**Florida Constitutional Law**

**LAW 6930, Section 30530 (in-person), Section 30961 (online)**

**3 Credit Hours**

**Monday, Tuesday, Thursday: 1:45 PM – 2:40 PM in MLAC 106**

**Spring 2021 Course Syllabus**

Professor Jon Mills

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Office Hours by appointment

**First Day of Class on January 19, 2021**

***FIRST DAY READING ASSIGNMENT***

***INTRODUCTION: HISTORY AND PERSPECTIVE (MATERIAL POSTED ON CANVASS)***

## Course Syllabus

Will be posted online on CANVAS (Florida Constitutional Law-Fall 2019 (Jon Mills) or contact Betty Donaldson at donaldso@law.ufl.edu. **The print- out bound course-materials can also be purchased at** [**www.bookit.com.bz**](http://www.bookit.com.bz/) **under the "Law School" tab or by calling Book iT! at 352-371-9588.**

## Student Hours

Professor Mills prefers students to contact him prior to meeting during office hours.

## 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); 4) 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

The course materials consist of the “Florida Constitutional Law - Compilation of Cases & Articles,” in two volumes. Volume 2 contains a reproduction of the Florida Constitution, as amended in 2018. The course materials are available online on CANVAS, in the files section. The print-out bound course-materials can be purchased at [www.bookit.com.bz](http://www.bookit.com.bz/) under the "Law School" tab or by calling Book iT! at 352-371-9588.

“Florida Constitutional Law - Compilation of Cases & Articles” is divided into chapters corresponding to the articles of the Constitution. Each chapter opens with a short introduction which serves as a road map for that Article. Some of the more complex sections within an Article are preceded by a brief introduction. Most cases are followed by questions to guide students in the analysis of the materials (but students should not discount the importance of cases which are not followed by questions). Each chapter ends with a short list of optional supplemental readings, which may help provide a better understanding of issues raised.

## Course Objectives and Student Learning Outcomes

After completing this course, students should be expected to:

* 1. Understand and apply the role of state constitution 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/currcnt/regulations/info/attendance.aspx>) and require appropriate documentation.

## Courtesy

Please turn off your cell phone during class. I also request that you notify me if you know you must leave class early. Please do not play computer games or surf the Internet during class. Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

## Final Examination

The final examination will be a **4-hour take home, open book and open notes essay** exam and will be distributed **online on CANVAS** on the designated exam schedule. The exam will consist of 5 or 6 hypotheticals with limited space for answers. The instructions of the examination will be announced later in the semester. The law school policy on exam delays and accommodations can be found [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form).

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

## Evaluation of Grades:

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

**Grading Policy**

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| --- | --- | --- | --- |
| **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://catalog.ufl.edu/ugrad/current/regulations/info/grades.aspx>

## 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](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/](http://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.

## University Honesty Policy

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-](http://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. If you have any questions or concerns, please consult with the instructor or TAs in this class.

## Counseling and Wellness Center

Contact information for the Counseling and Wellness Center: [http://www.counseling.ufl.edu/cwc/Default.aspx,](http://www.counseling.ufl.edu/cwc/Default.aspx) 392-1575; and the University Police Department: 392-1111 or 9-1-1 for emergencies.

**COVID-19**

This course will be taught in person and online. Students must adhere to the following policies to ensure safe classroom interactions:

1. Students must wear approved facial masks at all times during class and in buildings on campus. Failure to wear an approved facial covering will result in the student being reported to the Office of Student Conduct and Conflict Resolution, and the student will no longer be permitted on campus. This violation will also be reported to the relevant state bar.
2. Students must sit six-feet apart at all times while in the classroom. Students must sit in designated seats that have been made available for seating.
3. You can use the sanitizing supplies to disinfect your seating area before and after class.
4. Students must follow the TA’s instructions for entering and exiting the classroom, and students must practice social distancing when entering and exiting the classroom.
5. If you are experiencing COVID-19 symptoms, do not come to campus. I fyou are already on campus, immediately leave. This link provides a list of symptoms: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.
6. Please use the UF Health Screening Questionnaire and follow instructions provided by the university for determining when coming back to campus is permitted (<https://coronavirus.ufhealth.org/screen-test-protect-2/frequently-asked-questions/covid-19-exposure-and-symptoms-who-do-i-call-if/>)
7. Course materials will be provided and you will be given a reasonable amount of time to makeup any assignments missed due to a COVID-19 related absence.

