

Antonin Scalia Law School at George Mason University

FREE SPEECH CLINIC (Law 136)
Spring 2024 Course Syllabus (dated 12.19.23)

Tuesdays from 6:05– 8:05 p.m.

2 credits*

* Note this is a year-long course, with two credits earned each semester. This syllabus is for spring semester only.

Professors: Mike Connolly: jconnol5@gmu.edu
Office Hours: By appointment; Zoom appointments available

JoAnn Koob: jkoob@gmu.edu
Office Hours: Tuesdays 4:30 – 5:30 p.m.; Wednesdays 4 – 5 p.m.; and by appointment;
Room 433K; Zoom appointments available

Overview: The Free Speech Clinic provides students with legal practice experience through pro bono representation in actual free speech cases. Clinic students work closely with experienced attorneys to identify cases of interest, research legal issues, and draft memos, motions, briefs, and other documents. In addition, clinic students receive weekly classroom instruction on procedural and substantive issues relevant to their cases, federal and state court decisions, and recent developments in First Amendment law. Guest lecturers with a wide array of backgrounds will often attend the weekly meetings.

Readings: There is no casebook required for this course. We will provide case citations and/or post the weekly readings on Blackboard. Reading assignments are subject to change, as they are based on our guest speaker schedule and requests.

In addition, from time to time we may post optional supplemental readings on Blackboard that we think may be of particular interest based on our casework and other relevant topics.

Attendance: The course follows the Law School's attendance policy. If a student is absent for any reason more than 20% of the course, then the student is not eligible for credit. A student who misses more than 25% of a class session will be counted as absent from that class session. Note that we will follow the law school's then-current policy regarding COVID-related absences and make whatever corresponding accommodations exist under the policy (e.g., providing the opportunity to attend remotely via Zoom).

Assessment and Grades: Grades for spring semester will be based on a combination of case work, class participation, and an optional short paper, as shown below. You will be required to submit a short memo summarizing the casework you did and your role therein at the end of the semester. Guidelines for the paper will be provided as the semester progresses (they will be the same as the fall semester guidelines).

- Casework: 75%; If you opt to do a paper, it will be factored into your casework grade
- Class Participation: 25%

AI Policy: The use of artificial intelligence in drafting or writing coursework, including papers, is prohibited unless express permission is received from one of the course instructors in writing.

Learning Outcomes:

- Students will understand basic principles of the speech, press, and assembly clauses of the First Amendment, as well as freedom of association.
- Students will develop litigation-focused research and writing skills.
- Students will understand the process and strategy of litigating freedom of speech claims.
- Students will exercise the professional skills expected of members of the legal profession.

Schedule: The course topics and reading list below will be updated during the semester as guest speakers are confirmed and to better reflect the Clinic's case work. We will keep you apprised of updates to the schedule and reading assignments.

*All readings denoted with an asterisk * are available on Blackboard

January 16, 2024

Topic: *Free Speech: What Everyone Needs to Know*

Reading: The following from *Free Speech: What Everyone Needs to Know* (the book by Nadine Strossen that we gave you towards the end of fall semester): pp. 21 – 64 (chapter 2, questions 1 – 10)

Speaker: **Nadine Strossen.** Professor Strossen is the John Marshall Harlan II Professor of Law Emerita at New York Law School and past President of the American Civil Liberties Union (1991-2008), is a Senior Fellow with FIRE (the Foundation for Individual Rights and Education), and a leading expert and frequent speaker/media commentator on constitutional law and civil liberties. She has testified before Congress on multiple occasions. She serves on the advisory boards of the ACLU, Academic Freedom Alliance, Heterodox Academy, National Coalition Against Censorship, and the University of Austin.

The National Law Journal has named Strossen one of America's "100 Most Influential Lawyers," and several other publications have named her one of the country's most influential women. Her many honorary degrees and awards include the American Bar Association's prestigious Margaret Brent Women Lawyers of Achievement Award (2017). In 2023, the National Coalition Against Censorship (an alliance of more than 50 national non-profit organizations) selected Strossen for its Judy Blume Lifetime Achievement Award for Free Speech.

