**American Federalism**

Political Science 320

**Spring 2021**

**3 credits**

Professor Julie Novkov

Class times: MW 11:40 AM – 1:00 PM

Stable Zoom link: <https://albany.zoom.us/j/92403386366?pwd=THlhZUlBM2RqVmh6YkNvRVFuMXd5QT09>

Office Hours: 9-11 AM Tuesdays or by appointment

Stable Zoom link: https://albany.zoom.us/my/jnovkov

E-mail: jnovkov@albany.edu

**COURSE DESCRIPTION**

 What does it mean for a government to be federal, and what does federalism mean for its residents, who are governed by two levels of sovereign authority? What kinds of problems are best solved nationally, which ones call for state-based policy solutions, and which ones really require collaboration for good resolutions? What makes collaboration work, and what happens when it fails? This course focuses on the theoretical, constitutional, and political dimensions of American federalism. We will address federalism’s constitutional basis and evolution, learning about the historical tensions over the boundaries between federal and state power. We will debate both the problem-solving capabilities of the federal system and the capacity of the states to serve as Louis Brandeis’s “laboratories of democracy.” Students in this course will learn federalism’s deep and conflicted history, setting themselves up well to understand and debate contemporary issues. Students should be aware that they may develop unreasonably strong affections for the commerce clause, the tenth amendment, or both.

 The course is taught on the 300 level and is intended primarily for students who have little or no prior background in law or American political development. All students will learn 1) to demonstrate substantive knowledge about the history of federalism and its role in the development of American constitutional democracy, 2) to think and write critically about how federalism shapes current controversies in American law and politics, and 3) to construct and defend arguments about the reach of federalism and the powers of the state and national governments.

 The course is a lecture course but will incorporate discussion and some exercises. During the lecture times, students can expect a mixture of lecturing by the professor and discussion with the professor and other students in the class. Exercises may be in individual or group format. Because class discussions are an important part of the course, students will be expected to keep up with the reading and to think about it as they are doing it. Students will also be expected to learn more about contemporary controversies concerning federalism.

*Is this class right for me?* The course, while taught at the 300 level, will involve significant reading and writing requirements. You will be expected to complete all of the reading and to attend all of the lectures. While attendance will not be taken routinely, short quizzes will be offered in class to encourage regular attendance and preparation. This is not intended to torture you. Students who have tried in the past to get by through either doing the reading or coming to lectures in this type of class have traditionally been unhappy with their final grades. The course demands a lot, but delivers a lot in return, in proportion to the effort you put into it. That being said, *effort alone* will not get you an A. Only outstanding performances on the various assignments will get you into the A range for this course. Of course, effort is not irrelevant in establishing outstanding performance!

**COURSE REQUIREMENTS**

 Students will be expected to attend all synchronous class sessions. Participation in discussions taking place during these sessions will not be graded, but it is an expectation. Constructive, informed, respectful participation that contributes directly to conversations about the course material will raise borderline grades; consistently disruptive participation may result in lower grades. Most weeks, we will spend some time during one class session doing an individual or group exercise to apply concepts we are learning, which will provide structured opportunities for class participation.

 Students will complete weekly open-book quizzes in Blackboard that are designed to emphasize key ideas from the course. I will administer ten such quizzes and drop your lowest two scores; each quiz will have three to five short-answer questions that emphasize important course concepts. These quizzes will open at the beginning of the week and will be available to complete until the end of the week.

 Group exercises that allow for a formal presentation or submission of a group (or individual) memo will be graded. Three such opportunities will be provided, and the two highest grades will be counted.

 Students will take three longer examinations: two quizzes during the semester and a final examination at the end of the semester. Professor Novkov will discuss the format and expectations for these tests as they approach, but the quiz formats will be uniform across the term, all quizzes and the final exam will be open book, and no monitoring software will be required or used.

 Keeping up with the reading and coming to class will make things go much better. While online courses have their challenges, the historical organization of this course makes it extra important to stay on top of things. Occasionally things may happen and you may not be able to manage the reading, but even if you haven’t read, please come to the synchronous sessions.

