

Syllabus -- J-430 Law of Mass Communication #6392

(This syllabus also is posted on-line.)

Fall 2013 SSPA 29C Tu-Th 3:30-4:45 p.m.

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Office Hours: SSPA 007. 2-3 p.m. Tuesdays. Also, 30 minutes after class Tuesdays.

Above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter or its content.

Thurgood Marshall
Supreme Court justice (1972)

Morals stand first. Art and literature must adjust themselves to these higher interests.

Anthony Comstock
U.S. House of Representatives. (1895)

Freedom of speech is as good as sex.
Madonna (1990)

Free speech not only lives, it rocks.
Oprah Winfrey (1998)

Course Description:

Principles and case studies of the law of the press, radio and television with emphasis on constitutional guarantees, prior restraints, libel, contempt, licensing, shield laws, free press v. fair trial, government regulation, and other laws affecting the news media.

Intended Course Outcomes

Students should possess a basic understanding of the American legal system. They should have a clear grasp of the First Amendment and its implications for the news media. They should understand the several major areas of mass communication law. Students should appreciate the common legal problems that journalists and other professional communicators are likely to encounter.

This course may introduce new vocabulary and concepts. If a definition or concept is unclear, it will be to your advantage to quickly clarify it and to understand it. If a case or legal principle is unclear, ask about it or seek additional sources, some of which may be found in the bibliography at the end of this syllabus and available in the instructor's office.

Required text: Mass Media Law, by Don R. Pember and Clay Calvert. Seventeenth Edition. McGraw-Hill. (Note: This text has been placed on reserve in the University Library.)

All students are expected to adhere to the standards of academic honesty stated in the university catalog. Accordingly, students may be expelled, suspended or given a less severe disciplinary sanction for dishonesty, which is defined as cheating, fabrication, plagiarism or facilitating academic dishonesty.

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Structure of the course:

This is a lecture-discussion format, and participation in discussion is particularly important to the learning process. If you hope to participate meaningfully, do the assigned reading before class begins. Similarly, if you hope to learn well, do the assigned reading before class begins. It will affect your exam grades.

There will be three non-cumulative examinations, one the final exam. The exams will be short answer, essay type. On each, expect 15 questions with the responsibility for answering any 10 of them. Each exam will be worth 50 points. You will know the first question before the first exam (only). You will have 75 minutes for each exam, including the final exam. (Thus, the final will not go the full time available.)

From time to time, expect an unannounced quiz (usually two questions) based on the current reading assignments. These are pop quizzes worth three points each. The cumulative results frequently have a significant effect on final grades.

Additionally, students may expect one written assignment, a legal brief of a case. While short, it often is a time-consuming assignment because it is so exacting. Students must duplicate their one-page brief for each member of the class, and distribute them the night the brief is presented. A copy of the entire case, the source of the brief, must be turned in to the instructor at the same time, or when the case is approved for presentation. For full credit, the instructor must have the opportunity to review a finished draft of the brief at least 24 hours before the presentation. Briefs usually are presented on Thursdays.

In overview, not every case mentioned in the text or in the lectures needs to be incorporated into your memory, although they frequently are useful to understanding a particular aspect of law. Look for the landmark cases and the lessons they teach us, or the changes they created. When in doubt, ask! When appropriate and possible, special attention will be paid to California law, courts and cases.

Attendance and participation is expected. Absences will be excused only to the extent university policy permits--for serious and compelling medical and other personal emergencies. Documentation will be required for make-ups, although make-ups are not possible for pop quizzes. When absence is necessitated by job demands, please expect to provide written verification (on company stationery) from your supervisor.

University policy requires that, when possible, students be encouraged to include in studies people and subjects that traditionally have been overlooked. These include ethnic, racial and religious minorities; the elderly, disabled, and poor; gay men and lesbians; and other similar groups. In this course, for example, students may wish to pay particular attention to *N.Y. Times v. Sullivan* (civil rights, the First Amendment and libel) and *Diaz v. Oakland Tribune* (transsexual issues and invasion of privacy).

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Studying effectively for this course requires effort. Please be warned that this is the most repeated course in the Department of Journalism, and a student is well advised to take it seriously. First, plan to participate in class after you have done the readings. Second, join a study group made up of other serious students. Third, use the text as a study guide. The many margin "pull-outs" and summaries that appear in shaded sections of the text should be useful in organizing your thinking. They are more thorough and much more helpful than any study guide this instructor would devise.

