**T CORE 113 B—The Political & Legal Construction of Free Speech Rights**

University of Washington, Tacoma—Winter 2019

January 8th—March 21st

Tuesdays & Thursdays— 8:00 am to 10:00 am

TLB 109

Instructor: Lucas K. McMillan

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Office Hours: Tuesdays & Thursdays 12:15 to 1:15 pm & 3:35 to 4:35 pm (or by appointment)

**Course Description**

This course is designed to give first-year college students a gentle introduction into a specific (and exciting!) topic within the field of constitutional law: the 1st Amendment’s protection of the freedom of speech. More specifically, students will obtain a thorough understanding of how free speech rights have evolved overtime through U.S. Supreme Court case law, statutory law, and other actions taken by our elected representatives.

As we work our way through the quarter, students will learn about some of the basic philosophies, theories, and arguments useful for anyone interested in majoring (or minoring) in law and policy, political science, criminal justice, history, philosophy, or sociology. We will do so by addressing the following questions (among others): how did the Framers of our Constitution view the freedom of speech in the American republic? Why might it be necessary to prohibit certain types of speech? What criteria should judges use to determine which types of speech are not protected by the 1st Amendment? Should certain types of speech be prohibited on university campuses? If yes, what criteria should university administrators use to determine which types of speech are allowed on campus and which are not?

There is no right or wrong answer for each of these questions, but after this class you will have the preliminary knowledge and critical-thinking tools to further develop your opinions on how to answer them as best you can. More importantly, you will be able to engage in a respectful dialogue with others on contemporary issues involving the freedom of speech in the public sphere.

The following course **Student Learning Goals** are designed for the CORE program:

* Use the written assignments and course readings to develop a sense of the “big picture” about free speech rights.
* Learn to break down complex normative and descriptive questions on government restrictions of free speech into manageable pieces.
* Express your ideas and views on the various types of free speech clearly in writing and through oral presentations.
* Think outside the cultural norms and values toward the 1st Amendment and judicial decision-making (including your own) to engage the larger world.
* Collect and analyze qualitative (case studies) and quantitative (statistics and graphs) evidence about public opinion on the freedom of speech on university campuses to support a logical argument.

**Instructional Method**

We will use small-group and large class discussions as the primary method to learn the course material, with the occasional instructor-led lecture to help facilitate discussions on new concepts. I believe that one of the most effective ways for students to comprehend the course material is through active learning and participation. There is a **high expectation** on students to engage and interact with the instructor and other students during class discussions and debates in a civil and respectful manner. I assume students will obtain a general familiarity with the daily reading assignments, so in-class lectures will emphasize the key points, ideas, and concepts. Most lectures will utilize Microsoft PowerPoint, and the presentations will be available for review on Canvas.

**Office Hours and E-Mail**

While I should always be available during my scheduled office hours (see above), I understand that schedules sometimes conflict. With that in mind, I will do my best to make myself available for appointments outside of scheduled office hours that are more suitable for all parties. I also check my email regularly (lucasm13@uw.edu), so do not hesitate to send any questions, comments, or concerns to me via email. **NOTE**: ALL email correspondence must be with your uw.edu email account. I WILL NOT respond to any email sent through other accounts (i.e., Gmail, yahoo, etc.).

**Required Course Readings:**

The following book is required and available through the University Bookstore

* Chemerinsky, Erwin and Howard Gillman. 2017. *Free Speech on Campus*. Yale University Press: New Haven, CT.

All other required readings (i.e., links to case opinions) will be provided by the instructor on the course’s Canvas webpage. See the course schedule at the end of the syllabus to follow the daily reading schedule.

**Evaluation & Grades**

There are **100** **points** available in the course based on the following:

**Short writing assignments**: There will be a series of short writing assignments (about 2-pages each) throughout the quarter designed to introduce new college students on how to think critically not only about themselves and their free speech rights, but what it means to write about the freedom of speech at the university level. Each writing assignment will be worth 10 points and I will provide prompts with specific instructions and guidelines at least two weeks prior to the due date.