 The allocation of weight for your various obligations is as follows:

#### **GRADE COMPONENTS**

#### Quiz One 10%

# Quiz Two 10%

## Group exercises 20%

## Weekly Blackboard quizzes 30%

Final Examination 30%

**GRADE SCALE**

A 92.5-100
A- 90-92.4

B+ 87-89.9
B 83-86.9
B- 80-82.9
C+ 77-79.9
C 73-76.9
C- 70-72.9
D 60-69.9
E Below 60

**COURSE POLICIES**

All course policies are listed at the end of the syllabus. Be sure to review carefully, as the professor has specific policies in addition to the University’s general policies. If you have questions about any course policy, ask sooner rather than later.

**MATERIALS**

 The sources for reading materials are *American Constitutionalism Volume I* by Gillman, Graber, and Whittington (make sure you get the second edition!) and several additional materials on Blackboard. Items in the syllabus with AC and a page number are in the textbook, and items labeled (BB) are on Blackboard. The book is available for purchase at the University bookstore. I will also post updates on information and assignments on Blackboard. To log on to Blackboard, go to <https://blackboard.ualbany.edu/> and follow the login instructions. **IMPORTANT NOTE: You will need to use Blackboard to gain access to some of the assigned reading, the weekly quizzes, the longer quizzes, and the final exam. Be sure your email address in the Blackboard system is configured to reach you.**

**SYLLABUS**

**Introduction: Revolution and Constitution**

February 1 Introduction to Federalism

1. Introduction to the course – no assigned readings

# February 3 Preserving state power

* How to Read a Case
* “Federalism,” Martha Derthick (BB)

February 8 Preserving State Power

# Federalism, AC 79-83

1. United States Constitution, AC 695

February 10 Anti-Federalism

1. Patrick Henry (June 7)(BB)
2. Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania(BB)
3. Letter from the Federal Farmer, No. 1(BB)
4. Brutus, Nos. I, VI, XII(BB)
5. NOTE: LAST DAY TO DROP WITHOUT A W IS FEBRUARY 12

February 15 Federalism’s Victory (for the time being . . .)

1. Federalist Nos. 9, 10, 15, 16, 17, 22, 39, 45, 46(BB)

**Early Republic through the Sectional Crisis**

February 17

GROUP EXERCISE ONE: FEDERALISTS AND ANTI-FEDERALISTS

February 22 Is a National Bank “Necessary and Proper”?

* Powers of the National Government, AC 118-123
* “House Debate on the Bank” (1791), AC 125-128
* Jefferson on the Bank, AC 128
* Hamilton on the Bank, AC 129
* *McCulloch v. Maryland* AC 130

February 24 States Assert their Sovereign Authority: The Eleventh Amendment and Interposition

1. Sovereign Immunity, AC 158
2. *Chisholm v. Georgia*, AC 159
3. Virginia Resolution of 1798, AC 163
4. Kentucky Resolutions of 1798 and 1799, AC 164
5. Resolution of the State of Rhode Island and Providence Plantations to Virginia (1798-1799), AC 165

March 1 Early Commerce Clause Controversies and the Nullification Crisis

1. *United States v. The William*, AC 147
2. *Gibbons v. Ogden*, AC 149
3. South Carolina Ordinance of Nullification (1832) (BB)
4. President Andrew Jackson’s Proclamation on South Carolina’s Nullification Ordinance (1832) (BB)

March 3 CLASSES SUSPENDED

March 8 Focus on Andrew Jackson and Challenges to Jacksonianism

1. President Andrew Jackson, Veto Message Regarding the Bank of the United States (1832), AC 201
2. *Cooley v. Board of Wardens*, AC 221
3. John Calhoun, “Fort Hill Address,” AC 224
4. *Worchester v. Georgia*, AC 226

