

**Yale Law School  
Keith E. Whittington**

**Advanced Constitutional Law: Federalism and Separation of Powers  
Spring 2026**

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MW 8:35-10:00 am  
Room TBD  
office hours: by appointment via online scheduler

This course will provide a more in-depth look at the development, constitutional politics, and law of American federalism and the separation of powers. Topics will include the commerce clause, taxing and spending power, the growth of presidential power, the unitary executive, war powers, congressional and judicial checks on the presidency.

The class will operate through a combination of lectures and discussion. Come prepared with your own thoughts and questions regarding the readings and their implications and do not hesitate to raise those reactions in class for discussion.

The development of American constitutional structures has proceeded through a combination of law and politics, with the latter often predominant. The course materials will focus on primary documents, but in this case that it will involve not only judicial opinions but also executive and legislative materials.

Materials:

All readings are in Howard Gillman, Mark Graber, and Keith Whittington, *American Constitutionalism, vol. 1, Structures and Powers*, 3<sup>rd</sup> ed. The book is available for purchase at the university bookstore.

Some additional readings will be available on the Canvas course website

Attendance and Participation

Regular attendance and preparation for participation will be expected. Please send me an email as soon as you know you will have to miss a session. More than two absences will require an explanation.

It is disruptive to your fellow students to arrive late for class. Please be ready to go by the start of class.

Use of electronic devices **for class purposes** during the class is acceptable. If, however, you create a distraction for others or use electronics to avoid participating on your own, the use of electronics might need to be restricted. Don't let electronic devices become a substitute for actively listening, thinking, and participating in the class sessions.

Yale Law School values the free exploration of ideas in and out of class. Ideas are the lifeblood of the School, and disagreement and debate are central to our shared intellectual life. Students and faculty alike are members of an academic community and a professional school, and it is critical that we engage with one another with professionalism, integrity, and respect. With the aim of advancing and deepening everyone's understanding of the issues addressed in the course, students are urged to speak their minds, explore ideas and arguments, play devil's advocate, and engage in civil but robust conversations. We are not expected to agree with one another, but we are expected to engage one another in charity and good

faith and with reasons, evidence, and arguments. No ideas germane to the course are out of bounds, but invective and disruption will not be tolerated.

### Accommodations

Students with documented disabilities should register with [Student Accessibility Services \(SAS\)](#) to request reasonable disability-related accommodation. [Supporting documentation](#) will be required. If approved, SAS will work with the YLS Academic Affairs Office to implement accommodations. More information for YLS students can be [found online](#). Professors are not notified of requested or approved accommodations except when needed to coordinate accommodations.

### Requirements:

Readings assigned for each day's session will appear in the syllabus. You are expected to have read and thought about the material before arriving in class and to have access to that material in class.

There will be a final exam in this class. The exam has been scheduled for 9:00 am on May 8, 2026.

### Daily Reading Schedule:

The daily schedule of topics and readings will be provided in a separate document.