This course examines the history and meaning of freedom of expression in the United States. We pay special attention to the forms of reasoning about free expression developed by the U.S. Supreme Court during the 20th century. We cover the basic areas of first amendment law, such as prior restraint, libel, obscenity and time-place-manner restrictions, but do so in a way that focuses less on the technicalities of the law than on the underlying arguments developed in support or criticism of the law. This is not a constitutional law class; rather, we read constitutional law to discover and examine the assumptions and premises on which Americans have fashioned their understanding of free expression. It is, however, a university capstone course, which means that we will integrate knowledge and skills you have used in prior courses.

By the end of this course, students should expect to be proficient in the following:

- Knowledge of the history of the First Amendment.
- Awareness of the rights protected by the First Amendment.
- Knowledge of the main areas of First Amendment law, including libel, obscenity, prior restraint and commercial speech.

Texts:


This book is available at the University Bookstore. I will also make a copy available at the reserve desk of the main library.

You will note that a few assigned readings are not from this text. Instead, I have made them available on-line at my website, davidryfe.com.

Resources for Students

Students will find the Writing Center and the Speaking Center very useful for this course; the Tutor Iowa site is also very valuable for students seeking extra help:

Writing Center: [http://writingcenter.uiowa.edu/](http://writingcenter.uiowa.edu/)
Speaking Center: [http://clas.uiowa.edu/rhetoric/for-students/speaking-center](http://clas.uiowa.edu/rhetoric/for-students/speaking-center)
Tutor Iowa: [http://tutor.uiowa.edu/](http://tutor.uiowa.edu/)
CLAS Policies and Procedures

Administrative Home
The College of Liberal Arts and Sciences is the administrative home of this course and governs matters such as the add/drop deadlines, the second-grade-only option, and other related issues. Different colleges may have different policies. Questions may be addressed to 120 Schaeffer Hall, or see the CLAS Academic Policies Handbook.

Electronic Communication
University policy specifies that students are responsible for all official correspondences sent to their University of Iowa e-mail address (@uiowa.edu). Faculty and students should use this account for correspondence (Operations Manual, III.15.2. Scroll down to k.11).

Accommodations for Disabilities
A student seeking academic accommodations should first register with Student Disability Services and then meet with the course instructor privately in the instructor’s office to make particular arrangements. See http://sds.studentlife.uiowa.edu/ for more information.

Academic Honesty
All students taking CLAS courses have, in essence, agreed to the College’s Code of Academic Honesty: "I pledge to do my own academic work and to excel to the best of my abilities, upholding the IOWA Challenge. I promise not to lie about my academic work, to cheat, or to steal the words or ideas of others; nor will I help fellow students to violate the Code of Academic Honesty." Any student committing academic misconduct is reported to the College and placed on disciplinary probation or may be suspended or expelled (CLAS Academic Policies Handbook).

CLAS Final Examination Policies
The date and time of every final examination is announced by the Registrar generally by the fifth week of classes. No exams of any kind are allowed during the last week of classes. All students should plan on being at the UI through the final examination period. It is the student’s responsibility to know the date, time, and place of the final exam.

Making a Suggestion or a Complaint
Students with a suggestion or complaint should first visit with the instructor (and the course supervisor), and then with the departmental DEO. Complaints must be made within six months of the incident (CLAS Academic Policies Handbook).
Understanding Sexual Harassment
Sexual harassment subverts the mission of the University and threatens the well-being of students, faculty, and staff. All members of the UI community have a responsibility to uphold this mission and to contribute to a safe environment that enhances learning. Incidents of sexual harassment should be reported immediately. See the UI Comprehensive Guide on Sexual Harassment for assistance, definitions, and the full University policy.

Reacting Safely to Severe Weather
In severe weather, class members should seek appropriate shelter immediately, leaving the classroom if necessary. The class will continue if possible when the event is over. For more information on Hawk Alert and the siren warning system, visit the Public Safety website.

Assignments & Grading:

- Attendance: 100 points
- Class Participation: 100 points
- Take-home Exam (week 1): 200 points
- Take-home Exam (week 3): 200 points
- Timed Exam (week 4): 400 points

Total Points: 1000 points

**Attendance.** *Attendance in this class is mandatory.* If you have more than 1 unexcused absence in the course, you will earn 0 of your attendance points. If you have more than 2 unexcused absences, you will be dropped from the class.

**Class participation.** You are responsible for your own learning, and you will learn best if you come to class prepared to discuss readings and motivated to learn. You can show your motivation by fully engaging with class exercises and discussions. If you do these things, you will earn 100 points for class participation. If you do not, you will not earn these points.

**Assignments.** There are 3 major assignments in this course. The first and second assignments will be handed out in class on Thursday and due the next class session. The third assignment will function as your final exam. Again, it will be essay-based and cover BOTH the last week’s material AND be comprehensive at the same time. I will say more about the logistics of this exam in class.
Monday, May 18th: Liberalism and the Freedom of Speech

John Stuart Mill, “Of the Liberty of Thought and Discussion”

Tuesday, May 19th: The American Context


The Declaration of Independence

Federalist #10

The Alien & Sedition Act of 1798


Wednesday, May 20th: Dissidence in War Time

Schenck v. US (1919)
Abrams v. U.S. (1919)
Gitlow v. NY (1925)
Whitney v. CA (1927)
Brandenburg v. Ohio (1969)

First Take-Home Exam Assigned. Due Tuesday, May 26th

Thursday, May 21st: NO CLASS TODAY!

Week 2

No classes Monday, May 25th.

Tuesday, May 26th: Prior Restraint

Near v. Minnesota (1931)

Wednesday, May 27th: The Dual Theory of the First Amendment

Chaplinsky v. NY (1941)
Cohen v. CA (1971)

Thursday, May 28th: Content-Based Distinctions
Stromberg v. CA (1931)
Cox v. NH (1941)
Edwards v. SC (1963)

Week 3

Monday, June 1st: Content-Based Distinctions cont’d

WV Board of Education v. Barnette (1942)
U.S. v. O’Brien (1968)

Tuesday, June 2nd: Libel

Beauharnais v. IL (1952)
Hustler Magazine v. Falwell (1988)

Wednesday, June 3rd: Obscenity

Roth v. U.S. (1957)
Miller v. CA (1973)

Thursday, June 4th: Commercial Speech

VA Pharmacy Board v. VA Consumer Council (1976)
44 Liquormarket v. RI (1996)

Second Take-Home Exam Assigned. Due Monday, June 8th, in Class.

Week 4

Monday, June 8th: Hard Cases: Pornography

American Booksellers v. Hudnut

Tuesday, June 9th: Hard Cases: Hate Speech


Wednesday, June 10th: Hard Cases: Campaign Finance Reform

Buckley v. Valeo (1976)
McConnell v. FEC (2003) (Stevens Opinion)
Citizens United v. FEC (2010)
Thursday, June 11th:

*Timed Exam*