JOUR 401 First Amendment & Society
Tuesday & Thursday 11:00am – 12:15pm
Ansari Business (AB), Room 201

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Course Web Site: Available at www.benbirkinbine.com (check the sidebar link to course)

Course Description: This course is designed to give an overview of communication and media practices as they relate to (and are shaped by) the law. Students will be introduced to basic legal concepts, judicial processes, and important cases pertaining to communication law. The course will focus on issues related to the First Amendment, free speech, journalistic practices, access to information, commercial speech, privacy, and intellectual property. While the class will primarily focus on laws within the United States, we will periodically compare United States law to other international contexts. Throughout the class, we will focus on how the law is constantly undergoing changes rather than remaining static, and how those changes are subject to interpretation within a particular historical context.

Silver Core: This course satisfies Core Objective 8 (Constitution) of the Silver Core curriculum: Students will demonstrate familiarity with the origins, history, and essential elements of the Constitutions of the United States and Nevada, as well as the evolution of American institutions and ideals.”

Student Learning Outcomes: By the end of the term, students will be able to:
1) define and apply basic legal terminology.
2) distinguish between different stages of the judicial process.
3) identify the elements of case citations and locate case law.
4) demonstrate comprehension of major cases that have shaped our understanding of communication law by analyzing a contemporary or hypothetical legal case and applying relevant legal precedent.
5) demonstrate familiarity with the origins, history, and essential elements of the Constitutions of the United States and Nevada, as well as the evolution of American institutions and ideals.


**Online Companion Web Site: http://www.routledge.com/cw/moore-9780415894623/
**Online version of the book may be available through the library**

Grading and Evaluation: Your letter grade will be determined at the end of the term by your overall performance in the class. In addition to the traditional A, B, C, D, and F grading scale, students should also be aware of the the following marks: W = Officially withdrawn without penalty, and I = Incomplete (only given in exceptional cases).

Grading Scale: A = 100-93%; A- = 92-90%; B+ = 89-87%; B = 86-83%; B- = 82-80%; C+ = 79-77%; C = 76-73%; C- = 72-70%; D+ = 69-67%; D = 66-60%; F = 59-below.

Your grade will be determined by your performance on the following tasks:
What is Freedom Paper 10 4% (See separate handout for details)
Exam 1 50 20%
Exam 2    50   20%
Final Exam   50   20%
Three Quizzes   30   12%
Response Paper   40   16% (See separate handout for details)
Participation/Attendance 20   8%
TOTAL = 250   100%

Notes About Grading:
1) Attendance is mandatory. If you miss a class, you will miss out on a substantial portion of material that may be difficult to make up. Attendance will be taken every day, except for days when exams and quizzes are scheduled (your quiz/exam serves as your sign in for attendance). If you know you will be absent from class, it is your responsibility to notify the instructor prior to your absence. It is also your responsibility to obtain any missed handouts or assignment information.
2) Participation is expected. At times, law can seem abstract, but we will try to discuss real-life applications of the law and its consequences. To get the most out of this class, you should expect to participate in class discussions.
3) No Late Submissions. Late submissions of assignments will NOT be accepted. Period. This would be unfair to those who completed their work on time. This also applies for exams. If you will miss an exam date, you need to take the exam EARLY, but this will only be granted in unique situations and does not apply to the final exam.

Diversity: Open inquiry, freedom of expression, and respect for difference are fundamental to a comprehensive and dynamic education. This course and the instructor are committed to upholding these ideals by fostering an environment that is conducive to exploring, engaging, and expressing diverse perspectives and respecting diverse identities.

Accessibility: Any student with a disability needing academic adjustments or accommodations is requested to speak with me or the Disability Resource Center (Thompson Building, Suite 101, or by phone at 775-784-6000) as soon as possible to arrange for appropriate accommodations. The Disability Resource Center can be found online at http://www.unr.edu/drc

Student Success Services: Your student fees cover usage of the Math Center (775-784-4433 or www.unr.edu/mathcenter/), Tutoring Center (775-784-6801 or www.unr.edu/tutoring-center), and University Writing Center (775-784-6030 or http://www.unr.edu/writing-center). These centers support your classroom learning; it is your responsibility to take advantage of their services. Keep in mind that seeking help outside of class is the sign a responsible and successful student.

