

Syllabus for POLS 4800
Independent Study: Judicial Federalism
Spring 2017

Professor: Dr. Daniel J. Mallinson

Office: K-125
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Course Description: This course is an independent study co-designed by the student and instructor. Judicial federalism is an examination of the interactions between state and federal courts. It is a current, and long-standing, area of research within law and political science. The student will read both legal and social science research on the interaction between state and federal courts. The student will gain an understanding of the emergence and evolution of a new judicial federalism since the 1970s. This new judicial federalism saw states expand individual rights beyond those guaranteed by the federal government. After a firm theoretical grounding, the student will complete a capstone project that engages with recent developments in this literature, particularly within political science. The instructor will mentor. The student and instructor will meet on a regular basis to discuss the material and development of the final project.

Essential Learning Outcomes:

- Critical Thinking
 - The student will read and critically evaluate major and recent research on judicial federalism
- Information Literacy and Research Skills
 - The student will complete several research projects that culminate in a paper that uses evidence and builds on existing scholarly literature
- Program Competence
 - The student will gain a deeper understanding of the interaction between state and federal courts than can be gained in current course offerings in public administration
 - The student will also gain a better factual understanding of how state courts are different than federal courts

- Quantitative Reasoning
 - The student will evaluate whether to collect and analyze data for the purpose of answering his research question. In the event of a quantitative analysis, the student will build upon skills learned in *Political Methodology*.

Methods for Learning and Teaching: This independent study will require substantial self-paced work on the part of the student. We will meet every other week to discuss how the study is progressing and to tackle any questions about the material.

Reaching Our Goals

E-mail Policy: I will work to respond to e-mails within 24 hours during the week and 48 hours on the weekend.

Assigned Background Readings

The following readings are required and arranged by topic:

Background on State Courts

- Salmore, Barbara G. and Stephen A. Salmore. 2013. “The Courts.” *New Jersey Politics and Government*. Chapter 11.
- Donovan, Todd, Daniel A. Smith, Tracy Osborn, and Christopher Z. Mooney. “State Courts and the Criminal Justice System.” *State & Local Politics: Institutions and Reform*. Stamford, CT: Cengage Learning. Fourth Edition. Chapter 9.

Conducting a Research Project

- Writing an Annotated Bibliography: [Purdue University’s Online Writing Lab](#).
- Writing an Annotated Bibliography: [Cornell University Library](#)
- Generating a Research Question: [Duke University’s Writing Studio](#).
- Writing a Lit Review: [Research Guide from Virginia Commonwealth University](#)

Judicial Selection and Voting

- Geyh, Charles. 2003. “Why Judicial Elections Stink.” *Ohio State Law Journal* 64: 43-79.

- Brace, Paul and Brent D. Boyea. (2008). “State Public Opinion, the Death Penalty, and the Practice of Electing Judges.” *American Journal of Political Science* 52(2): 360-372.
- Hurwitz, Mark S. and Drew Noble Lanier. 2008. “Diversity in State Federal Appellate Courts: Change and Continuity Across 20 Years.” *The Justice System Journal* 29(1): 47-70.
- Bonneau, Chris W. 2012. “A Survey of Empirical Evidence Concerning Judicial Elections.” *The Federalist Society*. <http://www.fed-soc.org/publications/detail/a-survey-of-empirical-evidence-concerning-judicial-elections>.

Judicial Federalism - Law

- *Murdock v. City of Memphis*, 87 U.S. 590 (1875).
- *Michigan v. Long*, 463 U.S. 1032 (1983).
- Brennan, William. 1977. “State Constitutions and the Protection of Individual Rights.” *Harvard Law Review* 90: 489-504.
- Weinberg, Louise. 1977. “The New Judicial Federalism.” *Stanford Law Review* 29(6): 1191-1244.
- Williams, Robert F. 1997. “The ‘New Judicial Federalism’ and New Jersey Constitutional Interpretation: Two Visions of State Constitutional Rights Protections.” *Seton Hall Constitutional Law Journal* 7: 833-?.
- Tarr, G. Alan. 1999. “New Judicial Federalism in Perspective.” *Notre Dame Law Review* 72(4): 1097-1118.
- Williams, Robert F. 2003. “Introduction: The Third Stage of the New Judicial Federalism.” *New York University Annual Survey of American Law* 211.
- Shaman, Jeffrey M. 2008. *Equality and Liberty in the Golden Age of State Constitutional Law*. New York: Oxford University Press.
- Dow, Dustin M. 2012. “The Unambiguous Supremacy Clause.” *Boston College Law Review* 53(3): 1009-1044.
- Wharton, Linda J. 2009. “Roe at Thirty-Six and Beyond: Enhancing Protection for Abortion Rights Through State Constitutions.” *William & Mary Journal of Women and the Law* 15(3): 469-

- Garvey, Todd. 2012. "Medical Marijuana: The Supremacy Clause, Federalism, and the Interplay Between State and Federal Laws." *Congressional Research Service Report for Congress*. November 9.
- Kamin, Sam. 2015. "The Battle of the Bulge: The Surprising Last Stand Against State Marijuana Legalization." *Publius* 45(3): 427-451.

