SP 402-1: Freedom and Responsibility of Speech  
Dr. Erica Salkin • Fall 2017 • T/TH 8-9:15 p.m. • 204 Weyr

This thing we call “free speech” is both a right and a responsibility. It is highly prized and often misunderstood. In truth, the law is merely a collection of fascinating stories and responses, which are meant to guide us in future situations. That should feel like a pretty familiar concept – and keeping that in mind will be a great asset as we dive into the rich tapestry that is the freedom of speech within the United States.

I consider this journey to be one we make together – don’t hesitate to contact me if you do not feel like you are making the progress you wish to make. We are a team, but only you know your personal goals for this class. As adults and scholars, I expect you to let me know if the class isn’t going well for you. Make that first step, and together we’ll find the right solution for you.

Course Objectives:

By the end of the term students should be able to:

• Understand the historical development of the American freedom of speech.
  o Identify landmark cases that shape the freedom of speech
  o Demonstrate ability to explain and analyze key Supreme Court decisions
  o Explain some of the legal reasoning process courts use to make decisions about limiting forms of expression

• Understand classic and contemporary challenges to the freedom of speech.
  o Identify recurring arguments regarding regulation of speech.
  o Articulate theories explaining the expansion and contraction of the freedom of speech.
  o Apply key speech precedents to modern-day speech issues.

• Articulate responsibilities Americans should exercise regarding this freedom.
  o Explain assumptions regarding the freedom of speech.
  o Explain assumptions regarding responsibility to others in exercising the freedom.

Relationship to the University’s and the Department’s Educational Principles:
This course will help expand your knowledge of legal perceptions and interpretations of free speech in American society. In addition, we’ll explore faith-related and ethical questions as you consider how speech law helps accomplish fairness and justice in our society (or the extent it fails to do so). Specifically, this course also helps you accomplish the departmental goals of:

Demonstrate critical thinking skills required to excel in the intellectual, professional and personal dimensions of life.
Students will be able to apply higher level thinking skills to human communication situations.

You can contact me at:  
esalkin@whitworth.edu  
I will do my best to respond within 24 hours  
509/777-4704  
not ideal for late afternoons or evenings  
113 Lower Lindaman  
I have office hours  
M/W 1-3 p.m. and  
W 9-11 a.m., or by appointment
Higher level thinking skills include: application of communication principles in the classroom and beyond; analysis of the parts, organization, arrangement, relationships and principles of communication; synthesis of parts of communication to produce unique communication messages; and evaluation of communication by making appropriate quantitative and/or qualitative judgments of communication; practice defining, resolving and defending sound ethical decisions.

*Understand fundamental historical, theoretical, sociological, and legal concepts underlying communication.*

Students will be able to assess and explain the significant of primary historical and contemporary influences shaping communication. Students will be able to critically examine and analyze the effects of technological developments. Students will be able to articulate the value of free expression for communication professionals and for our democratic society.

**Resources:**

There will be multiple readings/cases posted to Blackboard.

**Assignments:**

*Midterm (50 points):*
Your midterm will have two parts: a written component (30 points) and an oral component (20 points). More information will be distributed in class.

*SP402takeson.wordpress.com (100 points):*
As a class, you will explore with depth and detail one unique Supreme Court case concerning the First Amendment and present your findings as a multimedia story posted to the course website: SP402takeson.wordpress.com. This semester, we’ll take on *Brandenburg v. Ohio*, a case dealing with the concept of incitement. Through this project, you will explore the legal, historical, sociological and ethical questions that arise when speech leads others to commit illegal action.

You will have the option to work in pairs or individually to create a component of the overall project. More information will be distributed in class.

*Law and Values discussion (50 points):*
This class element will allow us to explore how legal concerns are balanced against moral ones. More information will be distributed in class.
Weekly responses (90 points):
At the end of each week, I’ll post a question that asks you to reflect on that week’s course discussions, readings and Law and Values presentation (if there is one). Answers should reflect elements of all three content areas, and should run 2-3 paragraphs long. You do not need to complete a weekly response when it is your week to lead the Law and Values discussion.

