CUAD 5420 Law and Public Policy

Instructor: Beverly Buck, JD, MPA
(303) 388-3131
beverly.buck@ucdenver.edu
Office hours by appointment

Class meeting time: Thursdays, 5 p.m. – 7:45 p.m.
January 22–May 9
Class location: NORTH 1402

March 23-29 Spring Break No classes. Campus open.
May 11-16 Finals Week –

COURSE DESCRIPTION
“There is hardly a political question in the U.S. which does not sooner or later turn into a judicial one.” Alexis de Tocqueville made this observation in 1835, and not much has changed. Why do the courts have so much influence over public policy in the United States, and what are some of the most significant ways they exercise that influence in the present day? How does the Congress seek to shape, direct, and sometimes limit judicial power (including the hiring of federal judges themselves)? What is the interplay between the courts, the legislature, and the executive branch? The big “so what”--what does all this mean for you—both as a nascent policy analyst and as a citizen in a democracy? How will you think about policy creatively, either to “get outside the box” of a seemingly confining court decision, or build ever stronger walls around the “box” to protect and preserve your position?

We will examine the relationship between courts and legislative assemblies, as well as the dynamic and complex interplay among the three branches of government at both federal and Colorado levels. We will explore how legislators use the policy process to shape and influence the exercise of judicial authority, and how the courts affect the policy process in reviewing the constitutionality of state and federal legislation. We will examine the role of the appellate courts (US Supreme Court, US Circuit Courts of Appeals, Colorado Supreme Court and Colorado Court of Appeals) in applying the U.S. Constitution and/or Colorado Constitution to the policy process, with particular reference to current controversies, e.g. intergovernmental relations (federalism); church-state relations; the “right to privacy” (e.g., abortion, sexual practices among consenting adults, “right to die”); police powers, property rights; school finance, marijuana, and selected issues in criminal law -- including due process in an age of terrorism.

The powers that be have not yet announced full 2015 calendars for either the US and Colorado Supreme Court, and both courts still have major decisions from their fall sittings to be announced, but I can pretty much guarantee that sex, drugs, and rock and roll are on the agenda! Please bear with me with a skeleton syllabus for readings past week 6 as things become clearer, I will be tweaking like mad!

COURSE GOALS are to (1) increase knowledge of American legal history, (2) provoke thought on a number of broad and enduring political questions by the study of intelligent opinions on
This class is an elective for a graduate degree in public administration from the School of Public Affairs (SPA). This course will be of interest to MPA students interested in policy, to MCJ students interested in the constitutional aspects of criminal law, and to doctoral students seeking an improved understanding of the Constitution’s impact on policymaking. It is a pre-approved elective for students in the environmental policy, management, and law concentrations.

EXPECTATIONS
My benchmarks for success in this seminar-type class are that you will leave with an increased

- understanding of how the US judicial systems works;
- capacity to read a court decision;
- awareness of the multiple legal research materials at your disposal and ability to access and use those resources;
- acquaintance with Constitutional issues, their place in policy-making, and their impact on our every-day life;
- desire to follow these issues as part of your every-day life; and,
- writing and argument skills.

You’ll note that my benchmarks of success did not include an increased knowledge of Constitutional law—that’s icing on the cake. This class is not the same as a typical law school’s “Constitutional Law” class. **There will be no exams testing you on this content. However, my expectations are that you come to class having completed the assigned readings and prepared to enter into vigorous discussion, and that you complete the written assignments in a thoughtful way.** Otherwise, this course will be deadly dull for you, your classmates, and me.

Table 1 below lists the course objectives. Column 1 lists some of SPA’s learning objectives and target competencies. The right hand column lists the class activities I have proposed to achieve those objectives and target competencies. Actual assignments may differ slightly depending upon class enrollment.
### MPA Learning Objectives and Target Competencies

<table>
<thead>
<tr>
<th>MPA Learning Objectives and Target Competencies</th>
<th>Activities Toward Achieving Learning Objectives</th>
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<tbody>
<tr>
<td>Students understand the process and context of policy making at all levels of democratic government, especially the judicial appellate system.</td>
<td>Students will gain understanding of how the US judicial systems works; learn or increase their capacity to read a court decision; gain awareness of the multiple legal research materials at their disposal and ability to access and use those resources; become acquainted with federal and state (Colorado) constitutional issues, their place in policy-making, and their impact on our everyday life through course readings, presentations, discussions, in-class applications, and out-of-class applications.</td>
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<td>Students can apply different perspectives and assumption to generate policy and management decision alternatives</td>
<td>Students will draw lessons from the class readings, discussion, and lectures for identifying obstacles to goal achievement. Students will learn about their own assumptions. Students will compare and contrast different perspectives in viewing the policy process through mock debates and q and a in class. Students will learn to apply a structured lens via written work. Students learn to identify (and perhaps overcome) any biases brought to class. Students will work in individual settings and may work in team settings.</td>
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<td>Students understand and can apply tools for engaging in the policy process, including the identification of common barriers to effective implementation and how to overcome them. Students understand advocacy processes</td>
<td>Students will analyze the same SCOTUS opinion in order to a) gain experience in the proper use of legal terminology and legal citations, and b) learn how to read, interpret, and summarize judicial decisions. Students will lead discussions on litigation-related, public policy topic of interest readings. Students will analyze law-related policy problems and create problem solving advice through a short policy memo, an op-ed, and an “elevator speech” for a client of their choice,</td>
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<tr>
<td>Students improve ability to (i) select and use appropriate research methods and analytical tools for collecting and analyzing data; and (ii) find and synthesize existing data to inform decisions</td>
<td>Students will learn the basics of legal research and proper citation of cases. Students will synthesize information into evidence guided by frameworks and theories in understanding and analyzing policy problems in writing their written work and oral presentations.</td>
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Students develop effective both written and oral communication skills in writing and a spoken format to a variety of audiences.

