This course will analyze and criticize the philosophical and legal bases of important contemporary restrictions on freedom of expression. Connections with larger issues of tolerance and related principles of first amendment law will also be pursued.

Casebook Readings

(Only those readings specifically listed below are assigned; all other readings in the book are optional, even if they are in the same section or subsection as an assigned reading. Selections in [brackets] may be assigned if time permits.)

I. The History and Philosophy of Free Expression
   (All)

II. A. Expression That Induces Unlawful Conduct
   Abrams v. United States
   Gitlow v. New York
   Whitney v. California
   Brandenburg v. Ohio

II. C. Expression That Provokes a Hostile Audience Reaction
   Terminiello
   Feiner
   Note: Revising the Feiner Approach
   Cantwell
   Chaplinsky
   Note: The Skokie Controversy

III. Overbreadth, Vagueness, and Prior Restraint
    (All)

IV. A. False Statements of Fact
    NYT v. Sullivan
    Curtis Publishing Co. v. Butts; Associated Press v. Walker
Note: Public and Private Figures, Public and Private Speech

Hustler v. Falwell

IV. D. Obscenity

Roth

Miller v. California
Paris Adult Theatre

Note: The 1973 Reformulation and Its Aftermath

IV. E. The Lewd, the Profane, and the Indecent

Cohen v. California
Erznoznik
Pacifica

IV. F. Hate Speech and Pornography

R.A.V.

Virginia v. Black

Note: Pornography and the Victimization of Women (1. A model statute; 2. g. American Booksellers Association v. Hudnut)

V. A. General Principles

Kovacs v. Cooper
City of Ladue v. Gilleo

V. C. Symbolic Conduct

United States v. O'Brien

Note: Draft Card Burning and the First Amendment (3. Tinker v. Des Moines Independent Community School District)

V. B. Speech on Public Property: The Public Forum

1. Hague v. CIO
V. A. Schneider v. State
V. B. 1. Schneider v. State

Note: Regulating the Public Forum (1. United States v. Grace; 5. Ward v. Rock against Racism)

Note: Devices for Regulating the Public Forum (1. Cox v. New Hampshire; Thomas v. Chicago Park District; Watchtower Bible & Tract Society)
Course Requirements


2. Preparation. Advance preparation for class is essential. I will usually attempt to give a rough estimate of the next week's reading on Thursdays. *But in any event you are always responsible for preparing at least 10 pages beyond the point where a previous day's class ended.*

We'll generally follow the order of the readings in the materials, but some selections may be skipped, and other assignments may be added from other sources from time to time. (Any such modifications will be announced in class or by email.)

3. Class participation. Students will be called on regularly. The quality of class participation will be taken into account in the determination of grades.

4. Classroom Etiquette. Cellphones should be turned off prior to class or not brought into the classroom at all. If you need to make or take a call during the class period, you should not attend class that day. If you think your computer might make a noise during class, please do not bring it into the classroom that day. These rules are for the benefit of you and your fellow classmates.

5. Exam. The final exam will be a traditional (fact-pattern and essay question) three-hour, closed-book examination. (You are, however, allowed to bring one page of notes--front and back--with you to the exam.) A practice exam will be handed out toward the end of the semester and discussed at a special review session. More detailed information concerning the exam will be given out later.

6. Office hours: Mondays, Wednesdays, and Thursdays at 5:00 p.m. (right after class). (Right before class is not a good time.) My office is room 373 Holland Hall.