice questions during the daily quizzes. I will also use the Top Hat “tournament” feature to allow you to review and study *all* of the questions prior to the multiple choice exam. The tournament will become available approximately one week prior to the midterm.

4. Group Debates (10% of Overall Grade)

Students will be assigned one of six debate topics related to election law. Debate topics will be distributed and assigned in class on Friday, Oct. 30. Students will be able to pick their debate topic, but not which side of the issue they will be required to argue. Those who are not in class on that day will have a topic assigned to them. Each debate team will need to upload a “discovery packet” that includes all of the evidence that will be used in the debate and the questions to be posed to the opposing team to Carmen by the start of class on one week prior to their scheduled debate. *Each student must participate in one major speaking role during the debate. One debate grade will be assigned to all group members.*

5. Legal Brief (10% of Overall Grade)

Working in their groups, students will also write a 10- to 15-page (double-spaced, standard font) Supreme Court brief on their assigned debate topic and position. Only one legal brief should be submitted per group, although all students are expected to contribute to its completion. The brief should incorporate legal arguments and be clearly grounded in existing case law in addition to available empirical political science research that helps provide a factual foundation for these arguments. Legal briefs are due 48 hours after the end of your debate and must be uploaded to Carmen.

6. Final Exam (20% of Overall Grade)

The final exam will have the same format as the midterm. The multiple-choice portion will be cumulative, but more than two-thirds of the questions will come from the second half of the course. Two take-home questions will be posted on Carmen on Wednesday, Dec. 9 and will focus only on the material from the second half of the course. They will be due at the beginning of the assigned final exam time on Wednesday, Dec. 16, when students will complete the multiple choice/short-question portion of the exam on Carmen.

*****A copy of all take-home exam questions and legal briefs must be uploaded to the appropriate dropbox on Carmen. The upload feature on Carmen sometimes does not work on Google Chrome, so I encourage you to install a backup browser (Firefox, Internet Explorer, Edge, Safari, etc.) ahead of time just in case. Assignments will be considered late and a penalty will be assessed unless they are uploaded by the beginning of the class when they are due. No printed hard copies will be accepted in lieu of online submissions.*****

Academic Integrity:

It is the responsibility of the Committee on Academic Misconduct to investigate or establish procedures for the investigation of all reported cases of student academic misconduct. The term “academic misconduct” includes all forms of student academic misconduct wherever committed; illustrated by, but not limited to, cases of plagiarism and dishonest practices in connection with examinations. *Instructors are obligated* to report all instances of alleged academic misconduct to the committee (Faculty Rule 3335-5-487). For additional information, see the Code of Student Conduct <http://studentlife.osu.edu/csc/>.

Students are required to upload their written exams to Carmen, which utilizes Turnitin.com for plagiarism detection. This online service analyzes student submissions for plagiarism from published or online sources and compares their work to submissions made by other students (including students who have taken the course in previous semesters). To avoid plagiarism charges,

students must cite all sources from which they get their information and use quotation marks when quoting directly from these sources, including the readings assigned for class. Students are responsible for knowing how to correctly cite their sources; ignorance about proper citation standards will not be accepted as an excuse for plagiarism.

Late and Make-Up Policy:

All take-home exam questions are due *at the beginning* of class or scheduled exam time, unless noted otherwise below. Assignments submitted more than 15 minutes after the due date will be assessed a 5 percentage point late penalty. There will be an additional 10 percentage point penalty for each subsequent day that the assignment is late. *No assignments will be accepted more than one week late.*

Make-ups for in-class exams will be approved only in the event of a medical or family emergency or a university-sanctioned event. *Extensions must be arranged ahead of time.* You must have documentation of your emergency (for example, a doctor's note) to be able to take a make-up exam. After you provide this documentation, a decision will be made regarding your request. Similarly, any request for an incomplete must be accompanied by written medical documentation.

Grade Appeals:

You have one week from when the grades are posted on Carmen to appeal the grade. You must submit a typed, double-spaced statement to the teaching assistant explaining why you are appealing your grade and justify it with evidence from your paper, exam, readings, lectures, and/or answer keys. If you choose to appeal your grade, we reserve the right to decrease the original grade if a grading mistake or oversight resulted in it being erroneously high.

Accommodations for Disabled Students:

Students with disabilities that have been certified by the Office for Disability Services will be appropriately accommodated and should inform the instructor as soon as possible of their needs. The Office for Disability Services is located in 150 Pomerene Hall, 1760 Neil Avenue; telephone 292-3307, TDD 292-0901; <http://www.ods.ohio-state.edu/>.

