

**MEJO 448**  
**Freedom of Expression**  
School of Media and Journalism  
University of North Carolina at Chapel Hill  
Fall 2019

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- Class Meets:** 3 p.m. to 4:15 p.m.  
Mondays & Wednesdays
- Texts (required):** FIRE GUIDE TO FREE SPEECH ON CAMPUS, 2<sup>ND</sup> EDITION. AVAILABLE FOR FREE DOWNLOAD AT: [HTTPS://WWW.THEFIRE.ORG/FIRST-AMENDMENT-LIBRARY/SPECIAL-COLLECTIONS/FIRE-GUIDES/FIRES-GUIDE-TO-FREE-SPEECH-ON-CAMPUS-3/](https://www.thefire.org/first-amendment-library/special-collections/fire-guides/fires-guide-to-free-speech-on-campus-3/) (ALSO AVAILABLE IN PRINT FROM AMAZON FOR \$3.95.)
- RICHARD DELGADO & JEAN STEFANCIC, MUST WE DEFEND NAZIS? HATE SPEECH, PORNOGRAPHY AND THE NEW FIRST AMENDMENT (2018)
- MARY ANNE FRANKS, THE CULT OF THE CONSTITUTION (2019).
- NADINE STROSSEN, HATE: WHY WE SHOULD RESIST IT WITH FREE SPEECH, NOT CENSORSHIP (2018).
- KEITH E WHITTINGTON, SPEAK FREELY: WHY UNIVERSITIES MUST DEFEND FREE SPEECH (2018).
- CASS SUNSTEIN, #REPUBLIC: DIVIDED DEMOCRACY IN THE AGE OF SOCIAL MEDIA (2018)

## **The Course**

Not since World War I have the boundaries of the First Amendment been so tested. From the halls of Congress to the stairs of the UNC Pit, the First Amendment is at the heart of national debates about student expression, national security, health, governance, and daily life in general. This class, open to all students on the UNC campus, will explore 21<sup>st</sup> century pressures on the boundaries of the First Amendment, with special emphasis on contemporary issues and campus life. Students will produce and publish engaged research projects relevant to their interests.

**AEJMC VALUES AND COMPETENCIES: The School of Journalism and Mass Communication's accrediting body (AEJMC, The Association for Education in Journalism and Mass Communication) outlines a number of values you should be aware of and competencies you should be able to demonstrate by the time you graduate from our program. Learn more about them here:**

<http://www2.ku.edu/~acejmc/PROGRAM/PRINCIPLES.SHTML#vals&comps>

## **Learning Outcomes**

- Understand the scope, boundaries and pressures on the First Amendment in 2019, with special emphasis on student expression.
- Understand the theoretical underpinnings of the First Amendment and how the courts rely on the role of the marketplace of ideas in First Amendment jurisprudence.
- Expose students to differently-minded peers across political, social, and economic lines – a key theoretical piece of First Amendment theory and jurisprudence.
- Create and foster a critical marketplace of ideas, exploring differences and creating tolerance for those differences and healthy debate.
- Read, explore and debate great books and articles about the First Amendment and current discussion about the role of the First Amendment on campus.
- Conduct and evaluate primary and secondary research about the First Amendment and free expression.
- Produce an outstanding and reflective journalism project (or research paper for grad students in the class) on an important First Amendment issue based on primary and secondary research.

## **Reading & Our Expectations**

Careful and sustained reading is necessary for this course. Readings will be from the text, from articles in class and from readings posted online. You will receive guidance on what you should be reading in each class. Therefore, attendance is critical because reading assignments will depend on our in-class progress. I will offer insight on key concepts for the work in this course, but I am relying on you to do the reading to learn. In other words, I will minimize lecture in this course; in this way, the class is flipped. I

will offer guidance on key concepts to know and understand to help complete assignments in the course.

### **Professionalism, Attendance and Ethics**

The law does not operate in a vacuum. It is shaped, studied and molded by professionals who are required to show up on time in court, at hearings, meetings and in other settings. When professionals are unable to attend these proceedings, they alert each other about the reasons and make plans accordingly. I expect the same professionalism from you in this class. Therefore, these are the following requirements for our classroom atmosphere:

#### 1. Attendance

Attendance is essential. We meet only twice a week so attendance is even more important. There is a clear correlation between class attendance and grades. I will be taking attendance and taking note of those who repeatedly walk in late. I won't be talking to you about it because we are adults and my expectations here are clear. I will just take note and that will be reflected in the professionalism part of the grade.

#### 2. Class Environment

I'm very in tune with the general mood and atmosphere of the classroom and am eager to build a relationship with you and foster relationships among students within the class. To do this well, there is a certain level of interpersonal respect we need to encourage!!

