

Florida Constitutional Law
Fall 2024
LAW 6503, Class # 29647
3 Credits
Tuesday & Thursday: 3:30-4:55 PM
Holland Hall, Room 270

Course Syllabus

Professor Timothy McLendon
Office: 320 Holland Hall
Phone: 352-273-0835
E-mail: mclendon@law.ufl.edu

For the First Day of Class on August 20, 2024
Skim the Introduction & *Michigan v. Long*, pp. xxxvii-lv
Read *In re TW & Planned Parenthood of SW & Cent. Fla.*, Excerpt
on Canvas under Module for Article I

Office Hours

Mondays, 11am – 12pm
Thursdays, 5:00-6:00 pm

About this Course

Traditionally, the fundamental characteristic of state constitutions is that they are limiting documents as compared with the Federal Constitution, which is a grant of enumerated powers to Congress. The states are the fundamental and original governing units in our federal system, and therefore, are understood to have plenary power, except where this power has been limited by federal law or the state constitution. The Florida Constitution is the basic rule book for the power struggles represented by the cases contained in this book. Florida courts interpret this rule book to delineate power between branches of government, between private parties and government and between levels of government (*e.g.*, state and local).

Generally, state constitutions are more detailed and particular than is the Federal

Constitution, and they are easier to amend. This is certainly true of Florida's Constitution, and recent years have seen a plethora of highly regulatory amendments that do not really fit the traditional constitutional characteristics described above. Many of these have been adopted by popular initiative. As the introductory materials chronicle, the Florida Constitution is the sixth constitution since 1838, and the current constitution has been amended numerous times since its adoption in 1968.

Florida Constitutional Law is a survey course. As such, this course is designed to give students an overview of the various provisions of the state constitution, an understanding of how Florida courts have interpreted and applied the state constitution, and an introduction into the workings of state and local governments. The course will follow the order of the document itself, addressing: 1) the basic rights provided by the Florida Constitution; 2) Separation of Powers, as understood in Florida jurisprudence; 3) the operation of the branches of government (legislative, executive and judicial); taxing and bonding issues; 5) local government; 6) education; 7) miscellaneous issues such as homestead and eminent domain; and 8) the amendment and revision process.

Course Materials

Mills, Adkins & McLendon, *Florida Constitutional Law: Cases in Context* (Carolina Academic Press, 2021).

Unless otherwise indicated, the reading assignments refer to the required casebook. Students are expected to have completed the assigned readings **prior** to class. Assignment pages refer to the casebook. As indicated in syllabus, additional readings may be posted on Canvas.

Students are expected to read additional materials posted on the Canvas page (unless they are marked as recommended readings).

Course Objectives and Student Learning Outcomes

After completing this course, students should be expected to:

1. Understand and apply the role of state constitutions in comparison with the United States Constitution.
2. Understand and apply the elements of the Bill of Rights in Florida and how they interact with Federal Law.

3. Understand and analyze the relative authority and relationship of the Legislative, Executive, and Judicial branches.
4. Understand and interpret the jurisdiction of Florida laws.
5. Understand and interpret the tax and funding structure in Florida.
6. Understand and analyze the role and authority of local government.

After completing this course, students will have been:

1. Exposed to Florida Supreme Court Justices.
2. Exposed to seeing constitutional issues argued in the Florida Supreme Court.

Expectations:

It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in-class assignments. You will be devoting time to your readings for each class; please be prepared for about 80 pages of reading each week.

Attendance and Participation

Attendance will be taken at each class meeting. Students are allowed 6 absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course and will not be allowed to take the final examination.

Student participation in class is encouraged and will be considered in assigning a final grade. The degree of student participation will doubtless affect the quality and interest of class discussions. Students are expected to be prepared for each class.

Excused absences are consistent with university policies in the undergraduate catalog (<https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>) and require appropriate documentation.

Observance of Religious Holidays

UF Law respects students' [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

Final Examination

The final examination will be a **4-hour take home, online, open book and open notes essay** exam during the designated exam schedule. The exam will consist of 5 or 6 hypotheticals with limited space for answers. Instructions for the examination will be provided later in the semester.

Exam Delays and Accommodations

The law school policy on exam delays and accommodations can be found [here](#).

