Sample Course Syllabus

POLS 3400 Sexual Orientation, Politics, and Law

**Professor Richard Price**

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Office Hours: Monday-Thursday 9-10

**Course Description**

Social movements employ a variety of methods to achieve the protection of their member’s rights. Our focus will be on the movement of LGBT groups in the United States from the mid-twentieth century to the present. We will consider the political and legal maneuvers these groups took in a number of rights areas including parental rights, employment, military service, and relationship recognition.

This course presumes no prior background knowledge in LGBT studies, legal studies, or political science, though any or all of those may be helpful.

**Learning Outcomes**

Students should be able to explain at least one of the following five subfields of the discipline: American Government and Public Administration, Comparative Politics, International Politics, Public and Constitutional Law, and Political Theory. Mastered.

Students should be able to demonstrate critical thinking skills or formulate and defend a thesis in a written or oral format. Mastered.

**Course Readings**

There are three required books for this course—all three are also on reserve in the library. Additional readings are required and provided on Canvas.

Ball, Carlos A. 2012. *The Right to be Parents: LGBT Families and the Transformation of Parenthood*. New York: New York University Press. (ISBN: 081473930X, List Price: $35.00)

Klarman, Michael J. 2012. *From the Closet to the Altar: Courts, Backlash, and the Struggle for Same-Sex Marriage*. New York: Oxford University Press. (ISBN: 0199922101, list price: $27.95).

Stone, Amy L. 2012. *Gay Rights at the Ballot Box*. Minneapolis: University of Minnesota Press. (ISBN: 0816675481, list price: $22.50).

Suggested: Ball, Carlos A. 2010. *From the Closet to the Courtroom: Five LGBT Rights Lawsuits that Have Changed Our Nation*. Beacon Press. (ISBN: 0807001538, list price $18.00). We’ll be using several chapters that are on Canvas but you may be interested in ordering it yourself.

Additionally I have placed on reserve a legal textbook: Rubenstien, William, Carlos A. Ball, and Jane S. Schacter. 2011. *Cases and Materials on Sexual Orientation and the Law,* 4th Ed. This may be a valuable resource for reference and materials useful for your papers.

The following sources may be helpful to you as well (links on Canvas):

* Lesbian/Gay Law Notes
* Lambda Legal
* ACLU LGBT Project
* Gay & Lesbian Advocates and Defenders
* National Center for Lesbian Rights

You should also familiarize yourself with some of the library databases that will make your life easier for research. A few suggestions:

* LexisNexis Academic is the best source for searching for cases, statutes, and law reviews. It can be a little difficult to navigate initially so please ask for help from me or the Stewart Library staff.
* JSTOR is a database of academic journals from many disciplines (including law, political science, and history). The coverage usually extends to about four years ago so for more recent articles you will need to see if the library has other print and/or electronic access or use Interlibrary Loan.
* Proquest is a great source for newspaper coverage (though it has other items as well) at least in recent history (most papers are available in full text from the 1990s to current).

**Course Requirements**

1. Participation (10%)

An important aspect of academic study is engaging with the concepts from reading and lecture through active participation. Obviously completing the assigned readings on time will be an important element of this. Simply reading and attending class is not enough, however. I expect you to share your own questions, concerns, and comments on the issues that are discussed. I reserve the right to give quizzes and other in-class assignments without notice and your performance on those items will be included in this grade.

2. Midterm (15%) October 10

This will be a closed book exam covering the concepts, cases, and doctrines discussed in the readings and lectures up to that point. The midterm may be a combination of short answer and essay questions.

3. Final (15%)

This will be a comprehensive, closed book exam. The exam may be a combination of short answer and essay questions. I will provide more details as the semester proceeds.

4. Research Paper (60%)

The bulk of your grade will be based upon a research paper of approximately 15 pages (12-point Times New Roman font). The topic is up to your discretion but of course should relate in some way to sexuality, law, and/or politics. The topic may build upon something we cover in class or be based upon something we do not cover such as a comparative examination of LGBT rights in other countries. As this is a large and detailed assignment you will be required to turn in segments along the way.