Therefore:

- Smartphone use is prohibited. This includes under the desk or in your lap. Phones should be out of sight and silent. Please practice restraint.
- I want to discourage laptops. After both experimentation and reviewing pedagogical research, I am convinced more than ever about our inability to remain attentive in front of the machines. We'll discuss this as a group.
- The study of free speech requires more tolerance and understanding than the study of some other subjects. Indeed, there is an entire theory of the First Amendment that is based on the principle of tolerance. There are and will be many political and social views in our class. This makes it the perfect place to talk about free speech, but it can also create tensions. Tensions are good. What we don't want are tensions that escalate into "fighting words" or "speech that creates a chilling effect" on other students. (Stay tuned and we'll talk about these concepts.) We want to create an atmosphere in which students feel safe to talk and in which they feel heard, even if other students do not agree with their views.

The University is committed to fostering a diverse and inclusive academic community, and prohibiting discrimination and harassment. Please review the University policy

statements on diversity and inclusivity, and prohibited harassment and discrimination, both in *The Undergraduate Bulletin* at <http://www.unc.edu/ugradbulletin/>.

In particular, we need to understand that our classmates differ from us in race, ethnicity, gender, political persuasion, sexual orientation, class, age, ability and religion. We want to create an inclusive atmosphere. While we want to encourage free speech in the classroom, courts have been very clear that speech that disrupts a classroom environment may not be tolerated. Let's not even go there. We want to create a room that embraces our differences and helps us learn through those differences.

### 3. Deadlines

As a former journalist, I am serious about deadlines. I dock assignments one grade for every day they are late. There is no wiggle room here unless you are hospitalized or incarcerated.

### 4. My commitment to you:

As lawyers will tell you, a contract like this is not a one-way street. **Therefore, in return for your active attention, professionalism and participation in class, I pledge to:**

- Work hard to keep the class engaging, interesting and relevant to your studies.
- Make time for active participation and explore topics and subjects that the class directs.
- Take breaks when classroom lethargy seems suddenly unbearable!
- Keep to our schedule. But if we need to change our schedule, I pledge to promptly alert you to changes and negotiate such changes with you, with reasonable timeframes, alternatives, etc.
- Be fair and equitable in my/our treatment of all students and in grading.
- Listen carefully to your concerns about the course.
- Support you in your UNC endeavors and your plans after graduation.
- Make time to talk to you about your concerns so that we can come to reasonable solutions (and you are not cursing me in the shower!) 😊

## Course Requirements

	<u>%</u>	<u>Points</u>
Reading Response & Debate	30%	300
Free Expression Media Group Project	60%	600
1. Group Work Dynamics (20%)		(120)
2. Individual Topic Memo/Proposed Idea (5%)		(30)
3. Annotated Literature Review, Source List & Other Research (10 %)		(60)
4. First Draft (10%)		(60)
5. Final Draft (50%)		(300)
6. Presentation (5%)		(30)
Professionalism, Discussion, Group Work, Participation & Attendance	10%	100
	100%	1000

### **FREE EXPRESSION MEDIA PROJECT/PAPER:**

The class will work in groups to create and conduct campus-wide research about free expression and the First Amendment. Then groups will propose an original and individual media project based on the research. Projects can range from a 3,000-word feature length story to a multimedia production to publishable journal research. There will be some flexibility here but students must demonstrate that their idea will meet the rigorous requirements and course outcomes for the class. More information will be forthcoming, and the project will be conducted in stages with due dates at various points during the semester.

In particular, our goal is to raise awareness about free expression and First Amendment issues on our campus. Furthermore, our goal is to create projects for your portfolios and for discussion with potential employers. I want to encourage undergraduates to craft a project that can be submitted to the Office of Undergraduate Research's Celebration of Undergraduate Research. Submissions are due in spring semester around March 1. Acceptance to such a conference can be added to your resume, and there will be the opportunity to win awards. For more details, see: <https://our.unc.edu/celebration-of-undergraduate-research/>.

[MA/JD students will be producing a 20 to 25-page paper, including footnotes or endnotes, following Blue Book style. Students will develop a set of research questions related to the topic, and then to read and analyze primary legal materials (e.g., court decisions, congressional hearings, or statutes) to answer the research questions. Your paper could conclude with a set of guidelines or best practices for people in your

business. MA/JD students should be submitting their work to the Southeast AEJMC conference. The deadline is usually in early December.]

To help ensure your success, you will work on your final project in several stages as outlined below.

