

INDIANA UNIVERSITY PURDUE UNIVERSITY INDIANAPOLIS  
Spring 2006  
School of Public and Environmental Affairs

COURSE: Law and Public Affairs  
SPEA V540

TIME & DAY: Tuesdays @5:45

ROOM: BS 3015

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### INTRODUCTION AND COURSE OBJECTIVES

This course will examine the response of the American legal system, with its historic commitment to individual liberty and autonomy, to the growth of the administrative state and to an increasingly complex social environment characterized by pluralism and professional differentiation. We will discuss conflicting visions of American government and different approaches to public administration, and consider how those differences have affected the formation and implementation of public policy within our constitutional framework.

While relatively few people will become public officials or public managers, all Americans are citizens, and most citizens will take positions on the policy issues of the day. Accordingly, this course is intended to introduce all students to the constituent documents that frame policy choices in the American system, and to explore the various ways in which those frames constrict available policy options. These explorations will inevitably implicate political (although not necessarily partisan) beliefs about the proper role of the state, the health of civil society, and the operation of the market. To the extent possible, these theoretical and philosophical beliefs will be made explicit and their consequences for policy examined. The goal is to help students understand why certain policy prescriptions attract or repel certain constituencies, and to recognize the ways in which these deeply held normative differences impact our ability to forge consensus around issues of public concern.

In the course of these inquiries, we will consider the implications of the accelerating pace of social change on issues of governance: globalization, especially as it affects considerations of legal jurisdiction; the increasing interdependence of nations, states, and local governmental units; the blurring of boundaries between government, for-profit and nonprofit organizations, and the effect of that blurring upon constitutional accountability; the role of technology; and the various challenges to law and public management posed by change and diversity, including the impact and importance of competing value structures to the formation of policy.

By the end of the semester, students should be able to recognize legal and constitutional constraints on policy formation, and to identify areas where public policy or administration crosses permissible boundaries. They should be able to recognize and articulate the impact of law and legal premises on culture and value formation, and to understand and describe the complex interrelation that results.

### REQUIRED TEXTS

The U.S. Constitution  
Oak Hill Publishing Company

Course packet

From time to time, additional readings will be posted on Oncourse or distributed in class. Those readings will be required.

The following are **not** required, but are resources that may be consulted for helpful information or clarification. They are available in the library, or can be ordered in paperback from Amazon.com and similar outlets.

- "The Bill of Rights," by Akhil Reed Amar
- "Policy Paradox: The Art of Political Decision Making," by Deborah Stone
- "What's a Nice Republican Girl Like Me Doing at the ACLU," by Sheila Suess Kennedy
- "The Founders, the Constitution, and Public Administration," by Michael W. Spicer
- "Constitutional Competence for Public Managers," by David H. Rosenbloom, James D. Carroll and Jonathan D. Carroll

### HELPFUL WEBSITES:

- <http://www.cbpp.org/>
- <http://www.publicagenda.org/>
- <http://www.sheilakennedy.net>

## FORMAT AND EXPECTATIONS

This course is intended to be highly interactive. Class discussion and (reasoned and respectful) argumentation is an expected and necessary part of the learning experience; public policy issues are by their nature contestable. In the absence of discussion and debate, their nuances cannot be fully understood, nor the passions they so often evoke. One of the goals of this class is to enable students to distinguish between principled, informed positions and those founded on emotion. Appropriate discussion—free of “labeling” or other characterizing of particular policy preferences—will facilitate that goal.

At the graduate level, particularly, a high degree of professionalism will be expected of class participants. Professionalism includes the following expectations:

- Work will be completed on time.
- Work will be fully responsive to the assignment.
- Analyses will be considered and supported by fact/authority.
- Presentations will be grammatically correct, persuasive, and civil.
- Written assignments will have a cover page, upon which *only* the following information will be listed: name, address, phone, email, date.
- Written work will be submitted in the following format: double spaced, paginated, right margins *not* adjusted.
- All assertions of fact in written work will be appropriately cited to sources within the body of the paper. Plagiarism or other forms of intellectual dishonesty will be dealt with severely and in strict accordance with University policy.
- Class preparation requires that the assigned readings be completed *prior* to the scheduled discussion.
- Class discussions will be conducted with courtesy and respect for those holding different opinions.
- Regular attendance and participation are part of professional behavior, and will be expected.
- Students will adhere to SPEA policies on academic integrity and behavior, a copy of which are appended to this syllabus.

## ASSIGNMENTS AND GRADING

There will be midterm and final exams, a class presentation/group project and a final paper. These will count toward the final grade as follows:

Midterm 20%  
Policy Presentation/Group Project 20%  
Research Paper 30 %  
Final Exam 20%  
Class Participation 10%

The grade assigned for written materials will reflect both content and writing; grammar, syntax and organization are important to the effectiveness of communication, and papers will be evaluated accordingly.

