

Fall 2023
POS 4931

Tues 11:45am-1:40pm
Thurs 12:50pm-1:40pm

Anderson 101

Election Laws and Voting Rights

Prof. Michael McDonald

Contact Info

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Office Hours

W 9:30am-11:30am or by appointment

Introduction

It is fair to say that the American public's interest in election administration is at an all-time high.

The 2000 Florida election revealed how esoteric mechanics of how elections are conducted – punch cards, ballot design, voter roll purging practices, and recount procedures – affected who was elected president. Twenty years later, these mechanics of election administration arose again as Trump and his supporters challenged the results of the 2020 election, even though Trump's Attorney General Bill Barr – one among many Republican officials expressing similar sentiments – stated, "we have not seen fraud on a scale that could have effected a different outcome in the election."

The last decade also witnessed the Supreme Court's 2013 *Shelby County v Holder* decision, which effectively voided an important section of the Voting Rights Act. States across the country enacted new voting laws ostensibly to combat vote fraud, but opponents charge are intended to suppress votes. This has given way to voting rights organizations using another section of the Voting Rights Act to sometimes successfully challenge these new laws. Other decisions surrounding campaign finance, notably *Citizens United v. FEC*, dramatically changed how campaigns are funded.

In this class we will learn election law and its application to minority voting rights. We will cover the recent evolution of the the so-called voting wars to understand how we got to where we are today, and where we are likely to go in the future. Will there be a catastrophic election meltdown? We came close in 2000 and again in 2020. The election law issues we cover will thus likely figure prominently in the courts and among the public moving forward.

Readings

- Daniel Tokaji. 2017. *Election Law in a Nutshell, 2nd Edition*. St. Paul, MN: West Academic Publishing.
- Additional class readings are available on Canvas.

The readings that will be discussed each class are listed below as a Reading Assignment for that day of class.

Attendance Policy

If you do not participate in at least one of the first two class meetings of a course or laboratory in which you are registered, and you have not contacted the department to indicate your intent, you can be dropped from the course. You must not assume that you will be dropped, however. The department will not notify you if you have been dropped from a course or laboratory. You can request reinstatement on a space-available basis if you present documented evidence.

The university recognizes the right of the individual professor to make attendance mandatory (which is the case for this class). After due warning, professors can prohibit further attendance and subsequently assign a failing grade for excessive absences.

The additional policy for this class is that every student should make the best attempt to attend all classes. A student that misses four or more classes without a university-approved excuse (e.g., from the Dean's office, sports department, or other university official) will have their overall grade reduced a letter step (i.e., B to B-). Students do not need, and should not approach the professor, to provide non-university-approved excuses for missing three or fewer classes. A student with ten or more unexcused class absences will receive a failing grade for the entire course and will be barred from attending further classes.

Grades

Grades for this course consist of two midterms, a final, and classroom participation. The weighting of the aspects of the grade are:

<u>Assignment</u>	<u>Due</u>	<u>% of Overall Grade</u>
Class Project		
Midterm 1	Oct 10	30%
Midterm 2	Nov 7	30%
Final Exam	Dec 14	35%
Participation		5%

Midterms and exams are given on the assigned dates. Exceptions are given only to students with university-documented excuses. **If you cannot be present for an exam date because of a non-university approved conflict, drop the class now.**

Participation

Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

Participation will be determined through class discussion and pop quizzes, which may be conducted without warning if attendance lags. As a part of class discussion, the professor may randomly call on students to answer questions on the day's assigned reading. A correct answer will factor positively, a wrong answer or lack of an answer will factor negatively.

Technology Use Policy

Studies find that students who use laptops or cell phones in class tend to receive lower grades than their peers.

Laptops, cell phones, tablets, and other electronic devices are banned from the classroom, unless the professor explicitly states otherwise.

A first offense earns a warning. A second offense results in letter grade reduction of the overall class grade, and a third offense results in an automatic failing grade for the course.

Students with disabilities who present documentation to the professor are permitted to use laptops for note taking. Other students who wish to use laptops for notetaking must receive permission from the professor. An approval effectively serves as a warning. Any student with an approved laptop will receive a letter grade reduction for the first offense of doing **anything non-class related** on their laptop in class, and a failing grade for the second offense. Permission to use technology may be rescinded.

Honor Code

UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor.

Basically, don't cheat. You cheat yourself of your education and more severe punishment may follow. Helping someone else is cheating, too. If you have any questions if your approach to completing an assignment may violate the honor code, please contact the professor for guidance.

Disability Statement

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

My exams tend to have an essay component. If you are eligible for disability services and your disability leads you to need more time taking an exam, please take advantage of disability services. We cannot undo poor performance on an exam if you did not make disability arrangements in advance.

Recordings

Students are allowed to record video or audio of class lectures. However, the purposes for which these recordings may be used are strictly controlled. The only allowable purposes are (1) for personal educational use, (2) in connection with a complaint to the university, or (3) as evidence in, or in preparation for, a criminal or civil proceeding. All other purposes are prohibited.

Specifically, students may not publish recorded lectures without the written consent of the instructor.