Grades

Your grade for this course will depend on how well you perform on your final exam. Examinations will be graded anonymously; however, as mentioned above, **participation will be factored into a student’s final grade as well.**

Your grade in this class will be based on your performance on an open book final exam. This grade may be adjusted upward based on exceptional classroom performance. Initial grades on the final exam are always done anonymously, and we never **lower** anyone’s grade after we turn the blind grades in. Quality of participation counts. If we call on you to contribute to classroom discussion, and you decline, we will come back to you the following day and call on you again to participate.

Evaluation of Grades:

Assignment	Percent of Grade
Participation	10%
Final Exam	90%
Total	100%

Grading Policy:

Score	Percent	Grade	Grade Points
934-1000	93.4-100	A	4.00
900-933	90.0-93.3	A-	3.67
867-899	86.7-89.9	B+	3.33
834-866	83.4-86.6	B-	3.00
800-833	80.0-83.3	B-	2.67
767-799	76.7-79.9	C+	2.33
734-766	73.4-76.6	C	2.00
700-733	70.0-73.3	C-	1.67
667-699	66.7-69.9	D+	1.33
634-666	63.4-66.6	D	1.00
600-633	60.0-63.3	D-	0.67
0-599	0-599	E	0.00

For more details, see this information at: <https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>.

Course Evaluations

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Requesting Accommodations

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

Internet Policy and Related Issues

The internet, and more generally your laptop, is a great learning tool and invaluable asset to effective advocates. It should be used during class time as you will use it in practice: responsibly and ethically, consistent with the high professional standards that will be expected of you by your clients and by those who will employ you. This is important not only to you, but also to all the students around you who are affected by how you use your computer. It can be distracting to your classmates if you use your computer for activities unrelated to class. When you are talking, you should lower your laptop to facilitate communication.

Cell phones, tablets, and other electronic equipment should be turned off and not used during class. If you need to leave your phone on vibrate to receive an emergency call, please feel free to do so.

Recording in Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

University Honesty Policy & Academic Misconduct

UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (<https://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel.

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

Counseling and Wellness Center

Counseling and Wellness Center: <https://counseling.ufl.edu/>

Connect & Contact: 352.392.1575

For Emergencies: University Police Department 352.392.1111 or 911

Outline of Class

(note that this is tentative & that adjustments may be made during the semester)

Class Number	Date	Assigned Readings	Overton Lectures or other guest speaker
1	Tuesday, August 20	Introduction & <i>Michigan v. Long</i> , pp. xxxvii-lv in the casebook; Article I – Introduction & <i>In re TW & Planned Parenthood of SW & Cent. Fla. v. State</i> – posted on Canvas in Article I module	Prof. emerita Mary Adkins
2	Thursday, August 22	Article I – Declaration of Rights. <i>Schiavo, Eitel, Bar Examiners; Kurtz</i> pp. 17-33	
3	Tuesday, August 27	<i>Post-Newsweek, Rolling, Krischer</i> pp. 33-52	

4	Thursday, August 29	Searches & Seizures <i>Bernie, Wells, Hume</i> Speech & Press <i>Elder</i> pp. 53-80	
5	Tuesday, September 3	Right to Assemble <i>Cate</i> Right to Work <i>Hillsborough, UTD</i> Right to Bear Arms <i>Norman</i> pp. 80-112	
6	Thursday, September 5	Prohibited Laws <i>Shenfield, Pomponio</i> pp. 112-124	
7	Tuesday, September 10	Access to Courts <i>Kluger, Lasky, Diamond, Damiano</i> Right to Jury Trial <i>Chevy Van</i> pp. 124-154	
8	Thursday, September 12	<i>La Rosa</i> Religious Liberty <i>Bush v. Holmes</i> , <i>McNeil</i> pp. 164-70 Due Process – <i>Smith</i> Excessive Punishments – <i>Jones, Valle</i> , pp. 173-96	
9	Tuesday, September 17	Public Records <i>Earnhardt, Sarasota Citizens</i> pp. 196-216	
10	Thursday, September 19	Separation of Powers <i>Askew, Cross Keys, Chiles</i> pp. 217-245	
11	Tuesday, September 24	Improper Delegation & Encroachment <i>EY, Carnegie, Crist, Jones v. Chiles, Schiavo</i> pp. 245-270	
12	Thursday, September 26	<i>Stare decisis</i> in Florida Constitutional Law	Justice Charles Canady
13	Tuesday, October 1	Article III – Legislature <i>Santos, Loxahatchee, Fla. Defenders, Moffitt, Expedia, League of Women Voters</i> pp. 271-309	