Students will achieve the course objectives by critically reading the course readings; by actively participating during in-class discussion/activities; by completing one course paper, an op-ed, and an elevator speech on their chosen topic; and participating and leading policy discussions.

The course format includes a mix of lecture, class discussions, small-group discussions, presentations, class activities, and out-of-class activities. Active participation and positive attitudes are expected. The readings from the peer-reviewed journals, actual pleadings and decisions filed in the US Supreme Court and Colorado Supreme Court will cover a range of public policy topics, including environmental policy, education policy, science policy, social policy, criminal justice, and international policy.

Several guest speakers—policy-makers and shapers—have accepted invitations to speak and hopefully their schedules will permit them to make it to class. See course schedule for details.

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READINGS.

- To be purchased:
  - Linda Greenhouse
  - Strunk, Jr. Wm & White, E.B. (1918, revised can use any version). The Elements of Style
  - Note: we will not be using all of the texts, used copies are fine. The Greenhouse is short and sweet and will fit into your pocket; the Elements of Style is a classic and you will return to it again and again.

- We will be using a variety of other materials: articles and publications from the American Constitution Society and its “opposite number”, the Federalist Society; recently published judicial opinions; law review articles; and legal blogs by today’s top legal scholars and legal journalists. Most of this material is available full-text online and I will post other material on CANVAS. More material about required readings follows at the end of the syllabus. The non-textbook readings noted in the syllabus are subject to change to adapt to speakers and current events; I will announce all changes in class or via email. You are responsible to know how to access works electronically from the Auraria library system.

- Students will be expected to follow a legal or US Supreme Court blog, such as SCOTUSBlog.org or news reporting about the courts on a weekly basis. (Handout of suggested blogs provided via email and posted on CANVAS)

- An inexpensive paperback law dictionary might come in handy, but is not required, as there are numerous ones available on line.

- THE SYLLABUS LISTED BELOW IS SUBJECT TO CHANGE AS EVENTS WARRANT!!

ACTIVITIES AND EVALUATION

Course materials will be explored through lectures, class discussions, student presentations, and guest appearances. Note: ultimate schedule of readings may change depending upon availability of speakers and current events!

There will be a variety of written assignments (this schedule will not change):

<table>
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<tr>
<th>Assignments</th>
<th>Due Date</th>
<th>Weight</th>
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<tbody>
<tr>
<td>Self Reflection</td>
<td>Due before first day of class</td>
<td>3</td>
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<tr>
<td>Legal Citation Treasure Hunt</td>
<td>Week 4/February 12</td>
<td>5%</td>
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<tr>
<td>Legal Briefing Exercise <em>(In re Gault)</em></td>
<td>Week 5/February 17</td>
<td>10%</td>
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<tr>
<td>Public policy “case study”</td>
<td>Each student should discuss with me, preferably in person or if not, by phone, his/her planned policy topic. All topics should be approved no later than February 12 Part 1 Due Week 7/March 5 Part 2 Due week 10/March 26 Part 3 Due during week 13/ April 16-20 (9am)</td>
<td>40%</td>
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Course Assignments

1. Getting to Know You: Narrative Critical Reflection (Individual Work) 3%
   Explain your professional experiences with policymaking and policy analysis. You may choose any field or venue in which you participated, but especially if you are a professional policy analyst, be selective. What was the issue? What was the venue? What was your role, e.g., passive, active, participant, victim, leader, etc. How did your experiences shape your assumptions about how policy gets made? How do you think you want to be involved in policymaking in the future and how might this course help you? Please indicate if you have ever worked in a law firm or in an administrative agency where you observed a lawsuit (trial or appellate). Not to exceed 3 pages, 1.5 spacing, 12 point font, 1" margins, footer or header with your name and page number, NO COVER PAGES DUE on or before 1/20

2. Legal Citation Treasure Hunt 5%—to get you familiar with how to find legal research sources. One page Due Feb 12

3. Legal Briefing Exercise 10%—You will write a memo on a US Supreme Court decision to a) gain experience in the proper use of legal terminology and legal citations, and b) learn how to read, interpret, and summarize judicial decisions. We will work through how you do this in class. Two-three double-spaced, typewritten pages, not including cover page Due Feb 17 via email

4. Public policy “case study” on a topic of interest to you—40% This is a three-part assignment. I have assigned a schedule so that you will not be tempted to wait until the last minute! We will also discuss details of the assignment in class. Topic choice Due Feb 12 via email

You are writing a case study for your boss on an issue that is or might become a legal case—S/he could be a county commissioner, mayor, governor, executive agency head, ED of a nonprofit, etc.

