

RPOS 449z (9785) – Spring 2019

Topics in Public Law: Free Speech

Instructor: Stephan Stohler
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Credits: 3

Class: T, Th 1:15PM-2:35PM
Massry Center for Business, Room 8002
Office Hours: Th 2:35-4:15PM (or by appointment)
Humanities Building, Room 016

Course Description

In this writing-intensive seminar, students will investigate free speech issues in the twenty-first century. Constitutional democracies have reached divergent rules governing free expression in response to a range of ongoing controversies, including: the influence of money and offensive discourse in democratic elections, unpopular political views aired on college campuses, whether and to what extent disturbing images or false news can be restricted on the internet, to what extent media organizations can liberate themselves from government regulation; and whether citizens possess a right to know. Students will examine these ongoing debates from a comparative perspective. Students will also write a substantial research paper on a topic related to free speech or a free press.

Student Focused Learning Objectives

In this course students will master the following learning objectives:

1. Analyze legal documents;
2. Summarize and criticize scholarly arguments;
3. Ask relevant legal and social-science questions;
4. Conduct scholarly research;
5. Provide feedback on colleagues' writing; and
6. Write and revise multiple drafts of the same essay.

Requirements

This course fulfills the advanced writing-course requirement for political science majors. To pass the course, students must demonstrate the capacity to write a persuasive essay. Students are required to conduct scholarly research, examine legal and scholarly materials in addition to assigned readings, and submit three drafts of a persuasive essay. Students are also expected to provide feedback on colleagues' work as well as participate in class discussion.

Materials

All materials will be made available via the course Blackboard website.

Grading & Evaluations

Grades will be determined by student performance on class participation, response papers, a presentation, and the research paper. The respective weights are listed below:

Component	Value	Due Date
Peer Feedback:	5%	Due before group sessions
Paper Prospectus:	5%	Due by class on February 14, 2017
Participation:	10%	Assessed throughout the course
First draft:	15%	Due by class on March 5, 2017
Second draft:	15%	Due by class on April 9, 2017
Final draft:	50%	Due by class on May 7, 2017

Please send all assignments via email to sstohler@albany.edu.

The grading scale will be as follows:

Grade	Points
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	63 - 66
D-	60 - 62
E	Below 60

If you feel you have been awarded an unfair grade, you may contest it. However, if you want to do so, it must be done in writing and no sooner than 48 hours after you have received the grade. In your written complaint you need to provide a specific account of what in particular you are concerned about.

Policies

Plagiarism is 1) the act of duplicating another person's ideas or language and 2) claiming ownership over those ideas or language. Any written submissions you make in this course are deemed to be your own unless attribute them to someone else. In each of those assignments, you will find it useful – if not necessary – to invoke the ideas of others to further your own arguments. Students are expected to do so, but students **must** indicate which ideas they have 'borrowed' from other sources. Students are expected to complete the University's online course if they have not done so already. The course is available here:

<http://library.albany.edu/infolit/integrity>.

One easy way to avoid any plagiarism is to use quotation marks to signal that students have used someone else's language. In a paper, for example, in which a student defines the so-called 'clear

and present danger test,' she may assert that governments cannot "forbid or proscribe advocacy of the use of force or of law violation except were such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action" (Brandenburg v. Ohio, 395 U.S. 444, 447 (1969)). Students are not expected to learn proper legal citation style in this course. A simple citation to the casebook will suffice if a student asserts the same proposition above (Shiffrin & Choper 2011, 43). Students are highly encouraged to use a similar citation style if they paraphrase someone's idea and you do not have any need for quotation marks. If you have questions about this, do not hesitate to ask. ***Failure to attribute others' ideas constitutes plagiarism and will result in a failing grade, dismissal from the course, and further disciplinary action.***

More generally, student participation in this course is governed by the University's Standard of Academic Integrity. Those standards are outlined here:

https://www.albany.edu/undergraduate_bulletin/regulations.html.

The Standard of Academic Integrity prohibit students from submitting the same work in multiple courses. ***Failure to comply with the Standard of Academic Integrity will result in will result in a failing grade, dismissal from the course, and other academic discipline by the University.***

Reasonable accommodations will be provided to students who required them, but I ask that you notify me early in the semester. In addition, please request that the Disabilities Resource Center contact me regarding your situation to provide documentation.

