

## **POLS 445 Voting Rights and Representation**

POLS 445: Political Participation

TTh 2:10-4:00pm

Location: 10-226

Michael Latner

[mlatner@calpoly.edu](mailto:mlatner@calpoly.edu)

@mlatner

Office: 47-11L

Office Hours:

MW 10am-12pm

### Course description and objectives:

This is an advanced course on one of the most pressing legal and political questions for democracies, the right to vote. While the United States is often referred to as one of the oldest and greatest democracies, voting rights today are a product of slow, and continuing, evolution. We will focus attention of two aspects of voting rights in the U.S., institutional and legal access to the vote, and representation as a function of electoral districting.

#### Specific program objectives that will be assessed:

Knowledge of the history of classical and modern political thought; of the fundamental values and ethical issues contested in politics over time; and of alternative moral and ethical frameworks for interpreting and evaluating contemporary political discourses.

Recognition of the major problems, the leading policies, and the legal issues confronting contemporary political systems, particularly in the U.S.

Citizenship skills, ethical values, and the ability to understand and appreciate human diversity; and to engage in community life as active citizens.

Understanding of political science research and analytical skills, including the ability to think critically; to construct logical arguments; to collect, analyze, and interpret evidence and data; and to formulate reasoned conclusions.

Development of communication skills through research papers and presentations on political science topics, and collaborative research/writing opportunities.

Achievement of these objectives will be assessed through the following:

**Class Participation (20%)**

**Mock Brief District Analysis (20%)**

**Mock Brief Case Law Review (20%)**

**Multi-Member District Map for California (20%)**

**Final Mock Briefs (20%)**

Course materials: Online

Course schedule: 9/21-27 Thanksgiving, Dec 12 Finals

### **1. 9/22 Introduction: What is representation?**

- a. Before Class:
  - i. Philip Pettit “Varieties of Public Representation” <https://www.princeton.edu/~ppettit/papers/2010/Varieties%20of%20Public%20Representation.pdf>
- b. In-Class:
  - i. Welcome, course overview
  - ii. What is representation?
  - iii. What are the most important differences between types of representation?
  - iv. What kind of representation works “best” for democracy?
- c. After Class:
  - i. Revise your notes and prepare an electronic portfolio for your work
  - ii. Prepare for next class

## **2. 9/27 The Right to Vote and the Reapportionment Revolution**

- a. Before Class:
  - i. Chandler Davidson “The Voting Rights Act: A Brief History” [http://www.mattbarreto.com/mbarreto/courses/law/davidson\\_briefhistory.pdf](http://www.mattbarreto.com/mbarreto/courses/law/davidson_briefhistory.pdf)
  - ii. Lowenstein et. Al. “The Right to an Equally Weighted Vote” (folder)
- b. In Class:
  - i. What are the primary ways that the suffrage has been expanded?
  - ii. What are the primary ways that the suffrage has been restricted?
  - iii. How has not just the right, but the scope and influence of voting expanded since 1789?
  - iv. What state interests might justify the denial of the right to vote for children? Aliens? Felons?
  - v. What state interests might justify limiting or weighting voting to taxpayers? Property owners?
- c. After Class: revise questions and put them in an electronic portfolio

## **3. 9/29 Redistricting Lab I (LABS ARE FROM 3-4 in Library 216B unless otherwise noted. We will meet in 10-226 at 2:00 and walk over at 2:50)**

- a. Before Class
  - i. Dave’s Redistricting App
  - ii. Step process for redistricting

- b. In Class:
  - i. Opening Software
  - ii. Uploading Data
  - iii. Districting Criteria

#### **4. 10/4 Racial Gerrymandering**

- a. Before Class:
  - i. Bernard Grofman “Race and Redistricting in the 21<sup>st</sup> Century” <http://www.socsci.uci.edu/~bgrofman/139%20BG-Race%20and%20Redistricting.pdf>
- b. In Class:
  - i. What was the initial impact of equal population requirements and section 2 of the VRA, especially with revision language on discriminatory effects added in 1982?
  - ii. What was the ruling and impact of Shaw v Reno, and the tension between Shaw and the VRA?
  - iii. Which of the tests for realistic opportunity to elect operationalizes the correct standard in section 2 VRA challenges?
  - iv. How do you properly define realistic opportunity in the section 5 nonretrogression context?

#### **5. 10/6 Shelby I**

- a. Before Class:
  - i. Petitioners Brief <https://lawyerscommittee.org/wp-content/uploads/2015/06/12-96-Brief-for-Petitioner.pdf>
  - ii. DoJ Brief <https://lawyerscommittee.org/wp-content/uploads/2015/06/12-96bsUnitedStates.pdf>
  - iii. Opinion <https://lawyerscommittee.org/wp-content/uploads/2015/06/Shelby-SCOTUS-opinion.pdf>
  - iv. Other court materials <https://lawyerscommittee.org/project/voting-rights-project/litigation/shelby-co-v-holder/>

#### **6. 10/11 Redistricting Lab II**

#### **7. 10/13 Shelby II**

- a. Before Class:

- i. Nathaniel Persily “Options and Strategies for Renewal of Section 5 of the Voting Rights Act” <http://law.stanford.edu/wp-content/uploads/sites/default/files/publication/867270/doc/slspublic/Persily%2049HowardLJ717.pdf>
- ii. Justin Levitt “Quick and Dirty: The New Misreading of the Voting Rights Act” [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2487426](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2487426)

**8. 10/18 Redistricting Lab III**

**9. 10/20 Partisan Gerrymandering**

- a. Before Class:
  - i. McGann, Smith, Latner, Keena “The Jurisprudence of Districting” (Folder)