Other Frequently Asked Questions (and Answers):

1. *I have a personal/medical emergency or must miss class for other legitimate reasons. How can I make up the points I lose?*

I do not make distinctions between “excused” and “unexcused” absences, because doing so would put me in the uncomfortable position of having to decide what constituted a sufficient reason to make an absence an “excused” one. To accommodate all of our student's diverse experiences, challenges, and needs without drawing arbitrary lines, I simply allow every student to miss up to four classes without penalizing their quiz grade, regardless of the reason for the absence(s).

As for the participation portion of your grade, students who miss points due to an absence have an opportunity to make up (at least some) of these points by participating regularly in class discussions on the days they do attend. Note that you will earn extra credit if you participate more than once a week (see “Class Participation” above), and this can be used to offset points you lose due to absences.

2. *What if I have to miss more than four classes?*

If you expect to miss more than four classes, I strongly encourage you not take this class. Although it will still be possible to pass the course, you will likely miss a great deal of material and will probably not get the grade you want. If unexpected circumstances result in you missing many classes during the course of the semester, your best course of action is to withdraw prior to the deadline. If you must withdraw after the deadline due to an emergency, I am happy to write a letter of support to get your withdrawal processed retroactively. Please see an academic advisor to learn about your options.

3. *What if I am absent on the day of an exam?*

If you are ill, you need to: (1) contact me *prior* to the start of the exam to arrange for an extension; and (2) go to an urgent care center to get necessary help and receive appropriate medical documentation. Unless you have *both* contacted me ahead of time and have the necessary documentation, you will not be allowed to make up the exam. If you are absent for other university-approved reasons, the same policy applies. You must notify me ahead of time and have the documentation to support your absence.

The policy above applies only for the in-class portion of the exams. Since you have at least an entire week to complete the take-home questions, no extensions will be given for these assignments. Do not wait until the last minute to start working on these; if an emergency comes up that prevents you from finishing the assignment, the usual late penalty will apply.

4. *How can I review the quiz questions I missed?*

The gradebook on Top Hat will indicate which questions you answered correctly and which you got wrong. It will also show you the first few words of each question. If you would like to see the full question and/or the correct answer, please come see me at office hours. (This option is available only to students who attended class on the day the quiz was given.) Also, feel free to write down/take a screen shot of each question for study purposes, although remember that the questions will also be available to you for review prior to the exam using the Top Hat tournament.

5. *Can I access the quiz and discussion questions if I'm not in class?*

Students who are logged in to Top Hat remotely will see exactly the same questions as the students in class. In theory, this means that it is possible to complete these without being present. Note, however, that the questions are available only for a limited period of time during the course of the class. If you're going to sit around by your phone or computer waiting for the questions to appear, you might as well come to class.

6. *Is attendance required?*

I will take attendance every day using Top Hat. However, this information will be used *only for record-keeping purposes*. None of your grade is based on attendance (with the exception described below). But keep in mind that participation makes up 20 percent of your final course grade and daily quizzes make up another 25 percent. It will be very hard (but certainly not impossible) to do well on these portions of your grade without actually attending class regularly.

There is one exception to this: Attendance *is required* on days when guest speakers are scheduled to join us and during student debates at the end of the semester. These people have taken time out of their busy schedule to share their insights with you, and I expect you to be there. Students who attend on these days will receive 10 participation points; those who are absent will not receive those points. Please look over the detailed course schedule below and note the days on which guest speakers are coming and when group debates will take place, so you can schedule your other commitments accordingly.

7. *I am having problems connecting to the OSU wi-fi during class. How can I complete the reading quiz and participation questions if I can't connect to the internet?*

Make sure that you have registered your cell phone number on your Top Hat student account and have your phone with you in class. This will allow you to submit answers via SMS text message if you run into internet problems. Another option is to connect to Top Hat using your mobile internet, if you have a data plan.

If the internet connection is lost unexpectedly during a Top Hat session and you are using the Top Hat app on your phone or mobile device, the app will give you the option of saving your answers in "Offline Mode." You will need to record the four-digit question code and your responses will be automatically uploaded to Top Hat when the internet connection is re-established. You can find more information about Offline Mode here:

<https://support.tophatmonocle.com/hc/en-us/articles/200200514-Offline-Submission-Mode-Video-Tutorial>. Note that Offline Mode is available only to students who are logged in while the question is active, and the app records an internal timestamp to verify that this is indeed the case. You cannot use this feature to submit answers late if you were not logged in when the questions are available. A question on the Top Hat reading quiz for this syllabus asks you to enter a secret word. The word you should enter as the answer is "quadrivoltine."

