



# Law of Mass Communications

MMC 4200-Spring 2013

**Prof. Sandra Chance**

*Office hours: M&W (2-4 p.m.) Other hours by appt.*

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The Brechner Center for

Freedom of Information

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This course focuses on the First Amendment and the federal and state laws that most directly affect mass communication in the United States. The course will serve as a “survival kit” for students by helping you understand and deal with the many legal questions and issues faced by media professionals in disseminating news and information to the public. You will acquire practical knowledge and learn legal principles and methods of analysis necessary for professional communicators. This course is specifically designed to cover the essential legal issues for all of the majors within this college.

Through a combination of lectures, class discussions and other resource materials, you will study the laws governing the media, analyze legal cases and problems and gain practical skills. We’ll begin with an overview of the legal system, including the sources of law, the structure of the state and federal court system and the importance of legal precedence. Whenever possible and appropriate, we’ll look at the different ways freedom of expression is protected or restricted around the world.

We’ll examine the First Amendment, what it means and why it’s important not only to members of the media, but to all citizens. Following this overview, we’ll focus on freedom of expression and the issue of censorship. We’ll also study defamation, sometimes known as libel, and privacy, the right to be let alone.

We’ll also discuss First Amendment protections for political and commercial speech and the laws of copyright. We’ll be looking at the new rules and regulations governing the Internet and the issues of indecency and obscenity.

In the final few weeks of the semester, we’ll learn about restrictions on court reporting and journalists’ confidentiality, and the potential conflict between a free press and a fair trial. Finally, we’ll cover access to government documents and meetings.

## **Course Objectives:**

At the end of the semester, you will have gained:

- (1) a basic understanding of the American legal system, its institutions, and some of its terminology;
- (2) a broad understanding of the First Amendment principles as they relate to mass communication;
- (3) a working knowledge of the laws that directly enhance or restrict information gathering and message dissemination in the mass media, and an understanding of the reasons and rationales behind these laws; and
- (4) an appreciation for the importance of understanding these legal issues to professional communicators who wish to minimize their legal exposure.

## **Required Texts:**

Middleton, Kent R. and Lee, William E., *The Law of Public Communication*, 2013 Update.

## **Class Web Site:**

In order to better serve you, answer questions, provide class information and additional study aids, I have established a list serve and a class web site.

The URL is: <http://lss.at.ufl.edu>. You'll need to pull down the complete syllabus from the website as soon as possible and start reading!

## **How You Can Do Well:**

Ask any College of Journalism and Communications graduate about the most difficult classes in the College, and most likely, they'll name MMC 4200. I've polled former students and asked them for suggestions for future students who want to do well in the class. This is what they said:

1. **Come to class.** They said they benefited greatly from the lectures. And remember, it's the primary way to earn extra credit.
2. **Read the text** and other assigned readings, especially the cases in the casebook.
3. Make your own **outline** of your notes and the text.
4. Come to reviews and **study for the exams**.
5. **Come see me ANYTIME** if you have a question or concern about the course.

## Attendance:

This is a large lecture class and I will not take attendance. However, students who do well in this class consistently report that class attendance was critical to their success.

In exchange for not requiring attendance, I only ask one thing. If you choose to come to class, please come ready to learn. Talking during class is encouraged if you are participating in class discussion. If, however, you are talking to your friends, surfing the net, updating your page on Facebook, reading *The Alligator*, or sleeping (especially if you are snoring!), you are disrupting the learning environment, and you will be asked to leave. Please understand that this is not meant to embarrass or humiliate anyone, only to make this a more positive learning experience for everyone else.

Finally, if you must miss class, it is **your responsibility to pick up any handouts, check with classmates to see what was covered and make-up any work you may have missed.**



### Important Dates:

First Day of Class	- Jan. 7
M.L. King Holiday/No Class	- Jan. 21
<b>First Exam</b>	- <b>Feb. 13</b>
Spring Break/No Class	- March 4-8
<b>Second Exam</b>	- <b>March 20</b>
<b>Third Exam/Last Day of Class</b>	- <b>April 24</b>
<b>Optional Final Exam</b>	- <b>May 1</b>

## Extra Credit:

As a special incentive for class attendance, I will have special assignments, which you will only be allowed to complete and turn in during that class period as a reward for reading the assignments and preparing for class. These assignments **CANNOT** be made up. You **MUST BE IN CLASS** to take advantage of these extra-credit opportunities. These extra credit points

can have a significant impact on your final grade, so be sure and take advantage of these opportunities.

