The casebook for this class is Sullivan & Feldman, *Constitutional Law* (18th ed.) & the latest supplement (check carefully—it may not arrive until late). You will find along with this the Supreme Court’s entire opinion in *Obergefell v. Hodges* and the other “same-sex marriage” cases decided in June. For our first class meeting, please read the opinions carefully. I think you’d profit by writing a case brief for yourself, taking in the majority opinion and the dissents. Whether you brief or not, come to class ready to discuss in some detail the following questions:

1. According to the majority, what provision or provisions of the Constitution does the state ban on same-sex marriage violate? What are the implications of the “due process” clause for this case? What about the “equal protection” clause? What precedents does the majority rely on?

2. Please notice a basic dynamic of constitutional law. No government can simply refuse a citizen’s legal request by saying, “we’d rather not do that” or “we’ve never done that before.” Constitutional law requires a reasoned response to any claim of right. That is, the government must say, “we reject your request for a marriage license because granting it would harm this or that ‘state interest.’” What reasons did the states advance for banning same-sex marriage? What is wrong with those reasons, according to the majority? Notice reasons the states did NOT advance. Why do you think they are missing from the argument?

3. Chief Justice Roberts, in the principal dissent, argues that the issue should have been settled by the political process rather than by the federal courts. Assess this “political process” argument and come up with one argument in favor of that position and one argument against it.

4. Please summarize in your mind Justice Scalia’s individual dissent and his critique of the majority. Regardless of how you feel about the underlying issue, how do you assess his critique?

5. Justice Alito states that the underlying issue in *Obergefell* is the proper view of the existing institution of marriage. What is the meaning of the meaning he proffers? Is he correct or not?

6. This case centers in part around a number of important precedents. Make sure you understand the marriage cases—*Loving v. Virginia, Turner v. Safley,* and *Zablocki*
v. Redhail--and the gay-rights cases—Bowers v. Hardwick, Romer v. Evans, Lawrence v. Texas, and United States v. Windsor. Examine the different ways the majority and dissenting opinions discuss them.

(7) Is this case correctly decided? If it is not, why not? If it is, was it decided on the proper grounds? No matter what conclusion you reach, immediately go back through your deliberation and come up with an argument why the other side is correct. *This skill may be the most important one you develop in this class.*