All case studies must take an “interbranch perspective” as discussed in class and should involve a public policy issue where litigation and court decisions at either the state or federal level have played a critical role. For the case studies, I expect you to draw on literature from more than one academic discipline (e.g., law, political science, public policy) as well as from (serious and trustworthy) non-academic sources (e.g., media, advocacy group publications) and (optionally) primary research (e.g., interviews). Page numbers are approximate, but the goal is to have a completed case study, of publishable quality, NOT TO EXCEED 20 pages (not including the bibliography). Each part of the
Case Study Part 1: Literature review and draft outline.
Identify your public policy issue, its current status and key issues surrounding it. This part of outline should focus on necessary history and background information of your issue and the relevant state or federal litigation/judicial aspects of this policy area. Outline should indicate how the policy issue has developed both in terms of the “interbranch perspective” (executive, legislative and judicial) and with respect to different levels of government (federal, state, regional and/or local). Be sure to include discussion of critical issues that are being debated and will need to be resolved for policy change to occur in your chosen area. What role are different actors (federal or state executive branch agencies or officials, federal or state legislators, lawyers, policy advocates, private sector businesses, media, etc.) currently playing in the policy debate? At what level(s) of government is the issue currently in play? How are policy developments in different arenas/branches/levels of government influencing each other?

The literature review can be in the form of a bibliography. Be thinking about what you would recommend to your boss. This portion of the case study should be 6-8 pages, no longer. Due March 5

Case Study Part 2: First draft
Present your analysis of chosen topic’s current public policy debate and the efficacy of the various strategies being used to effect policy change. What strategies and tactics are the various policy actors using and how effective do you think their approaches are? What do you predict the likely policy outcome will be? Be sure to relate your analysis and predictions to policy debates in other topic areas that have been presented in class. Include an outline (not to exceed 1 page) of your final recommendations. This portion of the case study should be 8-10 pages (not including the bibliography), no longer. Due March 19

Case Study Part 3: Final draft
The final paper should not exceed 20 pages, not including bibliography. Due April 16-20 (9am)

1.5 spacing, 11 point font, 1” margins, footer or header with your name and page number, NO COVER PAGES

5. Policy Analysis Presentation —15%
You will give a 10 minute oral presentation on your policy paper in the final month of class (actual timing will depend on class size) issues, guest speaker availability. You may work as a group if your policy paper topics are sufficiently related—let’s talk!

Note on Team Work
As a professional in the policy world, you will often be working on a team composed of diverse personnel, so I think it’s an important enough skill to start practicing now! All the
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time-management skills you learned for yourself will need to be ramped up. I will expect that group members be engaged in all components of the activity and that any group work reflects this effort.

— OP ED/Elevator Speech 10/5-7%: Your final written assignments are:

a) to take an advocacy position on the policy topic addressed in your case study and write a 650 word “op-ed” making a case for a specific policy change in your topic area. An “op ed” is a short, persuasive piece of writing that appears “opposite the editorial page” in a newspaper; op eds are included as reading assignments for some classes and additional models will be distributed in class and posted on CANVAS. Your assignment is to write a 650-word op-ed article. Like all editorial page editors, I will be brutal about the word limit and will not read or consider any text that exceeds the 650-word limit.

b) take that short piece and cut it in half for an elevator speech; 2 points extra credit if you can make it a thoughtful tweet

Note: Why an op-ed? an elevator speech or a tweet? You boss may never ask you to write a long memo—it demands the luxury of time to write as well as read. You are much more likely to have to write a very short memo “on the fly”. Your boss may not even read that, so you have to tighten it up drastically for an elevator speech. In this decade we have expanded our electronic messaging--There will be 2 extra credit points on this assignment if you can turn your elevator speech into a thoughtful tweet!

Due May 7 (before class date), so tweets and elevator speeches can be shared in class.

Writing Standards. Student work should evidence familiarity and critical appreciation of both required readings, lectures, case studies, and class discussion. Written work must reflect independent thought and be well-informed, logically persuasive, and well-written. All papers must meet academic and professional standards for form and substance. Note: plagiarism represents grounds for a failing grade in the class; see the University of Colorado Honor Code below for details.

A. All exams and papers must be submitted in class (or as otherwise directed) and on time. Late work will be penalized one half of a letter grade per day it is late (for example, your A assignment would become an A-). If you cannot turn in an assignment by the deadline posted, you must notify the instructor prior to the deadline. Excuses for late work will be accepted at the discretion of the instructor and only prior to the assignment deadline.

Class participation

Students are required to attend and actively participate in class by contributing their opinions and ideas to the group conversation. This requirement will count for 12% of the grade. If more than two unexcused absences occur, your grade may be lowered by one or more levels. Students are strongly encouraged to attend all classes, both for your benefit and the benefit of your classmates. The class participation grade will be based on the quality of your in-class participation, including class presentations, small-group activities, and discussions. I will call on students randomly so be prepared to speak up (you also have the right to “pass,” but I will be keeping track).

Course Grades:

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For overall course grades, I follow section 7.1 of GSPA’s MPA Handbook:

Grades offered in GSPA courses (except internship and thesis) are based on an A to F scale, with each letter grade representing the following standard narrative description:

- A. Work beyond the level of a typical graduate student; exemplary, stellar work that is above proficient. (An A equals 4 grade points, an A- equals 3.6 points.)
- B. Work typical of a graduate student; indicates student has attained the knowledge and skills intended for the course and can function at a proficient level. (A B+ equals 3.3, a B equals 3.0., and a B- equals 2.7 points.)
- C. Performance is below graduate-level expectations, below proficient. (A C+ earns 2.3 grade points, C yields 2.0).
- D. Substandard performance in all aspects of the work of the course; inadequate comprehension of assigned reading material. (D equals 1.0 grade points).
- E. Level of performance demonstrably below that expected of a graduate student; little or no indication that the student can succeed in a graduate program.