Judicial Federalism - Social Science

- Fino, Susan P. 1987. "Judicial Federalism and Equality Guarantees in State Supreme Courts." *Publius* 17(1): 51-67.
- Beavers, Staci L. and Jeffrey S. Walz. 1998. "Modeling Judicial Federalism: Predictors of State Court Protections of Defendants' Rights under State Constitutions, 1969-1989." *Publius* 28(2): 43-59.
- Solimine, Michael E. 2002. "Judicial Federalism After Bush v. Gore: Some Observations." *Justice System Journal* 23(1): 45-55.
- Brody, David C. 2002. "Criminal Procedure Under State Law: An Empirical Examination of Selective New Federalism." *The Justice System Journal* 23(1): 75-95.
- Collins, Paul M. 2007. "Towards an Integrated Model of the U.S. Supreme Court's Federalism Decision Making." *Publius* 37(4): 505-531.
- Vickers, Jill. 2013. "Is Federalism Gendered? Incorporating Gender into Studies of Federalism." *Publius* 43(1): 1-23.
- Zschirnt, Simon. 2016. "Gay Rights, the New Judicial Federalism, and State Supreme Courts: Disentangling the Effects of Ideology and Judicial Independence." *Justice System Journal* 37(4): 348-366.

Beyond these readings, the student will need to conduct a literature search and read additional research relevant to their selected research topic.

Assessing Progress Towards Our Goals

The following assessments will be used to track your progress towards meeting our course goals: annotated bibliography, literature review, final paper. Each component represents the following percentage of your final grade:

Annotated Bibliography of Course Readings	15%
Research Question	5%
Literature Review	15%
Study Design	15%
Final Paper	50%

We will use the following grade scale:

Letter	Percent
A	94 to 100
A-	90 to 93
B+	87 to 89
B	83 to 86
B-	80 to 82
C+	77 to 79
C	73 to 76
C-	70 to 72
D	60 to 69
F	59 and below

Annotated Bibliography of Course Readings: This first assignment is meant to help you gain the necessary background in state courts, judicial behavior, and judicial federalism. As you read the assigned chapters and journal articles, produce an annotated bibliography using guidance from the readings listed above. We will meet and discuss this bibliography by February 10.

Research Questions: This assignment is short, but important. I want you to write out your specific research questions that emerge after reading the background material. To this end, reading additional background literature on judicial federalism, particularly recent research, is necessary before defining your questions. This assignment does not need to be longer than one page and is due February 17.

Literature Review: As you identify and read additional articles and books relevant to your research question, keep a running annotated bibliography that helps you understand the literature. This assignment is meant to develop your review of literature relevant to your research question. Original sources include scholarly journal articles, law review articles, think tank and policy center research reports, government reports, speeches, pamphlets, and interviews. You should not rely on secondary sources like news articles. A literature review is not just summarizing all of the literature, but analyzing what is known, what is not known, and showing how your study fits into that. This should be no longer than 8 pages.

Study Design: Once you develop your research question, we will determine the best approach for answering that question. This may or may not require collecting and analyzing data or doing a comparative case study. No matter the choice of analytic technique, you will need to write out your study design. This design should include the data you will use, your hypotheses, and how you are testing those hypotheses. This should be no longer than 8 pages.

Final Paper: You will now combine your literature review (incorporating my feedback) with an introduction that includes your research question(s), your study design, and results. The paper should have the following format:

1. Introduction (including research questions)
2. Literature review
3. Section explaining your methodological approach to answering your questions
4. The results of your analysis
5. Conclusion

A good paper will be roughly 25-30 pages. This, of course, can vary depending on the number of research questions and how much evidence you need to discuss. I would like to see a rough draft of the paper on April 21.

Deadlines	
Assignment	Due Date
Annotated Bibliography	February 10
Research Questions	February 17
Literature Review	March 10
Study Design	March 24
Rough Draft	April 21
Final Paper	May 5

Academic Honesty

Stockton University takes violations of academic dishonesty seriously. Observing basic honesty in one's work, words, ideas, and actions is a principle to which all members of the community are required to subscribe.

All course work by students is to be done on an individual basis unless I clearly state that an alternative is acceptable. Any reference materials used in the preparation of any assignment must be explicitly cited. Students uncertain about proper citation should speak with me and review the following [website](#) about conducting research and properly citing sources. Furthermore, please choose a [single citation style](#) and stick with it.

In an examination setting, unless I give explicit prior instructions to the contrary, whether the examination is in class or take home, violations of academic integrity shall consist but are not limited to any attempt to receive assistance from written or printed aids, or from any person or papers or electronic devices, or of any attempt to give assistance, whether the one so doing has completed his or her own work or not.

Lying to me also constitutes a violation of academic integrity.

In cases of any violation of academic integrity it is my policy to follow procedures established by the University. My first approach is to view this as a learning opportunity. The student will have an opportunity to make up the assignment for half credit (within four days of my discovering the violation). If the student does not make up the work or continues to use plagiarized material, the student will receive a zero on the assignment and the violation will be reported to the Provost's office. More information on academic integrity and procedures followed for violation can be found at <http://intraweb.stockton.edu/eyos/page.cfm?siteID=209&pageID=17>.

Accessibility

In accordance with the Americans with Disabilities Act of 1990 as amended and Sections 504 and 508 of the Rehabilitation Act, students with a documented disability and need accommodations, are encouraged to register with the Learning Access Program (LAP). Registration for support services is strictly voluntary and on a confidential basis. Support services provided by LAP are meant to help students devise strategies for meeting the University's educational demands and to foster independence, responsibility, and self-advocacy. The Learning Access Program can be found on campus in room J-204 or online at www.stockton.edu/LAP. Please call 609-652-4988 or send an email to LAP@stockton.edu for more information. Once you have received an accommodation letter from LAP, please contact me to privately discuss your needs as soon as practical to ensure that reasonable accommodations are implemented.