

Syllabus for PLSC 496H
Independent Study: The Ninth Amendment
Fall 2023

Professor: Dr. Daniel J. Mallinson

Office: W-160K
Office Hours: Tuesdays and Thursdays 3 – 5 pm
Email: mallinson@psu.edu

Course Description: This course is an independent study co-designed by the student and instructor. The student will gain an understanding of the largely dormant Ninth Amendment to the U.S. Constitution. Invocations of this “etcetera clause” have increased under a desire to expand rights protections. Further, two thirds of states have “baby ninth amendments” in their constitutions. This independent study will give the student a deeper understanding of the potential use of this amendment in current and future legal debates. The instructor will mentor and meet with the student on a monthly basis, as well as correspond regularly via email, to discuss the material and development of the final project.

Learning Objectives:

- Critical Thinking
 - The student will read and critically evaluate books, law reviews, and popular press writings on the Ninth Amendment
- Information Literacy and Research Skills
 - The student will complete a short law review style paper on debates surrounding the Ninth Amendment
- Program Competence
 - The student will gain a better understanding of an understudied aspect of the U.S. Constitution

Methods for Learning and Teaching: This independent study will require substantial self-paced work on the part of the student. We will meet monthly 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:

Main Text

- Sanders, Anthony B. 2023. *Baby Ninth Amendments: How Americans Embraced Unenumerated Rights and Why It Matters*. University of Michigan Press.

Law Review Articles

- Caplan, Russell L. 1983. “[The History and Meaning of the Ninth Amendment](#).” *Virginia Law Review* 69(2): 223-268.
- McAfee, Thomas B. 1990. “[The Original Meaning of the Ninth Amendment](#).” *Columbia Law Review* 90: 1215-1320.
- Lash, Kurt T. 2004. “[The Lost Original Meaning of the Ninth Amendment](#).” *Texas Law Review* 83(2): 331-429.
- Kruschke, Allison N. 2020-2021. “[Finding a New Home for the Abortion Right Under the Ninth Amendment](#).” *ConLawNOW* 12(1): 128-154.

Popular Press Articles

- Sanders, Anthony. 2022. “[Get to Know Your State’s ‘Baby Ninth Amendment’](#).” Brennan Center for Justice. December 5.
- Ward, Ian. 2022. “[Joe Biden’s Secret Constitutional Weapon](#).” Politico. February 23.
- Volokh, Eugene. 2023. “[More from Pa. S. Ct. Justice David Wecht on Unenumerated Rights](#).” Reason. July 20.

Court Cases

- *Griswold v. Connecticut*

- *Roe v. Wade*

Beyond these readings, the student is encouraged to draw from other sources relevant to their final paper.

Assessing Progress Towards Our Goals

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

Assignment	Percentage	Due Date
Annotated Bibliography of Course Readings	25%	October 31
Rough Draft	25%	November 30
Final Paper	50%	December 14

We will use the following grade scale:

Letter	Percent
A	94 to 100
A-	90 to 93
B+	87 to 89
B	84 to 86
B-	80 to 83
C+	77 to 79
C	70 to 76
D	60 to 69
F	Below 60

Annotated Bibliography of Course Readings: This assignment is meant to help you collect your thoughts on the readings for the course. Please provide a one paragraph annotation for the main required readings.

Final Paper: Your final paper will be a law review-style (but shorter) explication of the history, current controversies, and potential future uses of the Ninth Amendment in the courts. Consider evolving legal debates, as well as the current make up of the U.S. Supreme Court. Consider also the potential role “baby” Ninth Amendments in state Constitutions could play in expanding or protecting certain rights. The paper does not need to be extensive. Keep yourself to roughly 5,000 words. The paper should be referenced and formatted similar to a law review article.

Academic Integrity Academic dishonesty is not limited to simply cheating on an exam or assignment. The following is quoted directly from the *PSU Faculty Senate Policies for Students* regarding academic integrity and academic dishonesty: “Academic integrity is the pursuit of scholarly activity free from fraud and deception and is an educational objective of this institution. Academic dishonesty includes, but is not limited to, cheating, plagiarizing, fabricating of information or citations, facilitating acts of academic dishonesty by others, having unauthorized possession of examinations, submitting work of another person or work previously used without informing the instructor, or tampering with the academic work of other students.”

