
MFJS 4300: ISSUES IN FREEDOM OF EXPRESSION

Mass Communications Building 119, 6:00 – 7:50 p.m., M & W

Autumn Quarter 2013



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Office Hours: Thursday, 3:00 – 5:00 p.m., or by appointment

“Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of people to peaceably to assemble, and to petition the Government for a redress of grievances.”
– **Amendment I**

COURSE DESCRIPTION and OBJECTIVES

Under what circumstances, if any, is the government justified in regulating, punishing or even preventing speech? Can groups that promote racial and religious intolerance march, protest and maintain hateful websites? Should the government be allowed to regulate violent video games or ads that promote tobacco use? Should pornography be allowed on the Internet without regulation? Can you use photos you find on the Internet? Do you need permission to use small segments of a song in a documentary film? Do television ads have to be truthful? Are corporations allowed to finance campaigns for political causes and/or candidates?

These are just some of the questions we will be confronting in this course.

In *Issues in Freedom of Expression* you will analyze the historical, political and philosophical arguments, theories, cases, and controls associated with communicating freely. You will learn how the American legal system works and gain an understanding and appreciation of the philosophical foundations of free expression. In addition, you will confront many of the issues facing professional communicators today. You will study copyright, defamation, regulations governing commercial and corporate speech, and other issues crucial to mass media professionals. Finally, the course examines freedom of expression in a broader global context, and explores challenges to free expression brought by new(er) communication technologies. The purpose of this class is to give you the knowledge and reasoning skills you will need to be successful in today’s rapidly changing communication environment.

We will start by exploring the historical and philosophical foundation of free expression. By the end of the semester you will be able to identify the significant legal issues that you may be confronted with as a mass communication professional and you will learn how to apply specific legal concepts to factual situations you may encounter in your professional career.

REQUIRED TEXTS

Kent R. Middleton & William E. Lee, *The Law of Public Communication*, Ninth ed. 2014 update, Boston, MA.: Pearson Education, Inc.

The Bluebook: A Uniform System of Citation, 19th edition, 2005.

NOTE: This text is available in the DU bookstore in the law textbook section.

BLACKBOARD WEBSITE

This course uses the Blackboard Website that the University of Denver provides. The Blackboard site is a crucial resource for this course, and you will need to access it frequently. To do so, go to <http://blackboard.du.edu/>. From this page, click the login button, and then enter your username and password. You will then enter the Blackboard site, where any course you are taking that uses the Blackboard system will be listed.

You will find important course materials posted on the BB site: the syllabus; materials to help you do your research paper; PowerPoint slides from class lectures; and other important materials, such as exam study guides. Be sure you know how to access your account.

READINGS, ATTENDANCE & PARTICIPATION POLICY

Law is a complex, constantly changing subject. Class sessions are designed to explain, expand upon and update the material in the textbook. In addition, classes will introduce cases and concepts *not* covered by your book. Furthermore, *Issues in Freedom of Expression* is a *seminar*, not a lecture course. Participation is expected (and part of your grade) which, by definition, means that regular class attendance is required. Therefore, students are expected to attend and contribute to the discussion every class and it is important for you to come to class prepared every day.

Attendance will be taken at the start of every class. During the course each student will be permitted three (3) absences for whatever reason (job interview, sickness, family commitments, ski days, etc.). I do not require any advanced notice of your absence nor explanation when you return. There will be no additional “excused absences” beyond these three. For each absence in excess of three, regardless of the reason, your final score in the class will be reduced by one point. A tardy will count as ½ of an absence as will leaving class early.

View your three free absences as the sick leave and personal days generally allowed employees in a work environment. In the workforce, employees who use up all their sick leave and personal days and then find themselves obliged to take off additional time do so without pay. Having your grade reduced is the equivalent to “unpaid leave.”

In addition, all reading assignments should be completed *before* the class period during which we will discuss a particular topic. *You may be called on in class to answer*

questions related to the day's readings. **This is true even if you do not volunteer to answer the question.** You professor is a fan of cold calling on students.