**Components of Research Paper**:

Research proposal (5%) **DUE Tuesday September 17**

You must identify their research idea. This should be relatively specific; i.e. marriage reform in Washington would be a better proposal than proposing to study the entirety of the marriage campaign. This does not need to be perfectly focused yet but should be moving towards that focus. You must submit a 1-2 page statement outlining the idea you wish to explore, why you wish to examine that topic, and some initial ideas about how you plan to carry out your research.

Annotated bibliography (5%) **DUE Tuesday October 22**

You must submit an annotated bibliography including at least 3 books, at least 5 scholarly articles (meaning items found on databases such as JSTOR), and at least 10 other items that can be a mix of judicial decisions, journalistic pieces, and/or Internet documents. For each item, you should provide a 1-2 sentence summary of how and why it is relevant to your project.

Partial draft (10%) **Due Tuesday November 12**

You will submit a partial draft of your paper, approximately 6-8 pages, presenting an initial stab at articulating and defending part of your argument.

Final draft (40%) **DUE Thursday December 5**

Your completed, final research paper, approximately 15 pages, is due on 12/5.

**Course Policies**

Attendance: Attendance is an important element to any class but especially this one. The readings and lectures will be complementary but not coextensive and you will be held responsible for all of the information from both lectures and assigned readings. While I understand that attendance is not always possible, regular absences will negatively affect your grade.

Grading Policy: If you are unsatisfied with a grade assigned you may appeal that grade to me and I will reevaluate the assignment from scratch. This means that you could receive a higher, lower, or the same grade as initially given. To appeal you must send me a short statement explaining why you believe the grade is incorrect along with the original graded copy of the assignment.

Late Assignments: Assignments are due at the time and date listed on the syllabus. Because the papers deadlines are so flexible I will not accept late submissions. Papers are due in hard copy at the beginning of the day assigned. You may email me a copy if you are afraid of being late but a paper copy should still be submitted.

Academic Integrity: Academic honesty is a fundamental requirement of this course and violations will not be tolerated. Examples of such violations include copying from another student's work, unauthorized cooperation in completing assignments or examinations, and submitting the same written work in more than one course without prior written approval from me. In my experience, the most common form of academic misconduct is plagiarism. Plagiarism includes, but is not limited to, using another writer’s words or ideas without proper citation, borrowing all or part of another student’s paper or using someone else’s outline to write your paper, and using a paper writing “service” or having a friend write your paper for you. If you are caught violating any of these rules, I will assign a failing grade for the course and then refer the matter to the WSU Due Process Officer for further action.

Reasonable Accommodation: Students who may need academic accommodations due to a disability are encouraged to discuss their needs with me at the beginning of the semester. Any student requiring accommodations or services due to a disability must contact Services for Students with Disabilities (SSD) in Room 181 of the Student Services Center (or Room 221 at the Davis Campus).  SSD can also arrange to provide course materials (including this syllabus) in alternative formats upon request. For more information about SSD, contact them at 801-626-6413, ssd@weber.edu, or <http://departments.weber.edu/ssd>

Core Beliefs: According to PPM 6-­22 IV, students are to “[d]etermine, before the last day to drop courses without penalty, when course requirements conflict with a student's core beliefs. If there is such a conflict, the student should consider dropping the class. A student who finds this solution impracticable may request a resolution from the instructor. This policy does not oblige the instructor to grant the request, except in those cases when a denial would be arbitrary and capricious or illegal. This request must be made to the instructor in writing and the student must deliver a copy of the request to the office of the department head. The student's request must articulate the burden the requirement would place on the student's beliefs.”

Office Hours and Communication: My regular office hours are listed above and I encourage you to avail yourself of them if you have any problems, questions, or simply want to discuss ideas. If you cannot make my office hours, I am available by appointment. If you have a quick question, please feel free to email me. Finally, I may regularly use email to contact you (in particular if I have to cancel a class meeting or change an assignment). This means that you will be responsible for regularly checking your WEBER email account and keeping it open to emails. I will not make any extra attempt to contact you if an email gets rejected because yours is full. Nor will I accept as an excuse that you do not use the Weber email account.

Note on Email: Please put the name and/or number of this class in the subject of any email message so I can easily sort them. If you do not receive a response, you are to assume that your message was not received and try again.