A "class lecture" is an educational presentation intended to inform or teach enrolled students about a particular subject, including any instructor-led discussions that form part of the presentation, and delivered by any instructor hired or appointed by the University, or by a guest instructor, as part of a University of Florida course. A class lecture does not include lab sessions, student presentations, clinical presentations such as patient history, academic exercises involving solely student participation, assessments (quizzes, tests, exams), field trips, private conversations between students in the class or between a student and the faculty or lecturer during a class session.

Publication without permission of the instructor is prohibited. To "publish" means to share, transmit, circulate, distribute, or provide access to a recording, regardless of format or medium, to another person (or persons), including but not limited to another student within the same class section. Additionally, a recording, or transcript of a recording, is considered published if it is posted on or uploaded to, in whole or in part, any media platform, including but not limited to social media, book, magazine, newspaper, leaflet, or third party note/tutoring services. A student who publishes a recording without written consent may be subject to a civil cause of action instituted by a person injured by the publication and/or discipline under [UF Regulation 4.040 Student Honor Code and Student Conduct Code](#).

Evaluations

Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

Class Demeanor

Students are expected to arrive to class on time and behave in a manner that is respectful to the instructor and to fellow students. Please avoid the use of cell phones and restrict eating to outside of the classroom. Opinions held by other students should be respected in discussion, and conversations that do not contribute to the discussion should be held at minimum, if at all.

Week 1 Aug 24	Thurs: Welcome! <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapter 1
Week 2 Aug 29 & 31	Tues: The 2000 Florida Recount <u>Reading Assignment</u> <ul style="list-style-type: none"> • Hasen Chapter 1 (on Canvas) Thurs: The Right to Vote <u>Reading Assignment</u> <ul style="list-style-type: none"> • McDonald Chapter 2 (On Canvas)
Week 3 Sept 5 & 7	Tues: The Right to Vote <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapters 2 & 3 Thurs: Representation <u>Reading Assignment</u> <ul style="list-style-type: none"> • Mansbridge (on Canvas)
Week 4 Sept 12 & 14	Tues: Redistricting 101 <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapter 4 Thurs: Partisan Gerrymandering <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapter 5 • <i>Rucho</i> opinion (on Canvas) • Fla. Const. art. III, §§ 16, 20, 21
Week 5 Sept 19 & 21	Tues: Racial Gerrymandering <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapter 6 Thurs: Racial Gerrymandering (Con't)
Week 6 Sept 26 & 28	Tues: Drawing Effective Minority Districts <u>Reading Assignment</u> <ul style="list-style-type: none"> • Grofman, Handley, and Lublin, Section I and Section II, parts A & B (on Canvas) Thurs: Explanation of Class Assignment <ul style="list-style-type: none"> • Brief on Florida's Congressional Redistricting
Week 7 Oct 3 & 5	Tues: Election Administration <u>Reading Assignment</u> <ul style="list-style-type: none"> • Tokaji Chapter 7 Thurs: Vote Centers and on Campus In-Person Early Voting <u>Reading Assignment</u> <ul style="list-style-type: none"> • Douglas Chapter 4 (On Canvas) • Shino and Smith (on Canvas)
Week 8 Oct 10 & 12	Tues: MIDTERM 1

	<p>Thus: Issues in Voting Eligibility: Youth Voting <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Douglas Chapter 1 (on Canvass) • Wattenberg Chapter 4 (on Canvass)
<p>Week 9 Oct 17 & 19</p>	<p>Tues: Mail Balloting <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • McDonald Chapter 3 (On Canvass) <p>Thurs: Electoral College <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Tolbert and Gracey 2018 (on Canvas)
<p>Week 10 Oct 24 & 26</p>	<p>Tues: Voting Machines <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Hasen Chapter 5 <p>Thurs: Election Technology <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Douglas Chapter 5 • Hasen Chapter 6 (on Canvas)
<p>Week 11 Oct 31 & Nov 2</p>	<p>Tues: Direct Democracy <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Tokaji Chapter 8 <p>Thurs: Political Parties <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Tokaji Chapter 9
<p>Week 12 Nov 7 & 9</p>	<p>Tues: MIDTERM 2</p> <p>Thurs: Campaign Finance <u>Reading Assignment</u></p> <ul style="list-style-type: none"> • Tokaji Chapter 10
<p>Week 13 Nov 14 & 16</p>	<p>Tues: Campaign Finance (Con't) Thurs: Citizens United</p> <ul style="list-style-type: none"> • <i>Citizens United v. FEC decision</i> (please read all the opinions, including the majority, concurring, and dissenting opinions)

Week 14 Nov 21	Tues: Does Money Matter? <u>Reading Assignment</u> <ul style="list-style-type: none"> • Everyone Knows Money Influences Politics ... Except Political Scientists - Link • Powell (on Canvas) • Douglas Chapter 9 (On Canvass) Thurs: Thanksgiving Holiday
Week 29 Nov 28 & 30	Tues: Open Secrets <u>Reading Assignment</u> <ul style="list-style-type: none"> • Francia and Herrnson (On Canvass) • Open Secrets Thurs: The 2020 Election in Retrospection <ul style="list-style-type: none"> • McDonald Chapter 5 (On Canvass)
Week 16 Dec 5	Tues: The 2020 Election in Retrospection (Con't)
Week 17 Dec 14	Thurs: FINAL EXAM @ 10:00am-noon