Stage 1	Research: Students will propose questions for campuswide interviews the class will conduct regarding attitudes and understanding about campus student expression and the First Amendment.
Stage 2	Topic Memo: You will produce a topic memo that proposes a group project about a free expression issue that builds on the research/interviews that you will conduct.
Stage 3	Conduct secondary research on your topic. Submit annotated bibliography and transcripts. MA/JD students will submit their introduction and literature review.
Stage 4	First Draft of project due. MA/JD students will submit a revised intro, lit review and RQs.
Stage 5	Final Draft of project/paper due
Stage 6	Presentation

### Grading

Generally, grades for undergraduates will be assigned based on the following criteria:

- A = 925-1000 points**
- A- = 890-924 points**
- B+ = 870-889 points**
- B = 820-869 points**
- B- = 790-819 points**
- C+ = 760-789 points**
- C = 720-759 points**
- C- = 690-719 points**
- D+ = 660-689 points**
- D = 590-659 points**
- F = 589 points and less**

For graduate students:

**H (clear excellence and superiority):** The grade of “H” is earned by students who clearly, convincingly and constantly demonstrate a superior ability to critically analyze, synthesize and apply assigned readings through class discussion and all written examinations; and who produce outstanding legal research that demonstrates a superior ability to formulate and conduct an original legal research project. Students produce research that uses a variety of highly relevant and appropriate secondary and

primary legal sources, contributes substantial and original knowledge to the field, and is well-documented and sourced. Students are active participants who always meet deadlines. **“H” students usually represent the top 2-3% of the class. That means in a class of 10 people, only two to three people will receive an H. These are the room’s top performers.**

**P (entirely satisfactory):** The grade of “P” is earned by students who consistently demonstrate a clear and substantial ability to critically analyze, synthesize and apply assigned readings through class discussion and all written examinations; and who produce sound legal research that demonstrates a clear and substantial ability to formulate and conduct an original legal research project. Students use sufficient, relevant and appropriate secondary and primary legal sources and contribute original knowledge to the field, using well documented sources. Students participate and meet deadlines. **In class of 10 people, usually 6 to 7 people will receive a P.**

**L (low passing):** The grade of “L” is earned by the student who demonstrates substantial achievement of most requirements necessary for the grade of “P” but has not fully demonstrated sufficient achievement in each area necessary to earn the higher grade. The grade of “L” is earned by the student who achieves the minimum passing requirements for all components of the course but whose work is, on average, below the level of being worthy of the grade of “P.”

**F (failure):** The grade of “F” is reserved for the student who has not completed assigned readings or other assignments, and fails to meet the minimum requirements for each examination, the legal research project and class participation. Students rarely participate, miss class, stay below the radar, fail to communicate effectively with the instructor and their peers and miss deadlines.

*Attribution: These descriptions are based in part on those prepared by Drs. Jane Brown, Pat Curtin and Rhonda Gibson.*

### **Honor Code**

The Honor Code and the Campus Code, embodying the ideals of academic honesty, integrity and responsible citizenship, have for over 100 years governed the performance of all academic work and student conduct at the University. Acceptance by a student of enrollment in the University presupposes a commitment to the principles embodied in these codes and a respect for this most significant University tradition.

Your participation in this course comes with the expectation that your work will be completed in full observance of the Honor Code. Academic dishonesty in any form is unacceptable, because any breach in academic integrity, however small, strikes destructively at the University's life and work.

The [Instrument of Student Judicial Governance](#), which contains the provisions of the Honor Code, states that students have four general responsibilities under the Code:

1. Obey and support the enforcement of the Honor Code;
2. Refrain from lying, cheating, or stealing;
3. Conduct themselves so as not to impair significantly the welfare or the educational opportunities of others in the University community; and
4. Refrain from conduct that impairs or may impair the capacity of University and associated personnel to perform their duties, manage resources, protect the safety and welfare of members of the University community, and maintain the integrity of the University.

The [Instrument](#) defines plagiarism as "deliberate or reckless representation of another's words, thoughts, or ideas as one's own without attribution in connection with submission of academic work, whether graded or otherwise."

Please submit all written work with the following pledge: "On my honor, I have neither given nor received unauthorized aid on this assignment."

#### **Inclement Weather Policy**

If the campus is open, class will take place. Any other cancellations will be posted online before 9 a.m.

#### **Disability/Accommodations**

If you are a student with a documented disability OR a student with a unique personal situation (e.g. – a terminally ill family member or you are struggling with depression, etc.), please talk to me or email me during the first two weeks of class so that we can work together to make your experience in this class a success. I am very happy to work with you to make the necessary and reasonable accommodations. While I prefer to have documentation from Accessibility Resource Services (ARS) to help you, there are times when students have a short-term medical issue or family crisis and don't report that to ARS. I am happy to have these conversations with you and provide reasonable accommodations as required by law. I cannot, however, accommodate you to the point that it would be unfair to other students in the class – or to the point in which you will miss important material in the course. But there are many possibilities, and I urge you to come speak to me earlier rather than later in the semester. I cannot help you in this regard if you come to me at the last minute.