**Grade Scale**

A = 93% or above A– = 90 – 92 % B+ = 87 – 89% B = 83 – 86%

B– = 80 – 82 % C+ = 77 – 79% C = 73 – 76% C– = 70 – 72 %

D+ = 67-69% D = 63 – 66% D- = 60 – 62% E = 0 – 59%

**Course Schedule**

The following is an approximate schedule that I reserve the right to alter, with notice, at any time.

I. Before Stonewall

**Tuesday 8/27**, Course introduction. We’ll watch part of *Coming Out Under Fire* (1994), an award-winning documentary about gay and lesbian service members during Word War II.

**Thursday 8/29**, Government employment and free speech in the 1950s and ‘60s. As we saw in the documentary, exclusion of gay employees became standard policy in governmental employment. Early resisters received no support either politically or judicially. However, broader liberal trends in free speech law did open space for publicizing gay literature.

* *Kameny v. Brucker*, 282 F.2d 823 (D.C. Cir. 1960) (Canvas)
* Franklin Kameny’s petition for writ of certiorari, pgs. 6-19, 28-58 (Canvas)
* “Employment of Homosexuals and Other Sex Perverts in Government.” 1950 congressional subcommittee report. (Canvas)
* **Suggested:** *Manual Enterprises v. Day*, 370 U.S. 478 (1962) (Canvas)

**Tuesday 9/3,** Regulation of gay sex (and drinking) up to Stonewall. Turning to local officials today we see the ways that LGBT persons were likely to then (and still sometimes today) face harassment and discrimination at the hands of state and local police. Ultimately, this culminated in the Stonewall Riots acting as a catalyst for the modern LGBT rights mobilization.

* *Stoumen v. Reilly*, 37 Cal.2d 713 (1951) (Canvas)
* Klarman, pgs. 3-15 (Ch.1)
* Selections from Professor George Chauncey’s 2010 testimony in *Perry v. Schwarzenegger* (Canvas)

II. Post-Stonewall and the Early Mobilization

**Thursday 9/5**, The times of Harvey Milk. Mobilizing after Stonewall was not easy. Legal barriers initially blocked the very creation of LGBT litigation groups. However, LGBT persons did start to win some political battles. We’ll look at this from the perspective of the tragically short life of Harvey Milk, one of the earliest gay elected officials who helped win enactment of some of the first LGBT civil rights laws.

* Andersen, Ellen Ann. 2005. *Out of the Closets and Into the Courts*, pgs. 1-3, 27-57 (Canvas)
* Video: selections from either *Milk* or *The Times of Harvey Milk*

**Tuesday 9/10**, Conservative backlash. The early LGBT victories, while limited, induced significant counter-mobilization from conservative religious groups. Today we will look at the early use of ballot initiatives and propositions to rollback LGBT victories.

* Stone, pgs. xiii-15, 41-62 (Introduction, part of Ch.1, Ch.2).

**Thursday 9/12,** Pushing the envelope, gay student mobilization and same-sex marriage in the 1970s. LGBT persons sought to bring visibility by asserting their right to be out and pushing the boundaries of public recognition.

* Barclay, Scott and Shauna Fisher. 2006. “Cause Lawyers in the First Wave of Same-Sex Marriage Litigation,” in *Cause Lawyers and Social Movements,* Eds. Austin Sarat and Stuart A. Scheingold, pgs. 84-100 (Canvas)
* Klarman, pgs. 16-47 (Ch.2)
* *Gay Lib v. University of Missouri* (1977) (Canvas)

**Tuesday 9/17,** Shifting family dynamics and the rights of lesbian mothers. The 1970s saw significant changes in divorce law and part of this included a significant number of cases where lesbian mothers faced threats to their custody and parental rights from their former husbands (or even other family members). Pay careful attention to the roll of stereotypes in court enforcement of traditional sexual norms.

* Ball, pgs. 1-57 (Introduction-Ch.1)

**Thursday 9/19,** NO CLASS. Brian Stelter from the New York Times will be speaking on social media’s impact on governments.

**Tuesday 9/24,** Fathers out of the closet. As with lesbian mothers, gay fathers faced significant hostility in the 1970s in custody disputes. Consider the degree to which this hostility may have been even greater. Is there a reason for greater hostility towards gay fathers (if it was greater of course)?

