

Law and Religion Seminar
Spring 2024
Law 635 (001)
MW 9:50-11:15 am

Professor: Helen Alvaré
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1. **REQUIRED TEXT:** Michael W. McConnell, Thomas C. Berg, Christopher Lund, *Religion and the Constitution, 5th ed.*, Aspen.

I will also provide you with handouts, usually via TWEN.

2. **CLASS METHOD:** I expect you to read all of the assigned material and to be prepared for a lively class discussion, which discussion will occupy the largest part of each meeting. I also expect regular volunteering, but will also call on students who are not volunteering regularly.

3. **GRADING:**

The law school's Academic Regulation 3-3.2(b) states that "Students must take one graded 400- or 600- level seminar course requiring a major paper, and must also complete either an additional such seminar or a course designated as a writing course. Courses that are designated as a writing course will be designated with a "(W)" on the semester schedule.

Law and Religion is a 600-level seminar course requiring a major paper. The paper must be between 25-40 double-spaced, typewritten pages, (single-spaced) footnotes included. The topic must be approved in advance by me, before end of day February 9, 2024. A first draft is due before end of day March 2, and a final version by April 26. We will discuss the requirements for this paper early in the semester.

Your final grade will be based 55% upon the quality of your class participation, and 45% upon the quality of your paper.

4. **OFFICE HOURS:** Mondays after class, and by appointment.
5. **ATTENDANCE:** Academic Regulation 4-1 governs attendance. Should the weather interfere with in-person class, we will conduct online class on the Zoom platform during the same hours class is scheduled.

ASSIGNMENTS:

Wed Jan 17

A survey of the constitutional questions raised by the First Amendment religion clauses; and the historical beginnings of the religion clauses

TEXT: 1-39

Monday Jan. 22- Wed Jan. 24

History of the First Amend, cont'd

TEXT: 39 – 65; 67-75

Religion in the Regulatory State: Is Accommodation Required?

TEXT: 77-118 (stop before Yoder)

Mon Jan. 29 – Wed Jan. 31

Accommodation: Broad Exemptions for Religion; Later Narrowing

TEXT: 118-150

Free Exercise After *Smith*

TEXT: 150-189

Monday Feb 5 – Wed Feb. 7

RFRA and RLUIPA: Applications and Interpretations

TEXT: 189-219

**Targeted Accommodations and
Are Accommodations Unconstitutional?**

TEXT: 219 – 257

Mon Feb. 12 – Wed Feb. 14

“Freedom of the Church”/Institution

TEXT: 257 – 293

Religious Freedom and Ancillary Claims

TEXT: 293-304

Monday Feb. 19 – Wed Feb. 21

Funding Religion?

TEXT: 305 - 337

Funding Religion? (cont'd)

TEXT: 337 – 52

Mon Feb 26 – Wed Feb. 28

Funding Religion? (cont'd)

TEXT: 352 - 89

HANDOUT <http://www.jstor.org/pss/20403361> Frances C. Fowler,
The French Experience with Public Aid to Private Schools, Phi Delta Kappa
International

TEXT: 389-411; and

SPRING BREAK MARCH 4-10

Mon Mar. 11 - Wed Mar. 13

Racial Discrimination in Religious Schools

TEXT: 428 – 31

Law and Religion in the Family Law Context: Handout posted on TWEN

Mon Mar. 18 - Wed Mar. 20

Establishment Clause Standing

TEXT: 431 – 51

Religion and Gov't Influence on Culture

TEXT: 453 - 92

Mon Mar. 25 – Wed Mar. 27

Public Prayer or Religious Displays

TEXT: 492 - 531

Evolution and Creationism

TEXT: 532 – 46; 555-567

Monday April 1 - Wed April 3

Gov't and Private Speech

TEXT: 567 – 596

Free Speech Protecting Religious Freedom?

TEXT: 596 – 619

Monday April 8 – Wed April 10

Religious Argument in Political Deliberation

TEXT: 623 - 645

Religion and Elected Officials:

Read **HANDOUTS BELOW on TWEN:** (might substitute if any candidates make similar statements in the course of current electoral cycle!)

-Gov. Mario Cuomo, Religious Belief and Public Morality: A Catholic Governor's Perspective (John A. O'Brien lecture at the University of Notre Dame, Sept 13, 1984).

-Governor Mitt Romney, Faith in America, (2007).

-Barack Obama, Call to Renewal (2006)

Monday April 15 – Wed. April 17

What is Religion?

TEXT: 669 – 688; 695-705

HANDOUTS: Religion, Political Activities, and Religious Freedom – from *within* the perspective of various religious traditions. Excerpts from:

Robert Gordis, Religious Liberty _ A Jewish Perspective, SIDIC Periodical XIII, 1980/3 Religious Liberty, available at http://www.notredamedesion.org/en/dialogue_sidicView.php?id=1060.

Read Abdullah Saeed, "The Islamic Case for Religious Liberty," First Things, Nov. 2011 (excerpted).

Read *Dignitatis Humanae* (Roman Catholic) and Congregation for the Doctrine of the Faith, Catholics in Political Life (Roman Catholic) (excerpted)

Read– Baptist Joint Committee for Religious Liberty http://www.bjconline.org/index.php?option=com_docman&task=cat_view&gid=59&Itemid=76 (excerpted).

Read HANDOUT - Transcript of Elder Dallin H. Oaks speech given at Chapman University School of Law on 4 February 2011 (excerpted).

Mon April 22 - TBD