

INDIANA UNIVERSITY PURDUE UNIVERSITY INDIANAPOLIS  
School of Public and Environmental Affairs  
Fall, 2014

**COURSE: Law and Public Affairs**  
**SPEA V540-25227**

TIME & DAY: Wednesdays @ 6:00

ROOM: BS 2004

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### **INTRODUCTION AND COURSE OBJECTIVES**

The official bulletin describes V540 as follows: “Explanation of law in society and its influence on public sector operations. Examination of some of the central substantive areas of the study of law, including regulatory processes, administrative adjudication, the Administrative Procedures Act, ombudsmen, and citizen rights, among others

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. Throughout, we will consider the constitutional and ethical responsibilities of public service—the origins of those responsibilities and their contemporary application.

While relatively few people will become public officials or public managers, all Americans are citizens, and most citizens will participate in the selection of public officials and will take positions on the policy issues of the day. Accordingly, this course is intended to introduce all students to the constituent documents that constrain public action and frame policy choices in the American system. 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 and public sector behavior examined. The goal is to help students understand why certain policy prescriptions and/or public actions 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 law and policy.

By the end of the semester, students should be able to recognize legal and constitutional constraints on public service and 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.

### **SPEA LEARNING OBJECTIVES**

Law and Public Affairs is a core class in the MPA. It satisfies the following learning objectives that have been identified by the MPA faculty:

#### **Globalization**

- understanding of the economic, political, social, and ecological dimensions of globalization; understanding interdependencies among nations, states, sectors, institutions, and cultures
- understanding of the shifting of national responsibilities in the direction of international bodies; as well as in the direction of the private sector.

Law and Public Affairs begins with a discussion of U.S. federalism, and during the semester, we discuss the effect of recent growth of multinational bodies, both for-profit and nonprofit, and the effects of that growth on issues of legal jurisdiction and public administration. We discuss the logic of jurisdiction; i.e., pollution issues cross political boundaries. We discuss liberal democracies' approach to cultural diversity and contrast that approach to laws of illiberal regimes. Case studies further incorporate these lessons.

#### **Governance**

- understanding different forms of governance; partnerships across sectors.
- understanding of the American legal system; how the legal system affects public policy; the legal constraints affecting the public and nonprofit sectors
- having a general understanding of the structure and functions of, and differences between, the public, private, and nonprofit sectors and how problems in the public domain are related to the private and nonprofit sectors.

Governance and the role of the legal system are major emphases of V540. We discuss the sectors, and issues of contracting; we cover the legal and constitutional structure

of American law, and detail how that structure both drives and constrains public sector behavior and policy options. Within that framework, we discuss philosophical and political approaches to questions about the proper role of law, the state, civil society and the operation of the market. We discuss the distinction between government and governance, and the issues those distinctions raise for political, fiscal and constitutional accountability. Case studies on specific policy areas incorporate constitutional and legal principles. Final papers address policy issues within the legal framework.

### **Strategic Analysis and Action**

- understand the financial, political, and economic environments in the mixed market economy
- understanding of the key forces that drive change; manage complexity and change
- have a basic understanding of statistics and data analysis as well as research design; apply and use these skills and tools in policy formulation, evaluation, and decision-making
- understand the role of technology in public policy and management; use information technology in analyzing public policy and managing organizations

Some time is spent on the economic environment within which policy decisions are made, and some attention paid to the role of technology and the challenges posed by technological and media changes to the legal system; however, these competencies are otherwise tangential to V540.

### **Organizational Management**

- understand how organizations operate and work together; including human behavior.
- understand alternative views; manage diversity
- understand collaborative leadership, leadership styles, and their impact on organizations and employees.
- Understand teamwork, deal effectively with conflict, and negotiate and communicate effectively across constituencies

While the issues of diversity and fair employment practices arise in the context of legal rights and remedies, these issues are not addressed from an explicitly management perspective. Instead, students are made aware of the legal and ethical principles governing manager activities. More technical instruction is reserved for other management classes.