Late papers will be penalized by one letter grade. Students who believe that they are entitled to a change of the final grade must make that request within one month following the end of the semester in order for the request to be considered.

A grade of Incomplete may be arranged for a student who is unable to complete the course for reasons *beyond his or her control*. The instructor reserves the right to refuse to issue an Incomplete in cases where sufficient cause or evidence is missing. W, for Withdrawal, will be given in conformance with University policy.

## CLASS OUTLINE AND SCHEDULE

January 10            **Course Introduction**

The instructor will distribute and discuss the syllabus, and discuss class expectations. The constitutional constraints on policy formation will be introduced and placed in historical and philosophical perspective.

January 17            **The Constitutional Architecture**

We will explore elements of America's constitutional architecture: separation of powers, federalism, judicial review, and consider the changes wrought by the Fourteenth Amendment and the challenges of modernization and globalization. **Team projects will be assigned.**

January 24            **The First Amendment**

First Amendment Free Speech and Religion Clauses will be covered, including current and historical areas of dispute.

January 31            **The Fourth Amendment**

Fourth Amendment discussion will include the history giving rise to search and seizure concerns, discussion of probable cause and individualized suspicion, and current policy disputes concerning application of the 4<sup>th</sup> Amendment.

February 7    **Fifth and Fourteenth Amendment Due Process**

This class will consider what is meant by “due process of law,” with particular attention to the history, effect, and importance of the concept. We will discuss the elements of due process, and the distinction between substantive and procedural due process.

February 14    **Equal Protection of the Laws**

Class will discuss the 14<sup>th</sup> Amendment’s equal protection clause, its historical context and its operation today. The Court’s approach to equal protection analysis will be described, and different theories of “equality” will be examined.

February 21    **Remaining Amendments**

The second, third, sixth, seventh, eighth, ninth and tenth amendments will be discussed, and the discussion will conclude with an effort to synthesize the underlying premises and philosophy of the Bill of Rights, and the effect of America’s libertarian history on our contemporary approaches to policy conflicts.

February 28    **Midterm Exam**

March 7            **Making Public Policy**

We will introduce the examination of several specific policy areas, considered through the lens of the analytic framework previously developed. Elements of policy analysis and steps involved in the negotiation of public policy will be addressed, and the roles of the voluntary sector and the media will be discussed.

March 21      **Economic Policy**

Elements of economic and tax policy; budgeting; regulatory activity (including environmental regulations); the challenge of globalization and trade; and cultural, political and ideological perspectives on economic inequality.

March 28      **Education Policy**

The history and purpose of “the common school” will provide the context for investigation of a number of contentious issues affecting public education, from accountability and its measurement, to the challenges of federalism, and the persistent tension over religious expression in the public schools.

April 4        **Sin and Crime**

American history is replete with “moral” legislation that is arguably inconsistent with our libertarian constitutional structure. What sorts of behaviors can a government of limited powers properly (and effectively) criminalize? What are the effects of mischaracterizing “sin” as “crime”? What are the challenges to criminal justice posed by globalization?

April 11      **War and Peace**

We will consider a number of issues in historical perspective: What is a Just War? What are the consequences of war for domestic policy? What are the proper goals and strategies of an effective foreign policy?

April 18      **Health Policy**

We will address the increasing crisis in American healthcare, and proposed solutions, in international perspective.

April 25      **Equality**

The issue of equality is perhaps the most defining issue for American policymakers. It implicates virtually every other issue we address: education, health care, democratic participation, poverty and wealth. In a country committed to the market, what elements of inequality are properly matters for policy intervention? **Research Papers Due.**

May 1<sup>st</sup>        **Summing Up**

We will attempt to draw conclusions from the semester’s discussions, and will review for the final examination.

## **Addendum A: Team Projects**

Following the midterm examination, and in conjunction with the classes focused upon specific policies, student teams will make presentations on the following subjects:

- Trade Policy—free markets, or protectionism?
- Education vouchers—good policy or bad?
- The Drug War—pro and con.
- The Iraq War—pro and con
- National Health Insurance—pro and con.
- Same-sex marriage—pro and con.

Students will be assigned to teams, and each team will have one hour within which to present both sides of the policy conflict. Aside from the requirement to address competing arguments, teams are free to choose any presentation format they wish: prior presentations have used Powerpoint and film clips, and have been in the form of debates and skits. Creativity is a plus.

While all positions on the issue must be presented, if a team believes that the weight of evidence favors one particular solution, it may argue in favor of that position. Similarly, if no position is deemed adequate, an alternative may be offered.