**Midterm and Final Exams:** The course exams consist of multiple-choice questions and several short argumentative essays where students will demonstrate their knowledge and understanding of the assigned readings and lectures. Students will be allowed to use hand-written notes during both exams. I will provide a study guide one-week prior to the scheduled exam dates.

**Free Speech at UWT Research Project:** Each student will create a public opinion survey focusing on free speech issues and administer the survey to a sample of the UWT student population. Students will then write a short paper (about 6 to 7 pages) reporting the results of their survey and discussing how students at UWT view contemporary free speech rights issues. There will be an important progress checkpoint halfway through the quarter, and each student must present their survey data to the entire class during the last two days of class. I will distribute an assignment prompt with more detailed instructions and expectations within the first two weeks of the course.

**In-class Participation**: Even though I will not take daily attendance (you are all adults), I strongly encourage you to come to each scheduled class period having already completed the required readings for that day. Students will receive an overall participation grade that will be based primarily ontheir **active engagement** in discussions and debates. Think of it this way: each day you answer one of my questions, ask a question, or participate in a discussion it will count as one (1) point (yes, I will keep a record until a student reaches 5 participation points).

***Classroom Civility Statement***: All classes and activities on the UWT campus are about learning, which often involves the exchange of ideas. However, the tone and intention behind that exchange are important. Civility, politeness, reasonableness, and willingness to listen to others are expected at all times—even when passions run high. Behaviors must support learning, understanding, and scholarship.

**Late Assignments and Make up Policy:**

If an assignment is not turned in on time, there will be a **5% point deduction** every 24-hours (1 day) it is late. For example, if an assignment is worth 20 points and it is turned in 2 days late, a 2-point deduction will be included in the final grading for that assignment.

Make up exams and quizzes will only be given in extraordinary circumstances and with prior approval from the instructor and based on his discretion alone.

Grading Breakdown:

Short writing assignments……...……....…30 points (30% of total grade)

Midterm exam…………………….……....15 points (15%)

Final Exam………………………………..20 points (20%)

Free Speech at UWT Research project…...30 points (30%)

In-Class Participation………………….….....5 points (5%)

**Total……………………………….……100 points (100%)**

Course Grading Scale:

|  |  |
| --- | --- |
| Percent Grade Point Letter | Percent Grade Point Letter |
| 99-100% 4.0 A+  97-98 3.9 A  95-96 3.8 A  93-94 3.7 A-  91-92 3.6 A-  89-90 3.5 B+  87-88 3.4 B+  86 3.3 B  85 3.2 B  84 3.1 B  83 3.0 B-  82 2.9 B-  81 2.8 B-  80 2.7 C+  79 2.6 C+  78 2.5 C  77 2.4 C | 76% 2.3 C  75 2.2 C  74 2.1 C-  73 2.0 C-  72 1.9 C-  71 1.8 D+  70 1.7 D+  69 1.6 D  68 1.5 D  67 1.4 D  66 1.3 D  65 1.2 D  64 1.1 D-  63 1.0 D-  62 0.9 D-  61 0.8 D-  60 0.7 D-  Below 60% = 0.0 |

**Incomplete grade—** For information on when an Incomplete ‘I’ grade is appropriate, please go to: <http://www.washington.edu/students/gencat/front/Grading_Sys.html#I>

**UW Tacoma POLICIES AND EXPECTATIONS**

**Academic Calendar** - Review course drop, withdrawal, instruction dates.  
[washington.edu/students/reg/calendar.html](http://washington.edu/students/reg/calendar.html)

**Academic Honesty** - **Cheating will not be tolerated in this class**. The University of Washington’s Student Conduct code will be strictly enforced, including the policy on plagiarism. The entire policy can be found at http://www.polisci.washington.edu/Dept\_and\_Univ\_Policies.pdf. I will strictly enforce this policy. The best way to successfully adhere to this policy is to learn the correct methods for citing other people’s work. The Political Science Writing Center is a good resource for learning these methods. For more information, please refer to:[tacoma.uw.edu/node/38211](http://tacoma.uw.edu/node/38211)

**Electronic Devices -** Electronic devices (including, but not limited to, cell phones, tablets and laptops) may only be used in the classroom with the permission of the instructor. Activities that are not relevant to the course, such as checking/ sending email, playing games and surfing the web, are considered disruptive activities when class is in session.