March 10 Slavery, Anti-Slavery, and the Problem of Fugitive Slaves

* Salmon Chase, “Speech in the Case of the Colored Woman Matilda,” AC 205
* *Prigg v. Pennsylvania*, AC 206
* John Crittenden, “Opinion on the Constitutionality of the Fugitive Slave Bill,” AC 210

QUIZ ONE DUE MARCH 12

March 15 *Dred Scott* and the First Comprehensive Understanding of Citizenship

1. Congressional Debate on the Annexation of Texas, AC 213
2. *Scott v. Sandford*, AC 215
3. Abraham Lincoln, Speech on Slavery in the Territories, AC 218

##### War, Reconstruction, and a New Order

March 17 The Collapse of Compromise and Secession

1. *Ableman v. Booth* (BB)
2. South Carolina Ordinance of Secession, AC 270
3. Abraham Lincoln’s First Inaugural Address, AC 273
4. *Texas v. White*, AC 283

MARCH 22

GROUP EXERCISE TWO: SECESSION

March 24 Early Reconstruction

* Lincoln’s Second Inaugural Address (BB)
* Thirteenth Amendment (see Constitution in AC)
* Mississippi Black Codes(BB)
* Federal Power to Enforce Civil Rights, AC 264
* Senate Debate over the Civil Rights Act of 1866 and Civil Rights Act of 1866, AC 265-269

March 29 Constitutional Change and Late Reconstruction

1. Kurt Lash, “Federalism and the Fourteenth Amendment” (BB)
2. Fourteenth and Fifteenth Amendments (see Constitution in AC)
3. *Civil Rights Cases* (BB)
4. *Pace v. Alabama* (BB)

March 31 The South Strikes Back (with the Fuller Court’s blessing)

1. *Plessy v. Ferguson*  (BB)
2. Alabama Constitutional Convention of 1901 (BB)
3. *Hodges v. United States* (BB)

April 5 Progressive Reform and Federalism’s Limits: Commerce Regulation and Child Labor

1. *Wabash, St. Louis and Pacific Railway Co. v. Illinois*, AC 377
2. Thomas Cooley, “Constitutional Limitations,” AC 380
3. *Hammer v. Dagenhart*, AC 355
4. *Bailey v. Drexel Furniture*, AC 366
5. The proposed Child Labor Amendment (BB)

April 7 Progressive Reform and Uncertainty over Federal Power

1. Senate Debates on the Sherman Anti-Trust Act, AC 346-350
2. *United States v. E.C. Knight*, AC 350
3. *Champion v. Ames*, AC 353
4. *Hoke v. United States* (BB)

QUIZ TWO DUE APRIL 9

April 12 The Fight Over the New Deal Part I

1. *U.S. v. Butler*, AC 463
2. *Schechter Poultry Company v. United States*, AC 444
3. *Carter v. Carter Coal Co.* (BB)
4. *NLRB v. Jones & Laughlin Steel*, AC 447
5. *Steward Machine v. Davis*, AC 467

**The New Deal Order and its Anxieties**

April 14 Federal Authority Regnant

1. Excerpts from debates over Civil Rights Act of 1964, AC 455
2. *Heart of Atlanta Hotel v. U.S.* AC 457
3. *South Carolina v. Katzenbach*, AC 463

LAST DAY TO WITHDRAW

April 19 The Fair Labor Standards Struggle

1. *National League of Cities v. Usery* (BB)
2. *Garcia v. San Antonio Metro Transit Authority*, AC 563
3. *United States v. Lopez*, AC 610

April 21

GROUP EXERCISE THREE: REGULATING LABOR

**Contemporary Problems**

April 26 Modern-day Commerce, Civil Rights, and Sovereignty

* *Seminole Tribe of Florida v. Florida* (BB)
* *City of Boerne v. Flores* (BB)
* *Alden v. Maine*, AC 648

April 28 Voting and Voting Rights

* *US Term Limits v. Thornton* (AC 635)
* *Shelby County v. Holder* (BB)
* *Husted v. A. Philip Randolph Institute* (BB)

May 3 Voting and Voting Rights II

* *Bush v. Gore* (BB)
* *Hotze et al. v. Hollins* (BB)
* *Trump v. Boockvar* (BB)

May 5 The Pandemic and State-Federal Coordination

* *Roman Catholic Diocese v. Cuomo* (BB)
* Philip Rocco, Daniel Beland, and Alex Waddan, “Stuck in Neutral?”