<table>
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<tr>
<th>Grading Scale for Individual Assignments</th>
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<tr>
<td>A  95-100 percent of total possible</td>
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<tr>
<td>A- 90-94</td>
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<tr>
<td>B+ 87-89</td>
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<tr>
<td>B  83-86</td>
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<td>B- 80-82</td>
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Please note that this grading policy requires exceptional performance for a grade of “A,” and that a “B” reflects typical performance expected of a graduate-level student. I do not grade on a curve, so it is possible for everyone in the course to earn an A or everyone to earn a C, based on how his/her performance compares to the work expected of a typical graduate student. Because this is a core course for the MPA degree, you must receive a grade of B- or better in order to receive credit for the course.

Missed Classes and/or Assignments:
As discussed above, please contact me in advance for any classes that you must miss so that we can make arrangements for you to turn in any assignments that are due. If you miss the deadline for an assignment due to unexpected circumstances, contact me to discuss it. If you need an extension, contact me to discuss it. In general, you will be well-served by contacting me to discuss any absences or missing assignments. If I feel students are abusing this policy, I reserve the right to impose stricter policies.

Requests for an Incomplete grade will be handled pursuant to Section 7.1.1 of the MPA Handbook. In general, an Incomplete grade is considered only when the student is unable to complete course requirements due to circumstances beyond the student’s control.

If I need to cancel or move our class, I will e-mail you and post it on the class CANVAS site.

Student Assistance:

For more information on this course, contact Beverly Buck, JD, MPA, via email: Beverly.buck@ucdenver.edu. You can also make an appointment to see me in Suite 440 Lawrence Street Center. Please leave me an email to set up an appointment!
DRAFT SYLLABUS December 2014

Beverly Buck
Beverly.buck@ucdenver.edu
303-388-3131

Office hours by appointment

If you feel you may need additional assistance with the quality of your writing or any other aspects of your academic work, please contact the Center for Learning Assistance in NC 2004, 303.556.2802. Foreign students should check in with Scott Steinbrecher, who works with all of the Korean students. His office is directly across from mine in Suite 440 Lawrence Street Center.

If you have a disability that needs to be accommodated, please let me know ASAP and we will work out arrangements. For academic accommodations, first register with Disability Resources and Services (DRS), Office of Disability Resources and Services, North Classroom Building, Room 2514, Phone: 303 556-3450, TTY: 303 556-4766 and then provide me with a copy of your DRS letter.

HOUSEKEEPING
I want to create a constructive learning experience for every participating student. Therefore, anyone participating in this course must refrain from actions that disrupt the learning experience for others (use of cell phones, private conversations, etc.).

EXPECTATIONS

1. I have designed these assignments to combine traditional lecture format with facilitated discussion by you, interactive exercises, group work and guest presentations by opinion makers and shapers in the community.

   We are all teachers and learners in this class with reciprocal duties and responsibilities, which include thoughtful and purposeful preparation, participation, and communication. You can expect me to make assignments in a timely fashion in advance of due dates; posting of lecture notes prior to class so that you can take notes on your computer if you choose; availability of office hours; and, a not unsympathetic ear, if you are having difficulty with any aspect of class.

2. Come to class having completed the assigned readings and prepared to enter into vigorous discussion, and that you complete the written assignments in a thoughtful way. As a graduate student, remember to read the assigned readings critically and come to class prepared to discuss, critique, defend, and contribute to these theoretical concepts with your own opinions and experiences. Otherwise, this course will be deadly dull for you, your classmates, and me. Students are strongly encouraged to attend all classes, both for your benefit and the benefit of your classmates.

3. Deadlines: Students are accountable for knowing and following deadlines. All exams and papers must be submitted in class (or as otherwise directed) and on time. Late work will be penalized one half of a letter grade per day it is late (for example, your A assignment would become an A-). If you cannot turn in an assignment by the deadline posted, you must notify me prior to the deadline. Excuses for late work will be accepted at my discretion and only prior to the assignment deadline.

4. Communication/Technology

   a. Students expected to use CANVAS to check for assignments. I will post assignments at least a week ahead of time. I will post class notes immediately prior to the lecture. Each week will have a separate folder, i.e. Week 1: Course...

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Beverly Buck Beverly.buck@ucdenver.edu 303-388-3131

Office hours by appointment

Introduction. The outside of the folder has the assignments and readings; inside the folder are class notes and related materials. I will email you when I post something.

2-b. I will communicate with you via your UCD assigned email address, including when materials are posted in on CANVAS.

3-c. If I need to cancel or move our class, I will e-mail you and post it on the class CANVAS site.

4-d. Make sure you know how to access materials online through the Auraria library system.

5. Writing Standards. Student work should evidence familiarity and critical appreciation of required readings, lectures, case studies, and class discussion. Written work must reflect independent thought and be well-informed, logically persuasive, and well-written. All papers must meet academic and professional standards for form and substance.

1.a. ALL WRITING (unless otherwise directed) 1” margins, 11 point type, 1.5 line spacing, all pages including page number and your name. NO COVER PAGES

2-b. Note: I am not wed to either Chicago Manual of Style or APA Style; I am wed to consistency, clarity, and correctness of grammar and citation form. Note: some of your professors and capstone will require APA

3-c. Note: plagiarism represents grounds for a failing grade in the class; see the University of Colorado Honor Code below for details.

6. Attendance. Please contact me in advance for any classes that you must miss in general, you will be well-served by contacting me to discuss any absences or missing assignments. If I feel students are abusing this policy, I reserve the right to impose stricter policies and if more than two unexcused absences occur, I may lower your grade by one or more levels.