All University and Penn State Harrisburg policies regarding academic integrity/academic dishonesty apply to this course and the students enrolled in this course. Refer to the following URL for further details on the academic integrity policy of Penn State Harrisburg: <https://harrisburg.psu.edu/academics/academic-guidelines-and-policies>. Each student in this course is expected to work entirely on her/his own while taking any exam, to complete assignments on her/his own effort without the assistance of others unless directed otherwise by the instructor, and to abide by University and Penn State Harrisburg policies about academic integrity and academic dishonesty. Academic dishonesty can result in an assignment of “F” or “XF” as the final grade for the student.

Disability Access

Penn State welcomes students with disabilities into the University’s educational programs. Penn State values diversity and inclusion; we are committed to a climate of mutual respect and full participation. Our goal is to create environments that are usable, equitable, inclusive, and welcoming. Every Penn State campus has a Student Disability Resources office. Student Disability Resources at Penn State Harrisburg is located in the Student Enrichment Center Room 205. The Assistant Director of Student Disability Resources, Alan Babcock, can be reached via email at aub15@psu.edu or phone 717-948-6025.

To receive consideration for accommodations, please contact Student Disability Resources (SDR), participate in an intake interview, provide documentation of your disability, and complete an online Introductory Questionnaire. Please know that you are not required to already have documentation to begin the process with SDR, as SDR can assist with the process of requesting accommodations. Additional information is available on the (<https://harrisburg.psu.edu/student-disability-resources>). If the documentation supports requests for reasonable accommodations, SDR will provide you with an accommodations letter, which you can then give to your professors. Please know that requests for accommodations and support must be initiated by the student and communication with professors regarding the approved accommodations must be initiated by the student. You will receive accommodations after you give your accommodations letter to your professors. It is recommended that you share your accommodations letters with your professors as early in the

semester as possible. Professors do not provide accommodations retroactively.

Counseling Services

Success in college depends heavily on your personal health and wellbeing. Please recognize that some stress and anxiety is a normal part of life and the college experience, and it can be compounded by unexpected setbacks or life changes outside the classroom. Penn State Harrisburg has a number of support options listed in this syllabus.

If you are experiencing issues that feel unmanageable, you reach the point that you have difficulty concentrating and/or feeling motivated, or have anxiety or feelings of depression that interfere with your ability to take care of yourself or your daily responsibilities, please consider talking with someone in CAPS (Counseling and Psychological Services). We have a range of services to help you navigate issues that are impacting your ability to be healthy, well, and productive at college.

You can learn more about the confidential mental health services available on campus by visiting the [Counseling and Psychological Services website](#) or by calling (717) 948-6025 Monday through Friday 8am to 5pm. CAPS is located on the 2nd floor of the Student Enrichment Center, Suite 205. You can access crisis services 24/7/365 by calling 1-877-229-6400 or by texting “LIONS” to 741741. Find us on Instagram or on [Facebook](#).

Educational Equity

Penn State takes great pride in fostering a diverse and inclusive environment for students, faculty, and staff. Acts of intolerance, discrimination, harassment, and/or incivility due to age, ancestry, color, disability, gender, national origin, race, religious belief, sexual orientation, or veteran status are not tolerated and can be reported through Educational Equity at the Report Bias site: <https://equity.psu.edu/reportbias>. Penn State’s Code of Conduct can be found at the following link: <https://studentaffairs.psu.edu/support-safety-conduct/student-conduct/code-conduct>.

Direct all inquiries regarding the nondiscrimination policy to The Office of Diversity, Equity, and Inclusion at Penn State Harrisburg at 717-948-6016, and to Student Diversity, Equity, and Inclusion at 717-948-4381.

Mandated Reporting

Penn State is committed to equal access to programs, facilities, admission, and employment for all persons. It is the policy of the University to maintain an environment free of harassment and free of discrimination against any person because of age, race, color, ancestry, national origin, religion, creed, service in the uniformed services (as defined in state and

federal law), veteran status, sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, or physical or mental disability, gender, perceived gender, gender identity, gender expression, genetic information or political ideas. Discriminatory conduct and harassment, as well as sexual misconduct and relationship violence, violates the dignity of individuals, impedes the realization of the University's educational mission, and will not be tolerated. Gender-based and sexual harassment, including sexual violence, are forms of gender discrimination in that they deny or limit an individual's ability to participate in or benefit from University programs or activities. For reporting resources, and support, please visit titleix.psu.edu.