**Emergencies, Safety, and Evacuation Routes** - [tacoma.uw.edu/node/20236](http://www.tacoma.uw.edu/node/20236)

[Escort Service:](http://www.tacoma.uw.edu/node/38891) Safety escorts are available 24 hours a day, 7 days a week, there is no time limit. Call the main office line at 253-692-4416.

[In case of a fire alarm:](http://www.tacoma.uw.edu/node/39697) During an emergency evacuation, take your valuables ONLY if it is safe to do so. You could put yourself or someone else at risk by delaying your exit. Plan to return to class once the alarm has stopped. Do not return until you have received an all-clear from somebody "official," the web or email.

[In case of an earthquake:](http://www.tacoma.uw.edu/node/39696)DROP, COVER, and HOLD. Once the shaking stops, take your valuables and leave the building. Do not plan to return for the rest of the day. Do not return to the building until you have received an all-clear from somebody "official," the web or email.

**Safe Campus -**preventing violence is a shared responsibility in which everyone at the UW plays apart. The SafeCampus website provides information on counseling and safety resources, University policies, and violence reporting requirements help us maintain a safe personal, work and learning environment. [tacoma.uw.edu/safecampus/uwt](http://www.washington.edu/safecampus/uwt/)

**Inclement Weather** - always check the UWT Home Page [tacoma.uw.edu](http://tacoma.uw.edu).

Official campus closures or delays will be announced there first. Course Announcements and Email regarding assignments and expectations during a closure will follow once the severity of the situation is known.

**Technology Requirements** – how to be a successful digital learner: [tacoma.uw.edu](http://www.tacoma.uw.edu/online-learners/successful-online-learner)[/online/success](http://tacoma.uw.edu/online/success)

**Academic Support—**Numerous campus resources are available to support your academic success. Know your options and seek help and resources when needed.

**Disability Resources for Students** – The University of Washington Tacoma is committed to making physical facilities and instructional programs accessible to students with disabilities. Disability Support Services (DSS), located in MAT 354, functions as the focal point for coordination of services for students with disabilities. If you have a physical, emotional, or mental disability that "substantially limits one or more major life activities [including walking, seeing, hearing, speaking, breathing, learning and working]," and will require accommodation in this class, please contact DSS at [(253)692-4522](mailto:%28253%29692-4522), email at [dssuwt@uw.edu](mailto:dssuwt@uw.edu) and/or [uwtshaw@uw.edu](mailto:uwtshaw@uw.edu) or visit [www.tacoma.uw.edu/dss](http://tacoma.uw.edu/dss) for assistance.

**Library  -** Tioga Library Building / Snoqualmie Building

**Research Support** – get assistance starting a research project [tacoma.uw.edu/node/21865](http://www.tacoma.uw.edu/node/21865)

**Subject Librarians** - Make an appointment with a subject librarian to talk about library resources, research strategies, focusing a topic, evaluating information and more. [tacoma.uw.edu/library/subject-librarians](http://tacoma.uw.edu/library/subject-librarians)

**Student Success Mentoring Program** - Connect with a faculty or staff mentor [tacoma.uw.edu/ssmp](http://tacoma.uw.edu/ssmp)

**Teaching and Learning Center -** (TLC) 2nd floor of the Snoqualmie building

**Writing & Spanish support**:  writing consultations, online tutoring, workshops & support [tacoma.uw.edu/tlc](http://www.tacoma.uw.edu/tlc)

**Quantitative skills support**: peer tutoring available for math, science, statistics and more... [tacoma.uw.edu/tlc](http://www.tacoma.uw.edu/tlc)