SP 402 Book Club (100 points):
You will select one of a variety of books written about modern day issues with speech law implications. After completing it, you will take part in a “book club” gathering, where we will discuss in a small group the ideas presented by the author and the larger conversations the book taps into. More information will be distributed in class.

Final exam (50 points):
The final will take place on Tuesday, December 12 at 8:00 a.m. in our regular classroom. The final exam can be taken in one of three different formats. More information will be distributed in class.

Participation/Attendance (42 points max):
In McCauley v. University of Virgin Islands, the Third Circuit noted:
“[U]niversities operate in a manner that gives students great latitude: for example, university students routinely (and unwisely) skip class; they are often entrusted to responsibly use laptops in the classroom; they bring snacks and drinks into class; and they choose their own classes. In short, … university students are given opportunities to acquit themselves as adults” (618 F.3d 232, 246, 3d Cir, 2010).

Perhaps you will “unwisely” skip class; that is your decision. Many of the concepts we examine, however, depend on your understanding of the discussion in the previous class; thus missing class will put you at a serious disadvantage. I grant you two unexcused absences without penalty; after those two, absences will impact your grade.

Starting 9/12, each class period (with the exception of midterm week) is worth two points. One point is granted simply for attendance – it’s the easiest point you could ever earn; it’s a point for sitting and breathing. Point #2 is for contributing in some way to our discussion. This is where keeping up with the reading becomes essential. If you have not read the case or text reading, it will show. If you have questions about this grading element, please see me in office hours.

Extra credit (Due 12/1)
This assignment is not worth a set number of points, but if it is completed satisfactorily, and at the end of the semester you are within 1 percentage point of a higher grade, you will be bumped up to the next grade.

Visit scotusblog.org and explore their list of notable cases for the current term. Select one that has First Amendment implications for speech and craft a 2-4 page essay discussing:
• The case background
• The core legal question
• What precedents you believe will be relevant
• What you think the outcome will be and why
• What you think the outcome SHOULD be – and if it’s different than your answer to the above, explain why.
A note about coursework

Assignments generally serve one of two basic roles: to allow you to practice your skills and get meaningful feedback (formative) or to allow you to display your mastery of skills (summative). In this class, you’ll see a mix of formative and summative assignments. Generally, I allocate fewer points to formative assignments – NOT because they aren’t important, but because I want you to use these opportunities to try out new ideas and approaches to writing without fear of heavy penalty. Formative assignments come with feedback that you can apply to summative assignments to improve your performance on those higher-point pieces.

Some students see low-point assignments as an opportunity to skip work with limited consequence. That is, of course, their prerogative, but in doing so, these students miss the opportunity to fearlessly try something new. These students are also often the most frustrated with the results of their summative assignments.

Think of it this way: trying something new and failing spectacularly on a five-point assignment will, at most, deduct five points from your overall grade. You’ll get feedback and the opportunity to meet with me to talk through what you can improve for the future. You’ll apply that feedback and succeed on the 100-point assignment. Trying and failing spectacularly on a 100-point assignment because you opted to skip the five-point formative opportunity and didn’t get that guidance and feedback is a much larger impact on your grade.

Those small assignments aren’t busywork or a waste of your time. They’re the chance for you to learn. I urge you to take it.

Assignment Expectations

I embrace a “marketplace of ideas” approach in SP402, which means all perspectives are welcome so long as they are based in solid arguments and are presented in a respectful manner. You won’t lose points for having a different opinion than me or any other student in the class, but you will lose points if you support your opinion with factual inaccuracies, misstate precedents or theories, or fail to support your argument at all.