Penn State strongly encourages all members of the campus community to take appropriate action by providing support and encouraging those impacted by such incidents to submit a report to the Title IX Coordinator. You may also submit a report online by using the Incident Report Form found here: Office of Sexual Misconduct Prevention & Response Incident Report Form. If the University Title IX staff receives information about an incident, they will reach out to offer information about resources, rights, and procedural options available to you.

At Penn State Harrisburg, your point of contact is:

Nicholas Paesano Sexual Misconduct Resource Person Penn State Harrisburg E-126 Olmsted Building 717-948-4385

Penn State's Title IX Coordinator is: Amber Grove 212 Rider Building University Park, PA 16802 814-867-5088 titleix@psu.edu

Other resources that are available include:

- Penn State Harrisburg Counseling and Psychological Services, SEC 205 - 717-948-6025
- Department of Safety & Police
 - Campus Police: 717-979-7976
 - Local Police: 717-543-2200 or 911
- YWCA Confidential Domestic Violence & Sexual Assault Services: 1-800-654-1221 (available 24/7)
- Contact Helpline: 800-932-4616 (24-hour community crisis hotline)
- Pinnacle Health Harrisburg: 717-782-3131
- Penn State Harrisburg Student Health Services, 220 Capital Union Building: 717-948-61015

- Penn State Hotline: 800-560-1637 (Anonymous reporting)

In Case of Emergency In the event of a University-wide emergency, course requirements, classes, deadlines, and grading schemes are subject to changes that may include alternative delivery methods, alternative methods of interaction with the instructor, class materials, and/or classmates, and a revised semester calendar and/or grading scheme.

For more general information about the emergency situation, please refer to:

- Penn State Harrisburg's home page at <http://harrisburg.psu.edu/>
- PSUAlert (<http://psualert.psu.edu/psualert/>). This is a service designed to alert the Penn State community via text messages to cell phones when situations arise on campus that affect the ability of the campus - students, faculty and staff - to function normally. Everyone is encouraged to sign up to receive the text alerts.
- Messages will be placed at the 717-948-6000 campus phone number

In the case of a University-wide emergency, please refer to the following about changes in this course:

- Canvas: <https://psu.instructure.com/courses/2116052>
- Instructor's email: mallinson@psu.edu

Basic Needs Statement

Any student who has difficulty affording groceries or accessing sufficient food to eat every day, or who lacks a safe and stable place to live, and believes this may affect their performance in the course, is urged to contact the Office of Student Affairs (syw10@psu.edu, 717-948-6180) for support. Furthermore, please notify the professor if you are comfortable in doing so. This will enable him to provide any resources that he may possess.

Writing Tutoring and Other Academic Support

The Russell E. Horn Sr. Learning Center may have a tutor who can assist you with this course. An appointment is recommended. Appointments are available in-person or on Zoom, depending on your preference.

To make an appointment:

Visit: Student Enrichment Center Room 201 Or go to: starfish.psu.edu and click on “My Success Network” Or call: 717-948-6475 Or email: PSHLearningCtr@psu.edu

The Learning Center can help you in a variety of ways:

Academic Success Coaches Get help with time management, organization, test-taking, study skills, as well as speech and presentation preparation and delivery.

Subject Area Tutoring Courses including accounting, biological and behavioral science, computer science, economics, finance, mathematics, physical sciences, statistics, engineering, and some world languages are supported by peer and professional tutoring.

Writing Get help with the development of essays, papers, resumes, cover letters, scholarship applications and much more. We can help at any stage from brainstorming ideas to citing sources to polishing your final product.

The Lambert Undergraduate Advising Center can assist you with exploring majors and minors, understanding academic policies, and planning courses for future semesters.

Drop-in Quick Question Advising is available during the semester both in-person and online (no appointment necessary!). See dates, times, and locations at: bit.ly/whatsnextthbg

To contact the Advising Center:

Visit: Student Enrichment Center Room 204 Or call: 717-948-6604 Or email: HBGAdvisingCenter@psu.edu