### **Grading Policy:**

Grades in this course are awarded solely on the basis of your performance on the scheduled examinations and any extra credit you may have earned on class assignments. No credit or grades will be awarded based on need. No additional extra-credit opportunities will be available. Take advantage of every extra credit opportunity because that's the **ONLY** place you can earn extra points.

This course is **NOT graded on a curve**. However, I reserve the right to utilize a curve, and the decision will be made only at the end of the semester after the final grades have been tabulated and averaged.

### **Course Grading Scale**

<b>Exam Grade</b>	<b>Grade</b>	<b>Total Points for Final Grade*</b>
94-100	A	282-300
90-93	A-	270-281
87-89	B+	261-269
84-86	B	252-260
80-83	B-	240-251
77-79	C+	231-239
74-76	C	222-230
70-73	C-	210-221
67-69	D+	201-209
64-66	D	192-200
60-63	D-	180-191
Below 60	E	

**\*3 exams plus extra credit**

### **Examinations:**

**Please read this section carefully. My exam policies are designed to be fair and equitable to the entire class and will be applied accordingly.**

There will be three scheduled exams during the semester and an **OPTIONAL FINAL EXAM**. Each of the three scheduled examinations will test you only on the materials covered during that portion of the semester. The final exam will be cumulative and will follow the same format as the other three exams.

It **MAY** be used as a replacement for one of your other three exams. For example, if you are unhappy with one of your exam grades, you can take the optional final exam. If that grade is better than your lowest regular exam grade, I'll substitute your optional final exam grade for your lowest regular exam grade. There will be no penalty for taking the final exam. If you don't do well on the final exam, I'll just add up your top three grades, add in any extra credit you have and calculate your final grade.

Students will be responsible for all the information contained in the readings, lectures and other presentations. Examinations generally will consist of objective-type questions, including multiple choice and true/false questions.

Students are expected to be present and on time for each scheduled examination. If you miss one of the three regularly scheduled exams and do not have an excused absence, the final exam becomes **MANDATORY**. To make up an exam, you must present written evidence of an excusable absence, such as a documented personal illness or death in the family, and take the makeup examinations within one week (7 days) of the scheduled examination date.

Only in instances where there is an excused absence will a makeup for the final examination be given. You will only be allowed to take the final as a make-up for one missed exam. **If you miss more than one exam, plan on taking the course next semester.** To make up the final, you must present written evidence of an excusable absence, such as personal illness or death, in the family within one week of the final exam. Except during periods of extreme weather conditions, no extra time will be given to examination latecomers.

Finally, no one will be allowed to take an examination after one of the examinees has completed her or his examination and left the room. No one is allowed to leave the room for any reason during the examination unless she or he suddenly becomes too ill to complete the examination. No one will be re-admitted to the examination without permission from the proctor. Therefore, students should take care of all their needs prior to entering the examination.

### **Outside Assignments:**

I may give you an opportunity to earn extra credit by completing an assignment outside of class. In order to qualify for these bonus points, your assignment must be **TYPED** and you must complete the assignment fully and thoughtfully.

### **About Your Professor:**

First of all, I'm dedicated to making this a valuable and rewarding learning experience for all of us. In addition to my faculty responsibilities, I'm the Executive Director of the Brechner Center for Freedom of Information at UF and the McClatchy Professor in Freedom of Information. I help reporters, broadcasters, public officials, lawyers and citizens understand the Government-in-the-Sunshine laws and gain access to governmental information. I was named the National Journalism Teacher of the Year, the College's Teacher of the Year, and have received a University Teaching Award and a University Superior Accomplishment Award. I'm a member of the Florida Bar, the federal bar and I'm admitted to practice before the U.S. Supreme Court. I was directly involved in two U.S. Supreme Court cases last year.

I believe students must be involved in the learning process and develop their critical thinking skills in order to truly understand the myriad of legal issues facing professional communicators. My courses are structured to develop, nurture, and reward critical thinking skills. Throughout the semester, I will encourage you to apply the knowledge you acquire through the lectures, texts and discussions to "real-world" situations. At the end of the semester, you will have a better understanding of how the First Amendment works in the real world and be able to apply legal principles to daily situations faced by media professionals.