### **Professionalization**

- develop awareness about one's responsibility and service to the public, ethical standards of professional practice; understand the role values play in decision making.

Ethical issues, constitutional values and professionalism permeate all parts of this class. Public managers are bound by constitutional ethics and considerations of conflicts of interest. “Due process of law” has an important ethical dimension. The proper exercise of discretion is dictated by both legal and ethical principals. Student presentations and papers are expected to reflect—and reflect upon—professional norms and ethical issues.

## LEARNING OUTCOMES

At the conclusion of this course, you should be able to:

- Recognize the legal, ethical and constitutional issues arising out of globalization and differences between the American legal system and those of other countries, and articulate the implications of those differences for policy;
- Identify the constitutional constraints on public administration and policy formation, the areas of dispute over the nature and extent of those constraints, and the disparate ways in which they affect public, private and nonprofit agencies and organizations;
- Evaluate the adequacy of evidentiary bases of public policies;
- Understand the ways in which constitutional frames affect conflict resolution in a diverse society; and
- Appreciate the extent to which ethical public management rests upon constitutional competency.

## REQUIRED TEXTS

The U.S. Constitution  
Any publisher or Web

*American Public Service: Constitutional and Ethical Foundations*  
Sheila Suess Kennedy and David Schultz  
Jones and Bartlett Publishing

*Talking Politics? What You Need to Know Before You Open Your Mouth*  
Sheila Suess Kennedy  
Georgetown University Press/ Digital Shorts Series

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

“The Founders, the Constitution, and Public Administration,” by Michael  
W. Spicer

“Constitutional Competence for Public Managers,” by David H.

HELPFUL WEBSITES:

<http://www.cbpp.org/>

<http://www.publicagenda.org/>

<http://www.sheilakennedy.net>

<http://www.acs.org>

### 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 SPEA and 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.



September 10                    **Bill of Rights (continued)**

We will conclude review of the Bill of Rights, with emphasis upon due process and equal protection, and the implications of those doctrines for public administration and policy.

September 17                    **American Political Culture and Constitutional Ethics**

The class will discuss Chapter Two of the textbook, defining political culture and considering the interrelationship between political culture, civic culture and constitutional ethics. Students should have read Chapter Two prior to class.

September 24                    **Constitutional Foundations of Public Service Ethics**

The class will discuss the final chapter in the first section of the textbook. Students should have read Chapter Three prior to class.

October 1                         **The Constitution at Work**

We will begin discussion of the application of the Constitutional Ethic, looking at issues of representation, neutrality, and the public interest. Students should have read Chapter Four prior to class.

October 8                         **Justice, Equality and Difference**

Chapter Five addresses some of the thorniest issues facing contemporary public managers. Students should have read the chapter prior to class, and come prepared to discuss the issues. There will be a brief review to prepare for the Midterm Exam.

October 15                        **Review**

We will review the materials covered thus far in preparation for the Midterm, and time will be allocated to discuss research papers and team presentations.

October 22                        **Midterm Exam**

October 29                        **Administrative Decision-Making**

Midterms will be returned and discussed. The class will then discuss Chapter Six, and consider issues of ethical behavior in the administrative state. Students should have read Chapter Six prior to class.

November 5

### **Blurring the Boundaries**

The final section of the textbook, “The Constitutional Ethic in the 21<sup>st</sup> Century,” will be introduced, with a discussion of the increasingly blurred boundaries between the three sectors: public, private and voluntary. Students should have read Chapter Seven.

Nov. 12

### **Our Morphing Media & Where Do We Go From Here?**

The media enjoys a distinction that other private-sector actors do not: constitutional status and protection. Traditionally, the “press” has been the watchdog of government, informing citizens so that they can make educated decisions. In this class, we will consider the dramatic changes to our media environment in the age of the Internet, and the implications of those changes for our system of government and for the Constitutional Ethic. Students should have read Chapters Eight and Nine.

