

# State & Local Government Law

Law 6930  
Fall 2022  
285C  
Tuesday & Thursday, 3:00-4:25PM

JONATHAN L. MARSHFIELD  
*University of Florida Levin College of Law*

Office Hours: Wednesday & Friday, 10:00-11:30AM (Room 301)  
jmarshfield@ufl.edu  
Tel.: 352-273-0940

## **COURSE DESCRIPTION:**

Welcome to State and Local Government Law! As individuals, much of our interaction with the law is local. Local governments can determine the site of our nearest grocery store, how high (or low) property taxes will be, how to fund police and provide for public safety, how late bars can serve alcohol, whether to mandate masks, and even whether it is lawful to keep a pet python. Local governments also matter on a national and collective scale. Counties and municipalities now administer billions of dollars in federal grants and can drive national policy debates on issues ranging from immigration, reproductive rights, gun rights, climate change, and LGBTQ+ rights (to name just a few).

Despite the significance of local government law and institutions, most public law courses focus only on the laws that affect federal and state government. This is unfortunate because local governments operate within a unique constitutional space with its own doctrines, policies, and history. This course aims to address this void by providing a critical survey of core local government doctrines and theories. Although I will frequently use Florida law to illustrate and explore topics we cover in class, this is not a course dedicated to Florida law. The course is intended to provide a broad understanding of local government doctrines and theories that can translate to any United States jurisdiction.

## **COURSE OBJECTIVES & LEARNING OUTCOMES:**

After completing this course, students should be able to:

1. Describe the public law foundations of American local government;
2. Demonstrate an understanding of the core legal doctrines affecting the structure, authority, financing, and liabilities of local governments in the United States;
3. Apply relevant doctrinal, strategic, and normative considerations to new local government factual scenarios; and
4. Demonstrate the ability to advise clients regarding compliance with and litigation under local government law.

## **REQUIRED TEXT AND WORKLOAD:**

The casebook for the course is LYNN A. BAKER, ET AL., LOCAL GOVERNMENT LAW: CASES AND MATERIALS (6th ed. 2021). The class schedule below identifies all assigned reading for each class. I also supplement the casebook with additional materials, which will be available on Canvas. Students are required to complete the assigned readings before class and be prepared to discuss the material in class.

In accordance with Standard 310 of the American Bar Association's (ABA) standards for law schools, students are expected to devote 2 hours of out-of-class preparation for every 1 credit hour of in-class instruction. Because this course has 3 credit hours of in-class instruction weekly, you should expect to spend approximately 6 hours outside of class reading, preparing, and reviewing the material for our class meetings each week.

## **ATTENDANCE:**

Attendance is mandatory and an essential part of the course. In accordance with ABA guidance, you are allowed a total of five absences from class, for any reason (including for illness, medical appointments, job interviews, school activities, work tasks, family issues, and the like). Only observance of a University-recognized religious holiday does not count toward your five absences, but you must notify me in advance of those religious observance-related absences. To respect your privacy, I do not otherwise differentiate between "excused" or "unexcused" absences. As a result, there is no need to tell me why you will be or were absent from class, so long as you have five or fewer absences total. More than five absences could result in preventing you from sitting for the final exam and failing the course.

Please do not arrive late to class, leave early, or leave to take a break during class absent extenuating circumstances. Please turn off your cell phone during class. I reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates.

## **OFFICE HOURS & CONTACT INFORMATION:**

My office is located at Room 301. For this semester, my office hours are Wednesday & Friday, 10:00-11:30AM. I am happy to meet with you outside of these hours if scheduling permits. Please email me to schedule a time outside of my posted office hours. Outside of class, e-mail should be your first choice in getting in touch with me. I will be in my office (Room 301) during scheduled office hours, but I am also happy to meet via Zoom during office hours if you prefer that medium.

## **GRADING:**

This is a three-credit course. Your grade in the course will be based on a final exam, with potential adjustment based on your attendance and participation. Regular attendance, preparation, and active participation in classroom discussion are required. The final exam is scheduled for Thursday, December 8, 2022. I will provide more information on the exam in class, but it will be a time-limited, open-resource exam. The law school grading policy is available [here](#). The law school policy on exam delays and accommodations can be found [here](#). Students receive grade points according to the following scale:

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.0	C (Satisfactory)	2.0
A-	3.67	C-	1.67
B+	3.33	D+	1.33

B	3.0	D (Poor)	1.0
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.0

**ACCOMMODATIONS:**

This class will be accessible to all members of our law school community. Students requesting accommodations for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with me so we can discuss their access needs as early as possible in the semester.