**ESL Support**- Help for students whose first language is not English [tacoma.uw.edu/tlc](http://www.tacoma.uw.edu/tlc)

**Technology Support** - Labs, software, equipment checkout and help with Canvas, Google, email, logins, etc. [tacoma.uw.edu/it](http://www.tacoma.uw.edu/information-technology)

**Online Support for Your Course Work** - <http://www.tacoma.uw.edu/online-learners/online-support-students>

**Self and Family Support—**Everyone needs a little help sometimes. Here are a few campus resources on campus to help you get through those challenging times.

**Counseling Center (Office of Student Success)** - The Counseling Center offers short-term, problem-focused counseling to UW Tacoma students who may feel overwhelmed by the responsibilities of college, work, family, and relationships. Counselors are available to help students cope with stresses and personal issues that may interfere with their ability to perform in school. The service is provided confidentially and without additional charge to currently enrolled undergraduate and graduate students. To schedule an appointment, please call 253-692-4522, email [uwtshaw@uw.edu](mailto:uwtshaw@uw.edu), or stop by the Student Counseling Center (SCC), located in MAT 354. Additional information can also be found by visiting: [tacoma.uw.edu/counseling](http://tacoma.uw.edu/counseling).

**Student Health Center** - LBH 102; 1742 Market Street, Tacoma WA, 98402 Basic services at Student Health Services (SHS) are provided at no cost to currently enrolled UW Tacoma students. However, you may incur costs for services provided off campus, such as lab tests, and for some on-campus services, such as immunizations. The SHS staff will identify any services that you would have to pay for. <http://www.tacoma.uw.edu/studentaffairs/SHW/shs_healthservices_about.cfm.html>

**Oasis Center** - Oasis transforms the lives of queer youth by creating a safe place to learn, connect, and thrive. Oasis envisions a world in which queer youth are valued in the community as strong, creative leaders. Oasis is the only drop-in and support center dedicated to the needs of LGBTQ youth ages 14-24 in Pierce County. We are a youth-adult partnership in which youth and adults come together for shared teaching learning and action!  **Office Phone: 253-671-2838** Emergency Cell Phone: (253) 988-2108

**The Pantry** - to provide supplemental, nutritional, and culturally relevant food as well as hygiene items to all UWT students and their families. Location and information can be found by visiting: [tacoma.uw.edu/thepantry](http://www.tacoma.uw.edu/thepantry)

**Shelter for Young Adults (close to campus)** - Beacon Center - Shelter for young adults 18-24, Open daily 6:30pm – 6:30am. Doors close at 10 pm. Located at:  
Beacon Senior Center 415 South 13th Street Tacoma, WA. The shelter has 40 beds and serves young people ages 18-24. Please call 253-256-3087 for more information. <http://www.communityyouthservices.org/piercecounty.shtml>

**Short-term Loan Program** - The Office of Student Financial Aid has funds available for short-term loans to assist students with temporary cash flow problems. Additional information can also be found by visiting: [tacoma.uw.edu/uwt/admissions/financial-aid/loans](http://www.tacoma.uw.edu/uwt/admissions/financial-aid/loans)

**Course Schedule**

**NOTE**: The following schedule is and will remain flexible in terms of lecture and class discussion dates. I nevertheless expect all students to keep up with the reading on this schedule unless otherwise advised by me. Readings are to be completed by the assigned date. Additional readings not on this schedule may be assigned at my discretion.