November 19/December 3/10 **Team Presentations**

December 10 **Term Papers Due/Take-home finals distributed**

### **Attachment A: Team Projects**

Beginning on November 24th, student teams will make their presentations on subjects falling within their assigned substantive areas. The team’s choice of issue to be analyzed should be cleared in advance with the professor.

Students will be assigned to teams, and each team will have **one hour** within which to present all sides of the issue chosen. Aside from the requirement to fairly address competing arguments/policy considerations, teams are free to choose any presentation format they wish: prior presentations have used PowerPoint, film clips and other media and have taken the form of debates, games 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, or point of view, it may argue in favor of that position. Similarly, if no current position is deemed adequate, an alternative may be offered.

The purpose of the presentation is to encourage in-depth consideration of a particular ethical or policy issue, its legal and constitutional ramifications, and its implications for government legitimacy, constitutionality and the rule of law. Added information about the policy presentations will be provided when teams are assigned.

## Exhibit C: Grading Guidelines for Paper Assignment

%	✓	Paper requirements	POINTS
5		The paper is appropriately prepared: 20-25-pages in length, paginated, typed, double-spaced, 12-point font, approximately 1-inch margins on all sides, stapled, and a coversheet. Coversheets, tables of content, charts, graphs, pictures, and reference pages do <i>not</i> count towards page total.	
5		The paper’s introduction provides a brief overview of the topic, the body of the paper has appropriate section headings, and you reach a conclusion.	
10		The paper is free from grammar and spelling errors.	
15		The focus of the paper—why this issue is important—is explained, and the legal and policy considerations are clearly addressed.	
15		The paper makes good use of relevant and credible research to inform a quality analysis of the issues involved.	
20		The paper is coherent and clearly communicated. The prose is straightforward, clear and free of pretension and flowery language. Quoted material is clearly labeled and properly attributed. ( <b>Note: even a minor failure to properly attribute quoted language will penalized. Actual plagiarism will be dealt with in accordance with SPEA policy as set out in the course syllabus.</b> )	
20		All sides of the issue are fairly examined and analyzed. The paper provides a comprehensive review of the topic, the available literature and the competing points of view. Personal opinion is kept to a minimum. The paper analyzes and considers the relative merits of competing arguments; it is not a “brief” arguing for a particular position.	
10		The paper uses at least 15 different references/citations. Students are <i>strongly encouraged</i> to go above this minimum requirement. Books, government and non-governmental agency reports, and articles from law or research journals are considered appropriate primary sources. Textbook, internet, and newspaper references should not be used as primary resources, although they may be used to supplement the more standard sources enumerated above. Exceptions to this requirement must be discussed and approved by the instructor prior to final paper submission. The references/citations in the paper and the reference can be done in any format—APA, MLA, etc.—so long as they are done correctly and consistently.	
		Percentages show relative weight assigned to each element	

## **Syllabus Addendum**

There are a number of campus-wide policies governing the conduct of courses at IUPUI. These can be found at [http://registrar.iupui.edu/course\\_policies.html](http://registrar.iupui.edu/course_policies.html). Additional information for SPEA courses is below.

### ***Civility and Disorderly Conduct***

SPEA, which is a professional school, expects students to conduct themselves in a courteous and civil manner in interactions with professors and fellow students. This requires each person to be courteous, tolerant, and respectful during interactions with one another in all interactions, including face-to-face interactions, e-mail, and telephone conversations. Examples of discourteous behavior during class include reading the newspaper, working crossword puzzles, listening to headphones, talking or laughing with other, arriving late, using computers to surf the web, allowing cell phones to ring or sending text messages, or other non-class activities. The use of language, tone, or gestures that are inappropriate or offensive is also discourteous. These behaviors are not acceptable, and SPEA faculty and staff will address these problems as they arise either in class or on an individual basis.

Disorderly conduct that interferes with teaching, research, administration, or other university or university-authorized activity will not be tolerated and will be reported immediately to the Office of the Dean of Students for disposition, which may result in disciplinary action, including possible suspension and/or expulsion from the university. Responsibilities and expectations of students and faculty can be found at <http://registrar.iupui.edu/misconduct.html>.