7. Course Grades: For overall course grades, I follow section 7.1 of GSPA’s MPA Handbook:

Grades offered in GSPA courses (except internship and thesis) are based on an A to F scale, with each letter grade representing the following standard narrative description:

- F. Work beyond the level of a typical graduate student; exemplary, stellar work that is above proficient. (An A equals 4 grade points, an A- equals 3.6 points.)
- G. Work typical of a graduate student; indicates student has attained the knowledge and skills intended for the course and can function at a proficient level. (A B+ equals 3.3, a B equals 3.0, and a B- equals 2.7 points.)
- H. Performance is below graduate-level expectations, below proficient. (A C+ earns 2.3 grade points, C yields 2.0).
- I. Substandard performance in all aspects of the work of the course; inadequate comprehension of assigned reading material. (D equals 1.0 grade points).
- J. Level of performance demonstrably below that expected of a graduate student; little or no indication that the student can succeed in a graduate program.

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Please note that this grading policy requires exceptional performance for a grade of “A,” and that a “B” reflects typical performance expected of a graduate-level student. I do not grade on a curve, so it is possible for everyone in the course to earn an A or everyone to earn a C, based on how his/her performance compares to the work expected of a typical graduate student. Irrelevant: your effort or the time it takes to complete an assignment, your future plans, or your previous grades from other professors!

Requests for an Incomplete grade will be handled pursuant to Section 7.1.1 of the MPA Handbook. In general, an Incomplete grade is considered only when the student is unable to complete course requirements due to circumstances beyond the student’s control.

1.9. **Student Assistance:** If you feel you may need additional assistance with the quality of your writing or any other aspects of your academic work, please contact the Center for Learning Assistance in NC 2004, 303.556.2802. Foreign students should check in with Scott Steinbrecher, 5th floor 1380 Lawrence Street Center.

If you have a disability that needs accommodation, please let me know ASAP and we will work out arrangements. For academic accommodations, first register with Disability Resources and Services (DRS), Office of Disability Resources and Services, North Classroom Building, Room 2514, Phone: 303 556-3450, TTY: 303 556-4766 and then provide me with a copy of your DRS letter.

2.10. **Student Conduct Code:** Students are responsible for being aware of and in compliance with campus policies about academic honesty, as stated in the University’s Student Conduct Code. In particular, please be aware that plagiarism, or the use of another person’s words or ideas without crediting that person, is not allowed! While this may seem obvious, it includes copying verbatim from websites, failure to use appropriate citation technique (e.g., quotation marks, references etc.) Plagiarism may lead to failure on an assignment, in the class, and/or dismissal from the program. If you have any questions about what constitutes plagiarism, please contact me. I will be checking work.

**Academic Honor Code – From the University of Colorado Denver Course Catalog, 2007-2008**

A university’s reputation is built on a standing tradition of excellence and scholastic integrity. As members of the University of Colorado at Denver and Health Sciences Center academic community, faculty and students accept the responsibility to maintain the highest standards of intellectual honesty and ethical conduct in completing all forms of academic work at the university. *Forms of Academic Dishonesty Students are expected to know, understand, and comply with the ethical standards of the university.* . . . Academic dishonesty is defined as a student’s use of unauthorized assistance with intent to deceive an instructor or other such person who may be assigned to evaluate the student’s work in meeting course and degree requirements. Examples of academic dishonesty include, but are not limited to, the following: Plagiarism – Plagiarism is the use of another person’s distinctive ideas or words without acknowledgement. . . .
DRAFT SYLLABUS December 2014
Beverly Buck  Beverly.buck@ucdenver.edu  303-388-3131
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Cheating – Cheating involves the possession, communication, or use of information, materials, notes, study aids, or other devices not authorized by the instructor in any academic exercise, or communication with another person during such an exercise. . . .

Fabrication and Falsification – Fabrication involves inventing or counterfeiting information, i.e., creating results not obtained in a study or laboratory experiment. Falsification, on the other hand, involves the deliberate alteration or changing of results to suit one’s needs in an experiment or other academic exercise.

Multiple Submission – This is the submission of academic work for which academic credit has already been earned, when such submission is made without instructor authorization.

Misuse of Academic Materials – The misuse of academic materials includes but is not limited to the following:

- stealing or destroying library or reference materials or computer programs
- stealing or destroying another student’s notes or materials or having such materials in one’s possession without the owner’s permission
- receiving assistance in locating or using sources of information in an assignment when such assistance has been forbidden by the instructor
- illegitimate possession, disposition or use of examinations or answer keys to examinations
- unauthorized alteration, forgery or falsification of academic records
- unauthorized sale or purchase of examinations, papers or assignment

Complicity in Academic Dishonesty – Complicity involves knowingly contributing to another’s acts of academic dishonesty.

SOME STRATEGIES FOR SUCCESS IN THIS CLASS

1. Show me that you are actively engaged in your own learning. Ask questions, critique the readings, “try on” your own conclusions, apply your own experiences to what you are learning, have an open yet questioning view towards the opinions of others (including your instructor).

2. Show me that you are taking attendance and class assignments seriously. Do the readings before class. Show up and turn your work in.

3. Use a variety of sources to learn about the topic selected for your final project. Consider the viewpoints of these different sources in your final project. If you only rely on one source, your analysis is likely to lack depth.

4. Proofread your written work or have someone else proofread it for you. Sloppy writing is distracting. I am fine with having someone else proof your work before you turn it in, as long as the content of the final product is yours.

5. If you have any questions about course policies and requirements, please do not hesitate to talk to me before or after class, or contact me via email or telephone during working hours. I consider it part of my responsibility as your instructor to be available to answer your questions.
COURSE SCHEDULE AND ASSIGNMENTS

NOTE: CANVAS postings will start on 1/1! Please note I am unavailable from 1/6 through 1/20 and will only be checking email periodically!

