1. **Assignments:** The required texts are Chemerinsky, *Constitutional Law* (2d ed, 2005) and its 2006 Supplement. Although the vast majority of assignments will be made from these texts, there will be occasional assignments of material distributed by the instructor. A detailed schedule of assignments and supplemental materials are attached. The average assignment will be approximately 75 pages per week.

2. **Course content:** Constitutional Law focuses on the constitutional provisions creating the American system of government and protecting individual liberties. Specifically, the course material will be divided into five units. Unit one will examine the separation and balance of powers among the three branches of the federal government. Unit two will focus on the constitutional relationship between the federal and state governments. Unit three will consider the structure of the Constitution's protection of individual liberties, examining several principles that apply to the constitutional provisions protecting civil rights and civil liberties. The fourth unit will focus on the due process clauses of the fifth and fourteenth amendments and the rights protected under them. Finally, unit five will consider the constitutional guarantee of equal protection of the law.

   Several areas of constitutional law are not covered, but are instead the focus of upper level courses. The course will not consider the first amendment (covered in an upper-level course); the rights of criminal defendants under the fourth, fifth, and sixth amendments (covered in Criminal Procedure); and constitutional provisions concerning federal court procedure (examined in Federal Courts).

3. **Evaluation:** Students will be graded on the basis of an eight hour take-home, open-book, open-notes examination to be given on the day scheduled by the Law School. The examination will be comprised entirely of essay questions. Copies of several past examinations are attached at the back of the Supplemental Materials.

   An optional mid-term practice examination will be distributed in approximately the middle of the semester. Students are strongly encouraged to take the practice examination. I will provide written comments on each student's practice exam. The mid-term practice examination will not count in the determination of final grades for the course.

4. **Course method:** The class will proceed almost entirely by discussion. Students are expected to regularly participate.
Spring 2007
Erwin Chemerinsky

ASSIGNMENT SHEET

All assignments are to the required text, Chemerinsky, Constitutional Law (2d ed. 2005). Assignments to "Supp." refer to the 2006 Supplement to the casebook. Assignments to the Supplemental Materials distributed by the instructor (and attached to this assignment sheet) are designated, "SM." On average, we will cover three or four assignments per week.

1. Introduction
   Chemerinsky, pp. xxxvii-lii (Constitution)
   L. Levy, Judgments: Essays on American Constitutional History (1972), SM, pp. 1-9
   F. McDonald, A Constitutional History of the United States (1982), SM, pp. 10-12

UNIT I

The Separation of Federal Powers

A. The role of the judiciary

2. The authority for judicial review
   pp. 1-10

3. The method of constitutional interpretation
   pp. 10-24

B. The division of power between the executive and legislature

4. Separation of powers and presidential authority
   pp. 271-287

   Assignment sheet, p. 2

5. Allocation of power in conducting foreign policy
   pp. 320-331

6. Presidential power and the war on terrorism
   pp. 331-354
   Supp. pp. 30-43

Unit II
Federalism: The Division of Powers Between the State and National Governments

A. Federal authority and state limitations upon it

7. The scope of Congressional authority  
   pp. 99-112

8. Congressional power and the Tenth Amendment before 1937  
   pp. 112-129

   pp. 129-152

10. Congressional power and the Tenth Amendment: 1991-present I  
    pp. 153-176

11. Congressional power and the Tenth Amendment: 1991-present II  
    pp. 176-197

12. Taxing and spending power  
    pp. 198-207

13. Congressional power under the reconstruction amendments  
    pp. 207-224

B. State authority and federal limitations upon it

14. Preemption  
    pp. 364-381  
    Assignment sheet, p. 3

15. Dormant commerce clause I  
    pp. 381-402  
    Supp. pp. 45-54

16. Dormant commerce clause II  
    pp. 402-421

17. Dormant commerce clause III; The privileges and immunities clause of Article IV  
    pp. 423-443

Unit III

The Structure of the Constitution’s Protection of Civil Rights and Civil Liberties

18. The application of the Bill of Rights to the states
19. The requirement for state action I
pp. 469-487

20. The requirement for state action II
pp. 487-518

Unit IV
Due Process and the Protection of Fundamental Rights

A. Due process protection for economic rights

21. The rise of Lochnerism
pp. 519-540

22. The fall of Lochnerism and the protection of economic rights since 1937
pp. 540-564

Assignment sheet, p. 4

B. Modern substantive due process: privacy, family autonomy, procreation, and personhood

23. Privacy: family autonomy I
pp. 815-847

24. Privacy: contraceptives and abortion I
pp. 847-866

25. Privacy: contraceptives and abortion II
pp. 867-891

26. Privacy: contraceptives and abortion III
pp. 891-905

27. Privacy: medical care decisions
pp. 905-920

28. Privacy: sexual orientation
pp. 920-932

C. Procedural due process
29. When is due process required?  I
pp. 1006-1026

30. What is due process required? II; What process is due?
pp. 1027-1043

Unit V
Equal Protection

A. Introduction

31. Equal protection methodology; Rational basis review
pp. 617-646
Assignment sheet, p. 5

B. Racial classifications

32. Race and the Constitution I
pp. 646-666

33. Race and the Constitution II
pp. 666-692
999-1005

34. Racial classifications benefitting minorities
pp. 706-751

C. Gender classifications

35. Gender classifications I
pp. 752-768

36. Gender classifications II
pp. 769-789

D. Other types of discrimination

37. Alienage classifications; Discrimination against non-marital children
pp. 789-807