**10. 10/25 Measuring Partisan Bias**

- a. Before Class:
  - i. McGann, Smith, Latner, Keena “Measuring Partisan Bias” (Folder)

**11. 10/27 Redistricting Lab IV, NO INSTRUCTION**

**12. 11/1 Mock Brief District Analysis DUE**

**13. 11/3 Testing Partisan Gerrymandering: Whitford v Nichol**

- a. Before Class:
  - i. Plaintiff  
Brief <http://static1.squarespace.com/static/559c1a7be4b0a2650c6c39b3/t/573dda3ecf80a1924f5a130b/1463671366098/Pls+Trial+Brief+%28Dkt+134%29.pdf>
  - ii. Defendant  
Brief <http://static1.squarespace.com/static/559c1a7be4b0a2650c6c39b3/t/573dd9f31d07c0e71a2cd7d7/1463671288147/Defs+Trial+Brief+%28Dkt+133%29.pdf>
  - iii. Assessment Brief by Simon Jackman <http://static1.squarespace.com/static/559c1a7be4b0a2650c6c39b3/t/559d3df7e4b041328d05ee45/1436368375316/Exhibit+3.pdf>

**14. 11/8 Redistricting Lab V: Multi-Member Districts**

**15. 11/10 Voter Identification: Crawford v Marion Co. Election Board LAB**

- a. Before Class:
  - i. Crawford v Marion Co. Election Board [https://scholar.google.com/scholar\\_case?case=5864268473600573662&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](https://scholar.google.com/scholar_case?case=5864268473600573662&hl=en&as_sdt=6&as_vis=1&oi=scholar)
  - ii. Richard Hasen "Why Judge Posner Changed His Mind" <http://www.thedailybeast.com/articles/2013/10/23/why-judge-posner-is-right-on-voter-id-laws.html>

#### **16. 11/15 Who Counts? Evenwel v Abbott**

- a. Before Class:
  - i. Richard Hasen "Partisanship, Ideology and the New One Person One Vote case" <http://www.scotusblog.com/2015/07/symposium-ideology-partisanship-and-the-new-one-person-one-vote-case/>
  - ii. Richard Pildes "Misguided Hysteria" <http://www.scotusblog.com/2015/07/symposium-misguided-hysteria-over-evenwel-v-abbott/>
  - iii. Evenwel v Abbot [https://www.supremecourt.gov/opinions/15pdf/14-940\\_ed9g.pdf](https://www.supremecourt.gov/opinions/15pdf/14-940_ed9g.pdf)

#### **17. 11/17 A Unified Approach to Voting Rights**

- a. Before Class:
  - i. Richard Hasen "Race or Party?" <http://harvardlawreview.org/2014/01/race-or-party-how-courts-should-think-about-republican-efforts-to-make-it-harder-to-vote-in-north-carolina-and-elsewhere/>

#### **18. 11/22-24 Thanksgiving Break**

#### **19. 11/29 Mock Brief Case Law Review**

#### **20. 12/1 Representation and Political Equality**

- a. Before Class:
  - i. Anthony McGann "Equality Implies Proportionality" <https://www.press.umich.edu/pdf/0472099493-ch3.pdf>
  - ii. Mark E. Rush "Making the House More Representative" <http://www.jstor.org/stable/pdf/420427.pdf>

#### **21. 12/6 Redistricting Lab VI**

## 22. 12/8 Multi-Member District Map for California

## 23. Finals Week: Mock Briefs and Presentations

### Plagiarism & Cheating

Please remember that Cal Poly does not tolerate academic cheating or plagiarism in any form. Please review the formal policy on cheating and plagiarism (including definitions, sanctions, and appeal procedures) found in the Campus Administrative Manual, Section 684, available at: <http://www.academicprograms.calpoly.edu/academicpolicies/Cheating.htm>.

According to Cal Poly policies, "Examples of plagiarism include, but are not limited to, the following: the submission of a work, either in part or in whole, completed by another; failure to give credit for ideas, statements, facts or conclusions which rightfully belong to another; failure to use quotation marks when quoting directly from another, whether it be a paragraph, a sentence, or even a part thereof; **close and lengthy paraphrasing of another's writing without credit or originality**; use of another's project or program or part thereof without giving credit."

The instructor takes any evidence of academic dishonesty very seriously. You must document **all** outside sources, including web sites, using MLA or APA guidelines. Failure to do so constitutes a violation of Cal Poly policy. Please note that cases of plagiarism will be dealt with as 'cheating' and that, according to Cal Poly policies, "**Cheating requires, at a minimum, an F assigned to the assignment, exam, or task, and this F must be reflected in the course grade. The instructor may assign an F course grade for an incidence of cheating. Irrespective of whether the student appeals the finding of cheating, the instructor is obligated to submit to the OSRR director a Confidential Faculty Report of Academic Dishonesty.**"

**Please also note that submitting work for which you have already received credit in another course also counts as cheating, according to the Cal Poly Office of Student Rights and Responsibilities.**

### Writing Center

For assistance with your writing, you may wish to use the free services offered by Cal Poly's University Writing Center. They can provide help as you review and revise your work, such as by offering writing tips, grammar rules, stylistic suggestions, etc. Since your grade in this course is significantly based on writing, the Writing Center can be a valuable resource. Please see <http://www.calpoly.edu/~wrtskills/writlab/> for current hours and locations.

### **Disability Accommodations**

Reasonable accommodations are available for students who have a documented disability. Please notify the instructor during the first week of class if accommodations are needed. To receive accommodation, you must show the instructor a *visa* from the Disability Resource Center. For more information, see: <http://www.drc.calpoly.edu/>. If you will need special assistance in the event of a non-campus emergency, please also alert the instructor.