# May 10 Reflecting on Federalism

* Greg Goelzhauser and David M. Konisky, The State of American Federalism 2019–2020: Polarized and Punitive Intergovernmental Relations
* Joseph Biden, “Modernizing Regulatory Review”
* “Progressive Federalism: A User’s Guide,” Heather Gerken and Joshua Revesz (BB)

# **FINAL EXAMINATION DUE AT 11:59 PM SATURDAY MAY 15**

#### **POLICIES FOR THIS CLASS**

**Zoom etiquette**

(1) Try to keep your webcam on as much as possible. I understand that some of you will have bandwidth problems some of the time. When you do, I recommend putting up your picture. You can upload your standard UAlbany headshot in Zoom, but try to come back “live” as soon as you can. I also urge you not to worry about what your rooms look like (especially if you have cute pets who like to be onscreen!). We have all gotten used to it since COVID, and showing your natural background eats up less memory than one of Zoom’s virtual backgrounds. (2) Show your name at all times. I recommend first name plus initials, and you may include pronouns. If you normally use another kind of nickname or identifier in Zoom, please change it when you come to class. If you do not know how, just ask. You can change it back after class. (3) To allow for a free flow of reasoned discussion about political subjects, please keep potentially offensive or derogatory messaging out of your backgrounds and name tags. (4) Remember that any point you want to make should be about the substance of the issue being discussed and not the intelligence, character, or worthiness of a person with whom we may disagree.

**Students with disabilities**

If you have a documented disability and anticipate needing accommodations in this course, please make arrangements to meet with the professor soon to discuss accommodations. Please request that Disabilities Resource Center send a letter verifying your disability.

**Plagiarism or cheating**

This one’s simple: don’t do it. Don’t even think about doing it. Plagiarism is the use of someone else’s words or ideas without giving the original author credit by citing them. If you use someone else’s language directly, you must use quotation marks. If you rely on another person’s ideas in creating your argument, you must provide a citation. If you have any questions about plagiarism, please contact me *before* you submit the assignment for grading. If you plagiarize or cheat in this class, the **BEST** outcome you can hope to achieve is a failing grade from me, in addition to any mandatory university sanctions. Plagiarism or cheating, even if unintentional, will result in a failing grade for the assignment at the *very minimum*. Resources are provided above.

**Regrading of materials**

You may request regrading of materials. If you wish to make such a request, contact the professor for a copy of the regrading policy. You will be asked to provide a written explanation of why you wish to have the assignment regraded.

**Incomplete grades**

A course grade of incomplete will only be assigned if 1) almost all assignments and tests have been completed, 2) the professor and student discuss and agree upon the I grade before the term has ended, and 3) the professor and student have developed a clear plan and timetable for completing the work in a short time after the term has ended.

**University Resource and Policy Information**

**Incomplete Grades (from the Undergraduate Bulletin).** No graduation credit. A temporary grade requested by the student and assigned by the instructor ONLY when the student has nearly completed the course requirements but because of circumstances beyond the student’s control the work is not completed. The incomplete should only be assigned on the basis of an agreement between the instructor and the student specifying the work to be completed and establishing a general timeline in which the work will be completed. Incompletes may NOT be resolved by auditing or registering again for a subsequent offering of the course. The date for the completion of the work may not be longer than one month before the end of the semester following that in which the incomplete is received. Once the work is completed, the instructor assigns the appropriate academic grade. The instructor may extend an incomplete for a maximum of one semester beyond the original deadline providing that the student has made contact with the instructor to request the extension. Additional extensions are NOT permitted. Any grade of I existing after the stated deadline shall be automatically changed to E or U according to whether or not the student is enrolled for A–E or S/U grading. Except for extenuating circumstances approved by the Office of the Vice Provost for Undergraduate Education, these converted grades may not be later changed.