Grading Structure

Unannounced quizzes	30 points possible (approximate)
Each examination :	50 points possible (total, 150 points possible)
Legal brief :	25 points possible (Usually a non-discriminator when procedures are followed).
Total :	205 <u>possible</u> points

Final grades will be based on a curve slightly skewed toward generosity; the notion here is to temper justice with mercy. However, while the instructor certainly is willing to discuss a grade with any student, it is impossible to predict a final grade. Discussions of grades during the semester should not be construed as promises or predictions.

Definition of grades in this course: A—Outstanding achievement; available for only the highest accomplishment. B—Praiseworthy performance; definitely above average. C—Awarded for satisfactory performance; the most common undergraduate grade; an honorable grade. D—Minimally passing; less than the typical achievement; journalism majors must repeat the course. F—Failing. W—Withdrawal; does not affect GPA.

Schedule and Content of the Course:

WEEK of

Read:

Aug 26 The American Legal System. Sources of Law, the Judicial System.
pp 2 – 32,

and

The First Amendment: The Meaning of Freedom. Historical Development, The First Amendment, The Meaning of Freedom, Taxation and the Press, Prior Restraint. pp 33-77.

Sep 2 As above. (Tuesday meeting in Rm. 116, University Library, 3:30 p.m.)

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- Sep 9 The First Amendment: Contemporary Problems. Prior Restraint During Wartime, The First Amendment in Schools; Time, Place and Manner Restrictions; Other Prior Restraints, Hate Speech/Fighting Words, The First Amendment and Election Campaigns. The Information Superhighway. pp 79-143. **(SBP—Student Brief Presentation)**
- Sep 16 Libel: Establishing a Case. The Libel Landscape, Law of Defamation, Elements of Libel. pp 147 – 177.
and
 Libel: Proof of Fault. N.Y. Times v. Sullivan, Public Person v. Private Person, The Meaning of Fault, Intentional Infliction of Emotional Distress pp 179-215. **SBP**
- Sep 23 Libel: Defenses and Damages. Summary Judgment/Statute of Limitations, Truth, Privileged Communications, Protection of Opinion, Defenses and Damages, Criminal Libel. pp 217-251. **SBP**
- Sep 30 Review **(SBP)** for exam, followed by **Exam I** (Th Oct. 3, 3:30 p.m.)
- Oct 7 Invasion of Privacy: Growth of Privacy Law. Appropriation, Intrusion. Publicity and Private Facts, False Light Privacy. pp 253-289.
and
 Invasion of Privacy: Publication of Private Information and False Light. Publicity about Private Facts. False Light Invasion of Privacy. pp 291-315. **SBP**
- Oct 14 Gathering Information: Records and Meetings. News Gathering and the Law, The Freedom of Information Act, State Laws on Meetings and Records, Laws that Restrict Access. pp 318-380.
and
 Protection of News Sources/Contempt Power. News and News Sources, Constitutional Protection of News, Legislative and Executive Protection, The Contempt Power. pp 385-429. **SBP**
- Oct 21 Free Press/Fair Trial: Trial Level Remedies and Restrictive Orders. Prejudicial Crime Reporting, Traditional Judicial Remedies, Restrictive Orders to Control Publicity. pp 413-437.
and
 Free Press/Fair Trial: Closed Judicial Proceedings. Closed Proceedings and Sealed Documents, Bench-Bar-Press Guidelines. pp 439-466. **SBP**

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Oct 28 Review for exam. **Exam II** Thurs Oct 31, 3:30 p.m.

Nov 4 Regulation of Obscene and Other Erotic Material. Law of Obscenity, Contemporary Obscenity Law, Controlling Obscenity, Regulation of Non-obscene Erotic Material. pp 487-515. **SBP**

Nov 11 Copyright. Immaterial Property Law, Roots of the Law, Fair Use, Copyright Protection and Infringement, Free-lancing and Copyright Damages. pp 518-565. **No class Tuesday . Briefs and some lecture deferred to Dec. 3.**

Nov 18 Regulation of Advertising. Advertising and the First Amendment, Regulation of Advertising., the Federal Trade Commission and the Regulatory Process. pp 567-607. **SBP**

Nov 25 Telecommunications Regulation: History of Regulation. Changing Philosophy, Basic Regulation, Program Content, Political Programming, News and Public Affairs, New Technology. pp 609-656. **No class Thursday. Briefs and some lecture deferred to Dec. 3.**

Dec 2 **Lecture, SBP** Tue). **Review for final Exam** (Thur).

