

Law of Mass Communication

JOUR 7025-001

Fall 2014

Meeman Room 106

5:30-8:30 p.m., Monday

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COURSE REQUIREMENTS

CATALOG DESCRIPTION

The study of laws and regulations affecting mass media with attention to the social and political forces that shape the law; exploration of First Amendment theories as well as the constitutional framework of the legal system; in-depth legal research in the student's selected area of interest.

PREREQUISITE

None

COURSE OVERVIEW

Knowledge of laws and regulations and the legal system, as well as an understanding of the political and social forces that shape the law, are vital to every citizen, regardless of his/her chosen field. This knowledge is especially important to those individuals who choose to work in any field within mass communication. The Seminar in the Law of Mass Communication is designed to provide students in mass communication with the opportunity to study laws and regulations in greater depth through selected readings, research projects, and class discussions. These activities are designed to provide a historical perspective as well as up-to-date knowledge of the current laws and regulations affecting public communication. Students also will explore the ethical implications of developments in the law of public communication. In addition, students will become familiar with fundamentals of legal research and will explore in greater depth an area of law related to their special needs and interests.

TEXTBOOKS REQUIRED

- Pember, D.R., & Calvert, C. (2014). *Mass Media Law* (19th ed.). New York: McGraw Hill. ISBN: 9780077861421
- Selected media law cases and other materials (available online).

CLASSROOM FORMAT

This class operates in a seminar format. Class time will primarily be spent in discussion of legal issues, facts, and cases. To that end, students must complete the assigned readings and be prepared to discuss the night's topic.

GRADING

Key Facts Quizzes	15 percent
Systematic Reading Forms	5 percent
Discussion Leadership and Response	10 percent

Midterm Exam	15 percent
Final Exam	15 percent
Research Paper	30 percent
Research Paper Presentation	10 percent

Number grades translate into these letter grades: A, 90-100; B, 80-89; C, 70-79; D, 60-69; F, below 60.

INTELLECTUAL PROPERTY

1. Ideas cannot be copyrighted, but the way they are described can.
2. Anything set down in a tangible form, i.e., written, is by law copyrighted.
3. If, in a paraphrase, your work is “substantially similar” to a copyrighted work, you are guilty of copyright infringement.
4. A citation indicates where you got material. However, that portion you do not show as a direct quote must be “substantially original” to you. In other words, you can’t just paste in something from another’s work, put a citation at the bottom and call it your own. You need a full rewrite in your own words and syntax so the unquoted material is “substantially original” to you.

Plagiarism: From UM Student Handbook: The term “plagiarism” includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full or clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

ATTENDANCE & CLASS CONDUCT

Attendance is mandatory and will be taken at the beginning of each class session. Students are allowed three unexcused absences; after three, additional unexcused absences will drop the student’s final grade by one letter grade for each absence. Missing a total of seven classes will result in the student failing the course. University policy for excused absences apply to this course. Attendance will be determined by signing the daily sign-in sheet for the course. Tardiness will not be tolerated. After two tardies, one percentage point will be deducted from the student’s final grade for each additional tardy.

Mobile and electronic devices: The use of electronic devices is permitted. Mobile telephones must be turned to vibrate during class and should be used only for emergencies. Excessive text messaging will not be tolerated.

DEADLINES

All deadlines are firm. This is journalism and mass communications. Assignments turned in late will be deducted a letter grade for each day late. Exceptions will be made for reasonable circumstances if the student notifies the instructor prior to or on the due date. Work will be collected via electronic submission and is due at the beginning of class.

DIVERSITY

Students are required to respect the differences of others and treat all persons with respect. Discriminatory, derogatory and threatening language or behavior will not be tolerated. Further, students are expected to consider their work through a diverse mind. The issues and values of communications are discussed in this course, and students should be aware of how those messages reflect and affect a diverse audience.