A/A-
- Answers the question with clearly defined arguments
- Applies appropriate legal theory and precedent
- Goes beyond summarizing readings/lectures
- Avoids generalizations
- Uses correct facts, attribution, grammar and spelling

B+/B
- Answers the question but primarily relies on summaries
- Applies appropriate legal theory and precedent
- Demonstrates solid analysis
- Avoids generalizations
- Uses correct facts, attribution, grammar and spelling
B-/C+
- Only partly answers the question
- Applies appropriate legal theory and precedent
- Summarizes readings/lectures
- Relies on some generalizations
- Some problems with facts, attribution, grammar or spelling

C/C-
- Does not answer the question directly
- Applies only part of the appropriate legal theory and precedent
- Summarizes part of the readings/lectures
- Relies on some generalizations
- Some problems with facts, attribution, grammar or spelling

D/F
- Does not answer the question
- Does not apply the appropriate legal theory or precedent
- Does not make use of readings/lectures
- Relies entirely on generalizations
- Uses incorrect correct facts, attribution, grammar or spelling

SP402 Rules of Engagement

This is a course that engages tough topics and challenging speech. Our discussions may go into some new and unfamiliar territory. You might have some passionate views that clash with other students in the class. I believe we are all imperfect human beings in the eyes of a loving God, and with that in mind, ask the following to guide us as we move forward:

- Please use respectful language in the class at all times. You never know what your fellow classmates have experienced and how that shapes their response to issues.
- This class flourishes when students engage in healthy debate. Healthy debate engages a range of ideas while allowing speakers the dignity and freedom to participate or not. If our debate becomes unhealthy, I will intervene.
- You may ask questions of your classmates, but they may feel free to not respond or request to respond later.
- You speak for you. At no time will you be expected to represent the whole of your gender, race, ethnicity, sexuality, socioeconomic status, religious belief or any other aspect of your life.
- If a topic triggers past trauma, you are welcome to quietly leave the room without explanation. If you have concerns about any of the topics we cover and their potential to impact your emotional health, please come talk with me.
Course Policies

Evaluation: Grading guidelines will be provided for each assignment. When grading, I will look for a thoughtful incorporation of the topics we discuss in class, put together as a cogent argument. Writing counts – be sure to edit your work!

Quantity of Time for Class Preparation: The time spent in class preparation may be just as important as the time in class, and each course is a valuable part of your education. Therefore, expect to average between six and nine hours each week in class preparation time for this 3-credit course. The syllabus outlines due dates for assignments. Please schedule your preparation time anticipating that items for this class may come due at the same time as items for other classes, both in and out of your major. The quantity of time spent preparing for each class generally correlates to the final grade earned.

Academic Honesty: Please note that I take extremely seriously the university’s policy on the need for academic honesty in all your work. I refer you to the Whitworth Catalog, and the current Student Handbook, where guidelines on plagiarism and other forms of academic dishonesty are spelled out. Any form of dishonesty in an assignment will lead to a zero on the assignment, and I reserve the right to give a grade of F for the course as well.

Late Work: Every assignment will have a clearly stated deadline, as well as the required format for turning in the assignment (email, Blackboard, hard copy, etc.). Let me know if anything is unclear. Late work is not accepted unless there are extenuating circumstances, which must be discussed with me in advance of the assignment’s deadline. Deadline extension requests may incur a 10 percent-per-day point deduction and are handled on a case-by-case basis.

Attendance: Note the participation grade explanation for information about attendance. I know it’s early, but you will do far better if you attend regularly. Officially approved university functions that require you to be away from class (athletics, choir, forensics, etc) are excused absences. If you will miss class due to an approved university function, please discuss the absence with me in advance so we can make alternate plans for any missed work. I’ll handle any other absences on a case-by-case basis.

Cell phones: Please turn your cell phone off or set to silent during class, and refrain from texting during class time. If your phone rings during class, you are required to provide a sugar-laden treat for your classmates at the next class period. You may want to find out if there are any food allergies before you bake or purchase your treat.

Safety: Whitworth University cares about your welfare in the event of an emergency. During the first week of this course, please familiarize yourself with safety information posted in this classroom.

Accommodations (ADA/504): Whitworth University is committed to providing its students access to education. If you have a documented physical or mental/psychological impairment that impacts your ability to learn and perform to your potential in the classroom, contact the Office of Educational Support Services (ESS) in Student Life to identify accommodations that can help
mitigate barriers to your success. Students must contact ESS each term in order for faculty/staff to be notified of your accommodations. Services are not retroactive.

