

Religion 364 Religion and Law in the United States

Syllabus

Fall 2013
Prof. John Farina
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Office: Robinson B 444
Office Hours: TTH 1:30-2:45 pm or by appointment
Class meetings: TTH 3:00-4:15 pm
UH 1202

Course Description

This course will explore issues relating to law and religion. The course will focus on the legal doctrines that have arisen in cases under the Establishment and Free Exercise Clauses of the First Amendment. Topics addressed will include religion and public schools, government aid to religious institution (including school vouchers), government endorsement of religious symbols, freedom of religious expression, and freedom of religious practice.

Course Goals

1. To provide students with a basic understanding of the religion clauses of the First Amendment.
2. To provide students with a knowledge of the principles of constitutional interpretation.

Required Text

Frank S. Ratvitch, ed. *Law and Religion, A Reader: Concepts, Cases, and Theory*, 2nd. ed. Thompson/West 2008). Occasionally, we will consult the full texts of cases, not covered or redacted by Ratvitch, by using the on-line resource supremecourt.gov.

Course Requirements and Evaluation

Class Attendance and Participation. 15% of grade.

Midterm exam. 35% of grade.

Final exam. 50% of grade.

Important Dates

First Class: Aug. 27
Last Day to Drop without Penalty: Sept. 3
In Honor of Cristoforo Colombo no class: Oct. 15
Thanksgiving Holiday: Nov, 28
Mid-Term Exam: TBA
Last Class: Dec. 5
Final Exam: Dec. 12. Due by 5:00 pm

Academic Integrity

GMU is an Honor Code university; please see the University Catalog for a full description of the code and the honor committee process. The principle of academic integrity is taken very seriously and violations are treated gravely.

Office of Disability Services

If you are a student with a disability and you need academic accommodations, please see The professor and contact the Office of Disability Services (ODS) at 993-2474. All academic accommodations must be arranged through the ODS. <http://ods.gmu.edu>

Other Useful Campus Resources:

Writing Center: A114 Robinson Hall; (703) 993-1200; <http://writingcenter.gmu.edu>

University Libraries "Ask a Librarian"

<http://library.gmu.edu/mudge/IM/IMRef.html>

Counseling and Psychological Services (caps): (703) 993-2380;

<http://caps.gmu.edu>

University Policies

The University Catalog, <http://catalog.gmu.edu>, is the central resource for university policies affecting student, faculty, and staff conduct in university affairs.

Classroom Etiquette

The use of cell phones in texting, browsing, or voice mode is strictly prohibited in class. Laptops, netbooks, tablets, ebook readers, etc. may only be used for reading assigned texts under discussion or taking notes. Any emailing, tweeting, or browsing is strictly prohibited. Students engaging in those activities will be asked to leave the class.

Class Assignments

Readings should be done prior to class. Students *must* have the course textbook with them in each class. Students who arrive without textbook and otherwise unprepared will be asked to leave the class.

Week 1, Class 1 (1.1)	Read pp. 1-39 Class policies and procedures Background on law and religion
1.2, 2.1	Read pp. 39-80 The early school prayer cases
2.2, 3.2	Read pp. 81-110 Public religious exercises Organized religious exercises in public schools
4.1, 4.2	Read pp. 110-138 The Supreme Court and organized student initiated prayer Moment of silence laws
5.1, 5.2	Read pp. 139-196 Creationism and Intelligent design in public schools
6.1, 6.2	Read pp. 196-226 Religious exercises, "ceremonial deism," the Pledge of Allegiance
7.1	Read pp. 226-246 Legislative prayer, municipal prayer
7.2	Read pp. 247-274 Religious symbolism in public displays

- 8.1 Read 276-323
Religious symbolism and public displays, continued.
The Ten Commandment Cases
- 8.2 Read pp. 324-370, and *Salazar v. Buono*, 559 U.S. 2_ (2010) online.
Religious symbolism and public displays, continued
Equal access to government facilities and programs
- 9.1 Read pp. 371-409
Government aid to religion or religious institutions
The *Lemon* test, the move toward formal neutrality.
- 9.2 Read pp. 410-443, and *Agostini v. Felton*, 521 U.S. 203 (1996)
Government aid to religion or religious institutions, continued
School vouchers
- 10.1 Read pp. 443-470
Government aid to religion or religious institutions, continued
Must government fund religion under general funding programs?
Perspectives on the Establishment Clause
- 10.3 Read pp. 470-495
Perspectives on the Establishment Clause, continued
- Midterm Examination**
11. 1 Read pp. 580-598
Read *Christian Legal Soc. Chapter of Univ. of Cal., Hastings College of Law v. Martinez* - 08-1371 (2010). Available online.
The Free Exercise Clause
How do courts define “religion”?
Early Free Exercise cases
Free Exercise exemptions, and the Compelling Interest Test
- 11.2 Read pp. 598-617
The Free Exercise Clause, continued
The retreat from the Compelling Interest Test
- 12.1 Read pp. 617-638
The Free Exercise Clause, continued
Laws of “general applicability’
- 12.2-14.2 Read pp. 638-676
The Free Exercise Clause, continued
Intention discrimination and Free Exercise Rights
The legislative response to *Smith*
- 15.1 Religion as an Affirmative Defense to Government Action
- 15.2 Court Challenges to the Affordable Care Act of 2010
Readings TBA

Final Examination Will Be Due by Dec. 12 at 5:00 pm. No extensions can be granted. Submit via email to jfarina@gmu.edu.

Disclaimer

The professor reserves the right, in his sole discretion, to change this syllabus at any time by announcements in class or through written notices.