WEATHER POLICY

Always check with local media and the University of Memphis website regarding inclement weather. If the university is closed or classes are canceled, this course will not meet. However, students remain responsible for that day's work.

COMPUTER USAGE

Students are expected to use a computer in this course. Students must follow the acceptable use guidelines for computers set out by the University of Memphis. Students who are unable to access computers at home must be willing to make time to access a computer in one of the university's labs or in the Technology Hub in the University Center.

WRITING STYLE

This course has intensive writing components. Because students are studying in the field of mass communication, students are expected to adhere to the Associated Press style guide. However, in the terms of research, students may use either the Chicago Manual of Style or Bluebook citations

PAPER SUBMISSIONS TO AEJMC SOUTHEAST COLLOQUIUM

The Law and Policy Division of AEJMC invites scholars to submit original papers for the AEJMC Southeast Colloquium, scheduled for March 26-28, 2015, at the University of Tennessee-Knoxville. The deadline for submission is in early December. More information is available at <http://jem.cci.utk.edu/colloquium15>.

Papers may focus on any topic related to communications law and/or policy, including defamation, privacy, freedom of information, Federal Communications Commission issues, copyright, obscenity and other issues regarding freedom of speech and press.

A panel of judges will blind referee all submissions, and selection will be based strictly on merit. Authors need not be AEJMC or Law and Policy Division members, but they must attend the convention to present accepted papers. The Department of Journalism can provide financial support for your trip.

Law and Policy Division papers must be no longer than 50 double-spaced pages (including appendices, tables, notes and bibliography). You must use either the Chicago Manual of Style or Bluebook citations.

The top three faculty papers and top three student papers in the Law and Policy Division will be recognized. Student authors of single-authored papers should clearly indicate their student status to be considered for the student paper awards.

Each copy should include a 250-word abstract. Follow the guidelines for electronic submission.

ASSIGNMENTS

KEY FACTS QUIZZES (Given at random, as needed)

15 percent

These in-class quizzes test students about the basics of media law, including the freedoms of the First Amendment, defenses for libel, the role of the courts, tests for legal standards, and other legal matters. Quizzes will be given at random throughout the semester. Quizzes generally will be fill in the blank.

SYSTEMATIC READING FORMS (Weekly)

5 percent

Students are to complete the systematic reading form for one case in the assigned reading. This form is to be submitted via eCourseware prior to the start of class. A blank form is available on eCourseware.

DISCUSSANT/RESPONDENT (Once each per semester) 10 percent
Each student is will take the lead on a discussion for class one week; similarly, each student will, for one week, respond to the discussion leader. Students will sign up for their weeks in advance. The discussant will write a two-page essay discussing the week's readings and turn it in to the professor on Saturday before class. Then, the respondent will write a two-page response to the discussant's essay. Both essays will be distributed to the entire class on Monday, and students will read both in addition to the week's readings. During the class session, the discussant and respondent will take the lead in the classroom seminar.

MIDTERM EXAM (October 20) 15 percent
Combines Key Facts with essays about cases and their applications.

FINAL EXAM (December 10) 15 percent
Combines Key Facts with essays about cases and their applications.

RESEARCH PAPER (Various deadlines) 30 percent
Minimum 25-page research paper addressing a legal case or issue. Paper must use primary document research for most of the research, and appropriately use supporting secondary sources. Research must explore a legal topic and argue a legal decision.

RESEARCH PRESENTATION (December 1) 10 percent
Professional presentation of research paper in class. Students will prepare a 15-minuted audio-visual presentation and be prepared for question and answer.

ADDITIONAL INFORMATION ABOUT RESEARCH PAPER

PROSPECTUS: Due September 8

1. Your proposal will begin by FIRST writing the questions your paper will attempt to answer.
2. The proposal will explain your topic, i. e., "Former Justice William Joseph Brennan--A Friend of the Press."
3. The proposal will outline the direction and scope of your paper as well as an overview of the types of sources you plan to consult. Such a topic as the one about Brennan would require examination of Brennan's opinions affecting the press. It may be the Court's majority opinion or a concurring or dissenting opinion by Brennan.