14	Thursday, October 3	Veto <i>Martinez v. Legis., Martinez v. House, Thompson, Ophthalmology</i> Special Laws <i>Deseret Ranches, Cesary</i> pp. 309-347	
15	Tuesday, October 8	Veto <i>Martinez v. Legis., Martinez v. House, Thompson, Ophthalmology</i> Special Laws <i>Deseret Ranches, Cesary</i> pp. 309-347	
16	Thursday, October 10	Supreme Court Jurisdiction Article V, Section 3(b)	Justice Jorge Labarga
17	Tuesday, October 15	Article IV – Executive <i>Kirk, Women’s Emergency Network, Scott, Ayala, Fla. House v. Crist, Whiley, In re Advisory Op. to Governor</i> pp. 427-466	
18	Thursday, October 17	Suspensions: Worrel – provided on Canvas <i>Israel, Bruner, Pizzi</i> Executive Orders <i>Abramson</i> pp. 467-482	
19	Tuesday, October 22	Article V – Judiciary Structure of Court System <i>Laborers’ Int’l Union, Johnson, In re Clarification of FRPP, Treadwell, Hall</i> pp. 483-498 Jurisdiction review <i>DMT v. TMH, Adv. Op. to Atty. Gen’l re Raising Min. Wage, Jenkins, Dodi, Jollie, Harrison, Vickery</i> pp. 499-530	
20	Thursday, October 24	Writ Jurisdiction <i>Crist, Detzner, Special Apportionment</i> Jurisdiction of DCAs <i>Creighton, Amend. to FRAP, State v. MK</i> pp. 531-557	Justice John D. Couriel

		<p>Binding Authority of DCAs <i>Pardo</i> Selection of Judges <i>Pleus, Thompson</i> pp. 558-570</p>	
21	Tuesday, October 29	<p>Article VII – Finance <i>St. Johns River WMD, Reedy Creek, Alachua County v. Adams, Garcia, Zingale, Sebring Airport Authority, Town of Palm Beach</i> pp. 621-659</p>	
22	Thursday, October 31	<p><i>Sebring Airport Authority, Town of Palm Beach, Contractors of Pinellas County, City of Port Orange, Collier County</i> pp. 659-697</p>	
23	Tuesday, November 5	<p>Bonding <i>School Bd. of Sarasota, Strand, Volusia County, City of Palatka</i> pp. 705-710, 715-732</p> <p>Skim: Tax Rates & Assessments <i>Straughn, Southern Bell, Northern Palm Beach County Water Control Dist.</i> pp. 733-771</p>	
24	Thursday, November 7	<p>Article VIII – Local Government <i>Volusia County, Sarasota County, Broward County, City of Coconut Creek, Briley Wild & Assoc., Alsdorf</i> pp. 772-803</p> <p>Skim: <i>City of Miami Beach, City of Ocala, City of Long Beach Resort, Capella</i> pp. 803-822</p>	
25	Tuesday, November 12	<p>Preemption <i>City of Palm Bay, Barragan, City of Hollywood</i> pp. 823-838</p>	

		<p>County Officers <i>Brock, Demings</i> pp. 854-862</p> <p>Skim: Consolidation <i>Albury, Town of Baldwin</i> pp. 839-844</p>	
26	Thursday, November 20 (Last Regular Class)	<p>Article X – Miscellaneous Homestead – <i>McGinty, Lopez, Scholtz</i> pp. 970-977, 981-985</p> <p>Eminent Domain – <i>City of Ocala v. Nye, System Components, Flatt v. Brooksville</i> pp. 812-815, 990-992, 1000-1015</p>	
	Tuesday, December 3 (in person & by Zoom)	Review Session	
	Flexible during Exam Period	Final Exam	