I joined the faculty in July 1993 after spending two years practicing media law with the state's largest law firm, Holland & Knight. I represented *The Tampa Tribune*, *The Miami Herald*, *The Orlando Sentinel*, and *The New York Times'* regional newspapers, including *The Gainesville Sun*, and various television and radio stations in the southeast. I've traveled to Peru, Chile,

Brazil, Uruguay, Guatemala, and Jamaica for the U.S. State Department to discuss freedom of information and access issues in emerging democracies. During the summer, I teach judges from around the country in the Advanced Judicial Studies Program at the National Judicial College. I am a director of the Florida First Amendment Foundation and the Society of Professional Journalists' state Sunshine Chair. I'm also the campus director of the national Liberty Tree initiative, a program designed to support First Amendment programs on college campuses around the country.

I've published dozens of scholarly articles in legal journals and law reviews, presented at more than 50 national and international conferences and participated in several cases heard by the U.S. Supreme Court.

I'm a native Floridian and received my law degree from the University of Florida with honors in 1990. I also earned a Master's Degree in 1985 with distinction, and a B.S., with high honors in 1975, from UF's College of Journalism and Communications.

### **Access to the Professor:**

This is a large class, but please don't let that stop you from coming to see me. My office is located in the Brechner Center for Freedom of Information, on the third floor in the Flanagan Wing of the building. It's a little out of the way, but I hope you'll come by. Please don't be a stranger. I will be free to talk with you on Mondays and Wednesdays from 2-4 p.m.. If these times are not convenient, stop by and we'll set something up. I would enjoy having an opportunity to get to know you.

In addition, feel free to send me an e-mail if you have a question that can't wait until class or office hours. I'll respond as quickly as I can, usually within 24 hours.

If there is an emergency or a problem that can be handled quickly, I will generally be available to help at almost any time you can catch me in my office or building. I'll be glad to discuss course material, studying procedures, individual problems with the course, as well as personal counseling on career choices, graduate school or law school admissions. **Exception: I will not be available the hour before class.** I use that time to focus on final course preparation. Also, remember that my teaching assistant is ready, willing and able to assist students at any time with questions or concerns about the course, the material or the examinations.

### **Directions for E-Learning System:**

This course will rely on the tools and communication devices available through UF's E-Learning Systems. A course page for MMC 4200 has been set up, and your enrollment in the course automatically gives you access to the course page.

To log on to the course page, visit <http://lss.at.ufl.edu/>. For help or questions regarding your Gatorlink account, please visit <http://gatorlink.ufl.edu/>.

### **Teaching Assistant:**

Our TA this semester is Justin Hayes. He's currently pursuing a MAMC with a concentration in Political Communication at the University of Florida. He received a bachelor's degree in political science from Kennesaw State University in 2011. From August 2011 until August 2012, Justin was the opinions editor of *The Independent Florida Alligator*. At KSU, he wrote a weekly column for the student newspaper, *The Sentinel*, and was the Program Manager

for Owl Radio, the student-run radio station. Justin co-authored an article published in the Case Western Reserve Law Review and presented the paper at a national academic conference in Chicago, IL, this summer. His email address is: [jhayes51@ufl.edu](mailto:jhayes51@ufl.edu). His office hours are: MW&F (10L30-11:30 a.m.) and Tuesdays (10:30-11:30 a.m.).

### **Honor Court Statement:**

Academic honesty and integrity are fundamental values of the university community. Students who enroll at the university commit to holding themselves and their peers to the high standard of honor required by the Honor Code. Any individual who becomes aware of a violation of the Honor Code is bound by honor to take corrective action.

*The Honor Code: We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honest and integrity. 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."*

By remaining in this course, you agree to abide by the Honor Code. If you are aware of cheating, please advise our class teaching assistant, me, the Department Chair, or the Student Honor Court, and proper action will be taken.

### **Disabled Students:**

Students requesting classroom accommodation must first register with the Dean of Students Office. The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. **You must present an official letter from that office by the end of the second week of class** and meet with me regarding any necessary individual arrangements.

### **Posting of Grades:**

Grades will be posted on our class e-learning site. Students with questions about their exam or grade must first see the TA during his office hours. Justin will go over your exam with you and answer questions you may have. Once you have completed this initial review, you can always speak to me, so you can better prepare for the next exam.