**PREFERRED NAME AND PRONOUNS:**

Many of you may have a preferred name that is not the name given to me on the official roll. It is important to the learning environment that you feel welcome and safe in this class. I want you to be comfortable participating in class discussions and communicating with me on any issues related to the class. I would like to refer to you by your preferred pronoun and last name. As such, if your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise before the first day of class.<sup>1</sup>

**DISCOURSE, INCLUSION, AND THE CLASSROOM:**

As a law student and future lawyer, it is important that you be able to engage in rigorous discourse and critical evaluation while also demonstrating civility and respect for others. This is even more important in the case of controversial issues and other topics that may elicit strong emotions. As a group, we are likely diverse across racial, ethnic, sexual orientation, gender identity, economic, religious, and political lines. As we enter one of the great learning spaces in the world—the law school classroom—and develop our unique personality as a class section, I encourage each of us to:

- commit to self-examination of our values and assumptions;
- speak honestly, thoughtfully, and respectfully;
- listen carefully and respectfully;
- reserve the right to change our mind and allow for others to do the same;
- allow ourselves and each other to verbalize ideas and to push the boundaries of logic and reasoning both as a means of exploring our beliefs as well as a method of sharpening our skills as lawyers.

---

<sup>1</sup> You may also change your “Display Name” in Canvas. Canvas uses the “Display Name” as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as “Ally” instead of “Allison.” To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select “Directory Profile.” Click “Edit” on the right of the name panel, uncheck “Use my legal name” under “Display Name,” update how you wish your name to be displayed, and click “Submit” at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records.

## **RECORDING OF CLASS:**

Students are allowed to record video or audio of “class lectures.”<sup>2</sup> However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited. Specifically, students may not publish recorded lectures without the written consent of the instructor.

Publication without permission of the instructor is prohibited. To “publish” means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third-party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under UF Regulation 4.040 Student Honor Code and Student Conduct Code.

## **STUDENT COURSE EVALUATIONS:**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via [ufl.bluer.com/ufl/](http://ufl.bluer.com/ufl/). Summaries of course evaluation results are available to students [here](#).

## **UF HONOR CODE:**

Academic honesty and integrity are fundamental values of the UF Law School community. Students are expected to understand and comply with the UF Student Honor Code, available [here](#), and the Law School’s application of it, information available [here](#).

---

<sup>2</sup> A “class lecture” is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

## CLASS SCHEDULE

NOTE – I may adjust this schedule depending on our progress in class and/or developments in the law.

### **Week 1 – Theoretical Perspectives – Why have local government? Why have local government in Florida (a case study)?**

Class 1 – Read Baker pp. 1-26 & 59-64.

Class 2 – Read Baker pp. 26-58; Handout re Florida local gov.

### **Week 2 – Federalism and Local Government (a very brief overview) – What are the legally enforceable limits on local (and federal) authority?**

Class 3 – Read Handout, Con Law re Local Gov.; Baker pp. 141-56.

Class 4 – Read Baker pp. 156-68.

### **Week 3 – Incorporation – What are the legal standards and processes for creating a local government?**

Class 5 – Read Baker pp. 168-207; Handout re Florida Incorporation Statutes, Independent Special Districts, and Disney’s Reedy Creek.

Class 6 – Read Baker pp. 207-238.

### **Week 4 – The State’s Plenary Power – What “space” does a state constitution leave for local government activity?**

Class 7 – Read Baker pp. 239-60; Florida handout.

Class 8 – Read Baker pp. 260-86; Florida handout.

### **Week 5 – Dillon’s Rule – Do local governments have enumerated or plenary power, or something in between?**

Class 9 – Read Baker pp. 286-305

Class 10 – Read Baker pp. 306-317

### **Week 6 – Home Rule – What does “self-rule” really mean?**

Class 11 – Read Baker pp. 317-47.

Class 12 – Read Baker pp. 347-71; Florida handout.

### **Week 7 – Conflict and Pre-Emption – When does state law actually trump local law?**

Class 13 – Read Baker pp. 371-401.

Class 14 – Read Baker pp. 401-413.

### **Week 8 – Local Service Provision – Can the law implement Tiebout sorting? Should it?**

Class 15 – Read Baker pp. 415-436.

Class 16 – Read baker pp. 415-455.

**Week 9 – Local Service Provision Cont. & Intro. to Local Taxing and Spending – Are there any substantive restrictions on how local government can raise and spend money?**

Class 17 – Read Baker pp. 455-73 (end of local service provision module).

Class 18 – Read Baker pp. 495-528 (beginning of taxing & spending).

**Week 10 – Technical Requirements for Local Expenditures and State Mandates – Are there any procedural restrictions on how local government can spend money?**

Class 19 – Read Baker pp. 528-555.

Class 20 – Read Baker pp. 555-567.

**Week 11 – Local Government Revenue & Debt – How do/should local government's raise revenue?**

Class 21 – Read Baker pp. 567-82; 607-616 (property tax).

Class 22 – Read Baker pp. 675-700 (debt).

**Week 12 – Municipal Tort Liability – When can a municipality be sued for personal injuries, contract violations, or constitutional harms?**

Class 23 – Read Baker pp. 793-816.

Class 24 – Read Baker pp. 816-850.

**Week 13 – Local Government Structure – What are the limits and theories of how best to organize local government?**

Class 25 – Read Baker pp. 863-883.

Class 26 – Read Baker pp. 897-930.