*****Please be sure that you understand all of these options and know what to do if you run into problems using Top Hat. You will be responsible for making sure your answers are submitted and recorded correctly. Please contact Top Hat directly at support@tophat.com if you run into problems with anything.*****

8. *My internet connection is fine, but for some reason Top Hat will not let me submit my response.*

If you encounter an error message saying "Submission Failed, Please Retry" or see that the submission button is disabled (but there is still time available to submit an answer), click the answer you are trying to submit and take a screenshot of the question. Send the screenshot to support@tophat.com. Be sure to CC me on your e-mail.

If the question won't load on your device, submit your response via SMS text message.

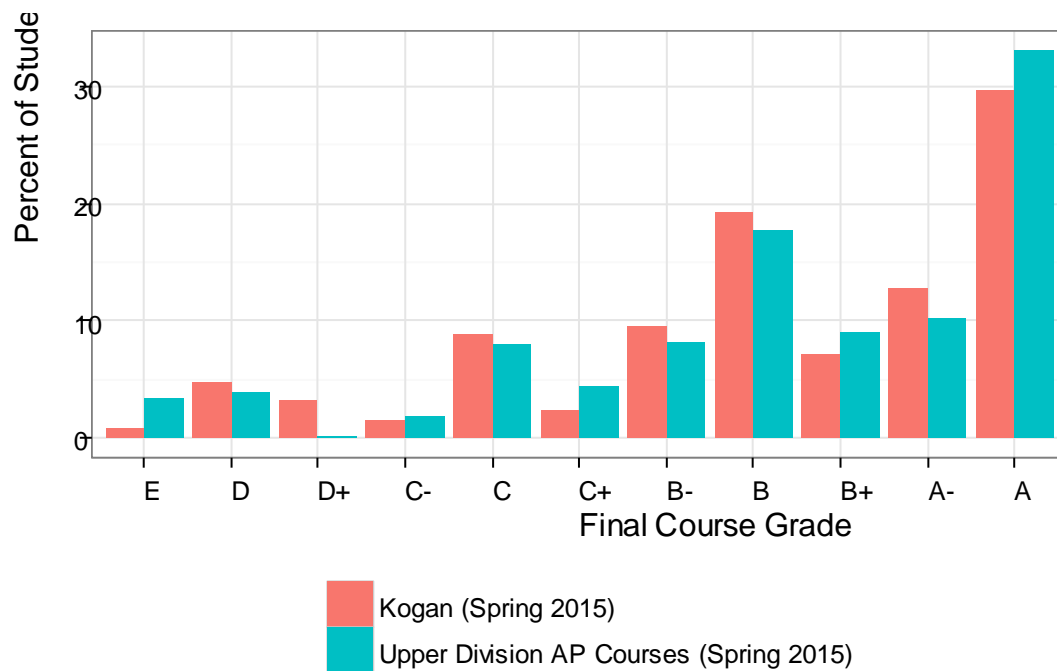
9. *I've submitted my response via SMS text message, but Top Hat responded with an error message saying the question code is incorrect. I verified the question code I'm using and it is indeed correct.*

Carefully check the question code again. If it is correct, your response was likely recorded successfully, despite the error message. You can check in the Top Hat gradebook to verify that this was the case. If the response was not recorded, take a screenshot of your text

message (including timestamp and error message) and e-mail it to Top Hat technical support at the e-mail listed above. Again, CC me on the e-mail.

10. *Is there a curve?*

No. As you can see in the figure below, students generally do well in my classes, relative to other 4000-level American politics courses. Students who earn a grade below a “B-” usually miss courses frequently, do not come to class with the assigned readings complete, or turn work in late. Avoid these pitfalls, and you will do well.



I do reserve the right to adjust the weights given to individual components of your final grade if doing so improves your overall course grade. These adjustments will never be made in a way that gives you a lower grade than you would earn using the weights listed above.

11. *I'm trying to submit the take-home essay questions on Carmen, but I am having problems.*

The upload feature on Carmen sometimes does not work on Google Chrome, so I encourage you to install a backup browser (Firefox, Internet Explorer, Safari, etc.) ahead of time just in case.

Assignments need to be submitted in one of the following formats:

- Microsoft Word (.doc and .docx)
- Corel WordPerfect
- HTML
- Plain text (.txt)
- Rich Text Format (.rtf)
- Portable Document Format (.pdf)
- Hangul (HWP)

Note that neither Apple Pages nor OpenOffice files are currently supported. If you use one of these programs to compose your papers, be sure to export them to one of the formats listed above prior to submission.

Documents that cannot be opened due to incorrect file type or other issues will not be accepted and a late penalty will accrue until a valid file is uploaded. Double check after you've finished uploading to make sure your document works.