Requests for deadline extensions will be granted 1) only in the most compelling and rare circumstances; and 2) only if the extension is requested in advance of the deadline. Medical absences must receive University approval before accommodations can be made. Please contact the Undergraduate Dean to initiate this process.

The University guidelines governing incomplete grades can be found here:

<https://www.albany.edu/undergraduateeducation/grading.php>.

Requests for incomplete grades will only be granted only in rare circumstances and only when the student has *nearly* completed the course requirements but is unable to complete the remaining requirements *because of circumstances beyond the student's control*.

Course Outline

Thursday, January 24 Introduction

Tuesday, January 29 Survey Results and Paper Ideas

1. **Assignment:** complete the class survey by Monday, 28 January 2019 at 11AM. The survey link will be provided to you via email.
2. **Assignment:** write a one-page summary of the paper you would write for this course if you were forced to decide right now. Please identify the argument you would make (you do not have to be right) and why the argument is important. Please send your paper as a .docx file to sstohler@albany.edu by Monday, 28 January 2019 at 11AM.

Thursday, January 31 Class Canceled

Tuesday, February 5 The US Supreme Court Encourages Some Information in Elections

1. *Citizens United v. FEC* (2010)
2. Gregory P. Magarian, "Letting Money into Elections: *Citizens United* and *McCutcheon*," in *Managed Speech: The Roberts Court's First Amendment* (Oxford: Oxford University Press, 2017), 157–91.

Thursday, February 7 The US Supreme Court Discourages Other Information in Elections

1. *Police Dep't of Chicago v. Mosley* (1972)
2. Gregory P. Magarian, "Keeping Money out of Elections: Government Leveling and Labor Speech," in *Managed Speech: The Roberts Court's First Amendment* (Oxford: Oxford University Press, 2017), 193–226.

Tuesday, February 12 American Progressives Embrace Free Speech

1. *Brandenburg v. Ohio* (1969)
2. Laura Weinrib, "Old Left, New Rights," in *The Taming of Free Speech: America's Civil Liberties Compromise* (Cambridge: Harvard University Press, 2016), 183–225.

Thursday, February 14 American Conservatives Embrace Free Speech

1. *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council* (1976)
2. Lawrence Baum, "Freedom of Expression," in *Ideology in the Supreme Court* (Princeton: Princeton University Press, 2017), 40–84.

Tuesday, February 19 Why Do Some Countries Protect Some Speech . . .

1. Ronald J. Jr. Krotoszynski, *The First Amendment in Cross-Cultural Perspective: A Comparative Legal Analysis of the Freedom of Speech* (New York: New York University Press, 2009)
2. Kevin W. Saunders, *Free Expression and Democracy: A Comparative Analysis* (Cambridge: Cambridge University Press, 2017)

Thursday, February 21 But Others Do Not?

1. Abhinav Chandrachud, *Republic of Rhetoric: Free Speech and the Constitution of India* (London: Penguin Books, 2017).

Tuesday, February 26 There Is a Free-Speech Crisis on Campus

1. Harvey A. Silverglate, David French, and Greg Lukianoff, *Fire's Guide to Free Speech on Campus* (Philadelphia: Foundation for Individual Rights in Education, 2012)
2. Keith E. Whittington, *Speak Freely: Why Universities Must Defend Free Speech* (Princeton: Princeton University Press, 2018)
3. Robert Cohen and Reginald E. Zelnik, eds., *The Free Speech Movement: Reflections on Berkeley in the 1960s* (Berkeley: University of California Press, 2002)

Thursday, February 28 There Isn't a Free-Speech Crisis on Campus

1. "Sean Decatur Doesn't See a Free Speech Crisis on Campus." *The Ezra Klein Show* (Vox Media Network, 17 January 2019) available here:
<https://www.vox.com/ezra-klein-show-podcast>
2. Erwin Chemerinsky and Howard Gillman, *Free Speech on Campus* (New Haven: Yale University Press, 2017)

Tuesday, March 5 Due: First Draft

Assignment: Please submit your first draft as a .docx file via email (sstohler@albany.edu) by 1:15PM.