

Federalism in Theory and in Practice

Professor - Alec Crisman

Location: TBD

Contact: aleccrismanteaching@gmail.com

Office Hours: Monday and Wednesday, 1:30PM – 2:30PM, in office

Friday 5:00PM – 7:00PM, on Zoom.

An applied study of American federalism—how constitutional structure channels policy—this course pairs classic theory with close case analysis (U.S. and Ohio) on commerce, necessary and proper, spending, preemption, anti-commandeering, home rule, and rights; deliverables develop law-prep competencies including case briefing, short-form legal writing, and concise oral argument.

Instructor Qualifications - Alec Crisman, Ph.D. in Political Science (Political Theory), McGill University (2025). Research focuses on federalism, liberalism, and civic education; prior instructor of record for Intro to Political Theory.

NOTE THAT THIS IS A PROPOSED SYLLABUS, AND NOT AN ACTUAL OFFERING AT ANY SCHOOL. PLEASE DO NOT SHARE OR COPY WITHOUT PERMISSION.

1. Aims and Learning Objectives

This course serves as an introduction to the theoretical underpinnings and legal evolution of federalism in the American Constitutional system. Students will read core texts from the American canon on the early debates around federalism as centralization, as well as develop familiarity with the essential case law on federalism that future law students will be expected to engage with. Readings will cover both normative and empirical political science, as well as covering both case law and the academic legal debates around it. Students will leave this course with a greater understanding of the current place of federalism, and Ohio specifically, in the American constitutional framework, able to engage in current debates about the extent of federalism's role in handling the challenges presented by political polarization and institutional uncertainty.

Course objectives will also include learning how to analyze and critically evaluate political, philosophical, and legal arguments, as well as interpreting constitutional case law. Students will practice engaging in civil and rigorous debate on topics of significant political and moral importance, learning to navigate deep disagreement through reason and argumentation.

2. Prerequisites

NONE, though experience reading Supreme Court case law is recommended.

3. Texts

All texts have been provided as PDFs and uploaded onto [course website]. There is no course packet and no books are required for purchase.

4. Class Format and Grading

Lectures will feature dedicated time each day near the end of class for students to ask general questions about the day's reading or the course in general. Time permitting, the last ten minutes of class will be dedicated to the next day's readings, so students can know what to look for and what themes to focus on.

Assessments:

15% Participation & Discussion

20% Case Summary Exercise

25% Midterm Essay

25% Research Essay

15% Final Exam

Assignments will be submitted in PDF format on [course website]. You must receive a passing grade on each component in order to pass the course. Essays will be graded on ability to make a clearly-written and substantiated argument, *not* the substantive position you take.

Assignments that are late will be penalized 1/3 letter grade per day. This means that a B will become a B-, a B- a C+, and so on. Extensions will be granted in case of documented illness or family emergency. You will have **one automatic extension of up to 24 hours** that you may use as needed without an excuse; you must e-mail me that you are using this by the time the paper is due.

If you believe an error has been made in grading and you wish to challenge your grade, you must send me an email containing a 150-200 word explanation of the error in grading, as well as both a clean and marked version of your paper, all in separate Word documents or PDFs. Challenging your grade does not guarantee your grade will improve; I will **re-grade the paper in full**, meaning that it is also possible that your grade will be lowered.

5: Academic Integrity

Academic integrity is a core expectation in all higher education settings. Students are responsible for knowing and following the academic-integrity standards and policies of this course. Academic misconduct includes any activity that compromises academic honesty or subverts the educational process — for example: plagiarism, unauthorized collaboration, copying another student's work, or possessing unauthorized materials during an exam. Ignorance of these standards is not an excuse.

If I suspect academic misconduct, I am required to report it through the university's official process. Sanctions may range from a failing grade on the assignment or in the course to suspension or dismissal. If you're unsure whether something is permitted, please ask me before you proceed.

AI tools may be used for brainstorming/outlining only if disclosed in a footnote; AI-generated drafting or paraphrase is not permitted.

We use a variety of techniques to monitor academic dishonesty and plagiarism. Your assignments may be submitted to text-matching or other appropriate software (e.g., formula-, equation-, and graph-matching). Obviously, downloading or purchasing whole papers is plagiarism, but you can be guilty of plagiarism for much less than that. *Any time you copy someone else's words (including those written by an AI chatbot/LLM) and paste them into your paper without quotation marks, a full citation, and due*

credit, you have committed academic dishonesty; one sentence from Wikipedia is enough to count. Other people's ideas usually warrant a footnote, other people's words *always demand* quotation marks and a full citation. Suspected cases of plagiarism will be vigorously pursued.

6. In the event of extraordinary circumstances beyond the University's control, the content and/or evaluation scheme in this course is subject to change.

Copyright and Dissemination of Class Materials: Instructor-generated course materials (e.g., handouts, notes, summaries, exam questions) are protected by law and may not be copied or distributed in any form or in any medium without explicit permission of the instructor. All slides, video recordings, lecture notes, etc. remain the instructor's intellectual property. As such, you may use these only for your own learning (and research, with proper referencing/citation) ends. You are not permitted to disseminate or share these materials; doing so may violate the instructor's intellectual property rights. Note that infringements of copyright can be subject to follow up by the University under the Code of Student Conduct and Disciplinary Procedures.