**Contact Information**
Katie McCray, Coordinator for Educational Support Services  
Phone: 509.777.3380  
Email: kmccray@whitworth.edu

**Title IX:** Whitworth University faculty members are committed to the well-being of each student. It is common for students to discuss non-course related issues with faculty and, when possible, faculty will keep such conversations strictly confidential. However, because federal law views faculty members as mandated reporters of any incidents of sexual misconduct, if a student informs a faculty member of an issue of sexual harassment, sexual assault, or discrimination, the faculty member is required by federal law to bring it to the attention of the Title IX Coordinator, Rhosetta Rhodes. The Title IX Coordinator will make the student aware of all options and resources available to them under Whitworth University policies and under the law.

There are Whitworth University employees whom federal law does not view as mandatory reporters, to whom a student could speak without the conversation being reported to the Title IX Coordinator. These include counselors in Counseling Services, health center staff, and any of the university chaplains on the staff of Campus Ministries.

**Contact Information**
Rhosetta Rhodes, Title IX Coordinator, Vice President for Student Life and Dean of Students  
Phone: 509.777.4536  
Email: titleixcoordinator@whitworth.edu

Counseling Center: 509-777-3259; Schumacher Hall  
Campus Ministries: 509-777-4345; Seeley G. Mudd Chapel

**Non-discrimination:** Whitworth University is committed to delivering a mission-driven educational program that cultivates in students the capacity to engage effectively across myriad dimensions of diversity. Whitworth University is committed to the fair and equal treatment of all students in its educational programs and activities. The University does not discriminate against students based on race, color, national origin, sex, gender identity, sexual orientation, religion, age, or disability and complies with all applicable federal or state non-discrimination laws in its instructional programs.

**Fair and equal treatment:** Whitworth University professors strive to treat all students fairly and equally, applying the same rigorous standards and expectations to each of our students and working to invite students from all backgrounds into the challenges and rewards of our academic disciplines. Students who have concerns about classroom fairness should contact Associate Provost Brooke Kiener, McEachran Hall 220, 509.777.4657, bkiener@whitworth.edu.
# Course Schedule (any changes will be announced in class)

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<thead>
<tr>
<th>Dates</th>
<th>Topic</th>
<th>Readings</th>
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<tbody>
<tr>
<td>9/7</td>
<td>Intro to the class</td>
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<tr>
<td>9/12, 14</td>
<td>Intro to the law and expression</td>
<td><em>Texas v. Johnson</em> • Text: Ch. 1&lt;br&gt;BB: Emerson, “Toward a General Theory of the First Amendment,” pgs. 1-11</td>
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<tr>
<td>9/19, 21</td>
<td>Censorship</td>
<td><em>Reno v. ACLU</em> • Text: pg. 15-119, Ch. 3&lt;br&gt;BB: Franks, “When Bad Speech Does Good”</td>
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<td>9/26, 28</td>
<td>Compelled speech, anonymity</td>
<td><em>West Virginia v. Barnette</em> • Text: pg. 120-124&lt;br&gt;BB: Alexander, “Compelled Speech”</td>
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<tr>
<td>10/10, 12</td>
<td>Sedition, treason</td>
<td>* Abrams v. United States* • Text: Ch. 4&lt;br&gt;BB: Bell, “Treason, Technology and the First Amendment”</td>
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<td>10/17, 19</td>
<td>Campaign speech</td>
<td><em>Citizens United</em> • Text: Ch. 5&lt;br&gt;BB: Wilson, “Too Much of a Good Thing: Campaign Speech after Citizen United”</td>
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<td><strong>MIDTERM (10/24: written; 10/26: oral)</strong></td>
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<td><strong>11/22-24: Thanksgiving</strong></td>
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<td>12/5, 12/7</td>
<td>Intellectual Property</td>
<td><em>Campbell v. Acuff-Rose</em> • Text: no reading&lt;br&gt;BB: Ginsburg, “How Copyright Got a Bad Name for Itself”</td>
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