JUDICIAL POLITICS AND STRATEGIES  
POL 3160   SPRING 2010

Dr. Daugherty, UH 218  
Office hours: M-W, 12:00-1:20; T-R, 12:00-12:50, or by appointment.  
Tel:  344-2920 (warning: voice mail infrequently checked). 
E-mail: william.daugherty@armstrong.edu or wijid@comcast.net. 

ACCEPTANCE: Students are responsible for the contents of this syllabus; continued enrollment in this course constitutes awareness and acceptance of all requirements and policies discussed therein. Students are advised to review this syllabus occasionally to remain aware of the contents.

OVERVIEW: This course is a focused study of the roles played by the federal courts and judges in the American legal system, including political jurisprudence, politics of judicial selection; judicial decision making and strategies, and judicial review in a democracy. It will introduce students to the role of the judiciary in public policy. The course adds to and complements our department’s offerings of courses in criminal, constitutional, and administrative law by giving the student the “why” and “how” to complement the “what” that comes with the courses in substantive law.

TEXTS:  Courts, Judges, and Politics (Murphy and Prichett); The Choices Justices Make (Epstein and Knight). The Judicial Process (Abraham) is highly recommended for reference purposes.

EXPECTATIONS: I expect each student to be prepared, able, and ready to do college-level work. At a minimum, this means faithfully attending class, arriving at class on time, being prepared for class by reading the assigned material, staying awake, taking notes, exercising good study habits, and being interested. Absences or actions that fall short of these minimal expectations will result, at my discretion, in a lowering of your grade by at least one full letter grade. It will be a serious mistake to leave the impression that you don’t care about this class, if for no other reason than that’s probably the same extent to which I’ll care about your grade.

CELL PHONES: Cell phones/PDAs/Beepers are to be turned off and kept out of sight.

TEXTING ABSOLUTELY FORBIDDEN: Any student seen texting during class will have their final grade lowered one letter on the first offence. The second offence will result in being immediately dropped from the class with a WF.

HONOR CODE: All sections of the AASU Student Honor Code and Code of Conduct will apply to this class. Under the Honor Code, plagiarism, cheating, facilitating academic dishonesty, and fabrication in any form or manner are forbidden. Additional restrictions or instructions given in class on any individual assignment, whether verbal or written, will also fall under the Honor Code. Absence from the class when any additional instructions are given is not a valid excuse if a violation of the instructions results in an Honor or Conduct Code violation. Students will also be required sign each examination, which acknowledges that the student has followed the Honor Code and any additional restrictions/instructions given in class.
HONOR VIOLATION POLICY: I will accuse no student of violating the Honor Code unless I can prove beyond a doubt that the student is guilty. At that time, the student will be dropped from the class and his or her name will transmitted to the Dean of Student Affairs along with the proof, for a formal hearing before the Honor Court. Before the Honor Court, I will urge that the student receive the maximum penalty possible, to wit: an F for the semester, suspension from school for one year, and the findings of the Court to be made a permanent part of the student’s record. This penalty will definitely affect your life; you need to weigh whether the consequences are worth the risk.

CLASS PARTICIPATION: Students who participate frequently and positively by asking questions and engaging in debates and discussions, above the minimum level detailed in EXPECTATIONS (above) will receive, at my discretion and based solely on my judgment, additional credit, in five point increments. Points granted for participation often will elevate the student’s final grade by one full letter.

REQUIREMENTS: Successful completion of this course requires two papers, plus acceptable class participation. Directions for the two papers will be handed out separately. Because you know the subject matter of the papers and their due date on the first day of class, late papers will not be accepted and will receive a grade of 0 – late being defined as one minute past the date/time the paper is due. THERE WILL BE NO EXTENSIONS/NO EXEMPTIONS except in cases of genuine emergencies, the validity of which I will be the judge.

EXTRA CREDIT: No extra credit will be given to an individual. Extra credit will be granted only in situations in which the entire class is able to participate (e.g., attending an off-campus lecture). The success to passing this course is to do well in class and on the papers.

GRADING: Your course grade will be determined by the aggregate scores on the two papers, with the first paper worth 100 points, the second worth 200 points, for a total of 300 possible points. A = 270-300 pts; B = 240-269; C = 210-239; D = 180-209. Class participation points, if any, will be added in five point increments.

ABSENCE POLICY: You are permitted four absences, period, regardless of reason. Absences beyond four will be penalized at a minimum by 20 points each. However, I retain the right either give you an F or to drop you from the class with a WF if your absences exceed six.

CLASS NOTES: If you miss a class, it is your responsibility to obtain from one of your classmates the notes for the class and any additional instructions or information that was given out in class.

SYLLABUS: (elements of this syllabus, including the paper assignments, are subject to change as exigencies may require):

PART ONE: INTRODUCTION

Lesson One: The Nature of the Judiciary and the Role of the courts
  Political Jurisprudence (Murphy 3-7; 17-19)
  Cardozo “Nature of Judicial Process” (Murphy 29-32)

Lesson TWO: Judicial Theories of Philosophy and Interpretation:
  Interpretation (Murphy 526-543)
United States v. Nixon (Murphy 547-553)
Scalia “Originalism” (Murphy 553-558)
United States v. Leon (Murphy 573-578)

PART TWO: JUDICIAL POWER

Lesson One: Getting Your Day in Court
  Access to the Courts (Murphy 239-275)
  Vose “Litigation as Pressure” (Murphy 272-276)
  Caldera/Wright “Organized…” (Murphy 276-279)

Lesson Two: Instruments of Judicial Power
  Judicial Powers (Murphy 280-290)
  Four cases (Murphy 292-309)

Lesson Three: Limits on Power
  Checks on the Courts (Murphy 310-321)
  Roosevelt “Reorganizing..” (Murphy 341-343)
  Ex Parte McCardle (Murphy 345-348)

Lesson Four: Precedents and Legal Reasoning
  Precedents (Murphy 419-430)

Lesson Five: Statutory Interpretation
  Interpretation (Murphy 477-488)
  Frankfurter “Reflections” (Murphy 489-493)

PART THREE: JUDICIAL DECISION MAKING

Lesson One: Judicial Decision Making Processes
  Processes (Murphy 603-628)

Lesson Two: Strategic Decision Making
  Strategic Account (Epstein Chapter One)
  Policy Seekers (Epstein Chapter Two)

Lesson Three: Strategic Interaction
  Interaction (Epstein Chapter Three)

Lesson Four: Institutional Context
  Context I & II (Epstein Chapter Four & Five)

PART FOUR: Appointing Federal Judges (time permitting)

Lesson One: Appointing Federal Judges (lecture)