7. Academic Accommodations

If you anticipate or experience academic barriers due to a disability (including mental-health or medical conditions, whether chronic or temporary), please contact me privately and register with the university's accessibility/disability services office to establish reasonable accommodations. After you are approved, share your accommodation letter and meet with me as early as possible so we can implement accommodations in a timely manner. Students are not required to disclose medical details or diagnoses to instructors.

8. Reading and Lecture Schedule:

Note that this course is **readings-heavy**; it is expected that you **do the readings *before* the lecture**. If you do not keep up with the readings you will not be able to pass the course or complete the assignments. **All readings will be excerpted unless stated otherwise.**

Week 1: Founding Debates

- Thomas - Why Federalism Matters (read in full)
- The Federalist Papers #10, #39, #51 (read in full)
- Brutus I
- Letters from Federal Farmer II

Week 2: Why Choose Federalism?

- Tocqueville - *Democracy in America*
- Tiebout - "Pure Theory of Local Expenditures" (read in full)
- Horowitz - "The Many Uses of Federalism" (read in full)

Week 3: Moral Grounds for Federalism

- Riker – Federalism: Origin, Operation, Significance
- Finnis - Subsidiarity's Roots and History: Some Observations (read in full)
- Kukathas - The Liberal Archipelago
- Levy - Federalism, Liberalism, and the Separation of Loyalties (read in full)

Week 4: Necessary & Proper / Commerce Clause Evolution

- Barnett - "The Original Meaning of the Commerce Clause"
- *McCulloch v. Maryland* (1819)
- *Wickard v. Filburn* (1942)
- *United States v. Lopez* (1995)

Optional:

- *United States v. Morrison* (2000)
- *Gibbons v. Ogden* (1824)

Week 5: The Spending Power and Conditional Federalism

- *South Dakota v. Dole* (1987)
- *NFIB v. Sebelius* (2012)
- Samuel Bagenstos - "The Anti-Leveraging Principle and the Spending Clause After NFIB"

Optional:

- *Arlington Central School District v. Murphy* (2006)

Week 6: Anti-Commandeering Doctrine

- *New York v. United States* (1992)
- *Murphy v. NCAA* (2018)
- Heather Gerken - "Of Sovereigns and Servants"

Optional:

- *Printz v. United States* (1997)

Week 7: Preemption and State Innovation

- *Gonzales v. Raich* (2005)
- Bulman-Pozen & Gerken - "Uncooperative Federalism"
- William Baude - "State Regulation and the Necessary and Proper Clause"

Week 8: Can Federalism Maintain Itself?

- Vallier - Exit, Voice, and Public Reason (read in full)
- Bednar - The Robust Federation: Principles of Design
- Lemke - Interjurisdictional Competition and the Married Women's Property Acts

Optional:

- *Garcia v. San Antonio Metropolitan Transit* (1985)

Week 9: Federalism and Social Issues

- *Washington v. Glucksberg* (1997)
- *Obergefell v. Hodges* (2015)
- *Dobbs v. Jackson Women's Health* (2022)

Optional:

- Francis and Francis - Federalism and the Right to Travel

Week 10: Immigration Federalism

- *Arizona v. United States* (2012)
- Cristina M. Rodríguez - The Significance of the Local in Immigration Regulation
- *United States v. Texas* (2023)

Week 11: Religious Liberty and Federalism

- *Trinity Lutheran v. Comer* (2017)
- *Fulton v. Philadelphia* (2021)
- Golemboski - Establishment Clause Federalism (read in full)
- Ira C. Lupu & Robert W. Tuttle - *Kennedy v. Bremerton School District* – A Sledgehammer to the Bedrock of Nonestablishment

Week 12: Ohio in the American Federal System

- Ohio Constitution Art. XVIII §§3 & 7 (read in full)
- Ohio Legislative Service Commission - "Municipal Home Rule" (read in full)
- *Cleveland v. State* (2010)
- *Norwood v. Horney* (2006)

Optional:

- *City of Columbus v. Ours Garage & Wrecker Service, Inc.* (2002)

Week 13: Comparative Federalism and the Notwithstanding Clause

- Tsvi Kahana - "Understanding the Notwithstanding Mechanism"
- Reference re Secession of Quebec (1998)
- Sigale - "Legislated Rights as Trumps: Why the Notwithstanding Clause Overrides Judicial Review" (read in full)
- McGinnis & Somin - "Federalism vs. States' Rights: A Defense of Judicial Review in a Federal System"

Week 14: Federalism's Breaking Point? Secession and National Divorce

- *Texas v. White* (1869)
- David French - "Divided We Fall: America's Secession Threat and How to Restore Our Nation"
- Ilya Somin - "Foot Voting, Federalism, and Political Freedom"

Acknowledgements: This syllabus is based on the similar syllabi from Prof. Jacob Levy and Dr. Aberdeen Berry, to whom I am indebted and very grateful, not just for this.