**Reasonable accommodations for student with documented disabilities**. Reasonable accommodations will be provided for students with documented physical, sensory, systemic, cognitive, learning and psychiatric disabilities. If you believe you have a disability requiring accommodation in this class, please notify the Director of the Disability Resource Center (Campus Center 130, 518-442-5490, DRC@albany.edu). That office will provide the course instructor with verification of your disability, and will recommend appropriate accommodations.

**Absence due to religious observance.** Students are excused, without penalty, to be absent because of religious beliefs, and will be provided equivalent opportunities for make-up examinations, study, or work requirements missed because of such absences. Students should notify the instructor of record in a timely manner, and the instructor will work directly with students to accommodate religious observances. Online courses will not schedule any assignment deadlines on religious holidays.

**Standards of Academic Integrity (from the Undergraduate Bulletin).** The academic community needs to trust that its members do not misrepresent their data, take credit for another's ideas or labor, misrepresent or interfere with the work of other scholars, or present previous work as if it were new. Acts of academic dishonesty undermine the value and credibility of the institution as a whole, and may distract others from important scholarship or divert resources away from critical research. In particular, students who plagiarize or falsify their work not only fail to adhere to the principles of scholarly inquiry and fail their peers by taking undeserved credit or reward, but they also fail to demonstrate their learning.

Practicing Academic Integrity Site: <https://library.albany.edu/infolit/playlists/academic-integrity>. This site provides access to concise and engaging educational resources that will help students navigate through the complexities surrounding information use and creation in today’s digital environment. Acknowledging the work of others through citation (and its flip side, plagiarism), copyright, the ethics of sharing information in different formats, and the importance of contributing one’s own voice to academic conversations are all highlighted. Students should consult syllabi, their instructors, and in relevant circumstances their advisors for information about specific policies on academic integrity.

Citation Tools: the University Libraries offers a wide variety of citation tools which may be found at <https://libguides.library.albany.edu/citationhelp>. These resources include citation generators and more extensive citation management tools, such as Zotero, Citation generators are websites or mobile apps that automatically format citations and bibliographies. Also available is CitationFox, an extensive resource developed by UAlbany librarians that provides citation guidance and examples for both the MLA and APA style.

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|  | Title IX Statement |

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in federally funded education programs and activities. The SUNY-wide Sexual Violence Prevention and Response Policies prohibit offenses defined as sexual harassment, sexual assault, intimate partner violence (dating or domestic violence), sexual exploitation, and stalking. The SUNY-wide Sexual Violence Prevention and Response Policies apply to the entire University at Albany community, including students, faculty, and staff of all gender identities. The University at Albany provides a variety of resources for support and advocacy to assist individuals who have experienced sexual offenses.

Confidential support and guidance can be found through the Counseling Center (518-442-5800, <https://www.albany.edu/counseling_center/>), the University Health Center (518-442-5454, <https://www.albany.edu/health_center/>), and the Interfaith Center (518-489-8573, <https://www.albany.edu/spirituality/onCampus.shtml>). Individuals at these locations will not report crimes to law enforcement or university officials without permission, except for in extreme circumstances, such as a health and/or safety emergency. Additionally, the Advocates at the University at Albany’s Advocacy Center for Sexual Violence are available to assist students without sharing information that could identify them (518-442-CARE, <https://www.albany.edu/advocacycenter/>).

Sexual offenses can be reported non-confidentially to the Title IX Coordinator within The Office for Equity and Compliance (518-442-3800, <https://www.albany.edu/equity-compliance/>, Building 25, Room 117) and/or the University Police Department (518-442-3131, <http://police.albany.edu/>).

Please note, faculty members are considered “responsible employees” at the University at Albany, meaning that they are required to report all known relevant details about a complaint of sexual violence to the University’s Title IX Coordinator, including names of anyone involved or present, date, time, and location. In case of an emergency, please call 911.