

**POLS 3330-01 | Fall 2019****Judicial Process****Dr. Marcus E. Hendershot,  
Assistant Professor****Schreiner University****Humanities Division****W.C. Weir #210**[mhendershot@schreiner.edu](mailto:mhendershot@schreiner.edu)**@su\_politics** (Twitter)**(830) 792-7325**Class Hours

Monday:

Tuesday:

10:50 to 12:05pm @Weir 109

Wednesday:

Thursday:

10:50 to 12:05pm @Weir 109

Friday:

Office Hours

Monday:

11:30 to 1:10pm

Tuesday:

12:05 to 1:00pm

Wednesday:

11:30 to 1:10pm

Thursday:

12:05 to 1:00pm

Friday:

*By Appointment***I. Course Description**

This course offers a broad overview of how the third branch of government fits into the American political system. It will start by covering theories of judicial decision-making, including the legal model of precedent, as well as the competing attitudinal and strategic views. Consideration of internal processes (e.g., agenda setting, leadership and opinion formation) and external influences (e.g., interest group lobbying and judicial appointments) will follow. We will transition to the systematic relationships that underpin the law school environment and the potential pathway to a successful career in the law. The course will then close out with a consideration of the role of courts as venues for social change.

The course will be of interest to any student of political science, those who are considering pursuit of a law degree, or those who simply are interested in the role of courts in American society.

Our learning objectives are four-fold this semester:

- 1) Gain a reference knowledge of the judicial politics literature
- 2) Develop analytical skills that allow us to apply abstract theories to concrete fact sets.
- 3) Develop the research skills necessary to frame a current policy-debate or controversy
- 4) Learn how to cogently communicate this knowledge

**II. Required Text and Readings**

The majority of readings for this course will be from an edited reader volume that is a required text for the course.

Murphy, Walter F., C. Herman Pritchett, Lee Epstein, and Jack Knight. 2006.  
Courts, Judges, and Politics: An Introduction to the Judicial Process. 6th ed.

New York: McGraw Hill.

ISBN 9780072977059

This text will be supplemented with topical readings from newspapers, journals, books and video content. These materials will be made available to students through the Schreiner Canvas system, which provides a web-based resource for the course that will act as the current calendar of readings/lectures:

Schreiner Canvas System

<https://schreiner.instructure.com/>

Please make note of the help button on the lower left-hand menu. It will be useful for issues specific to the Canvas system. For other Schreiner technical issues, such as user accounts, email and passwords, you can utilize:

Schreiner Help Desk

(830) 792-7344

[helpdesk@schreiner.edu](mailto:helpdesk@schreiner.edu)

### III. Calendar of Topics

Tuesday	08/20/2019	<b>Introduction to Course</b> Social Contracts & Political Preferences
Thursday	08/22/2019	<b>Theoretical Approaches &amp; Legal Systems</b> Murphy, et al. 2006. - Ch 1 <sup>1</sup> 1.1 Blackstone - Commentaries on the Laws of England 1.2 Hamilton - Federalist #78 1.3 Tocqueville - Judicial Power in the United States
Tuesday	08/27/2019	Murphy, et al. 2006, 1.4 Holmes - The Path of the Law 1.5 Cardozo - The Nature of the Judicial Process
Thursday	08/29/2019	<b>Statutory and Constitutional Interpretation</b> Murphy, et al. 2006. - Ch 11 11.1 Frankfurter - Reflections on the Reading of Statutes 11.4 Posner - The Federal Courts 11.8 Eskridge - Dynamic Statutory Interpretation

<sup>1</sup> When you see Murphy, et al. 2006 Ch [#] that means you should read the front material to the chapter. If it lacks a chapter number and is followed by the numbered reading, then you should read just that edited reading.

