

Introduction to Media Law
MEJO 340.01
Fall Term 2019
University of North Carolina at Chapel Hill
School of Media and Journalism

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Office hours: Immediately after class and other times by appointment.

Course objectives: The First Amendment is the philosophical foundation for freedom of speech and press in America. This course distinguishes between forms of communication that have constitutional protection and those with limitations (libel, privacy, copyright, censorship, commercial speech, broadcast licensing, access to information).

The School of Media & Journalism's accrediting body, The Association for Education in Journalism and Mass Communication (AEJMC), outlines a number of values you should know 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>

No single course could possibly give you all of these values and competencies; but collectively, our classes are designed to build your abilities in each of these areas. In this class, we will focus on the following values and competencies:

Learning Outcomes:

- Understand the origins and theory of the First Amendment and how the law and the court systems work.
- Understand concerns about censorship in a democracy and how the law protecting against prior restraint is the backbone of the First Amendment.
- Understand more advanced legal concepts such as privacy and reporter's privilege, how they are contested in the age of "new" media and what those challenges look like "on the job."
- Be able to apply legal tests to new scenarios and hypotheticals.
- Be able to read a case and identify its key components.
- Understand and appreciate that changes in First Amendment law are almost always the result of social struggle in the United States.
- Know the elements of libel and privacy claims, learn to avoid such claims and be prepared to defend oneself in the face of such claims.
- Think creatively and speak knowledgeably about how mastery of media law will help you in your career in journalism/new media.

Class location: Carroll Hall 33

Notice of changes: This course syllabus is a general plan for the course; deviations announced to the class by the instructor may be necessary.

Texts

This course will use the following textbook:

1. *The Law of Journalism and Mass Communication*: 6th edition, Trager, Ross & Reynolds, Sage Publishing, 2018

Make sure you get the 6th edition, as the law changes frequently and there have been significant updates since publication of the previous versions.

The following textbook is optional. It is not required. Some students have found it useful in preparation for the exams:

1. *N.C. Media Law Handbook* 2012 edition, available at www.ncmedialawhandbook.com

POLICIES

Course Work

This course is an ongoing discussion. It will require a significant amount of reading, as does any course in the law. Students need to pay close attention to the reading, and need to have completed the reading prior to the day it is assigned. Otherwise our discussion will not be productive. Most of the assignments are listed in the syllabus, although additional assignments may be posted to Sakai.

Quizzes will be given on a regular basis via Sakai. They will be posted 48 hours prior to the beginning of class. Once you open the quiz, you will only have 30 minutes to complete it. The quizzes will close 30 minutes prior to the start of class so that I can review the results and we can discuss the quiz in class. So don't wait until the last minute to try to take the quiz!

There will be three examinations, including a comprehensive final examination.

Course participation will be in part based on how well you do when it is your panel's turn to answer questions. I will divide the class up into different panels of students and post the panel assignments to Sakai. Each week the members of a specific panel will be expected to answer questions about that week's material. Any student can answer, of course, but those students will be on notice that they are likely to be called on during that week.

Grading:

Quizzes	100 points	A: 465+ points
First examination	100 points	A-: 450-464 points
Second examination	100 points	B+: 435-449 points
Final examination	175 points	B: 415-534 points
<u>Class participation</u>	<u>25 points</u>	B-: 400-414 points
Total	500 points	C+: 385-399 points
		C: 365-384 points
		C-: 350-364 points
		D+: 335-349 points
		D: 300-334 points
		F: 0-299 points

A = 93 or higher, A- = 90 to 92, B+ = 87 to 89, B = 83 to 86, B- = 80 to 82, etc.

Attendance Policy:

Class starts at 12:30 p.m. Students are expected to be present and in their seats. Roll will be taken at the beginning of class. If you are late, it is your responsibility to see me after class. You will be allowed two absences without penalty. That's an entire week of class. You do not need to provide any excuse or explanation for these absences. Use them judiciously in case you unexpectedly need to miss a class due to emergency, illness or other reasons. For each additional absence, your final grade will be reduced by two percentage points. Five absences or more will result in an automatic F for the course.