The readings listed in this syllabus are the readings that you should have done prior to the class meeting for which they are listed. All dates are tentative. All readings on this Reading Schedule are required. I reserve the right to add, or remove, readings as the semester progresses.

Note weeks 1-11 are good to go, although I may change up some of the readings. Weeks 11 through the end of the semester are still a work in progress as I try and time them with availability of guest speakers, scheduled arguments at the Colorado and US Supreme Courts, and announced decisions by those courts.

We will definitely be looking at marijuana and school finance, since those issues are currently before the Colorado Supreme Court. We will definitely look at the 2nd amendment (gun control) and TABOR (the Colorado Taxpayer Bill of Rights) because they are classic subjects for this course, and because I have rounded up some of the most knowledgeable practitioners in the country as guest speakers. (You will see below where guest speakers have confirmed.)

We will look at the 1st Amendment, both the speech and religion clauses; also, discrimination against pregnant women. There’s always the latest challenge to the Affordable Care Act, the 4th Amendment dog sniffing case. This covers, if you would believe it sex, drugs and rock and roll! However, in a more serious vein, the US Supreme Court heard several good cases earlier this fall, so we might have actual decisions to study. I am also saving room for same-sex marriage, which, currently might make it to this term’s list of cases.

Readings for these weeks will include a selection of

1. actual court documents, e.g., opinions, briefs, petitions for certiorari
2. authoritative commentary and legal analysis on these documents
3. editorial opinion from media of record and the blogosphere

Written assignments will be as listed above and below

WEEK ONE: JANUARY 22:
INTRODUCTION AND REVIEW OF DEMOCRATIC STRUCTURES AND PURPOSES

- Introduction and overview of course
- Why we care
- Perspective challenges
- Introduction to the “stages” framework of policy making
- Review of the American system of government. What values and structures in the democratic system affect the policy process? Who are the players?
- Discussion of project topics

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Assignment: Come to Class ready to go; have submitted short personal reflection; put your picture up on Canvas!

Readings for Week One: Note: Numerous but Relatively Short!!


3. Colorado Constitution, Article II (Bill of Rights); Article III (Distribution of Powers); Article XIX (Amendments); http://www.colorado.gov/cs/Satellite/CO-Portal/CXP/1178305752117


Assignment for Week Two: SCOTUS values test POSTED ON CANVAS

WEEK TWO: JANUARY 29
POLICY MAKING REVIEW & CONSTITUTIONAL LAW TOUR, CONTINUED

- Quick Constitutional Law Tour
- What are the goals of policy-making? What should they be? Who decides?
- What is interbranch policy-making and why should we care CONTINUE DISCUSSION FROM LAST WEEK

- Project topics

Readings for Week Two:


2. Stone Deborah, Policy Paradox, Ch. 14. Posted on CANVAS


WEEK THREE: FEBRUARY 5:
THE US COURT SYSTEM: NATIONAL AND STATE: PHILOSOPHY

- Quick review of court system
  
  o What distinguishes the judicial branch from other decision makers in American democracy?

  o What is the role of the judicial branch in the policy process? What are the limitations of the judicial branch?

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  - Application of the concepts introduced in this class to the actions (or inactions) of the current US or Colorado Supreme Court decisions.
  - What judges do
  - Why does it matter what judges think? By the way: how do judges think?
  - Discussion of SCOTUS and your values

Readings for Week Three:


Assignment for Week Four reminders:

- Legal Citation Treasure Hunt Due Next Week
- Policy Paper topic due next week

WEAK FOUR: FEBRUARY 12;
THE US COURT SYSTEM: NATIONAL AND STATE, PRACTICALITY

1. How do appellate cases actually get to court
2. Two prerequisites for staying in court: Jurisdiction and Standing
3. Parsing Original Jurisdiction: Nebraska & Kansas v. Colorado
4. Parsing Certiorari: Kerr v. Hickenlooper and Same Sex Marriage
5. Parsing a Supreme Court decision
6. Review Legal Research in a Box

Readings for Week 4


NOTE THE FOLLOWING MAY CHANGE DEPENDING ON WHICH CASES GRANTED


3. Skim Petitions for Certiorari
   b) M-Z any Cert petition in same sex

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Due week 4

1. Legal Citation Treasure Hunt Due
2. Policy Paper topic

Due week 5 In re Gault analysis

WEEK FIVE  FEBRUARY 19:
COURTS AT THE LOCAL LEVEL & PROBLEM SOLVING COURTS

1. Parsing a Supreme Court decision: In re Gault
2. Jurisdiction and its place as a gatekeeper to SCOTUS’s reaching an ultimate decision
   - Standing and its place as a gatekeeper to SCOTUS’s reaching an ultimate decision
3. Framing and its role in presenting the case to SCOTUS
   Judges as problem solvers
4. Discuss policy implications of the majority and dissenting opinions
5. Review of assignment
   - What events led up to the case In re Gault?
   - Why did the case go to the U.S. Supreme Court?
   - What did the Supreme Court decide and why?
   - How did the Supreme Court decision affect juveniles in future juvenile court proceedings?