**Week 1**

1. **Tuesday, January 8th –-Introduction & Discussion on U.S. Supreme Court**
2. **Thursday, January 10th –Discussion on U.S. Supreme Court (continued)**

**Section I—Free Speech & the U.S. Supreme Court**

**Week2**

1. **Tuesday, January 15th –The Founding Era’s Bill of Rights debate**

**Required Reading:**

1. The U.S. Constitution & Bill of Rights (link on Canvas)
2. **Thursday, January 17th –-Free speech rights from 1791-1876**

**Required Reading:**

1. The Alien & Sedition Act of 1798 (link on Canvas)
2. Bloom Jr., Lackland H. 2017. *John Stuart Mill and Political Correctness*. Louisville University Law Review, 56: 1-37. (on Canvas)

**Week3**

1. **Tuesday, January 22nd –-Free speech rights during U.S. wartime**

**Case law highlights:**

1. *Fox v. Washington (1915*)
2. *Abrams v. United States (1919)*
3. *Schenck v. United States (1919)*
4. **Thursday, January 24th –-****Free speech through publication**

**Case law highlights:**

1. *Whitney v. California (1927)*
2. *New York Times Co. v. Sullivan (1964)*

**Week4**

1. **Tuesday, January 29th–- Free speech in the New Deal/Great Society era**

**Required Reading:**

1. The Smith Act of 1940 (link on Canvas)

**Case law highlights:**

1. *Chaplinsky v. New Hampshire (1942)*
2. *Dennis v. United States (1951)*
3. *United States v. O’Brien (1967)*
4. *Brandenburg v. Ohio (1969)*
5. **Thursday, January 31st–-Free speech rights from 1969-1993**

**Case law highlights:**

1. *New York Times Co. v. United States (1971)*
2. *Texas v. Johnson (1989)*
3. *R.A.V. v. City of St. Paul (1992)*

**Week5**

1. **Tuesday, February 5th–-Contemporary Free speech issues**

**Case law highlights:**

1. *Virginia v. Black (2003)*
2. *Citizens United v. FEC (2010)*
3. *Snyder v. Phelps (2011)*
4. *United States v. Alvarez (2012)*
5. *Minnesota Voter Alliance v. Mansky (2018)*
6. **Thursday, February 7th—Class review for Midterm Exam**

**Week6**

1. **Tuesday, February 12th—Midterm Exam**

**Section II—The Politics of Free Speech on Campus**

1. **Thursday, February 14th–-Free speech rights of students**

**Case law highlights:**

* 1. *West Virginia State Board of Education v. Barnette* (1943)
  2. *Tinker v. Des Moines Independent Community School District* (1969)

**Required Reading:**

1. Calvert, Clay. 2018. *Reconsidering Incitement, Tinker and the Heckler’s Veto on College Campuses: Richard Spencer and the Charlottesville Factor*. Northwestern University Law Review. (on Canvas)

**RESEARCH PROJECT CHECKPOINT #1 Due on Canvas by 11:59 pm**

**Week7**

* + 1. **Tuesday, February 19th —****Freedom of Speech on Campus**

**Required Reading:**

1. Chemerinsky and Gillman—Chapters 1 & 2
   * 1. **Thursday, February 21st —** **Freedom of Speech on Campus (continued)**

**Required Reading:**

1. Chemerinsky and Gillman—Chapter 3

**Week 8**

1. **Tuesday, February 26th— Freedom of Speech on Campus (continued)**

**Required Reading:**

1. Chemerinsky and Gillman—Chapter 4
2. **Thursday, February 28th – Freedom of Speech on Campus (continued)**

**Required Reading:**

1. Chemerinsky and Gillman—Chapter 5

**Week 9**

1. **Tuesday, March 5th –-Concluding discussion about Free Speech on Campus**

**Required Reading:**

1. Chemerinsky and Gillman—Chapter 6
2. Ceci, Stephen J. and Wendy M. Williams. 2018. *Who Decides what is Acceptable Speech on Campus? Why Restricting Free Speech is Not the Answer.* Perspectives on Psychological Science, 13(3): 299-323.
3. **Thursday, March 7th –-Class review for Final Exam**

**Week 10**

1. **Tuesday, March 12th –Presentation Day #1**
2. **Thursday, March 14th—Presentation Day #2**

**Week 11**

* 1. **Tuesday, March 19th—Final Exam**
  2. **Thursday, March 21st — Final research paper due on Canvas by 11:59 pm**