I do not generally excuse absences on the days of exams. If you are ill on an examination day, in order to reschedule your examination, I require documentation from a medical provider that you are/were too ill to come to class.

That said, if you're having a medical emergency, please seek medical attention and we'll deal with the class later. Likewise if you come down with the flu; go see your doctor, not me.

Examination Policy :

With very limited exception, I do not excuse absences on the days of exams. If you are ill on an examination day, in order to reschedule your examination, I require documentation from a medical provider that you are/were too ill to come to class.

Students are allowed to bring a single sheet – standard 8 ½ x 11 paper – of notes into examinations. The notes must be handwritten by the student. For the first two exams students may only use one side of the paper. Note sheets must be turned in with the exams.

Inclusivity statement:

The nature of this course is one that requires us to discuss from time-to-time speech that can be difficult to hear. We will discuss historical and current events that include the use of coarse, hateful and derogatory speech toward people of varying backgrounds, and that speech is often coming from places of both male and white privilege.

I also have a goal of creating an inclusive learning environment that supports a diversity of thoughts, perspectives and experiences, and honors your identities (including race, gender, gender identity class, sexuality, religion, nationality, ability, etc.) Sometimes discussion of these events creates tension with that goal.

My commitment to you is that I will do my best to present these topics in a straightforward, matter-of-fact way and focus on the legal limitations and implications of such speech.

Additionally, to accomplish the creation of an inclusive learning environment, I offer the following:

- If you have a name and/or set of pronouns that differ from those that appear in your official UNC records, please let me know. I am committed to using pronouns that are consistent with your identity.
- If you feel like your performance in the course is being affected by your experiences outside of class, please don't hesitate to come and talk with me. I want to be a resource for you.
- I, like many people, am still in the process of learning about diverse perspectives and identities. If something was said in class, by anyone, that made you feel uncomfortable, please talk to me about it.

Students with extraordinary challenges:

If you are a student with a documented or suspected disability that might affect your ability to participate in this course, please contact the Department of Accessibility Resources and Services (ARS) to determine what accommodations may be needed for this course. The staff there will develop a plan to address your needs. Present me with documentation from disabilities within the first two weeks of class and we will discuss ways the course may be adjusted. If you need information about disabilities and accommodations, visit the Learning Center website at <http://learningcenter.unc.edu/ldadhd-services/> or call 919-962-3782. Relevant policy documents related to registration, accommodations determinations, and student registration forms are available on the ARS website at <https://ars.unc.edu/about-ars/policies>.

Children in the classroom:

My goal is to create a welcoming classroom environment for a diverse student population, including parents. I recognize that parents of small children may from time to time run into childcare coverage issues.

Infants are always welcome in my classroom, without question, and parents who need to nurse or bottle feed should not be afraid to do so during class if the child's needs demand it.

Older children are welcome as well when a childcare emergency arises, as long as the children don't become excessively disruptive. I ask parents who need to occasionally bring their older children to class to sit near the door so that if the child needs to step out it will be less disruptive.

I expect other students in the class to understand and support their classmates who have children by being understanding of an occasional disruption.

I also recognize that one of the greatest barriers to the parent of a young child continuing their education is the lack of sleep that accompanies parenthood. I hope you will feel comfortable disclosing your parent-student status to me should that begin to create a problem in your work in this course. Disclosure is the first step toward me being able to accommodate the special needs that arise for parents. I hold all students to the same high standards, but if I don't know about the problem I cannot help problem solve.

Schedule:

Week 1 – The Court System

Reading: Course Syllabus & Chapter 1,

Case: *Marbury v. Madison*

Tues – 8/20: Course Introduction

Thurs – 8/22: The Court System

Week 2 – The First Amendment – Panel A

Reading: Chapter 2, “Toward a General Theory of the First Amendment” by Thomas Emerson:

http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3769&context=fss_papers (Read the first 11 pages, or pages 877-886 in the Journal's pagination)

“After the El Paso and Gilroy shootings, tech leaders are saying platforms must stop amplifying hate speech,” Shirin Ghaffary, Vox, Aug. 13, 2019