In sum, it will be extremely difficult for you to follow the lectures, participate in the discussion, respond to my questions, and ask intelligent questions of your own if you come to class inadequately prepared. Attendance at lectures and *informed* participation in discussion are essential to doing well in this class.

GRADING

Final grades in this course will be based on evaluation of 1) three exams, 2) a research paper, and 3) class preparation and participation.

Exam One	20%
Exam Two	20%
Final Exam	25%
Research Paper	25%
Class Participation	10%

The alpha/numeric conversion for course grades is as follows:

A = 93-100	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 = 60-66	F = below 60	

RESEARCH PAPER

Each student in the course will submit a research paper at the end of the quarter that focuses on a current free expression issue within the scope of the topics covered in the course. Instructions for the research paper are available in the Research Paper folder on Blackboard. Also available on Blackboard is "A Legal Research Primer," which provides the basic instruction you need to do a good research paper. Your paper should be 6,000 to 7,000 words, not including references, and must be typed, double-spaced in Bluebook style. An electronic version of your paper is due in my inbox by 11:59 PM, Wednesday November 20, 2013. **Late research papers will not be accepted.**

Additionally, on the class schedule you will see two assignments relating to the research paper: proposal and preliminary bibliography, due September 23; and the first draft of the Introduction, Literature Review, and Research Questions, due October 16. Failure to meet these deadlines will lower your paper grade.

STUDENTS WITH DISABILITIES

Any students with disabilities should contact the Disability Services Program to determine whether and to what extent services or accommodations are required for this course. If you think this notice might apply to you, please contact the Department of

Disability Services at 303-871-2278 or visit the program's website at:
<http://www.du.edu/disability/dsp/>

UNIVERSITY OF DENVER HONOR CODE

All members of the University of Denver are expected to uphold the values of *Integrity, Respect,* and *Responsibility*. These values embody the standards of conduct for students, staff, faculty, and administrators as members of the University community. The *Honor Code* is designed so that responsibility for upholding these principles lies with the individual as well as the entire community.

The *Honor Code* fosters and advances an environment of ethical conduct in the academic community of the University, the foundation of which includes the pursuit of academic honesty and integrity. Through an atmosphere of mutual respect we enhance the value of our education and bring forth the highest standard of academic excellence. Members of the University community, including students, faculty, staff, administrators and trustees, must not commit any intentional misrepresentation or deception in academic or professional matters.

Violations of these policies include, but are not limited to:

- **Plagiarism**, including any representation of another's work or ideas as one's own in academic and educational submissions.
- **Cheating**, including any actual or attempted use of resources not authorized by the instructor(s) for academic submissions.
- **Fabrication**, including any falsification or creation of data, research or resources to support academic submissions.

The *University of Denver Honor Code Procedures Governing Students*, available at www.du.edu/honorcode, shall govern and be followed in the case of any student at the University who is accused of violating the *Honor Code*.

SUGGESTIONS FOR DOING WELL IN MFJS 4300

Many students find the law to be a challenging subject to master. There is a significant amount of material to learn in this course, and many legal concepts are complicated and not easy to understand unless you digest them over time. Therefore, you should avoid "cramming" for this class. Prepare for class each day and be ready to ask questions if something in the reading was problematic. Download PowerPoint slides before lecture, print them out, and use them to assist your note taking. The PowerPoint slides alone will not provide you with all of the information you need to do well in this class, but they will assist you in organizing your notes and focusing on key points. In addition, many students find it easiest to learn the concepts we will discuss in class by focusing on the stories behind the cases. ***The important aspect of each case is the court's ruling, but the facts of the case may remind you of what the court held in cases we discuss.*** The law is about more than just laws. It is about people, people who, for one reason or another,

ended up at the center of a court case about free expression. Focus on these people and their stories and you will find the facts and findings easier to remember. Finally, and **most importantly**, be sure to come to office hours immediately if you feel you are falling behind or you are having difficulty with the material. I am always here to help.