Note that computer problems are always a possibility. For this reason, I encourage you to always use Buckeye Box (<https://box.osu.edu/>) to regularly back up your work. If your computer is having issues, you can access your backed-up files from anywhere and upload your assignments from a different computer. Since you have free access to Buckeye Box and should be using it, computer problems will not be accepted as excuse for turning in your work late. The usual late penalty will apply.

12. *What if I can't attend class on a day when a guest speaker is coming in or during group debates?*
See the policy about absences on exam days (No. 3 above), as it applies on these days as well. You need to notify me prior to the absence and bring necessary supporting documentation. You will need to complete an alternative written assignment (e-mail me for details) to make up the lost participation points.

Course Overview and Schedule:

Week 1

Wednesday, August 26 — Introduction and Course Overview

Friday, August 28 — A Right to Vote?

Reading:

- Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States, Revised Edition* (New York: Basic Books, 2000) – Chapter 1 (“In the Beginning”).
- *Harper v. Virginia State Board of Elections* (1966)
- *Skafté v. Rorex* (1966)
- *Kramer v. Union Free School District* (1969)

Week 2

Wednesday, September 2 — Controversies in Election Administration I

Reading:

- Aaron Blake, “The GOP’s Big Electoral Vote Gambit, Explained,” *Washington Post*, Jan. 15, 2013.
- Edward J. Larson, *A Magnificent Catastrophe: The Tumultuous Election of 1800, America’s First Presidential Campaign* (New York: Simon & Schuster, 2007) – pp. 56-66, 223-234.

Friday, September 4 — No Class

Week 3

Wednesday, September 9 — Controversies in Election Administration II

Reading:

- Richard L. Hasen, *The Voting Wars: From Florida 2000 to the Next Election Meltdown* (New Haven: Yale University Press, 2012) – Chapter 4 (“Who Counts?”).
- Jennifer Brunner, *Cupcakes and Courage* (Columbus: Little Blue Valiant Publishing, 2012) – Chapter 19 (“So Goes Ohio, the Nation”).

Friday, September 11 — Voting Technology

Reading:

- Jonathan N. Wand et al., 2001, “The Butterfly Did It: The Aberrant Vote for Buchanan in Palm Beach County, Florida.” *American Political Science Review* (Volume 95, Number 4): pp. 793-804.
- Nicholas Kusnetz, “Is Ohio the Next Home of Hanging Chads?” *Politico*, Aug. 27, 2015.

Week 4

Wednesday, September 16 — Early Voting

Reading:

- *Burdick v. Takushi* (1992)
- Michael C. Herron, and Daniel A. Smith, 2014, “Race, Party, and the Consequences of Restricting Early Voting in Florida in the 2012 General Election,” *Political Research Quarterly* (Volume 6, Number 3): pp. 646-665.

Friday, September 18 — Federalism and Voting I

Reading:

- Richard L. Hasen, *The Voting Wars: From Florida 2000 to the Next Election Meltdown* (New Haven: Yale University Press, 2012) – Chapter 1 (“All I really Need to Know I Learned in Florida”).
- *Bush v. Gore* (2000)
- *Arizona v. Inter Tribal Council of Arizona* (2013)

Week 5

Wednesday, September 23 — Legislative Districting

Reading:

- *Reynolds v. Sims* (1964)
- Robert Draper, “The League of Dangerous Mapmakers,” *Atlantic Monthly*, October 2012.
- Richard G. Niemi, 1985, “The Relationship Between Votes and Seats: The Ultimate Question in Political Gerrymandering,” *UCLA Law Review* (Volume 33): pp. 185-212.

Friday, September 25 — Guest Speaker: Donald McTigue, former counsel to Ohio Secretary of State and Ohio Elections Commissions

Week 6

Wednesday, September 30 — Partisan Gerrymanders

- *Davis v. Bandemer* (1986)
- *Vieth v. Jubelirer* (2004)

Friday, October 2 — Redistricting Reform

Reading:

- Jowei Chen and Jonathan Rodden, 2013, “Unintentional Gerrymandering: Political Geography and Electoral Bias in Legislatures,” *Quarterly Journal of Political Science* (Volume 8, Issue 3): pp. 239-269.
- Vladimir Kogan and Eric McGhee, 2013, “Redistricting: Did Radical Reform Produce Different Results?” in *Governing California: Politics, Government, and Public Policy in the Golden State, 3rd Edition*, edited by Ethan Rarick (Berkeley: Institute of Governmental Studies Press, 2013).