<https://www.vox.com/recode/2019/8/13/20804193/build-tech-we-trust-el-paso-gilroy-mass-shootings-tech-leaders-platforms-amplifying-hate-speech>

Case: *New York Times Co. v. United States*

Tues – 8/27: Theories of Freedom of Expression

Thurs – 8/29: Hierarchy of Speech

Week 3 – Speech Distinctions – Panel B

Reading: Chapter 3 (Up to Speech in the Schools Section)

In re: Custodial Law Enforcement Recording Sought by the City of Greensboro, N.C. Court of Appeals, Aug. 6, 2019 <https://appellate.nccourts.org/opinions/?c=2&pdf=38149>

Tues – 9/3: Prior Restraints & National Security

Thurs – 9/5: Speech & Harm

Week 4 – Distinctions Cont'd & Electronic Media Regulation – Panel C

Reading: Chapter 3 (Speech in the Schools section) Case: *Tinker v. Des Moines*, Chapter 9 (First three sections)

Tues – 9/10: Speech in Schools

Thurs – 9/12: Broadcast Regulation

Week 5 – Panel D

Reading: Chapter 9 (Last three sections), Chapter 10 (First two sections)

Tues – 9/17: Regulating Cable & The Internet

Thurs – 9/19: Obscenity

Week 6 – Indecency – Panel E

Reading: Chapter 10 (remaining sections), Case *FCC v. Pacifica Foundation*

Tues – 9/24: Indecency

Thurs – 9/26: **Exam 1**

Week 7 – Libel – Panel F

Reading: Chapter 4 Case: *New York Times v. Sullivan*

Tues – 10/1: Elements of Libel

Thurs – 10/3: Elements of Libel cont'd and IIED

Week 8 Libel Defenses– Panel A

Reading: Chapter 5 Case: *Milkovich v. Lorain Journal Co.* “The Fight Over Section 230 – And The Internet As We Know It,” Matt Laslo, WIRED, Aug. 13, 2019 <https://www.wired.com/story/fight-over-section-230-internet-as-we-know-it/>

Tues – 10/8: Truth & Section 230 immunity

Thurs – 10/12: Other defenses

Week 9 – Privacy – Panel B

Reading: Chapter 6 (First two sections and Intrusion section)

Tues – 10/15: Intrusion

Thurs – 10/17: **FALL BREAK**

Week 10 – Privacy – Panel C

Reading: Chapter 6 (The remaining sections) Case: *Cox Broadcasting v. Cohn*

Tues – 10/22: Appropriation

Thurs – 10/24: False light, Private facts & Data Privacy

Week 11 Access to Information — Panel D

Reading: Chapter 7 Case: *Wilson v. Layne*

Tues – 10/29: Access to places, meetings & records

Thurs – 10/31: **Exam 2**

Week 12 – Commercial Speech - Panel E

Reading: Chapter 12, Case: *Central Hudson Gas & Electric v. Public Service Commission*

Tues – 11/5: What is commercial speech

Thurs – 11/7: Advertising regulations & false advertising

Week 13 – Intellectual Property – Panel F

Reading: Chapter 11, Case: *Matel v. Tam*

Tues – 11/12: Copyright

Thurs – 11/14: Infringement

Week 14 – Intellectual Property cont'd

Reading: Chapter 11, Case: *American Broadcasting v. Aereo, Inc.*

Tues – 11/19 – Fair Use – Panels A & B

Thurs – 11/21 – Trademark – Panels C & D

Week 15 – Courts & the Press

Reading: Chapter 8 (First four sections) Case: *Richmond Newspapers v. Virginia*

Tues – 11/26 – Courts & the Press – Panels E & F

Thurs – 11/28 – **THANKSGIVING BREAK**

Week 16 –

Tues – 12/3 – Review (I reserve this day for review, although if we get behind I may only use a portion of it for review so we can use the remainder to catch up. In my review sessions, I do not prepare specific material to cover. Rather, I come with the expectation that you will use this time to ask questions you have remaining at this point in the semester about material we've already covered. In other words – come prepared to ask questions!)

Thurs – 12/5 – **READING DAY**

12 p.m.. Friday Dec 6 - Final Exam