Audio/Video Recording: Surreptitious or covert video-taping of class or unauthorized audio recording of class is prohibited by law and by Board of Regents policy. This class may be videotaped or audio recorded only with the written permission of the instructor. In order to accommodate students with disabilities, some students may have been given permission to record class lectures and discussions. Therefore, students should understand that their comments during class may be recorded.

Statement on Academic Dishonesty: Cheating, plagiarism or otherwise obtaining grades under false pretenses constitute academic dishonesty according to the code of this university. Academic dishonesty will not be tolerated and penalties can include canceling a student's enrollment without a grade, giving an F for the course or for the assignment. For more details, see the University of Nevada, Reno General Catalog, available at http://catalog.unr.edu/

Course Schedule
***This schedule is tentative and subject to change***
UNIT 1 – THE FIRST AMENDMENT: PROTECTED SPEECH AND ITS LIMITS

In this first unit, we will explore definitions of freedom and its antithesis; the history, theories, and doctrines that informed the creation of the First Amendment; and the extent of First Amendment protections. By the end of this unit, you will understand the distinctions to be made when considering whether speech is protected or unprotected by the First Amendment.

Week 1
Tues., January 20 – Introduction: expectations, assignments, grading, etc., and distribution of materials.

ASSIGNMENT: What is Freedom response paper (see handout)

Thurs., January 22 – What is Freedom Discussion; Intro to Law? Sources of Law; Judicial System; Legal Research/Citations

**DUE: What is Freedom paper (at the beginning of class)**

Read: Moore & Murray, Ch. 1 & 2, and skim Ch 3 (Civil vs. Criminal Suits).

Week 2
Tues., January 27 – The First Amendment: History, Doctrines, Theory and Applications

Read: Moore & Murray, skim Ch 4

KEY CASES
Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)
Gitlow v. New York, 268 U.S. 652 (1925)
Schenck v. United States, 249 U.S. 47 (1919)

Thurs., January 29 – Conduct (Action) vs. Speech (Expression)

Read: Moore & Murray, 180-196

KEY CASES
Cohen v. California, 403 U.S. 15 (1971)
Snyder v. Phelps (2011)

Week 3
Tues., February 3 – Wrap Up Previous Material & QUIZ #1

Thurs., February 5 – Prior Restraint vs. Subsequent Punishment

Read: Moore & Murray, 143-174

KEY CASES
Near v. Minnesota, 283 U.S. 697 (1931)
N.Y. Times Co. v. United States, 403 U.S. 713 (1971)
UNIT 2: FREEDOM OF THE PRESS AND COMMERCIAL SPEECH: ON THE RIGHTS OF NEWSGATHERERS AND BROADCASTERS

In this unit, we will explore the rights granted to newsgatherers by the First Amendment. Topics include how a freedom of the press intersects with a person's right to a fair trial; whether the press has a right of access to certain types of information; and whether journalists can be compelled to reveal the identity of a confidential source. In the second half of the unit, we will explore the role of broadcasting and commercial speech. In our discussion, we will focus on the differences between broadcasting and cable regulations as well as whether commercial speech receives protection under the First Amendment.
Thurs., February 26 – FOIA; Open Records & Open Meetings Law; Newsgathering as First Amendment Right (cont.)

**Week 7**

Tues., March 3 – **Confidential Sources: “Journalist’s Privilege” and Shield Law**

Read: Moore & Murray, Ch 4 (126-135)
Nevada Shield Law (NRS 49.275) available at
http://www.leg.state.nv.us/NRS/NRS-049.html#NRS049Sec275

**KEY CASES**

*Branzburg v. Hayes, 408 U.S. 665 (1972)*
*In re Grand Jury Subpoena Judith Miller, 397 F.3d 964 (D.C. Cir. 2005)*

Thurs., March 5 – **Freedom of Student Speech**

Read: Moore & Murray, p. 188-193 (“Prior restraint in the classroom”)