Students who may need academic accommodations and associated resources, like extended testing time, must contact the Department of Accessibility Resources and Service (ARS) in a timely manner to determine whether and to what extent such accommodations or resources are necessary for this course. However, only ARS can make this determination for you – not your professor. It is the goal of UNC to "ensure that all programs and facilities of the University are accessible to all members of the

University community.” If you think this might apply to you, please contact ARS confidentially as soon as possible either by telephone at 962-8300 or visit the ARS website at <http://accessibility.unc.edu/about-us> for additional information. Please know that I am fully committed to this policy and will abide by any recommendations ARS may make for you for this course.

## MEJO 448 Annotated Schedule

### See full schedule on Sakai site along with assignments and readings

I have our first month scheduled in detailed here, with important subsequent due dates listed. Other readings and activities for October and November will be posted to sakai as we add in guest speakers and other plans. I will be sure to give you full and fair notice.

#### Before Aug. 21, please read:

In the News: <https://www.cbsnews.com/news/sessions-slams-liberal-colleges-for-fostering-sanctimonious-sensitive-snowflakes/>  
<https://www.theatlantic.com/politics/archive/2017/09/it-takes-a-nation-of-snowflakes/541050/>  
<https://www.chronicle.com/article/How-to-Keep-Violent-Speech-Off/243644>  
HB 527: <https://www.ncleg.net/Sessions/2017/Bills/House/PDF/H527v6.pdf>

**Aug. 21**      Introductions  
                  Dr. E/Kriste Patrow  
                  Your classmates  
                  The class and the requirements  
Read by Aug. 26: FIRE book, respond to prompts on Sakai by Aug. 26  
Read for Aug. 26: UNC survey  
Read for Aug. 26: State of First Amendment Survey:  
<https://www.freedomforuminstitute.org/first-amendment-center/state-of-the-first-amendment/>

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**Aug. 26**      Discuss FIRE book & surveys (with Dr. E)  
                  Basics of the First Amendment  
                  Read: Interviewing articles, respond to prompts, due Sept. 4

**Aug. 28**      Crash Course on Research Interviewing & IRB (with Kriste Patrow)  
                  Form and begin group work

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**Sept. 2**      Labor Day – No Class

**Sept. 4**      Research work – Meet in Groups – Submit proposed research and questions by Sept. 9 on sakai (Stage One due)  
                  Begin reading: *Speak Freely* and *Must We Defend Nazis?*

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Sept. 9	Finalize Research approach in class
Sept. 11	<b>Research Questions due (Stage One)</b> Selecting a topic for your group project/paper
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Sept. 16	More First Amendment Basics <b>Topic Memo due (Stage Two)</b>
Sept. 18	Groups meet on <i>Speak Freely</i> and <i>Must We Defend Nazis?</i> Books In class (and graded) work on the books Start reading <i>Hate</i> and <i>Cult of the Constitution</i>
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Sept. 23	Groups debate <i>Speak Freely</i> and <i>Must We Defend Nazis?</i> Books in class
(Sept. 24)	First Amendment Day!
Sept. 25	Doing Secondary Research (Kriste)
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Sept. 30	Group research meetings
Oct. 2	Groups meet on <i>Hate</i> and <i>Cult of the Constitution</i> In class (and graded) work on the books
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Oct. 7	Groups debate <i>Hate</i> and <i>Cult of the Constitution</i>
Oct. 9	Group research meetings
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Oct. 14	<b>Annotated Lit Review or Full Lit Review Due (Secondary Research)</b> <b>(Stage 3)</b> Begin reading Republic.com
Oct. 16	
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Oct. 21	Groups meet on Republic.com In class and graded work
Oct. 23	Groups debate Republic.com
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Oct. 28	
Oct. 30	
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Nov. 4  
Nov. 6

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Nov. 11      **Stage 4 – First Drafts Due**  
Nov. 13

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Nov. 18  
Nov. 20      No class, Thanksgiving Break

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Nov. 25      **Final Drafts - Peer/Professor Workshop**  
Nov. 27      Thanksgiving

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Dec. 2  
Dec. 4      **Stage 5 - Papers/Projects Due**

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Dec. 7      4 p.m.-7 p.m.  
**Saturday**      **Stage 6 - Presentations Due**