The purpose of the presentation is to encourage in-depth consideration of a particular policy, its legal ramifications, and its implications for other policy areas. Added information about the policy presentations will be provided when teams are assigned.

## **Addendum B: SPEA Policies 2005-2006**

### **Academic Misconduct**

All faculty have the responsibility of fostering the “intellectual honesty as well as the intellectual development of students” and part of this responsibility means that faculty must investigate cases of potential academic misconduct promptly and thoroughly. The faculty also has the responsibility of taking appropriate action when academic misconduct occurs.

The penalties for academic misconduct include but are not limited to lowering a grade on an assignment, lowering a course grade, or failing a student for a course. Significant violations of the Code can result in your expulsion from the University. If you have any questions about what constitutes academic misconduct for a course you are taking, be sure to ask the instructor for an explanation.

SPEA faculty take their responsibilities seriously and do not tolerate cheating, plagiarism, or any other form of academic misconduct. If you have not done so, you should read the IUPUI *Code of Student Rights, Responsibilities, and Conduct*, which can be accessed at <http://www.life.iupui.edu/help/code.asp> so you will be sure to understand what these terms mean and what penalties can be issued for academic misconduct.

When a student is suspected of academic misconduct, the instructor will have an informal conference with the student in a timely fashion and provide the student with an opportunity to respond to the allegations. If the instructor believes that academic misconduct has occurred, he/she will initiate the academic misconduct process, which includes the possibility of a hearing if the student disagrees with the allegations.

The *IUPUI Code of Student Rights, Responsibilities, and Conduct* defines six areas of academic misconduct: cheating, fabrication, plagiarism, interference, violation of course rules, and facilitating academic misconduct. The prohibited activities and actions include the following:

1. Cheating. A student must not use or attempt to use unauthorized assistance, materials, information, or study aids in any academic exercise, including, but not limited to, the following:
  - a. A student must not use external assistance on any "in-class" or "take-home" examination, unless the instructor specifically has authorized external assistance. This prohibition includes, but is not limited to, the use of tutors, books, notes, and calculators.
  - b. A student must not use another person as a substitute in the taking of an examination or quiz.
  - c. A student must not steal examinations or other course materials.
  - d. A student must not allow others to conduct research or to prepare work for him or her without advance authorization from the instructor to whom the work is being submitted. Under this prohibition, a student must not make any unauthorized use of materials obtained from commercial term paper companies or from files of papers prepared by other persons.
  - e. A student must not collaborate with other persons on a particular project and submit a copy of a written report which is represented explicitly or implicitly as the student's individual work.
  - f. A student must not use any unauthorized assistance in a laboratory, at a computer terminal, or on field work.
  - g. A student must not submit substantial portions of the same academic work for credit or honors more than once without permission of the instructor to whom the work is being submitted.
  - h. A student must not alter a grade or score in any way.

2. Fabrication. A student must not falsify or invent any information or data in an academic exercise including, but not limited to, records or reports, laboratory results, and citations to the sources of information.

3. Plagiarism. A student must not adopt or reproduce ideas, words, or statements of another person without appropriate acknowledgment. A student must give credit to the originality of others and acknowledge an indebtedness whenever he or she does any of the following:

- a. Quotes another person's actual words, either oral or written;
- b. Paraphrases another person's words, either oral or written;
- c. Uses another person's idea, opinion, or theory; or
- d. Borrows facts, statistics, or other illustrative material, unless the information is common knowledge.

*The School of Education in Bloomington has developed a tutorial that will help you understand plagiarism - you can access the tutorial by linking to <http://www.indiana.edu/~istd/>.*

4. Interference.

- a. A student must not steal, change, destroy, or impede another student's work. Impeding another student's work includes, but is not limited to, the theft, defacement, or mutilation of resources so as to deprive others of the information they contain.
- b. A student must not give or offer a bribe, promise favors, or make threats with the intention of affecting a grade or the evaluation of academic performance.

5. Violation of Course Rules. A student must not violate the course rules contained in a course syllabus or other information provided to the student.

6. Facilitating Academic Misconduct. A student must not intentionally or knowingly help or attempt to help another student to commit an act of academic misconduct.

### Civility

Civility is important in an academic community to ensure that all parties—students, staff, and faculty—are working in an environment that fosters achievement of the individual's and community's goals and objectives. Civility requires all parties to demonstrate personal integrity and conduct themselves in a manner that shows respect, courtesy and tolerance to others. Examples of discourteous behaviors during class include reading the newspaper, text messaging via cell phones, listening to headphones, talking or laughing with others, chronically arriving late, and so forth. These behaviors are distracting to the instructor and classmates, and SPEA faculty will address these problems as they arise. Maintaining and fostering civility

inside and outside the classroom is especially important to SPEA, which is a professional school.