TENTATIVE COURSE SCHEDULE

(M&L= Middleton & Lee, www = a reading available from a website, BB= a reading available on our course Blackboard site)

WEEK I

- M: 9/9** **Introduction, Syllabus, Sources of Law & U.S. Court Systems**
BB: Syllabus
M&L: Chapter 1 & Appendix A, "Finding and Reading the Law"
www: "Understanding Federal Courts," at
<http://www.uscourts.gov/FederalCourts.aspx>
**Read the pages under Structure and Function of the Federal Judiciary. You are also encouraged to browse the other tabs, particularly those under Supreme Court of the U.S., U.S. Courts of Appeals and U.S. District Courts.*
www: "Colorado's State Court System," at
<http://www.courts.state.co.us/Courts/Index.cfm>
**Read the general information on this page. Click on "Supreme Court" and "Court of Appeals." Be sure to read the information on the initial pages. You are also encouraged to browse the tabs on the left to learn more about your state's judicial system.*
- W: 9/11** **U.S. Court Systems (cont'd)**
M&L: Chapter 1 (cont'd)

WEEK II

- M: 9/16** **Legal Research Methods**
BB: "Proposal Preparation," "A Legal Research Primer" & "Paper Instructions"
- W: 9/18** **Philosophy & History of the American System of Freedom of Expression**
M&L: Chapter 2

WEEK III

- M: 9/23** **Philosophy & History of the American System of Freedom of Expression (cont'd)**
M&L: Chapter 2 (cont'd)
Paper Proposal & Preliminary Bibliography Due
Email to derigan.silver@du.edu by 5:59 PM.
- W: 9/25** **Methods of Control**
M&L: Chapter 3

WEEK IV

- M: 10/30** **Obscenity and Indecency**
 M&L: Chapter 9
- W: 10/02** **Obscenity and Indecency (cont'd)**
 M&L: Chapter 9 (cont'd)
 ****Exam One will be emailed to you****
- F: 10/04** ****Exam One due 11:59PM****

WEEK V

- M: 10/07** **Intellectual Property: Copyright & Trademark Law**
 M&L: Chapter 6
- W: 10/09** **Intellectual Property: Copyright & Trademark Law (cont'd)**
 M&L: Chapter 6 (cont'd)

WEEK VI

- M: 10/14** **Commercial Speech**
 M&L: Chapter 8
- W: 10/16** **Commercial Speech (cont'd)**
 M&L: Chapter 8 (cont'd)
 www: FTC Policy Statement on Deception, at
<http://www.ftc.gov/bcp/policystmt/ad-decept.htm>
 www: FTC Policy Statement Regarding Advertising
 Substantiation, at <http://www.ftc.gov/bcp/guides/ad3subst.htm>
 www: FTC Guides Concerning Use of Endorsements and
 Testimonials in Advertising, at
<http://www.ftc.gov/bcp/guides/endorse.htm>
 * **Introduction, Literature Review, Research Question(s) Due***
 Email to derigan.silver@du.edu by 5:59 PM

WEEK VII

- M: 10/21** **Political & Corporate Speech**
 M&L: Chapter 7
- W: 10/23** **Political & Corporate Speech (cont'd)**
 M&L: Chapter 7 (cont'd)
 ****Exam Two will be emailed to you****
- F: 10/25** ****Exam Two due 11:59PM****

WEEK VIII

M: 10/28 Defamation
M&L: Chapter 4

W: 10/30 Defamation (cont'd)
M&L: Chapter 4 (cont'd)

WEEK IX

M: 11/05 Privacy
M&L: Chapter 5

W: 11/06 Privacy
M&L: Chapter 5 (cont'd)

WEEK X

M: 11/11 Protection for Sources, Notes and Tape
M&L: Chapter 11

W: 11/13 Course wrap-up & course evaluations
****Final Exam will be emailed to you****

YOUR FINAL EXAM IS DUE SUNDAY NOVEMBER 17 BY 11:59 PM!

YOUR FINAL PAPER IS DUE WEDNESDAY NOVEMBER 20 BY 11:59 PM!