Readings for Week Five:

1. In re Gault, 387 U.S. 1 (1967), FIND IT!
2. A SCOTUS case in plain English (posted on CANVASCANVAS)
3. Watch this NPR clip from Judy Woodruff and Marsha Coyle Judy Woodruff discusses the historical significance of In re Gault with Marcia Coyle of the National Law Journal and presidential historian Michael Beschloss. Can watch or mp3 file http://www.pbs.org/newshour/bb/international/july-dec12/scotus_07-04.html
5. Take a peek at:
   -- Denver District Juvenile Court policies http://www.cobar.org/repository/Law%20School%20for%20Journalists/Denver%20JuvenileCourt%20District%20Plan%201210.pdf;

Assignment for Week Six reminder:

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NOTE: the next 8 weeks or so are subject to change in schedule, depending on guest speaker availability, and readings, depending on timing of Supreme Court (state or federal) decisions. The issues will probably stay the same.

WEEK SIX: FEBRUARY 26 BB out of Town
This is a good term to study the 1st Amendment. SCOTUS and other courts have cases on the requirements of the 1st Amendment towards a wide variety of

1. religious rights (prisoners wearing beards, women wearing headscarves, municipal signage, public meetings opened with prayer, plastic reindeer)

2. free speech rights (threatening rap music, cyberbullying, messages on T shirts, obscenity)

I am out of town for this week’s class. However, earlier this week SCOTUS held oral arguments in EEOC v. Abercrombie & Fitch, so you can listen to the oral argument and follow the talking heads, who are sure to be commenting. The issue before the court is whether the law [Title VII, 42 U.S.C. 2000e-2(a)(1)] bars an employer from refusing to hire an applicant based on what the employer correctly understands to be a religious practice, absent a showing of undue hardship. While the case actually arises out of a Federal law and regulation, as opposed to the 1st Amendment, the amendment is foundational reading for understanding how the Congress could carve out an exception to the broad statement of the 1st amendment.

We will spend more time in week 8 discussing the range of the 1st Amendment, but I thought it would be interesting to do some real-time SCOTUS monitoring.

Your reading and listening assignments are:

**Note I will update these as better links are available**

**Listen** to oral argument or skim transcript, which will be linked at http://www.scotusblog.com/case-files/cases/equal-employment-opportunity-commission-v-abercrombie-fitch-stores-inc/?wpmp_switcher=desktop


**Read** read In Plain English Analysis on SCOTUS blog to be posted

**Exercise** You be the Judge: Write a short paragraph on what you think SCOTUS will do and email it to me. When the decision comes out—hopefully before the end of the semester, we’ll see who wins the Fantasy SCOTUS prize for the class!

**Reminder Assignment for Week Seven:** Part 1, Public policy “case study”
WEEK SEVEN 3/5: Second Amendment THE RIGHT TO BEAR ARMS

Recently, in McDonald v. City of Chicago, the US Supreme Court decided whether the Second Amendment also applies to state and local governments. If the Second Amendment does create an individual right to bear arms, how broad is that right?

1. Does it create only a right to possess arms that would have been used by a militia in 1791--muskets?
2. Should a city have the right to decide about the safety of its citizens? A university? A state?
3. Does the Second amendment guarantee a collective right of the people to bear arms, e.g. a state militia, or an individual right to own firearms to any person under any circumstances?
4. What weapons can be identified as in "common use" for self defense? Machine guns? Nunchaku sticks? Nonlethal but still dangerous weapons?
5. Should policy differences trump civil rights?
6. Should SCOTUS engage in legal gymnastics to sustain the protection of the fundamental substantive liberties?
7. Should the 14th Amendment protect everything that is vital to the notion of citizenship? Where does that stop?

Readings for Week Seven: TBD

GUEST SPEAKER: David Kopel, Research Director & Second Amendment Project Director, Independence Institute.org, confirmed

Assignment for Week Seven: Part 1, Public policy "case study"

WEEK EIGHT MARCH 12 Back to the First Amendment

1. Unpacking 1st Amendment
2. Religion
3. Speech
4. Values v. goals:
5. How do you balance?
6. Where are the edges? Where’s the middle ground?

Readings for Week Eight: TBD

WEEK NINE: MARCH 19: SPRING BREAK

For this week and next while you are spring-flinging, watching the news, and generally catching up on things please keep a mental note or clip examples of what you consider to be good writing about law: it could be from the newspaper, a blog post, an editorial cartoon, a magazine article..... It could be serious or ironic. Think about why it sings to you!

Reminder: Assignment for Week 10 Part 2 Policy Paper Due week 9/March 26

WEEK TEN MARCH 26 WEED in COLORADO

Guest Speaker: Larry Wolk, MD, Director, Colorado Department of Public Health & Environment

Assignment for Week 10 Part 2 Policy Paper Due week 9/March 26

WEEK ELEVEN: APRIL 2: TBD

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WEEK TWELVE: APRIL 9: ENVIRONMENTAL LITIGATION
Environmental policy has been a fertile ground for a litigation strategy.

Assignment for Week Twelve: Part 2, Public policy "case study"

Invited Guest Speaker: Harris Sherman, Esq. former Deputy Secretary, US Department of Agriculture, and former Director Colorado Department of Natural resources, to be confirmed

Reminder Assignment for Week 13 Part 3 Due week 13 between 4/16 and 20

WEEK THIRTEEN: APRIL 16 HEALTH CARE REFORM

There are several lawsuits working their way through the federal court system challenging the constitutionality of recently passed federal health reform legislation.


Some of these case have be filed by states Attorneys General and governors. At this point District Court judges in different US Circuits have reached completely opposite decisions, setting up complicated appeals and maneuvering to try and pursue an expedited appeal schedule to the US Supreme Court. Depending on where we are in March we will read a combination of material from these lawsuits, judicial opinions, including briefs from Attorneys General and the US Department of Justice.