****Take-home portion of midterm exam posted on Carmen****

Week 7

Wednesday, October 7 — Voting Rights Act

Reading:

- *Thornburg v. Gingles* (1986)
- Ari Berman, “Inside John Roberts’ Decades-Long Crusade Against the Voting Rights Act,” *Politico Magazine*, August 10, 2015.

Friday, October 9 — MIDTERM EXAM

****Exam will be available on Carmen under the Quizzes section during scheduled exam time***

Week 8

Wednesday, October 14 — Unconstitutional Racial Gerrymanders

Reading:

- *Holder v. Hall* (1994)
- *Shaw v. Reno* (1993)
- Daniel M. Butler and David E. Broockman, 2011, “Do Politicians Racially Discriminate Against Constituents? A Field Experiment on State Legislators,” *American Journal of Political Science* (Volume 55, Number 3): pp. 463-477.

Friday, October 16— No Class

Week 9

Wednesday, October 21 — Voter Fraud

Reading:

- Hans A. von Spakovsky, “Not a Race Card,” *National Review*, Aug. 29, 2011.
- Jane Mayer, “The Voter-Fraud Myth,” *New Yorker*, Oct. 29, 2012.
- Justin Levitt, 2014, “A Comprehensive Investigation of Voter Impersonation Finds 31 Credible Incidents Out of One Billion Ballots Cast,” *Washington Post*, Aug. 6, 2014.
- John Alquist, Kenneth Mayer, and Simon Jackman, 2014, “Alien Abduction and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment,” *Election Law Journal: Rules, Politics, and Policy* (Volume 13, Number 4): pp. 460-475.

Friday, October 23 — Voter ID Laws and Political Participation

Reading:

- Matt A. Barreto, Stephen A. Nuno and Gabriel R. Sanchez, 2009, “The Disproportionate Impact of Voter-ID Requirements on the Electorate — New Evidence from Indiana,” *PS: Political Science & Politics* (Volume 42, Issue 1): pp. 111-116.
- Stephen Ansolabehere, 2009, “Effects of Identification Requirements on Voting: Evidence from the Experiences of Voters on Election Day,” *PS: Political Science & Politics* (Volume 42, Issue 1): pp. 127-130.
- M. V. Hood III and Charles S. Bullock III, 2012, “Much Ado About Nothing? An Empirical Assessment of the Georgia Voter Identification Statute,” *State Politics & Policy Quarterly* (Volume 12, Number 4): pp. 394-414.

Week 10

Wednesday, October 28 — Guest Speaker: Jennifer Brunner, former Ohio Secretary of State

Friday, October 30 — Campaign Finance: The *Buckley* Framework

Reading:

- *Buckley v. Valeo* (1976) Part I
- *Debate topics assigned***

Week 11

Wednesday, November 4 — Guest Speaker: Brad Smith, former Chairman of the Federal Elections Commission

Friday, November 6 — Corporate and Union Speech

Reading:

- *First National Bank of Boston v. Bellotti* (1978)
- *Federal Election Commission v. Massachusetts Citizens for Life* (1986)
- *Austin v. Michigan Chamber of Commerce* (1990)

Week 12

Wednesday, November 11 — No Class

Reading:

- *Crawford v. Marion County Board of Elections* (2008)
 - *Veasy v. Perry* (2015)
- *Complete Reading Quiz on Top Hat by Nov. 13 on your own***

Friday, November 13 — Guest Speaker: Matt Damschroder, Deputy Assistant Ohio Secretary of State

Week 13

Wednesday, November 18 — *Citizens United* Revolution

Reading:

- *McConnell v. Federal Election Commission* (2003)
- *Citizens United v. Federal Election Commission* (2010)
- *Spechnov.org v. Federal Election Commission* (2010)
- Trevor Potter, “The Court’s Changing Conception of Corruption”, speech prepared for conference at Edmond J. Safra Center for Ethics at Harvard University
- Matea Gold, “It’s Bold, but Legal: How Campaigns and Their Super PAC Backers Work Together,” *Washington Post*, July 6, 2015.

Friday, November 20 — Campaign Finance and Disclosures

Reading:

- *NCAA v. Alabama* (1958)
- *Buckley v. Valeo* (1976) Part II
- *McIntyre v. Ohio Elections Commission* (1995)

Week 14

Wednesday, November 25 — No Class

Friday, November 27 — No Class

Week 15

Wednesday, December 2 — Debates 1 and 2

Friday, December 4 — Debates 2 and 4

Week 16

Wednesday, December 9 — Debates 5 and 6

Take-home portion of final exam posted on Carmen

****FINAL EXAM: Wednesday, December 16, 12 to 1:45 p.m.****

****Exam will be available on Carmen under the Quizzes section during scheduled exam time***