

Political Science H521  
Fall 2005  
Mr. Baum

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## **SUPREME COURT DECISION MAKING**

This course is about explanation of decisions made by the U.S. Supreme Court. We will consider the theories and evidence that scholars and others have offered about the forces that influence the Court's decisions. Students will develop and apply their own ideas about how to explain the Court's decisions.

The primary focus of the course is a research project in which students use their explanation of the Court's decisions to predict the positions that justices take in a future decision. Each student will choose a single case that the Court has accepted for oral argument and decision in the 2005 term and write a paper predicting the positions of three justices in that case. The paper will require integration of what you learn about Supreme Court decision making with what you learn about the case and the justices.

The central goal of our readings and class sessions is to provide the background needed to carry out this research successfully. First, you will need to understand how the Court works and what shapes the justices' positions in cases. There are strong disagreements about the determinants of the justices' positions, and we will read and discuss three books that reflect differing positions:

Jeffrey Segal and Harold Spaeth, The Supreme Court and the Attitudinal Model (Cambridge University Press 1993)

Lee Epstein and Joseph Kobylka, The Supreme Court and Legal Change (University of North Carolina Press 1992)

Lee Epstein and Jack Knight, The Choices Justices Make (CQ Press 1998)

These books are the largest part of the reading for the course. I will give you several handouts and sets of materials to read as well.

Second, you will need to learn how to do research on justices and cases that allows you to apply your general understanding of the Court to specific individuals and issues. I will give you handouts on aspects of this research. We will also devote several class sessions to the research process, including the use of computer-based resources to locate relevant information.

Students in the course differ in the extent of your background in legal analysis and judicial politics. No extensive background is required. For students who have limited familiarity with the Supreme Court, the books about the Court that we read will provide a good deal of the background information that you need. If your familiarity with the Court is limited, it probably would be a good idea as well to read selectively in a textbook about the Court early in the quarter. I can suggest textbooks that would be useful.

## Assignments

The course grade will be based on several components, listed below. For the memos and paper, as you would expect, it is important (and required) that you complete the assignment by the time it is due. If you have a problem that requires you to miss a deadline, you must let me know and get permission from me before that deadline.

Three memos on books	30% (10% each)
Prediction paper	60%
Class participation	10%

The grading scales will be as follows:

	<u>Memos*</u>	<u>Paper</u>	<u>Class</u>	<u>Total</u>
A	8-10	48-60	8-10	80-100
B	6- 7	36-47	6- 7	60- 79
C	4- 5	24-35	4- 5	40- 59

\*This is the scale for each memo. The total for the memos will be this scale multiplied by three.

Scores within 3 points of a dividing line will receive plus or minus grades. Thus 80-82 will be an A-, 77-79 a B+. The percentages required for each grade look low, but they reflect a high standard for evaluation of work in the course. A student who receives 83 points in the course has done excellent work.

1. The **memos on books** will be reactions to the ideas and arguments in each of the three books about Supreme Court decision making that we will read. The memos will be about 5 double-spaced pages long. Each memo will summarize the argument made in the book and evaluate that argument in terms of how well it explains Supreme Court decisions. The quality of the evaluation will be especially important in my assessment of the memo. The memo on a book will be due at the beginning of the class session in which we begin our discussion of the book. Due dates are indicated on the schedule below. I'll give you a handout and other information on how to develop and write the memos later on.

2. As indicated already, the **prediction paper** is the centerpiece of your work in the class. Each student will choose (a) a case that the Supreme Court has accepted for oral argument and decision and (b) three of the justices, distributed across the Court's loose ideological groupings. (I'll provide the specific rules for choosing the three justices.) Because I would like to have no more than two students analyze any one case, it is possible that some students will not have their first choice of case. But the Court has already accepted a good many interesting cases for the 2005 term, so there are a lot to choose from.

In the paper you will present and justify predictions about the positions that each of your three justices takes when the Court decides the case. These positions include the outcome of the case (who wins) and the legal doctrines or rules that the justice supports. The paper's justification will be based on relevant information about the case, about past cases involving similar issues, and about the justices.

A few of the cases that the Court has scheduled for argument will be decided by the end of the quarter, but the great majority will not. In any case, the papers will be evaluated not according to the accuracy of their predictions but according to how effectively evidence and analysis are mustered to support their predictions.

The prediction paper should be about 20 pages in length. It will be due on **November 29th**. More details on the content of the paper will be provided early in the quarter.

You should feel free to consult with me whenever it would be useful as you work on the prediction paper. In addition, you have the option of handing in a memo as a way of getting more systematic feedback. The memo could describe the approach you intend to take in the paper, raise a set of questions for me, or some combination of the two. You can give me the memo at any time, though it would be a good idea to do so by **November 17th** so you'll have sufficient time to respond to my comments and suggestions.

3. **Class participation** is important, because our success in working through issues in Supreme Court decision making depends on active involvement by members of the class. Grading will be based on attendance (which includes being at a class session for the full length of time) and contributions to class discussion, with 5 points based on each of those two components. A student who attends nearly all the class sessions and who makes thoughtful contributions to discussion on a fairly regular basis will receive all 10 points.

### **Consultation and Assistance**

This is a challenging class, and the prediction paper is especially challenging. Thus it is important that you feel free to check with me and get help whenever you need it. Of course, you're welcome to come in during office hours. The hours are indicated at the top of the syllabus. So you don't have to wait to see me, I'll use a sign-up sheet, which will go up on my bulletin board each Thursday for the following Wednesday. Let me know if you'd like to have an appointment outside my office hours, and I can usually arrange a time to meet on short notice. Also feel free to drop me notes by electronic mail. I don't monitor mail in the evenings, but I can usually reply early the next morning.

### Class Schedule

The topics of class sessions and due dates for the memos and paper are indicated below. The scheduling of class sessions should be regarded as tentative, because the sessions are designed to prepare you to do the work for the course. We already have one session (November 17th) that is open; we'll spend that session doing whatever you think will be most helpful as you work on the prediction paper. We can also make other changes in the topics of class sessions if it would be helpful to you. So let me know whenever you think it would be useful to devote class time to some topic or aspect of the research, and we can use all or part of a class session for that.

September 22	Introduction to the course
September 27	The decision-making process
September 29	Explaining Supreme Court decisions
October 4	Explaining decisions (continued) CHOICES OF CASES AND JUSTICES DUE
October 6	Research session: developing the paper
October 11	The Segal-Spaeth explanation SEGAL-SPAETH MEMO DUE
October 13	Segal-Spaeth (continued)
October 18	Lab session: surveying data sources
October 20	Research session: reading legal materials
October 25	The Epstein-Kobylka explanation EPSTEIN-KOBYLKA MEMO DUE
October 27	Epstein-Kobylka (continued)
November 1	Lab session: using the Supreme Court database
November 3	Lab session: Supreme Court database (continued)
November 8	The Epstein-Knight explanation EPSTEIN-KNIGHT MEMO DUE

November 10	Epstein-Knight (continued)
November 15	Research session: pulling research together for the paper
November 17	To be determined
November 22	Lab session: open research and assistance
November 29	Discussion of predictions PREDICTION PAPER DUE
December 1	Discussion of predictions (continued)