* Ball, pgs. 59-80 (Ch.2)

III. The Reagan Era and the Age of AIDS

**Thursday 9/26,** The emergence of the AIDS era. As you watch scenes from the film, think about the impact that AIDS had on the legal and political struggle of LGBT people. Consider both the personal struggle facing gay men (among others) who were infected with AIDS, became critically ill, and passed away as well as the broader impact that the epidemic had in adding to the negative stereotype of LGBT persons.

* Video: *And the Band Played On* (1993)
* *McGann v. H & H Music Company* (1991) (Canvas)

**Tuesday 10/1,** The first legal victory for same-sex partnerships. Consider the *Braschi v. Stahl* (1989) dispute in the context of the legal disputes that may have emerged from the AIDS controversy.

* Ball, Carlos. 2010. *From the Closet to the Courtroom*, pgs. 21-65 (Canvas)

**Thursday 10/3,** Do LGBT persons enjoy a right to privacy? Why would states criminalize private consensual sodomy? Consider why the Supreme Court rejected this argument and the implications of that decision. Also, consider the benefit that federalism gave LGBT litigation groups. Isn’t federalism an inherently conservative principle?

* *Bowers v. Hardwick* (1986) (Canvas)
* *Kentucky v. Wasson* (1992) (Canvas)

**Tuesday 10/8,** Are LGBT persons included within principles of constitutional and legal equality? While *Bowers* was technically limited to privacy, it clearly had a broader impact limiting the ability of LGBT groups to achieve federal civil rights protections.

* *Padula v. Webster* (1987) (Canvas)
* *Ulane v. Eastern Airlines, Inc.* (1984) (Canvas)
* *Schroer v. Billington* (2008) (Canvas)

**Thursday 10/10,** **MIDTERM**

IV. The 1990s and the Clinton Era: An Ally in the White House?

**Tuesday 10/15,** Don’t Ask, Don’t Tell. While he campaigned as an ally of LGBT people, Clinton’s major gay rights push backfired badly. While he sought to end the exclusion of gays and lesbians from the armed forces, he was forced to accept a compromise that entrenched this exclusion with only a marginal win for gay service members.

* “Don’t Ask, Don’t Tell Materials” (Canvas)

**Thursday 10/17,** Back to the ballot box. The 1990s saw a continuation of anti-gay ballot measures aimed at a wide variety of LGBT rights areas. As you watch the film today consider the degree to which you agree with Justice Antonin Scalia’s statement that such ballot measures are the action of “seemingly tolerant” people “to preserve traditional sexual mores against the efforts of a politically powerful minority.”

* Video: *Ballot Measure 9* (1995)
* Ball, Carlos. 2010. *From the Closet to the Courtroom*, pgs. 99-149 (Canvas)

**Tuesday 10/22,** A landmark victory in the Supreme Court. During the 1990s LGBT groups began to have more success fighting anti-gay ballot measures. At the same time they won the first gay rights victory from the Supreme Court recognizing that LGBT persons were protected (a little bit at least) by the equal protection clause.

* Stone, pgs. 15-31, 63-89 (Part of Ch.1, Ch.3)
* *Romer v. Evans* (1996) (Canvas)

**Thursday 10/24,** The (pre-marriage) winning streak. After *Romer,* LGBT groups saw a relatively dramatic set of victories in ballot measure contests. Consider the degree to which this reflected more sophisticated gay rights campaigning or changes in popular acceptance of gays and lesbians. Why were LGBT groups more successful in local measures than statewide ones?

* Stone, pgs. 91-127 (Ch.4)

**Tuesday 10/29,** Student’s rights. Our focus today is *Nabozny v. Podlesny* (1996), a case involving severe harassment and bullying of a gay kid by fellow middle-school students. What should the responsibility of schools be in this situation? Consider your educational experience and the similarities and differences you experienced/witnessed.

* Ball, Carlos. 2010. *From the Closet to the Courtroom*, pgs. 67-98 (Canvas)

V. LGBT Rights in the 21st Century

**Thursday 10/31,** The rise of gay families. In the 1970s, the primary issue was whether parents who later came out retained their rights. Now we turn to the rise of gay families through adoption, foster care, surrogacy, and artificial insemination.