Another topic might be "The Fairness Doctrine—Should it Be Brought Back as Law?" This type legal topic would involve going to the Communications Act of 1934 and reading the section that provided for the doctrine, then looking at cases involving the doctrine, as well as the attempts by members of Congress to bring it back as law. You would also look at the Telecommunications Act of 1996. In addition, you would also look at arguments—pro and con—for and against the Fairness Doctrine.

Another topic might be the effect of blogging and other social media on the number of libel cases. Is the law of libel different for defamation in blogs or in a Tweet than in a newspaper? What problem does anonymity pose for libel suits?

PROPOSAL: Due October 6

In total, your proposal should be about 10 pages long. It should include the following sections:

1. Begin with a complete introduction that explains the legal problem you are researching. Your introduction should outline the procedure by which you will argue your point.

2. Write a complete academic literature review about previous scholarship related to your subject. Focus on on journalism and mass communication journals, such as *Communication Law and Policy* and the *Journal of Media Law and Ethics*, the *International Journal of Communication Law and Policy*, *Federal Communication Law Journal*, and *Journalism and Mass Communication Quarterly*. This literature review should support your argument and identify the scholarly gap that your study will answer.
3. Write a brief methodology that explains the primary sources you will engage and how you will build your argument. (The tone of this section might be a bit different as you are discovering your primary sources.)

RESEARCH PAPER: Due Nov. 10

Build on your proposal and complete an original research project. You must use either the Blue Book legal citations or the Chicago Manual of Style, 15th edition, for footnotes.

1. Your papers will be graded on content, including writing quality, comprehensiveness of research, adherence to complete and proper citation style, grammar, punctuation and spelling. All of these will be analyzed to determine a final paper grade.
2. Attribute all direct quotes, and follow style guidelines for setting off direct quotes.
3. Use third-person, active voice.
4. Limit the number of block quotes you use in your paper. As a rule, you should not use more than four in the entire paper.
5. Within your paper, you will have an introduction, a statement of the problem and a review of pertinent literature, including major arguments pro and con on your topic. After making an objective—not opinionated—study of the subject, you also are expected to come to some conclusions based on your analysis of the literature.
6. Do not cite your textbook, or a dictionary. Use a minimum of 25 acceptable sources—traditional, scholarly sources, such as law journal articles, legal newspapers, cases, statutes and scholarly books.
7. A significant number of your sources must be “primary sources,” which means state and federal statutes, court cases, constitutions or congressional or state legislative proceedings. “Secondary sources” are scholarly journals or legal newspapers.
8. Popular magazines, newspapers, websites etc., are NOT acceptable sources and may be used only sparingly — three or four — in your paper. You may use limited citations — two or three from trade publications, such as *Quill* and *Columbia Journalism Review*.
9. Your written work will be submitted to Turnitin.com, or a similar electronic detection method, for an evaluation of the originality of your ideas and proper use and attribution of sources. By taking this course, you agree that your paper may be included as a source document in Turnitin.com’s restricted access database solely for the purpose of detecting plagiarism.