Dec 9 Last day of class Dec. 10. Further review if requested.

Final Exam Tue, Dec. 17, 2:45 p.m. to 4 p.m. A 75-minute final.
(NOTE—change of time.)

Selected Bibliography: (Note: newer editions may be available.)

Communications Law (Ninth Edition), by John D. Zelezny. Wadsworth Publishing Company.

Law of Mass Communication (Twelfth Edition), by Dwight L. Teeter and William Loving. Foundation Press.

Major Principles of Media Law (Current Edition), Genelle Belmas and Wayne Overbeck. Harcourt College Publishers.

*Reporter's Handbook on Media Law (1994-5 Edition), by Renee C. Allison and Thomas W. Newton. California Newspaper Publishers Association. (Note: a newer edition may now be available.)

*--Devoted to **California** media law and legal issues

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Addendum to Course Syllabus: Department of Journalism Policies on Grading, Conduct of Classes, Drops, Absences and Cheating

Grading: The grading policies and practices in this class are explained elsewhere in the syllabus. It is the student's responsibility to read them and to seek clarification if necessary. The student should be fully aware of what is required for success in the course, such as group participation, writing, speaking, completing assigned readings, etc.

Seat in Class: An enrolled student may lose his/her seat in class if he/she misses the first class meeting without notifying the instructor. At the instructor's discretion, a student who attends the first class but not subsequent classes may also be dropped from the course.

Withdrawal from Class: Students may withdraw from a class from the third to the 12th week for "serious and compelling reasons." Normally these are defined as anything of import that is beyond the control of the student. This includes, but is not necessarily limited to, death or serious illness in a student's immediate family or a documented change in a student's work schedule. Poor performance, tardiness and unexcused absences are not considered a serious or compelling reason beyond the student's control for purposes of withdrawal.

Absences from Class: Grades in a course may be adversely affected by absences, and students should seek clarification from the instructor regarding the course absence policy. Make-ups usually are granted in strict accordance with CSULB policy, which defines excused absences as (1) illness or injury to the student; (2) death, injury or serious illness of an immediate family member or the like; (3) religious reasons; (4) jury duty or government obligation; (5) CSULB-sanctioned or approved activities [2002-03 Catalog, p. 75]. *These and any other requests for an excused absence must be documented.*

CSULB Cheating/Plagiarism/Fabrication Policy: CSULB takes issues of academic dishonesty very seriously. If you use any deceptive or dishonest method to complete an assignment, take an exam, or gain credit in a course in any other way, or if you help someone else to do so, you are guilty of cheating. If you use someone else's ideas or work and represent it as your own without giving credit to the source, you are guilty of plagiarism. This does not apply if the ideas are recognized as common knowledge, or if you can show that you honestly developed the ideas through your own work. Any instructor can show you the correct ways of citing your sources, and you should use quotation marks, footnotes or endnotes and bibliographic references to give credit to your sources according to the format recommended by your instructor.

Responses, Penalties and Student Rights: Students should consult the appropriate sections of the Catalog for examples of cheating, fabrication and plagiarism, and instructor and/or CSULB response options in such circumstances. The Catalog also outlines student rights. Any instance of academic dishonesty may result in your immediate expulsion from the class with a grade of "F" and/or other sanctions, as the instructor deems appropriate.

Additional Student Learning Assessment

The national accrediting agency for journalism education has established a requirement that all accredited journalism schools assess student mastery of 11 core values and competencies that any graduate of a journalism and mass communication program should possess. According to the Accrediting Council on Education in Journalism and Mass Communication, all graduates, irrespective of their particular specialization, should be able to:

- 1) Understand and apply First Amendment principles and the law appropriate to professional practice.
- 2) Demonstrate an understanding of the history and role of professionals and institutions in shaping communications.
- 3) Demonstrate an understanding of the diversity of groups in a global society in relationship to communications.
- 4) Understand concepts and apply theories in the use and presentation of images and information.
- 5) Work ethically in pursuit of truth, accuracy, fairness and diversity.
- 6) Think critically, creatively and independently.
- 7) Conduct research and evaluate information by methods appropriate to the communications professionals in which they work.
- 8) Write correctly and clearly in forms and styles appropriate for the communications professions, audiences and purposes they serve.
- 9) Critically evaluate their own work and that of others for accuracy and fairness, clarity, appropriate style and grammatical correctness.
- 10) Apply basic numerical and statistical concepts.
- 11) Apply tools and technologies appropriate for the communications professions in which they work.