**NO EATING, DRINKING, or SMOKING in the classroom. And, PLEASE turn off your cell phones!**

## **4200- Spring 2013**

### **Week-by-Week Schedule (Subject to Change)**

#### **Week 1: Jan. 7-11, 2013**

Drop-Add period

#### **Introduction to Law of Mass Communication**

We'll do a quick review of the fundamentals of our legal system, where laws come from and the basic guarantees that protect professional communicators. We'll review the federal and state court systems, the litigation process and criminal procedure. The role of the Supreme Court as final arbiter and interpreter of the U.S. Constitution will be examined. Finally, we'll discuss guidelines for professional communicators involved with legal questions and the parameters when working with lawyers.

#### Readings:

Text: Chapter 1- Public Communication and the Law, pp. 1-25.

Appendix A and B: Finding and Reading the Law and Constitutional Amendments, pp. 612-622.

#### **Week 2: Jan. 14-18, 2013**

#### **The First Amendment**

What is the First Amendment? Why is it important for professional communicators? What individual freedoms are guaranteed under the First Amendment? The First Amendment begins "Congress shall make no law..." What does this mean? Are there limitations on freedom of expression? Is it an absolute prohibition on regulating speech or is there some speech that doesn't deserve protection? If so, how is this decision made? We'll look at the First Amendment doctrine and the scope of its protections.

#### Readings:

Text: Chap. 2, The First Amendment, pp. 26-46.

#### **Week 3: Jan. 21-25, 2013**

**No class Jan. 21- Martin Luther King Holiday**

#### **The First Amendment, cont.**

Text: Chap. 2, pp. 45-69.

#### **Week 4: Jan. 28-Feb. 1, 2013**

#### **Methods of Control**



The First Amendment protects freedom of expression, but is there some speech that a civilized society should not tolerate? When can speech be controlled or restricted? Can people be jailed for expressing ideas or opinions? Should offensive speech, such as hate speech or fighting words be protected by the First Amendment? When is it constitutionally permissible to censor or restrain speech? In other words, when can governments constitutionally regulate speech?

Text: Chap. 3, pp.70-96.

### **Week 5: Feb. 4-8, 2013**

#### **Libel**

The media wield great power, especially when they write stories about people that damage or injure their reputation, destroy their lives and ruin their professional careers. Libel laws have developed over 200 years to protect reputations from such injuries. However, journalists who write stories exposing crime, corruption or other misdeeds, make mistakes. Does the First Amendment protect those who libel someone if they make a mistake, were careless in their fact-finding or somehow just screwed up? What if someone knows the libelous information is false and still publishes it? We'll also discuss how professional communicators can protect their jobs, their organizations and themselves from libel cases, including when you should consider suing and what to do if you get sued.

#### Readings:

Text: Chap. 4, 97-152.

### **Week 6: Feb. 11-15, 2013**

#### **Libel, con't.**

When the U.S. Supreme Court determined that the Constitution protected libel in 1964, it became much more difficult for plaintiffs to recover damages. We'll learn about the various defenses, including the constitutional defenses, the absolute privileges and the qualified privileges that protect the media and communications professionals. We'll focus on the constitutional protection for opinion, one of the most controversial areas of libel law. Finally, we'll look at how courts calculate damages.

#### Readings:

Text: Chap. 4, pp. 152-178.

► **First Examination –Wednesday, Feb. 13**



### **Week 7: Feb. 18-22, 2013**

#### **Privacy and Personal Security**

One of the most important and troublesome topics for professional communicators is the issue of the right to privacy. What is it? What does it cover? Where does it come from? Is there a constitutional protection to protect individuals from the government's snooping? Are there civil remedies to protect people from other individuals or the media who want to peek into their private lives? We'll focus on the four privacy torts, including the publication of private facts, intrusion, false light and misappropriation or commercialization.

Readings:

Text: Chap. 5 Privacy and Personal Security, pp. 179-209.

**Week 8: Feb. 25-March 1, 2013**

**Privacy, con't.**

Text: Chap. 5 Privacy and Personal Security, pp. 209-238.

**Week 9: March 4-8, 2013**

**Spring Break!**

**Week 10: March 11-15, 2013**

**Intellectual Property**

**Copyright, Fair Use and Unfair Competition.**

The origins, protections and importance of copyrights will be discussed. What is copyright? Who can own a copyright? What rights come with a copyright? What are the defenses to copyright infringement? What constitutes a fair use? We'll study the U.S. Supreme Court's newest decision on copyright and what it means for the future of copyright holders. Also, we'll look at copyright and the Internet, the latest battleground over copyrights.