SCHEDULE OF CLASSES

- WEEK 1 Aug. 25 Key Facts, the Law, and the U.S. Constitution**
U.S. Constitution and Bill of Rights
Pember & Calvert Ch. 1
- WEEK 2 Sept. 1 Labor Day**
- WEEK 3 Sept. 8 First Amendment History and Theory/Incorporation**
Schenck v. United States, 249 U.S. 47 (1919)
Abrams v. United States, 250 U.S. 616 (1919)
Gitlow v. New York, 268 U.S. 652 (1925)
Whitney v. California, 274 U.S. 357 (1927)
Blanchard, M. (1996) The twilight of the first amendment age? *Communication Law and Policy*, 1(3): 329-365.
Pember & Calvert Ch. 2
- WEEK 4 Sept. 15 First Amendment Protections**
Dennis v. United States, 341 U.S. 494 (1951)
Brandenburg v. Ohio, 395 U.S. 444 (1969)
Santa Clara County v. Southern Pacific Railroad Company, 118 U.S. 394 (1886)
Citizens United v. Federal Election Commission, 558 U.S. ____ (2010)
- WEEK 5 Sept. 22 Prior Restraint**
Near v. Minnesota, 283 U.S. 697 (1931)
New York Times Co. v. United States, 403 U.S. 713 (1971)
Carter, E.L. & Clark, B. (2006). Death of procedural safeguards: Prior restraint, due process, and the elusive first amendment value of content neutrality.
Communication Law & Policy, 11(2): 225-254.
Pember & Calvert Ch. 3
- WEEK 6 Sept. 29 Defamation and Libel I**
New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967)
Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)
Rosenbloom v. Metromedia, Inc., 403 U.S. 29 (1971)
Pember & Calvert Ch. 4
- WEEK 7 Oct. 6 Defamation and Libel II**
Time, Inc. v. Firestone, 424 U.S. 448 (1976)
Hutchinson v. Proxmire, 441 U.S. 111 (1979)
Wolston v. Reader's Digest Assn., Inc., 443 U.S. 157 (1979)
Herbert v. Lando, 441 U.S. 153 (1979)
Milkovich v. Lorain Journal Co., 497 U.S. 1 (1990)
Pember & Calvert Ch. 5-6
- WEEK 8 Oct. 13 Fall Break**
- WEEK 9 Oct. 20 Midterm exam**

WEEK 10 Oct. 27 Privacy

Time, Inc. v. Hill, 385 U.S. 374 (1967)
Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975)
Florida Star v. B. J. F., 491 U.S. 524 (1989)
Smith v. Daily Mail Publishing Co., 443 U.S. 97 (1979)
Pember & Calvert Ch. 7-8

WEEK 11 Nov. 3 Commercial Speech

Valentine v. Chrestensen, 316 U.S. 52 (1942)
44 Liquormart, Inc. v. Rhode Island, 517 U.S. 484 (1996)
Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations, 413 U.S. 376
(1973)
Virginia State Pharmacy Board v. Virginia Citizens Consumer Council, 425 U.S. 748
(1976)
Central Hudson Gas & Electric Corp. v. Public Service Comm., 447 U.S. 557 (1980)
*Posadas de Puerto Rico Associates, dba Condado Holiday Inn v. Tourism
Company of Puerto Rico et al.* (478 U.S. 328; 106 S. Ct 2968; 92 L. Ed. 2d 266)
Michael Hoefges and Milagros Rivera-Sanchez, "Vice" Advertising under the Supreme
Court's Commercial Speech Doctrine: The Shifting Central Hudson Analysis, 22
HASTINGS COMM. & ENT. L.J. 345 (2000)
Pember & Calvert Ch. 15

WEEK 12 Nov. 10 Intellectual Property

A&M Records, Inc. v. Napster, Inc., 239 F.3d 1004 (2001)
The Copyright Act of 1976, 17 U.S.C. §§ 101-810
Pember & Calvert Ch. 14

WEEK 13 Nov. 17 Obscenity & Telecommunications

FCC v. Pacifica Foundation, 438 U.S. 726 (1978)
FCC v. Fox Television Stations, Inc., ___ U.S. ___ (2012)
Reno v. American Civil Liberties Union, 521 U.S. 844 (1997)
Verizon Communications Inc. v. Federal Communications Commission, 740 F.3d 623
(D.C. Cir. 2014); 11-1355 (2014)
Pember & Calvert Ch. 13, 16

