

## **POLS BC 3254 Lecture Course on First Amendment Values**

Prof. Paula Franzese

Office Hours: Tuesdays, 6:00 - 7:00pm

[Paula.franzese@shu.edu](mailto:Paula.franzese@shu.edu)

### **Course Description:**

This course examines contemporary applications of the first amendment rights of speech and freedom of the press. Analysis of landmark U.S. Supreme Court rulings and scholarly commentary will provide the basis for exploring the theoretical antecedents as well as contemporary applications of first amendment values to questions of new media, censorship, political speech, hate speech, cyber-speech, pornography, obscenity, media bias, media conglomerates and citizen access.

**Requirements** Students must attend all classes. I understand that there may be occasions where illness or emergencies will keep you from attending class. Please notify me of such as soon as possible. Class participation is required. You must be prepared to discuss the readings during each class session.

The take-home midterm exam will count for 40% of your overall grade, the take-home final will count for 40% of your overall grade and your class participation will count for the remaining 20%.

### **Laptops**

Please do not use your laptops or cell phones during class. If you are interested in the pedagogical reasons for the ban, *see* Kevin Yamamoto, *Banning Laptops in the Classroom*, 7 J. LEG. EDUC. 77 (2007). If you have any questions or require an accommodation for medical reasons, please see me.

### **Learning Objectives:**

This course will provide students with a working knowledge of the legal method of inquiry as it pertains to consideration of first amendment guarantees. Students will learn to:

1. Identify the various constitutional standards of judicial review.
2. Apply legal and analytical constructs to contemporary issues of free speech and association, while critically examining historical and theoretical underpinnings of libel law, hate speech, freedom of the press, virtual speech, political discourse, obscenity, and bias in the media.
3. Evaluate the merits and shortcomings of the major theoretical debates within the first amendment narrative.

4. Analyze and assess contemporary scholarly and journalistic writings on free speech values by critically examining their strengths, weaknesses and applicable counterpoints.

**Grading:** Grades will be calculated as follows:

Class participation: 20%

Take-home Midterm Exam: 40%

Take-home Final Exam: 40%

**Texts** (all are available on Amazon and at the Columbia University bookstore). In addition, a reading packet will be distributed on the first day of class.

1. TIMOTHY GARTON ASH, FREE SPEECH: TEN PRINCIPLES FOR A CONNECTED WORLD
2. DAVID SHIPLER, FREEDOM OF SPEECH: MIGHTIER THAN THE SWORD
3. TIM WU, THE ATTENTION MERCHANTS: THE EPIC SCRAMBLE TO GET INSIDE OUR HEADS
4. HAM & BENSON, END OF DISCUSSION
5. JONATHAN RAUCH, KINDLY INQUISITORS: THE NEW ATTACKS ON FREE THOUGHT (Univ. of Chicago Press, 1995).
6. GEOFFREY R. STONE, PERILOUS TIMES: FREE SPEECH IN WARTIME FROM THE SEDITION ACT OF 1798 TO THE WAR ON TERRORISM (W. W. Norton & Company, 2004).
7. JEREMY WALDRON, THE HARM IN HATE SPEECH (Harv. Univ. Press, 2012).

### **Readings and Class Schedule**

**Week One:** *The History and Philosophy of Free Expression: Doctrinal Underpinnings and Relevant Legal Antecedents*

**Week Two:** *Deconstructing First Amendment Values in the Build-Up and Outcome of the 2016 US Presidential Election*  
Binder unit one

**Week Two:** *Placing First Amendment Values into Their Historical and Jurisprudential Context*  
Shipler, *Freedom of Speech: Mightier Than the Sword* and binder unit two  
Which examples in Shipler's account matter most to you? Why?

**Week Three:** *The Aims of a Marketplace of Ideas*  
Shipler, continued and binder unit three

**Week Four:** *A Comparative US-EU Approach to Free Speech: Liberty vs. Dignity*  
Ash, *Free Speech: Ten Principles for a Connected World* and binder unit four

**Week Five:** *The Limits of Free Speech Values*

Ash, continued and binder unit five

**Week Six:** *Testing the Limits of the Marketplace of Ideas*

Rauch, *Kindly Inquisitors*

What is Rauch's essential point? Do you agree?

**Week Seven:** *The Harm in Hate Speech*

Waldron, *The Harm in Hate Speech* and binder unit six

Should we/can we outlaw hate speech? At what cost?

**MIDTERM DISTRIBUTED**

**Week Eight:** *Norm-Based Antidotes to Hate Speech on Campuses and Beyond*

Binder unit seven

**Week Nine:** *Political Correctness and "Regressive Liberalism"*

Ham & Benson, *End of Discussion* and binder unit eight

Is there such a thing as "regressive liberalism" any longer and if so, is it frustrating the marketplace of ideas?

**MIDTERM DUE**

**Week Ten:** *First Amendment Values in "Perilous Times"*

Stone, *Perilous Times*, introduction and chapters 3 and 4

**Week Eleven:** *"Perilous Times" continued*

Stone, chapters 5 and 6

Are these "perilous times"?

**Week Twelve:** *The Crowded Marketplace and the Competition for Our Attention*

Wu, *The Attention Merchants: The Epic Scramble to Get Inside Our Heads*

**Week Thirteen:** *The Commodification of the News in an Era of Media Conglomerization*

Wu, continued and binder unit nine

**Week Fourteen:** *The Press We Deserve?*

Guest speakers from the media to address the course's essential themes

**TAKE HOME FINAL DISTRIBUTED**