Readings:

Text: Chap. 6 Intellectual Property, pp. 239-286.

**Week 11: March 18-22, 2013**

**Intellectual property, cont.**

► **Second Examination – Wednesday, March 20**



## **Week 12: March 25-29, 2013**

### **Political Speech**

Can political speech be regulated? Do corporations have a First Amendment right to free speech? Are there any good reasons for limiting corporate expression? Does the First Amendment guarantee individuals or corporations the right to make unlimited campaign contributions? Should non-media corporations have the same rights granted to newspapers, radio and television stations, and other media outlets? In addition to these issues, we'll look at the most recent U.S. Supreme Court decisions affecting campaign financing laws. Finally, we'll study the laws regulating political candidate programming.

#### Readings:

Text: Chap. 7, pp. 287-331.

### **Begin Chapter 8 -Commercial Speech**

We'll study the evolution of First Amendment protections for advertising. What led the U.S. Supreme Court to extend this important protection to advertising and what are the limitations on the constitutional right to advertise? We'll discuss unfair and deceptive advertising and how states and the federal government regulate advertising. Finally, we'll review the SEC rules governing how companies can promote themselves to investors.

#### Readings:

Text: Chap. 8, Commercial Speech, pp. 332-407.

## **Week 13: April 1-5, 2013**

### **Free Press and Fair Trial**

The First Amendment guarantees the press and the public the right to attend and write about legal proceedings. This right covers reporting on the crime, the accused, the prosecution, the defense and the trial itself. As important as this First Amendment right to a public trial is, the defendant also enjoys a Sixth Amendment right to a fair trial. What happens when these rights collide? Can press coverage prevent the defendant from getting a fair trial? What restrictions can be placed on the press to ensure a fair trial by an impartial jury? What are some of the challenges and issues facing judges who must balance these competing interests?

#### Readings:

Text: Chap. 10, The Media and the Judiciary, pp. 467-526.

## **Week 14: April 8-12, 2013**

### **Chap. 9, Obscenity and Indecency**

The most controversial topic in media law, an important case in this area will be heard by the U.S. Supreme Court this semester. Some is not. The courts have struggled with defining what is

and is not protected by the First Amendment. And, the courts have come up with different levels of First Amendment protections depending on the medium used to communicate the information. For example, one of the hottest battlegrounds over free speech and the First Amendment is on the Internet. We'll look at how the courts have defined obscenity and indecency, how sexual content can be banned or regulated and what that means for the Internet, broadcasters and cable operators.

Readings:

Text: Chap. 9, pp. 408-466.

***Week 15: April 15-19, 2013***

**Chap. 11 - Protection of News Sources, Notes and Recordings**

Reporters often rely on sources for their news stories. Sometimes sources request anonymity so they can give the reporters information, but their names will not appear in the news story. If sources give information about a criminal activity, can reporters be required to reveal that information? Can they protect their sources, like Deep Throat in the Watergate scandal? Does the First Amendment provide any protection for reporters who don't want to name their sources? What about shield laws? Do they protect journalists from being jailed?

Readings:

Text: Chap. 11, pp. 527-567.

**Chap. 12 - Access to Governmental Information**

Information is the lifeblood of good journalism. Information is also critical to helping us make better decisions for ourselves, our families and our communities. Laws like the Federal Freedom of Information Act allow reporters and the public to access information about governmental officials and the decision-making process. Passed in 1966, FOIA created a mechanism through which government bureaucracy could be monitored and officials could be held accountable for waste, corruption and inefficiency. We'll look at the state of freedom of information under the current White House Administration. Can access to information co-exist with national security concerns? We'll also study Florida's Government-in-the-Sunshine Laws.

Readings:

Text: Chapter 12, Access to Information, pp. 568-611.

***Week 16: April 22-24, 2013***

**Access to Information, con't.**



► **Third Exam- Wednesday, April 24**

**OPTIONAL FINAL EXAMINATION:****Wednesday, May 1, 2013****8:30-9:30 a.m.****(Time assigned by UF administration.)****Remember this is a cumulative exam. It will be the same format as the other exams, 50 minutes and a combination of T/F and multiple choice questions.****Weimer Hall****Room 1064 – Gannett Auditorium**