WEEK 14 Nov. 24 Free Press/Fair Trial & Journalistic Privilege and FOI

Cohen v. Cowles Media Co., 501 U.S. 663-679 (1991).
Tenn. Code Ann. 8-44-102 et seq.
Tenn. Code Ann. 10-7-503 et seq.
Freedom of Information Act (FOIA), 5 U.S.C. § 552
Press-Enterprise Co. v. Riverside Superior Court II, 478 U.S. 1-15 (1986).
Bunker, M.D., Splichal, S.L., & Martin, S. (1999). Triggering the first amendment:
Newsgathering torts and press freedom. *Communication Law and Policy*, 4(3):
273-297.
Pember & Calvert Ch. 9-12

WEEK 15 Dec. 1 Research presentations

FINAL EXAM Dec. 10 5:30-7:30 p.m.

ASSESSMENT

PROFESSIONAL VALUES AND COMPETENCIES FOR JOURNALISM 7025

- Understand the origin and history of the development of free speech and free press and their importance in a Democratic society.
- Conduct legal research and learn to use legal research databases and research methods in law.
- Understand the constitutional framework of the legal system in general and how our court systems operate.
- Develop ability to analyze case law, statutes and regulations in selected areas of media law.
- Learn to apply law to solve hypothetical legal problems.

HOW PROFESSIONAL VALUES AND COMPETENCIES WILL BE MET:

Cognitive Objectives to be Mastered (Ability to explain, analyze, understand and think critically.)

- Upon completion of Journalism 7025, students will have a more in-depth understanding of the laws affecting mass media as well as how the laws affect those who plan to work in media-related fields. Students will learn the laws related to libel, privacy, copyright, access to government information, advertising and telecommunications.
- Students will learn to apply the law through the use of hypothetical legal problems they must solve at each class meeting following discussion. This exercise is intended to develop their abilities to think critically as application is the highest form of learning.
- Students will gain knowledge of the operation of the U.S. Supreme Court as well as its influence on their daily lives, including the effect of the law on the rights of women and minorities and their inclusiveness in American life.
- Students will gain knowledge of the importance of federal and state access laws and the ability to use these in their working lives.
- Students will learn to think critically about the political and social forces that help to shape laws that continue to evolve in response to these political and social forces.

Performance Standards to be Met (Demonstrable Skills, Abilities, Techniques, Applied Competencies.

- Students will demonstrate knowledge of media law through two in-class exams, informed class discussion and presentation of selected topics.
- Students will develop the ability to analyze and solve hypothetical legal problems.
- Students will prepare a research paper proposal on a specific topic related to their field of interest, which will be approved by the instructor. By the date listed in the calendar, students will submit a conference-quality research paper on a selected area/problem within media law, using a minimum of 25 primary legal sources.

HOW ASSESSMENT OF STUDENT LEARNING WILL BE MET FOR JOURNALISM 7025:

You will take two in-class exams of equal value (25 percent each) and complete a conference-quality research paper (30 percent) and make a formal presentation (5 percent). The final 15 percent of your grade will be based on your answers to the hypothetical legal problems you will be asked to solve following the lecture, an occasional pop quiz at the beginning of class plus your informed participation in class discussions.

PROFESSIONAL VALUES AND COMPETENCIES FOR JOURNALISM PROGRAM:

The Accrediting Council on Education in Journalism and Mass Communication requires that, irrespective of their particular specialization, all graduates should be aware of certain core values and competencies and be to