**KEY CASES**

*Bethel School District v. Fraser, 478 U.S. 675 (1986)*
*Morse v. Frederick, 551 U.S. 393 (2007)*

**Week 8**

Tues., March 10 – **QUIZ #2 & Broadcast and Cable Communications Law and Regulation**

Read: Moore & Murray, Ch 7 (299-309; 312-335; 342-349)

**KEY CASES**

*CBS v. Democratic Nat’l Committee, 412 U.S. 94 (1973)*
*CBS v. FCC, 453 U.S. 367 (1981)*
*Farmers Educ. & Coop. Union of Am. V. WDAY, 360 U.S. 525 (1959)*
*FCC v. Pacifica Foundation, 438 U.S. 726 (1978)*
*FCC v. Fox TV Stations v. FCC (2009 & 2012)*
*Turner Broadcasting System v. FCC, 520 U.S. 180 (1997)*

Thurs., March 12 – **Broadcast and Cable Communications Law and Regulation (cont.)**

**March 14-22 – SPRING BREAK**

**Week 9**

Tues., March 24 – **Commercial Speech: Advertising and Public Relations**

Read: Moore & Murray, Ch 6 (229-233; 235 section on commercial speech for professionals and
corporations; for 241-267 focus on cases listed below; 267-271; skim 271-280; 280-292)

**KEY CASES**

Valentine v. Chrestensen, 316 U.S. 52 (1942)


Bd of Trs. of the State Univ. of N.Y. v. Fox, 492 U.S. 469 (1989)


Thurs., March 26 – **Commercial Speech: Advertising and Public Relations (cont.)**

**Week 10**

Tues., March 31 – **Exam #2**

**UNIT 3: DIGITAL FREEDOM: INFORMATION, PRIVACY, PROPERTY, AND PORNOGRAPHY ON THE WEB**

For the final unit of the term, we will be exploring issues related to digital media. We begin with the right of privacy (both online and offline) and the four main privacy torts. Then, we discuss definitions of obscenity and pornography before moving onto intellectual property rights alternatives to copyright. Throughout this unit, we will focus on the ways in which cultural practices associated with digital technologies have challenged previous legal regimes. In doing so, we will discuss how (or if) online activities ought to be regulated in a similar way to offline activities.

Thurs., April 2 – **Right of Privacy**

Read: Moore & Murray, Ch 10 (skim 481-492; for 492-541 focus on four privacy torts, defenses, and cases listed below)

**KEY CASES**


Cantrell v. Forest City Publ’g Co., 419 U.S. 245 (1974)

Cox Broad. Corp. v. Cohn, 420 U.S. 469 (1975)


Barnicki v. Vopper, 532 U.S. 514 (2001)

**Week 11**

Tues., April 7 – **Right of Privacy (cont.)**

Thurs., April 9 – **New Media Policy & Internet Law**

Read: Moore & Murray, assorted brief readings:

Net Neutrality: 350-352

Libel & the Internet: 420-421
Indecency on the Internet: 463-465

KEY CASES
Verizon v. FCC, 740 F.3d 623 (D.C. Cir. 2014)

Week 12
Tues., April 14 – New Media Policy and Internet Law (cont.) & QUIZ #3

Thurs., April 16 – Obscenity & Pornography

KEY CASES
Ginzburg v. United States, 383 U.S. 463 (1966)
Miller v. California, 413 U.S. 15 (1973)

Week 13
Tues., April 21 – Intellectual Property and Copyright Law

Read: Moore & Murray, Ch 12 (595-596; 610-627; 636-656; 660-668)
Lessig, Chapter 1 (see WebCampus)

KEY CASES
Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146 (9th Cir. 2007)

Thurs., April 23 – Intellectual Property and Copyright Law (cont.)

**RESPONSE PAPERS DUE**

Week 14
Tues., April 28 – The Commons, Copyleft, and Free and Open Source Software: Democracy, Technology, and Communication Rights

https://www.fsf.org/blogs/rms/20140407-geneva-tedx-talk-free-software-free-society


Week 15

Final Exam: THURSDAY, MAY 7 from 8:00am – 10:00am