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| **CLASS** | **DATE** | **TOPIC DISCUSSED** |
| 1 | January 19 | Introduction: History and Perspective |
| 2 | January 21 | Article I, Section 23—Right to Privacy  *In re T.W, Schiavo, Eitel* |
| 3 | January 25 | Article I, Section 23—Right to Privacy  *Fla. Board of Bar Examiners* |
| 4 | January 26 | Article I, Section 23—Right to Privacy  *Kurtz, Post-Newsweek* |
| 5 | January 28 | Article I, Section 23—Right to Privacy  *Rolling, Krischer* |
| 6 | February 1 | Article I, Section 12—Searches & Seizures p. 49-66  *Bernie, Wells* |
| 7 | February 2 | Article I, Section 12—Searches & Seizures p.66-71  *Hume* |
| 8 | February 4 | Article I, Section 4—Freedom of Speech and Press  *Elder*  Article I, Section 5—Right to Assemble  *Oldham* |
| 9 | February 8 | Article I, Section 6—Right to Work  *Hillsborough County Aviation, United Teachers of Dade* |
| 10 | February 9 | Article I, Section 8—Right to Bear Arms  *Norman* |
| 11 | February 11 | Article I, Section 10—Prohibited Laws  *Shenfield, Pomponio* |
| 12 | February 15 | Article I, Section 21—Access to Courts  *Kluger, Lasky,* |
| 13 | February 16 | Article I, Section 21—Access to Courts  *Diamond, Damiano* |
| 14 | February 18 | Article I, Section 21—Access to Courts  *In re Forfeiture of 1978 Chevrolet Van, LaRosa* |
| 15 | February 22 | Article I, Section 3—Religious Freedom  *Holmes, McNeil, Espinoza* |
| 16 | February 23 | Article I, Section 9—Due Process  *Smith*  Article I, Section 17—Excessive Punishments  *Jones, Valle* |
| 17 | February 25 | Article I, Section 24—Access to Public Records &Meetings  *Campus Communications, Sarasota Herald-Tribune, Sarasota Citizens* |
| 18 | March 1 | Article III Intro  Article III, Section 6—Laws (Single Subject)  ­*Santos, Loxahatchee River Enviro. Control District* |
| 19 | March 2 | Article III, Section 12—Appropriation Bills (Single Subject)  *Fla. Defenders of the Environment*  Article III, Section 4—Quorum and Procedure  *Moffit* |
| 20 | March 4 | Article III, Section 5—Investigations and Witnesses  *Expedia Inc., League of Women Voters of Florida* |
| 21 | March 8 | Article III, Section 8—Executive Approval and Veto  *Martinez, Florida House of Representatives* |
| 22 | March 9 | Article III, Section 8—Executive Approval and Veto  *Thompson, Florida Society of Ophthalmology*  Article III, Section 10—Special Laws  *St. Johns River Water Management District*  Article III, Section 11—Prohibited Special Laws  *Cesary* |
| 23 | March 11 | Article III, Section 16—Apportionment  *In re Senate Joint Resolution of Legislative Apportionment* |
| 24 | March 15 | Article III, Section 16—Apportionment  *Detzner* |
| 25 | March 16 | Article IV—Executive Introduction  Article IV, Section 1—Governor (Supreme Executive Power)  *Kirk, Women’s Emergency Network* |
| 26 | March 18 | Article IV, Section 1—Governor (Supreme Executive Power)  *Ayala, Francati* |
| 27 | March 22 | **Guest Speaker: Justice Labarga** |
| 28 | March 23 | Article IV, Section 1—Governor (Supreme Executive Power)  *Crist, Whiley* |
| 29 | March 25 | Article IV, Section 1(c)—Request in Writing the Opinion of the Justices  *In re Advisory Opinion 1980*  Article IV, Section (1)(f)—Shall Fill by Appointment Any Vacancy  Article IV, Section 7—Suspensions  *Israel, Bruner, Pizzi, In The Supreme Court of Florida* |
| 30 | March 29 | Article V—Introduction  Article V, Section 1—Courts  *Burroughs*  Article V, Section 2—Administration (practice and procedure)  *Johnson Jr., In re Clarification of Fla. R. of Practice and Procedure* |
| 31 | March 30 | Article V, Section 2(b)—Administrative Duties of the Chief Justice and the Supreme Court  *Hall, Payret* |
| 32 | April 1 | Article V, Section 3—Supreme Court Jurisdiction  *D.M.T., Advisory Opinion to the Attorney general re Raising Florida’s Minimum Wage, Jenkins* |
| 33 | April 5 | Article V, Section 3—Supreme Court Jurisdiction  *Dodi Publishing Co., Jollie* |
| 34 | April 6 | Article V, Section 3—Supreme Court Jurisdiction  *Harrison, Vickery* |
| 35 | April 8 | Article V, Section 3—Supreme Court Jurisdiction  *Petrik, Crist, Detzner* |
| 36 | April 12 | Article V, Section 3—Supreme Court Jurisdiction  *In re Constitutionality of Senate Joint Resolution, Creighton* |
| 37 | April 13 | Article V, Section 3—Supreme Court Jurisdiction p.\_\_  *Amendments to the Fla. Rules of Appellate Procedure, M.K., Pardo* |
| 38 | April 15 | Article V, Section 5 (Circuit Courts) and Section 6 (County Courts)  *Commentary*  Article V, Section 8 (Eligibility) and Section 11 (Vacancies)  *Commentary, Pleus, Thompson* |
| 39 | April 19 | Course Review |
| 40 | **April 20-22** | **Reading Period** |