Tuesday	09/03/2019	Murphy, et al. 2006. - Ch 12 12.2 Scalia - Originalism: The Lesser Evil 12.3 Bork - The Tempting of America 12.4 Marshall - Reflections on the Bicentennial
Thursday	09/05/2019	<b>The Role of Precedent and Attitudes</b> Murphy, et al. 2006. - Ch 10 10.6 Segal and Spaeth - The Influence of Stare Decisis 10.6 Knight and Epstein - The Norm of Stare Decisis 10.7 Powell - Stare Decisis and Judicial Restraint <b>Drop Deadline (09/05)</b>
Tuesday	09/10/2019	Segal, Jeffrey A. 1984. "Predicting Supreme Court Cases Probabilistically: The Search and Seizure Cases, 1962-1981." <i>American Political Science Review</i> , 78-4 (December): 891-900.
Thursday	09/12/2019	Segal, Jeffrey A., and Albert D. Cover. 1989. "Ideological Values and the Votes of U.S. Supreme Court Justices." <i>American Political Science Review</i> , 83-2 (June): 557-565. Murphy, et al. 2006, 3.3 Rowland and Carp - Politics and Judgment on USDC
Tuesday	09/17/2019	<b>The Strategic Model</b> Murphy, et al. 2006. - Ch 8 Epstein, Lee, and Jack Knight. 1998. <i>The Choices Justices Make</i> . Washington D.C., Congressional Quarterly Press. Ch 1
Thursday	09/19/2019	Murphy, et al. 2006 - Ch 13 8.3 Segal et al - Decision Making on the USCA <b><u>4 Week Grades Due (09/19)</u></b>
Tuesday	09/24/2019	[open session / overflow]
Thursday	09/26/2019	<b><u>Supreme Court Case Analysis Due</u></b> Film "The Supreme Court - A Nation of Liberties" (Disk 3)
Tuesday	10/01/2019	<b>The Chief Justice &amp; Opinion Formation</b> 13.6 Danelski - Influence of the Chief Justice 13.7 Spriggs and Maltzman - Marshalling the Court
Thursday	10/03/2019	<b><u>Midterm Examination</u></b>

Tuesday	10/08/2019	<p><b>Supreme Court Agenda-Setting</b></p> <p>Murphy, et al. 2006. - Ch 6</p> <p>Perry, H.W. Jr. 1991. <i>Deciding to Decide: Agenda Setting in the United States Supreme Court</i>. Cambridge, MA: Harvard University Press. Ch 3</p>
Thursday	10/10/2019	<p>Pacelle, Richard L., Jr. 1991. <i>The Transformation of the Supreme Court's Agenda: From the New Deal to the Reagan Administration</i>. Boulder: Westview. Ch 2</p> <p><i>Midterm Grades Due (10/10)</i></p>
Tuesday	10/15/2019	Fall Break
Thursday	10/17/2019	<p><b>The Judicial Agenda and Compliance</b></p> <p>Murphy, et al. 2006,</p> <p>13.3 Cross and Tiller - Judicial Partisanship and Obedience</p> <p>6.5 Vose - Litigation as a Form of Pressure Group Activity</p>
Tuesday	10/22/2019	<p>Murphy et al. 2006,</p> <p>6.6 Caldeira and Wright - Organized Interests and Agenda</p> <p>6.4 Galanter - Why the Haves Come Out Ahead</p>
Thursday	10/24/2019	<p><b>The Politics of Judicial Appointments</b></p> <p>Murphy, et al. 2006. - Ch 4</p> <p>4.2 Goldman - Picking Federal Judges</p> <p>4.3 Lewis - Partisanship and Appointment</p> <p>4.6 Segal, et al. - Buyer Beware?</p> <p><i>Drop Deadline (10/24)</i></p>
Tuesday	10/29/2019	<p><b>Law School Curriculum &amp; Economics</b></p> <p>Murphy, et al. 2006. - Ch 5</p> <p>5.1 Turrow - One L</p> <p>Segal, David, "Is law school a losing game?" New York Times, 8 January 2011.</p>
Thursday	10/31/2019	<p><b>Law School Admission Strategies</b></p> <p>Sander, Richard, and Jane Yakowitz. 2010. "The Secret of My Success: How Status, Prestige, and School Performance Shape Legal Careers." SSRN Abstract# 1640058</p>

