# FIRST AMENDMENT LAW

# Professor Collier

Law 6511, #16056

-3 credits-

Fall Term - 2019

# COURSE SYLLABUS

**CLASS DAY, TIME AND ROOM:**

Monday, Tuesday, Wednesday – 4:30 pm to 5:25 pm

Classroom – 355B

**OFFICE HOURS:**

Mondays, Tuesdays, and Wednesdays at 5:30 (right after class) (Right before class is not a good time)

Office: 373 Holland Hall

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.

**Course Requirements**

* 1. Casebook: Stone, Seidman, Sunstein, Tushnet & Karlan, *The First Amendment,*

**Fifth Edition (2016)**

* 1. Preparation. Advance preparation for class is essential. I will usually attempt to give a rough estimate of the next week's reading on Wednesdays. *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.)

* 1. Class participation. Students will be called on regularly. The quality of class participation will be taken into account in the determination of grades.
  2. 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.
  3. 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.

**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.)

1. The History and Philosophy of Free Expression (All)
2. A. Expression That Induces Unlawful Conduct

*Abrams v. United States Gitlow v. New York Whitney v. California Brandenburg v. Ohio*

1. C. Expression That Provokes a Hostile Audience Reaction

*Terminiello Feiner*

Note: Revising the *Feiner* Approach

*Cantwell Chaplinsky*

Note: The Skokie Controversy

1. Overbreadth, Vagueness, and Prior Restraint (All)
2. A. False Statements of Fact

*NYT v. Sullivan*

*Curtis Publishing Co. v. Butts; Associated Press v. Walker*

*Gertz*

Note: Public and Private Figures, Public and Private Speech

*Hustler v. Falwell*

IV. D. Obscenity

*Roth*

Note: Developments in the Law of "Obscenity"--1957-1973 (5. *Stanley v. Georgia;* 6.

*United States v. Reidel) 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*

1. 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)*

1. 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*)

1. B. Speech on Public Property: The Public Forum
   1. *Hague v. CIO*

V. A. *Schneider v. State*

1. 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)*

3. *Lehman v. City of Shaker Heights*]

[V. C. Symbolic Conduct] [(All)]

**GRADE INFORMATION:**

Grades are based primarily on the final examination, though class participation may be taken into account in borderline cases.

Each student’s final grade will, subject to the College of Law’s applicable grading curve, be based on a composite of all "scored"/graded homework assignments, as well as thoughtful and meaningful participation and performance in class. Further information regarding grades and grading policies can be found here: <https://catalog.ufl.edu/ugrad/current/regulations/info/grades.aspx>

The Levin College of Law’s mean and mandatory distributions are posted on the College’s website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

|  |  |
| --- | --- |
| Letter Grade | Point Equivalent |
| A (Excellent) | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C (Satisfactory) | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.0 |
| D- | 0.67 |
| E (Failure) | 0.0 |

**LEARNING OUTCOMES:**

Students who successfully complete the course should have a general understanding of the main issues in First Amendment Law.

**ATTENDANCE**

The attendance policy is the same as the current American Bar Association policies on student attendance. More than six class absences is considered excessive.

Students are required to attend every class (barring emergency or illness excused in advance) and to be fully prepared for and participate in all class discussions, exchanges and exercises. Absences will be excused consistent with University of Florida policies listed in the catalog (see https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx) and require appropriate documentation. Please be and stay engaged, prepared and committed. Advance preparation includes reading and thoughtfully considering all assigned material and thinking about and preparing responses (including drafting) to assigned questions and exercises. In class, you are expected (i) to volunteer, willingly respond and to participate when called upon and (ii) to conduct yourself professionally, and to respect and be courteous to your fellow classmates (and faculty).

**CLASS PREPARATION/WORKLOAD**

After completing this course, students should be able to:

·         Expect to spend, on average, approximately two hours preparing for every hour of class. Reading assignments are posted on the “Modules” link on the Canvas site (located on the left side of the Canvas site).

·         It is anticipated that you will spend approximately 2 hours out of class reading and/or preparing for in class assignments for every 1 hour in class.

·         ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. (Course) has 3 “classroom hours” of in-class instruction each week, requiring at least 6 hours of preparation outside of class. Accordingly, you will have about 60 pages of reading each week. Because the course includes statutory and regulatory excerpts that require careful reading, as well as discussion problems that require thoughtful advance written preparation, you should spend at least one hour on every 10-15 pages of reading.

**University Honesty Policy**. UF students are bound by *The Honor Pledge* which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: *On my honor, I have neither given nor received unauthorized aid in doing this assignment*.” The Honor Code (https:/[/www.dso.ufl.edu/sccr/proc](http://www.dso.ufl.edu/sccr/process/student-conduct-)e[ss/student-conduct-](http://www.dso.ufl.edu/sccr/process/student-conduct-) honor-code/) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, each student is obligated to report any condition that facilitates academic misconduct to appropriate University personnel.

**Students Requiring Accommodations**. Students with disabilities requesting accommodations should first register with the Disability Resource Center (352.392.8565, [www.dso.ufl.edu/drc/)](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

**Course Evaluations**. Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at [https://evaluations.ufl.edu](https://evaluations.ufl.edu/). These evaluations are typically open during the last two to three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>. In addition, a detailed, customized Course Evaluation Form will be distributed prior to, and collected at, the final class of the term.

**Class Demeanor**. Students are expected to arrive to class on time and behave in a manner that is respectful to the instructor and to fellow students. Please avoid the use of cell phones and laptops or tablets (other than for class-related work) and restrict eating to outside of the classroom. Opinions held by other students should be respected in all discussions, and conversations that do not relate or contribute to the discussion should be avoided or held to a minimum.