Assignment for Week 13 Part 3 Due week 13 between 4/16 and 20

WEEK FOURTEEN: APRIL 23: PICKING JUDGES


Guest Speaker The Hon. Nancy E. Rice, Chief Justice, Colorado Supreme Court to be confirmed

WEEK FIFTEEN: April 30: SAME SEX MARRIAGE?
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Readings for Week Fifteen

Assignment for Week Fifteen: Part 3 Policy Case Study

Reminder Assignments for Week 16: OP ED by noon so I have time to read before class

WEEK SIXTEEN: 5/7: WRAP UP.

Readings for WeekSixteen

1. Chapters 9-10 MLMP

Assignments for Week 16: OP ED by noon so I have time to read before class

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About the Required/Recommended Readings

Mark C Miller; Paperback; $26.90
Publisher: Georgetown University Press (August 23, 2004)
From the Publisher’s review: "This volume proposes a new way of understanding the policymaking process in the United States by examining the complex interactions among the three branches of government, executive, legislative, and judicial. ...[A] central theme is that the U.S. Constitution has created a policymaking process characterized by ongoing interaction among competing institutions with overlapping responsibilities and different constituencies, one in which no branch plays a single static part. At different times and under various conditions, all governing institutions have a distinct role in making policy, as well as in enforcing and legitimizing it. This concept overthrows the classic theories of the separation of powers and of policymaking and implementation (specifically the principal-agent theory, in which Congress and the presidency are the principals who create laws, and the bureaucracy and the courts are the agents who implement the laws, if they are constitutional). The book opens by introducing the concept of adversarial liberalism, which proposes that the American mindset of frequent legal challenges to legislation by political opponents and special interests creates a policymaking process different from and more complicated than other parliamentary democracies. The chapters then examine in depth the dynamics among the branches, primarily at the national level but also considering state and local policymaking. Originally conceived of as a textbook, because no book exists that looks at the interplay of all three branches, it should also have significant impact on scholarship about national lawmaking, national politics, and constitutional law."

About the authors

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- Mark C. Miller is professor and former chair of the Department of Government and International Relations at Clark University in Worcester, Massachusetts, where he also directs the Law and Society Program. Miller served as the Judicial Fellow at the Supreme Court of the United States from 1999-2000, and he was a Congressional Fellow in the Office of U.S. Senator Paul Wellstone in 1995. He worked as a staff attorney for Congressman John F. Seiberling from 1983-86.

- Co-author Jeb Barnes received his law degree from the University of Chicago Law School, and his PhD at the University of California, Berkeley, where he won numerous awards for scholarship and teaching. Barnes was also a Robert Wood Johnson Health Policy Research Fellowship, where he analyzed the role of litigation in the politics of asbestos injury compensation and a study of how organizations translate general legal commands into specific practices. He has published articles in a variety of peer-reviewed journals, including the Political Research Quarterly, Law & Society Review, Law & Social Inquiry, Annual Review of Political Science, Studies for Law, Politics & Society and Justice Systems Journal, and two books: Overruled? Legislative Overrides, Pluralism, and Contemporary Court-Congress Relations (Stanford 2004) and a co-edited volume, Making Policy, Making Law: An Interbranch Perspective (Georgetown 2004). His third book, Trying to Settle the Dust: Asbestos, Court-Based Tort Reform and the Politics of Inefficiency, is currently under contract with Georgetown Press.

HELPFUL

2. It Is a Constitution We Are Expounding: Collected Writings on Interpreting Our Founding Document. Foreword by Professor Laurence H. Tribe
Publisher American Constitution Society, 2008,

From the Publisher’s review: Excerpts from some of the finest existing writing on methods of constitutional interpretation, taken from decisions of the Supreme Court and other opinions and speeches by Justices and judges, the scholarly literature, and other sources. The materials gathered in this volume explore a variety of interpretive resources that can help illuminate the Constitution’s meaning, including its text, structure, and history, the shared values it embodies, judicial precedent, and the consequences a particular interpretation is likely to have. Like Keeping Faith – whose authors drew upon many of the ideas presented in this volume – this publication presents accepted tools of interpretation; that are faithful to the Constitution.

Available on line: http://www.americanconstitutionsociety.org/pdf/ACS_Expounding_FNL.pdf

3. Keeping Faith with the Constitution
Publisher American Constitution Society, 2008,

Authors: Goodwin Liu, Pamela S. Karlan, and Christopher H. Schroeder

From the Publisher’s review: Presents a compelling and common-sense approach to constitutional interpretation – one that is faithful to the Constitution’s words and principles and that explains why it is the world’s most enduring written constitution. The book, examines the text and history of the Constitution to show how the Framers inscribed the fundamental values of liberty, equality, and democracy into the document. It then describes and defends an approach to interpreting the Constitution the authors call “constitutional fidelity,” which, as the Framers envisioned, applies the Constitution’s broad principles to the changing needs, conditions, and understandings of our society. This dynamic process of constitutional interpretation, the book shows, has brought about the greatest legal achievements in our history, has allowed us to meet new challenges and unforeseen circumstances, and has enabled each generation of Americans to keep faith with the Constitution.

About the authors

- Goodwin Liu is Associate Dean and Professor of Law at the University of California, Berkeley, School of Law (Boalt Hall).
- Pamela S. Karlan is Kenneth and Harle Montgomery Professor of Public Interest Law at Stanford Law School, and co-director of the school’s Supreme Court Litigation Clinic.

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- Christopher H. Schroeder is Charles S. Murphy Professor of Law and Professor of Public Policy Studies, Duke University School of Law, where he also serves as director of the Program in Public Law.


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