Tuesday	11/05/2019	<b>Future Paths &amp; the Profession</b> Harper, Steven J., "Law school disequilibrium," <i>Am Law Daily</i> , 8 February 2013  Rohde, Deborah L. 2012. "Legal education: rethinking the problem, reimagining the reforms," <i>Pepperdine Law Review</i> , 50-2: 437-59.
Thursday	11/07/2019	Murphy, et al. 2006. 5.5 O'Connor - Professionalism [current reading TBA]
Tuesday	11/12/2019	<b>Clerkships &amp; the Job Market</b> Ward, Artimus, and David L. Weiden. 2006. <i>Sorcerers' Apprentices: 100 Years of Law Clerks at the United States Supreme Court</i> . New York: New York University Press. Ch 2
Thursday	11/14/2019	Haas, Aaron S. 2006. "The Rationality of Law Students' Career Choices." Harvard Law School Student Scholarship Series, Paper 8
Tuesday	11/19/2019	<b>The Big Picture: Thoughts on Courts and Social Change</b> Dahl, Robert A. [1957] 2001. "Decision Making in a Democracy: The Supreme Court as a National Policy Maker." Honorary Reprint, <i>Emory Law Journal</i> , 50-2 (Spring): 563-582.
Thursday	11/21/2019	Epstein, Lee, Jack Knight, and Andrew Martin. 2001. "The Supreme Court as a Strategic Policy Maker." <i>Emory Law Journal</i> , 50-2 (Spring): 583-611.
Tuesday	11/26/2019	Film "The Supreme Court: Rehnquist Revolution" (Disk 4)
Thursday	11/28/2019	<i>Thanksgiving Holiday</i>
Tuesday	12/03/2019	[open session / overflow]
Tuesday	12/10/2019	<b><u>Final Examination</u></b>

#### IV. Course Requirements / Grading

The greatest component of the final grade will come from the midterm and final examinations that will be comprised of short answer, diagram, and essay questions. The remainder of the grade will be attributed to a Supreme Court case analysis that will lead into the midterm examination as well as an attendance component. The case analysis will be assigned and submitted through the Canvas online system.

Attendance will be recorded for each class session. An excused absence will be allowed per

university guidelines. Typically, universities allow for a number of acceptable reasons to miss a class session, such as illness, family emergencies, religious holidays, and participation in athletic or academic events. In these cases, you will be granted an excused absence that will not count against your grade. The prerequisite for an excused absence, however, is prior notification. That means you must send an email to me before the missed class period (send to [mhenderson@schreiner.edu](mailto:mhenderson@schreiner.edu)) Attendance will begin with the first class session.

Occasionally, a student will be traveling for academic or athletic events during a regularly scheduled examination period. Please contact me the week before the examination, so that we can arrange an alternative time or format.

Students with a documented medical excuse that conflicts with a course assignment should likewise contact me to establish an alternative time for submission / completion. All others that miss an assignment or exam deadline potentially are subject to a late penalty. Typically, I will assess a 5% penalty for each school day that it is delayed.

The breakdown of the course grade will be the following:

	<b>Requirement</b>	<b>Weight</b>	<b>Numerical</b>	<b>Letter</b>
1.	Attendance	5%	100-90	A
2	Case Analysis	30%	89-80	B
3.	Midterm Examination	32%	79-70	C
4.	Final Examination	33%	69-60	D
		100%	59-0	F

## **V. Policies and Guidelines**

### **Academic Integrity and Student Conduct Policies**

Activity in this course is subject to the *Schreiner University Academic Code of Conduct* and the *Student Code of Conduct*, both of which are located within the *Student Handbook*:

<http://www.schreiner.edu/student-life/student-handbook.aspx>

#### *Schreiner University Academic Code of Conduct*

These rules govern the standards and penalties for violations of academic integrity, such as cheating, plagiarism, fabrication, collusion and other questionable practices. Broadly speaking, an incident of *academic dishonesty* occurs when a student presents another's work (in whole or part) as his or her own. More specifically, *plagiarism* is the act of stealing or using the ideas or written text of another and representing them as one's own.

These types of behaviors can occur within exam answers, research papers, and other course assignments.

You should know that plagiarism and any other forms of cheating will not be tolerated and it will be handled according to the appropriate provision within these university regulations. Student papers are subject to review by a plagiarism checking service (e.g., turnitin.com). Violations will be pursued and may result in an F grade for this course and possible expulsion from the University.

### *Student Code of Conduct*

The *Student Handbook* also addresses more general matters of personal conduct, such as violations of criminal law, fraud, alcohol/drug use, student hazing, and sexual misconduct or violence (see also, Title IX below). Although these particular items are less likely to be encountered within a classroom setting, an issue could present itself. To the extent that this set of policies become relevant, we will abide by the intent and purpose of Schreiner University's *Student Code of Conduct*.