Pursuant to the Indiana University Student Code of Conduct, disorderly conduct which interferes with teaching, research, administration, or other university or university-authorized activity will not be tolerated and will be immediately reported to the Office of The Dean of Students for appropriate disposition which may result in disciplinary action including possible suspension and/or expulsion from the university.

#### Communication between Faculty and Students

In order to verify the identity of all parties involved, effective September 1, 2004, all email communication from current SPEA students to SPEA staff must originate from an Indiana University email account. For email communication with SPEA faculty, current SPEA students should refer to course syllabi for instructors' preferences (Oncourse, Webmail, etc.). This policy applies to current students only. Instructions for forwarding your IUPUI email to another account can be found at <http://support.uits.iu.edu/scripts/ose.cgi?http://kb.indiana.edu/data/beoj.ose.help?osecat=email>

#### Course Withdrawals

Students who stop attending class without properly withdrawing from the class may receive a grade of F. It is important to withdraw from a course within specified timeframes (see chart below). Note that withdrawals after Week 12 of a regular session or Week 4 of a summer session are rarely granted. Poor performance in a course is not grounds for a late withdrawal.

No withdrawal forms will be processed in the Office of the Registrar after the last day of classes. Any requests for a late withdrawal after the last day of classes must go through the grade appeal process, but each student should remember that in accordance with campus policy, SPEA does not permit a student to withdraw from a course if he/she has completed the course requirements. Grade replacement should be used in this case. See the Office of the Registrar's website at <http://registrar.iupui.edu/withdraw.html> for more information. To withdraw, obtain a withdrawal slip (DROP/ADD Form) from the SPEA Student Services window. Instructions for completing it are given on the form.

Withdrawal Deadlines	
Course deleted from record, no grade assigned, 100% refund (Advisor signature IS NOT required)	Week 1 (last day)
Withdrawal with automatic <a href="#">grade of W</a>	Week 2- Week 7 (regular

(Advisor signature IS required)	session) Week 2 - Week 3 (summer session)
Withdrawal with <a href="#">grade of W or F</a> (Advisor and instructor signatures ARE required)	Week 8 - Week 12 (regular session) Week 3 - Week 4 (summer session)

### Incompletes

A grade of incomplete (I) indicates that a 'substantial portion' of the work in a course has been satisfactorily but not entirely completed by the student as of the end of the semester. The incomplete can be given to a student facing a hardship such that it would be unjust to hold the student to the established time limits for completing the work. To be eligible for the incomplete in a SPEA course, the student's work must be of passing quality, and the student must have completed 75% of the course requirements. Poor performance in a course is not grounds for an incomplete. See the Office of the Registrar's website at <http://registrar.iupui.edu/incomp.html> for more information. Incompletes must be removed within a time period not to exceed one year after the semester in which the student was enrolled in the course. The incomplete will revert to an 'F' if the work is not completed within the allotted timeframe established by the instructor.

### Grade Changes

Under certain circumstances, students can seek grade changes for previously taken courses if they believe that a grade has been calculated or assigned incorrectly. A student who is seeking a grade change must first contact the instructor and ask for the grade change. In the event the instructor does not change the grade, the student can file a Change of Grade Petition with the Registrar's Office. The petition is then sent to SPEA for its consideration. The petition must be filed within 1 year of the date when the student was enrolled in the course. In cases of extenuating circumstances, SPEA may consider petitions filed after this date, but in no case will it consider petitions filed 5 years or more after the date the course is taken. SPEA will review the request and make a final decision. The Change of Grade petition form is located at the Office of the Registrar's website at <http://registrar.iupui.edu/grdfm.html>.

### Students Called to Active Duty

SPEA encourages any student who is in the Indiana Military Reserves and is called to active duty to finish his/her coursework if at all possible. Students who cannot complete their courses have the option of withdrawing with 100% fee refund, but this request must be made within one week of being called to active duty. Students who are called to active duty may qualify for

an incomplete (provided that all the above criteria have been met). For further information, please see the Office of the Registrar's website at <http://registrar.iupui.edu/activeduty.html>.

#### Final Exam Schedule

If a final exam is given, it must be held on the day and time set in the final exam schedule. If an instructor has changed the final exam date, the student should first consult with the instructor. Students who have more than three final exams in one day or insufficient time to get from one exam to another should consult with their instructors to resolve these conflicts. Exams may not be given in the week before the final exam week. If a student is not able to resolve a final exam problem with the instructor, the student may report the problem to the Director of Policies, Procedures, and Assessment. See the Office of the Registrar's website at <http://registrar.iupui.edu/accal.html> for the final exam week schedule.