### **Academic Misconduct**

Students are responsible for upholding and maintaining academic and professional honesty and integrity (*IUPUI Code of Student Rights, Responsibilities, and Conduct*, available at <http://www.iu.edu/~code/>, Part II Student Responsibilities, G).

Plagiarism is the most common academic misconduct violation, and some students, who have been disciplined for plagiarism, have said they were not aware that they had plagiarized their work. Be aware that ‘not knowing’ does not excuse academic misconduct – every student is responsible for knowing the rules. The IU School of Education’s ‘How to Recognize Plagiarism’ is an on-line tutorial that can help you avoid plagiarism. It can be accessed at <http://www.indiana.edu/~istd/>. 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.

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. Faculty members also have 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 expulsion from the University.

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 about your responsibilities in the IUPUI *Code of Student Rights, Responsibilities, and Conduct* to ensure that you understand what these terms mean and what penalties can be issued for academic misconduct.

The *IUPUI Code of Student Rights, Responsibilities, and Conduct* defines four areas of academic misconduct: cheating, fabrication, plagiarism, and interference. 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.
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.

## 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://uits.iu.edu/scripts/ose.cgi?berh.def.help>.

### **Students Needing Support From Counseling and Psychological Services**

SPEA encourages any student who has concerns about their personal welfare to seek assistance with the professionally trained counselors of the IUPUI Counseling and Psychological Services (CAPS). CAPS provides direct professional psychological services, including crisis response, counseling, assessment and referral to all IUPUI students. More information can be found at <http://studentaffairs.iupui.edu/health-wellness/counseling-psychology/index.shtml>.

### **Students Needing Support From Adaptive Educational Services**

Students needing accommodations because of a disability will need to register with Adaptive Educational Services (AES) and complete the appropriate forms issued by AES before accommodations will be given. The AES office is located in Taylor Hall, UC 100. You can also reach the office by calling 274-3241. Visit <http://aes.iupui.edu/> for more information.

### **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://veterans.iupui.edu/practices/withdrawal.php>.

### **FLAGS System**

SPEA faculty will be using IU's FLAGS System (Fostering Learning, Achievement, and Graduation Success) to provide real-time feedback on student performance in the course. Periodically throughout the semester, data on factors such as class attendance, participation, and success with coursework, etc. will be entered with suggestions on ways to improve performance. Students may access this information in the student center: Onestart > Student Services page > Student Center > My Academics and Grades > My Grades.

### Administrative Withdrawal (AW)

If this class is utilizing the Administrative Withdrawal (AW) Policy, a student could be withdrawn from the class if they miss more than half of the required class activities within the first 25% of the course. More information can be found in the attendance and/or assessment portion of the syllabus if this policy is being used.

### Course Withdrawals

Students who stop attending class without properly withdrawing from the class will 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.**

Withdrawal forms will not 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 <b>IS NOT</b> required)	Week 1 (last day)
Withdrawal with automatic grade of W (Advisor signature <b>IS</b> required)	Week 2– Week 7 (regular session) Week 2 – Week 3 (summer session)
Withdrawal with grade of W or F (Advisor and instructor signatures <b>ARE</b> 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.** SPEA follows the campus guidelines, which may be accessed at the Office of the Registrar's website at <http://registrar.iupui.edu/incomp.html>, in awarding incompletes. 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. **In SPEA, a student has 90 days after the conclusion of a course to appeal a grade.** In cases of extenuating circumstances, SPEA may consider petitions filed after this date. SPEA will review the request and make a final decision on a case-by-case basis. The Change of Grade petition form is located at the Office of the Registrar's website at <http://registrar.iupui.edu/grdfm.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. 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 the program. Tests or major writing assignments may not be required during the week before the formal final exam week unless assigned or announced at the beginning of the semester. See the Office of the Registrar's website at <http://registrar.iupui.edu/final-policy.html> for the policy and final exam week schedule.