### **Title IX: Sexual Discrimination/Harassment/Misconduct/Assault**

Schreiner University is committed to maintaining a learning environment that is free from inappropriate conduct based on gender. As required by *Title IX*, the University does not discriminate on the basis of sex in its education programs and activities, and it encourages any student or employee who thinks that he or she has been subjected to sex discrimination, sexual harassment (including sexual violence) or sexual misconduct by another student, member of the faculty or staff, or campus visitor or contractor, to immediately report the incident to any of the individuals or offices listed below:

<https://schreiner.edu/campus-life/title-ix/>

Dr. Travis Frampton (*Title IX Coordinator*)  
Provost & VP for Academic Affairs  
830-792-7351  
[provost@schreiner.edu](mailto:provost@schreiner.edu)

Wendy L. Blaettner (*Deputy Coordinator*)  
Director of Human Resource Services  
(830) 792-7375  
[wblaettner@schreiner.edu](mailto:wblaettner@schreiner.edu)

Dr. William Davis (*Deputy Coordinator*)  
Dean of the Faculty  
830-792-7415  
[wdavis@schreiner.edu](mailto:wdavis@schreiner.edu)

Dr. Charles Hueber (*Deputy Coordinator*)  
Dean of Students  
(830) 792-7278  
[cmhueber@schreiner.edu](mailto:cmhueber@schreiner.edu)

Schreiner University takes acts of sexual violence and sexual harassment seriously. In an effort to comply with the *Violence Against Women Act* and the Office for Civil Rights federal guidelines, all students are required to complete training on sexual violence prevention. Along these lines, you are already aware of these policies and understand that you are expected to abide by them.

For those who have confidentiality concerns regarding a Title IX report, you should know that faculty and staff are *Mandatory Reporters* under this act. If you discuss a potential violation with a professor, then he or she *must* report it.

You do have a couple of other options for consultation. First, you may take advantage of Schreiner University Counseling Services, which has stronger confidentiality protections. You may also utilize the Campus Conduct Hotline as an anonymous means of reporting questionable conduct:

Kim Woods  
Director of Counseling Services  
Mountaineer Fitness Center | CMB 6220  
(830) 792-7279 | [kjwoods@schreiner.edu](mailto:kjwoods@schreiner.edu)  
<https://schreiner.edu/campus-life/campus-services/health-services/>

Campus Conduct Hotline  
(866) 943-5787

Given this course is in the discipline of political science we will throughout the semester be discussing issues and policies that are discomfoting or controversial in some manner. We will make every attempt to take an academic orientation toward these topics, but students and faculty can and do make errors that can be insulting or off putting to others. Feel free to contact me in a confidential manner and we will address any such issue.

### **Matters of Accommodation**

Schreiner University supports the Americans with Disabilities Act (ADA) and welcomes requests for reasonable accommodation. The University in compliance with Title VI and VII of the Civil Rights Act of 1964, Executive Order 11246 as amended, Title IX of the Education Amendments of 1972, Americans with Disabilities Act of 1990, and other federal laws and regulations, does not discriminate on the basis of race, color, national origin, sex, age, religion, disability or status as a veteran in any of its policies practices or procedures. This includes but is not limited to admissions, employment, financial aid and educational services.

Every effort will be made to make accommodations for those who fall under the *Americans with Disabilities Act of 1990* and the *Rehabilitation Act of 1973*. Students desiring academic adjustments/auxiliary aids should contact:

Dr. Jude Gallik

Director of Learning Support Services/Section 504 Coordinator  
(830) 792-7258 | [jgallik@schreiner.edu](mailto:jgallik@schreiner.edu)

In terms of accommodations and this particular course, please contact me directly and we will handle it in a discrete manner according to University guidelines.

### **Unanticipated Events, Incomplete Grades & Withdrawals**

On some occasions, a student will come down with an extended illness, or get called up for military duty, etc. These situations will be dealt with on a case by case basis and are often resolved through withdrawal from the course or through an incomplete grade agreement between the student, academic advisor and professor. I am extremely reluctant to go forward with an incomplete grade in any course. In the event that a substantive cause is present to do so, we will proceed through the guidelines found in the *Student Handbook*.

Withdrawal from this course will be governed by the University's procedure and applicable deadlines. Students contemplating withdrawing from the university during the term, or not returning after a break, should contact the Registrar. In addition to discussing reasons for withdrawing, it is very important that the withdrawal policy be followed, so that severe financial problems can be avoided. Please refer to the *Schreiner University Catalog* for more information about withdrawals.