- understand and apply the principles and laws of freedom of speech and press, for the country in which the institution that invites ACEJMC is located, as well as receive instruction in and understand the range of systems of freedom of expression around the world, including the right to dissent, to monitor and criticize power, and to assemble and petition for redress of grievances;
- demonstrate an understanding of the history and role of professionals and institutions in shaping communications;
- demonstrate an understanding of gender, race, ethnicity, sexual orientation and, as appropriate, other forms of diversity in domestic society in relation to mass communications.
- demonstrate an understanding of the diversity of peoples and cultures and of the significance and impact of mass communications in a global society.
- understand concepts and apply theories in the use and presentation of images and information;
- demonstrate an understanding of professional ethical principles and work ethically in pursuit of truth, accuracy, fairness and diversity;
- think critically, creatively and independently;
- conduct research and evaluate information by methods appropriate to the communications professions in which they work;
- write correctly and clearly in forms and styles appropriate for the communications professions, audiences and purposes they serve;
- critically evaluate their own work and that of others for accuracy and fairness, clarity, appropriate style and grammatical correctness;
- apply basic numerical and statistical concepts;
- apply tools and technologies appropriate for the communications professions in which they work.

ASSESSMENT OF STUDENT LEARNING FOR JOURNALISM PROGRAM:

The Council seeks to promote student learning and encourages experimentation and innovation. Assessment is a system of evaluation of student learning at the course or unit level (as opposed to grading at the individual level). Three criteria should guide assessment of student learning:

- Awareness: familiarity with specific information, including facts, concepts, theories, laws and regulations, processes and effects.
- Understanding: assimilation and comprehension of information, concepts, theories and ideas.
- Application: competence in relating and applying skills, information, concepts, theories and ideas to the accomplishment of tasks.

DEPARTMENTAL POLICIES

EMAIL:

You must have your UM email account activated. If you are using another provider such as Google, you are required to have your UM email forwarded to that account. Go to the <http://iam.memphis.edu> website to implement forwarding of UM email. You are required to check your email daily. You are responsible for complying with any email sent to you by your professor or the University.

CELLPHONES:

You must turn them off during class.

ATTENDANCE:

Class attendance is mandatory in the Department of Journalism. You may be assigned a failing grade for the semester for nonattendance, or habitual late arrival. No late work will be accepted without prior arrangements, which are acceptable to your professor. Students may not be permitted to make up any missing work unless it is for an absence due to illness or other catastrophic emergency such as a death in the family that can be documented (e.g. with a doctor's note or a copy of the newspaper obituary). This is a professional program for journalists who are expected to understand and comply with deadlines. If you have some problem making it to class on time make arrangements to fix the problem or consider taking another class. You should consider this class your "job" in the educational process and be on time just as you would elsewhere.

ACADEMIC DISHONESTY:

In addition to university-wide policies stated in the Code of Student Rights and Responsibilities, the Department of Journalism considers making up quotes from sources, turning in substantially the same assignment for credit in two different courses, or a student receiving any assistance from others for work assigned to be done on his/her own, as acts of cheating punishable to the degree determined appropriate by the course instructor and department chair. That may include grade reductions or seeking dismissal of the student from the university.

"Your written work may be submitted to Turnitin.com, or a similar electronic detection method, for an evaluation of the originality of your ideas and proper use and attribution of sources. As part of this process, you may be required to submit electronic as well as hard copies of your written work, or be given other instructions to follow. By taking this course, you agree that all assignments may undergo this review process and that the assignment may be included as a source document in Turnitin.com's restricted access database solely for the purpose of detecting plagiarism in such documents. Any assignment not submitted according to the procedures given by the instructor may be penalized or may not be accepted at all." (Office of Legal Counsel, October 17, 2005)

ONLINE SETEs:

You are urged to complete the SETEs evaluation of this class. Once your instructor has posted your grade, you can immediately see that grade, provided you completed a teacher evaluation for that class. How to access your evaluation forms: Log in using your UUID and email password; click on the gray "Student" tab; complete an evaluation for each course listed and hit the "Submit" button at the bottom of the form. It will only take a few minutes of your time. We take the evaluations very seriously and use them to improve courses and instructional quality. Your feedback is essential and will be appreciated.

DISABILITY:

Any student who feels s/he may need an accommodation based on the impact of a disability should contact the Office for Disability Services at (901) 678-2880 in 110 Wilder Tower Hall to coordinate reasonable accommodations for students with documented disabilities.