Professor Rick Hasen

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Office Hours: Mondays: 1-2 pm

or by appointment

**Election Law (Law 577) Fall 2021**

**COURSE DESCRIPTION AND SYLLABUS**

Introduction

This course considers ways in which the law governing the political process affects and reflects political power relationships. Topics covered will include: campaign finance, the right to vote, election administration, the Voting Rights Act, political parties, and redistricting. No background in politics or political science is required.

Required Course Materials

1. Daniel Hays Lowenstein, Richard L. Hasen, Daniel P. Tokaji, and Nicholas Stephanopoulos, Election Law—Cases and Materials (6th ed. 2017) (“CB”)

2. Daniel Hays Lowenstein, Richard L. Hasen, Daniel P. Tokaji, and Nicholas Stephanopoulos, Election Law—Cases and Materials 2021 Supplement (“Supp”) (Available on Canvas or [at this link)](https://electionlawblog.org/wp-content/uploads/2021-election-law-supp-final.pdf)

3. Supplemental materials I will hand out, post on Canvas, or put on library reserve. This includes PowerPoint slides for each class that you may download in advance.

Optional Study Aid

1. Richard L. Hasen, Examples and Explanations: Legislation, Statutory Interpretation, and Election Law (2d ed. 2020) (on reserve in the law library or accessible [free online via the law library](https://uci.primo.exlibrisgroup.com/view/action/uresolver.do?operation=resolveService&package_service_id=20292466720004701&institutionId=4701&customerId=4700))

NOTE: Class will not meet on 9/7. We will have a makeup class that week on 9/10, 8:45 am-11:45 am, via Zoom (not in person).

**Course Requirements**

**1) Attendance and participation requirements: 20% of course grade**

I expect regular attendance. You will sign into the attendance app at the beginning of each class. (It is a violation of the honor code to sign for another student.) Students who miss more than two classes will have this portion of their grade lowered one increment (e.g., from B+ to B) for each 2 classes missed. I will not take attendance at any make up sessions.

I also expect you to participate regularly in class. I will call on students and take volunteers. This class is most successful if everyone is engaged. If for some reason you are not prepared to be called on during a particular class, just let me know before class starts.

**2) Final examination: 80% of course grade**

The final examination will consist of an objective component (multiple choice questions, closed book and closed note) worth 1/3 of your grade and an essay component (two essays, open book and open note) worth 2/3 of your final grade.

**Syllabus (Subject to Revision) (Dates are estimates, not guarantees, of when we will cover material)**

**I. Voting and Representation: The Warren Court’s Equal Protection Legacy**

A. The Right to Vote: Age, Residency, Citizenship, Non-felon status

*Reading*: (Read for background CB 29-51), CB 52 (bottom)—81 **(Aug. 24)**

B. Representation

1. The Right to an Equally Weighted Vote

*Reading:* CB 83-117 (top), Supp. 5-9 **(Aug. 24)**

2. Special-Purpose Elections

*Reading:* CB 117—131 **(Aug. 31)**

**II. Introduction to Legislative Districting**

*Reading:* CB 131 (bottom)—140 **(Aug. 31 and see below)**

**III. Partisan Gerrymandering and Political Competition**

A. Partisan Gerrymandering

*Reading:* CB 141-60 (top), Supp. 11-46, CB **5**41-44, (the 541 is not a typo), Supp. 57

**(Aug. 31 and Sept. 10 (ONLINE Zoom class) and see below)**

B. Political Competition

*Reading*: CB 194-214 (**Sept. 10 (ONLINE Zoom class))**

**IV. Minority Vote Dilution**

A. Section 5 of the Voting Rights Act

1. Applying Section 5

*Reading*: CB 215-37 **(Sept. 10 and Sept. 14 and see below)**

2. Constitutionality of Section 5

*Reading:* CB 237-60 **(Sept. 14 and see below)**

B. Section 2 of the Voting Rights Act (as applied to redistricting)

1. The *Gingles* Test

*Reading*: CB 260-96, Supp. 47 (first paragraph only) **(Sept. 14 & Sept. 21 and see below)**

2. After *Gingles*

*Reading*: CB 296-320, Supp. 47-50 (middle) **(Sept. 21)**

C. Unconstitutional Racial Gerrymandering

*Reading*: CB 336 (bottom)—73, Supp. 50 (bottom) - 53 **(Sept. 28)**

**V. Election Administration and Remedies**

A. Equal Protection and the Counting of Votes

*Reading*: CB 375-98, Supp. 55 – 59 (middle), Hasen, *The Voting Wars*, ch. 1

(handed out in class) **(Sept. 28 and see below)**

B. Burdens on the Right to Vote: Constitutional and VRA Section 2 Vote Denial

Claims

*Reading*: CB 402-424, Supp. 60 (bottom) – 85 (middle) **(Sept. 28 and Oct. 5)**

C. Voting Technology and the Administration of Elections (includes guest speakers)

*Reading*: CB 398-401, 444-452, Supp. 59 (bottom) – 60 (middle), 85 (bottom) – 90 **(Oct. 5)**

**No class October 12 (mid-semester break)**

VI. Ballot Propositions

A. Pros and Cons

*Reading*: CB 473-97, Supp. 91 **(Oct. 19 and see below)**

B. The Single Subject Rule

*Reading*: CB 513-28 **(Oct. 19 and see below)**

C. Judicial Review

*Reading*: CB 529-44, Supp. 91 (bottom) - 92 **(Oct. 19 and Oct. 26 (and see below))**

**VII. Major Political Parties**

*Reading*: (Read for background CB 545-52), CB 575-600 (top), Supp. 93-99

**(Oct. 26 and see below)**

**VIII. Third Parties and Independent Candidates**

*Reading*: CB 623-59, Supp. 101 **(Oct. 26)**

**IX. Campaigns**

A. Campaigns and Campaign Speech

*Reading*: CB 673-79, 7th Edition draft chapter 10 (partial) (to be handed out in class)

**(Nov. 2 and see below)**

B. Judicial Elections

*Reading*: CB: 698 (bottom)—758, Supp. 104 (middle) - 105 **(Nov. 2**)

**XI. Campaign Finance Laws and Reform**

A. The *Buckley* Framework

*Reading*: 7th Edition draft chapter 12 (partial) (to be handed out in class)

**(Nov. 9 and see below)**

B. Spending Limits

*Reading*:7th Edition draft chapter 13 (to be handed out in class)

**(Nov. 9 and Nov. 16 (and see below**))

C. Contribution Limits

*Reading*: 7th Edition draft chapter 14 (to be handed out in class)

**(Nov. 16 & Nov. 23 and see below)**

D. Public Financing

*Reading*: 7th Edition draft chapter 15 (to be handed out in class)

**(Nov. 23 & Nov. 30 and see below)**

E. Campaign Finance Disclosure & The Future of Regulation

*Reading*: CB 1099-1128, Supp. 119-147 (**Nov. 30)**