* Ball, pgs. 83-142 (Ch.3-4)

**Tuesday 11/5,** Resistance to gay families. However the creation of these new families was made particularly difficult by the restrictions on gay foster care and/or adoption. Consider the logic of these laws. Why do states attempt to forbid lesbian and gays from adopting? Are states consistent in their arguments? Also we will touch upon the difficulties facing transgender parents.

* Ball, pgs. 143-214 (Ch.5-Conclusion)

**Thursday 11/7,** The Boy Scouts, association rights, and the right to discriminate. As state civil rights laws expanded to protect sexual orientation (and sometimes gender identity), naturally conflicts developed between the right to inclusion and the associational, speech, and/or religious rights of groups that opposed such inclusion. Should groups have a right to discriminate? Should those groups have to offer strong proof that the discrimination is central to their beliefs?

* *Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston* (1995) (Canvas)
* *Boy Scouts of America v. Dale* (2000) (Canvas)

**Tuesday 11/12,** The start of the modern marriage debate. In 1993, the Hawaii Supreme Court shocked the country when it suggested that marriage restrictions may be unconstitutional. While same-sex marriage (SSM) never became a reality in Hawaii, it led to a flurry of federal and state legitlstive activity specifying that only opposite-sex couples could get married. This culminated in the Defense of Marriage Act (DOMA). To what degree did this backlash (give some thought to the meaning of this term) lead the Vermont Supreme Court to be more cautious?

* Klarman, pgs. 48-88 (Chs. 3-4)

**Thursday 11/14,** 2003 saw the two greatest court victories occur: *Lawrence* invalidated the remaining sodomy laws and *Goodridge* required the recognition of SSM for the first time. Again, is this recognition of changing social perceptions of the public or is it just a bunch of liberal judges bent on remaking society?

* Klarman, pgs. 89-118 (Ch.5)
* *Lawrence v. Texas* (2003) (Canvas)
* *Goodridge v. Department of Public Health* (2003) (Canvas)

**Tuesday 11/19,** SSM and the ballot box. *Goodridge* lead to many ballot measures aimed at constitutionally prohibiting SSM. The LGBT winning streak at the ballot box came to an abrupt end with a nearly endless set of losses on SSM ballot measures until 2012 (with one small exception). Consider the normative debate over whether using constitutional amendments in this way is an acceptable action? Do the people have a right to define the rights of the community?

* Stone, pgs. 31-40, 129-53, 179-83 (Part of Ch.1, Ch.5, Conclusion)

**Thursday 11/21,** SSM in the courts and legislatures. From 2009-2011, SSM saw some impressive victories now from both courts and legislatures. Is legislative action more acceptable than courts?

* Klarman, pgs. 119-64 (Chs.6-8)

**Tuesday 11/26**, Lets talk about backlash. Obviously the idea of backlash runs throughout Klarman’s account of the SSM movement. Keck agrees that backlash occurs but disagrees that it is specific to court action alone. Do people react more negatively to judicial decisions that change policy than they do to similar changes made by a legislature?

* Klarman, pgs. 165-92 (Chs.9-10)
* Keck, Thomas M. 2009. "Beyond Backlash: Assessing the Impact of Judicial Decisions on LGBT Rights." *Law and Society Review* 43(1):151-85 (Canvas)
* Suggested (but quite long): Cummings, Scott L, and Douglas NeJaime. 2010. "Lawyering for Marriage Equality." *UCLA Law Review* 57:1235-1331 (Canvas)

**Nov. 28, NO CLASS** (Thanksgiving break)

**Tuesday 12/3**, “Seneca Falls, and Selma, and Stonewall.” 2012 saw a titanic shift in SSM politics as the public opinion consistently moved to majority support nationally, President Obama announced support for SSM and brought the Democratic Party to that position, and voters in three states specifically endorsed SSM (and in another they rejected an anti-SSM amendment).

* Klarman, pgs. 193-219 (Ch.11-Conclusion)
* *Perry v. Brown* (9th Cir.) (Canvas)
* *United States v. Windsor* (2013) (Canvas)

**Thursday 12/5**, TBD