She is the author of *HATE: Why We Should Resist It with Free Speech, Not Censorship* (2018) and *Free Speech: What Everyone Needs to Know* (2023). She is also the Host and Project Consultant for *Free To Speak*, a 3-hour documentary film series on free speech scheduled released on public television in fall 2023.

Professor Strossen graduated Phi Beta Kappa from Harvard College and magna cum laude from Harvard Law School. Before becoming a law professor, she practiced law in Minneapolis (her hometown) and New York City.

January 23, 2024

Topic: Press Freedom (tentative)

Reading: TBD

Speaker: **Gene Policinski.** Gene Policinski is a Senior Fellow for the First Amendment at the Freedom Forum, where he writes, lectures, and speaks on an array of First Amendment topics. His work often focuses on press freedom and free speech issues, including whistleblower protections, data privacy and the intersection of news coverage and courts. He regularly contributes to the Freedom Forum's "First Five" series, has been published in several law review journals and wrote a chapter on press freedom in the American Bar Association book "Whistleblowers, Leaks and the First Amendment." He is also the author of a new book, "From the Village Green to the Village Screen," which explores the evolution of First Amendment law, customs, and social mores. Since arriving at the Freedom Forum in 1996, Policinski has served in many roles including as Executive Director of the First Amendment Center, President of the Diversity Institute and Chief Operating Officer of the Freedom Forum Institute, among others. He was a founding Editor of USA Today.

January 30, 2024

Topic: Compelled Speech and Public Accommodations Laws

Assignment: TBD

Guest Speaker: **Ethan Blevins.** Ethan is a legal fellow working primarily on equality and opportunity issues and property rights on PLF's Constitutional Scholarship team. He previously worked as a staff attorney with PLF, mostly suing his favorite defendant, the City of Seattle. In addition to his legal work, Ethan has spoken and written on a variety of legal and policy issues. He has appeared on numerous radio and television programs, and his writings have appeared in The Wall Street Journal, The Seattle Times, The Salt Lake Tribune, The Hill, and other major publications. Ethan earned his law degree cum laude from Duke School of Law, as well as a master's degree in international and comparative law. He writes poetry and fiction and has completed two fantasy novels, with several other books always in the works. He also enjoys mnemonics, comic books, gaming, and playing the ukulele. He lives in Bountiful, Utah, with his wife and four kids.

February 6, 2024

Topic: Overbreadth and Vagueness

Assignment: *Shorted versions of each of the readings are available on Blackboard

- *Grayned v. Rockford*, 408 US 104 (1972)*
- *Coates v. Cincinnati*, 402 U.S. 611 (1971)*
- *Gooding v. Wilson*, 405 U.S. 518 (1972)*
- *New York v. Ferber*, 458 U.S. 747 (1982)*

Speaker: Professor Koob

February 13, 2024

Topic: Section 230, Data Privacy, and Free Speech on the Internet

Reading: TBD

Guest Speaker: **Jennifer Huddleston.** Professor Huddleston is a technology policy research fellow at the Cato Institute. Her research focuses on the intersection of emerging technology and law with a particular interest in the interactions between technology and the administrative state. Professor Huddleston’s work covers topics including antitrust, online content moderation, data privacy, and the benefits of technology and innovation. Her work has appeared in USA Today, National Review, the Chicago Tribune, Slate, RealClearPolicy, and U.S. News and World Report. She has published in law journals including the Berkeley Technology Law Journal, George Mason Law Review, Oklahoma Law Review, and Colorado Technology Law Journal. Professor Huddleston has a JD from the University of Alabama School of Law and a BA in political science from Wellesley College.

February 20, 2024

Topic:

Reading:

Speaker:

February 27, 2024

Topic: Current Free Speech Issues

Reading: TBD

Speaker: **Emerson Sykes.** Emerson is a senior staff attorney with the ACLU Speech, Privacy, and Technology Project where he focuses on First Amendment free speech protections. From 2019-2020, he was also host of At Liberty, the ACLU’s weekly podcast. Prior to joining the ACLU in 2018, he was a legal advisor for Africa at the International Center for Not-for-Profit Law (ICNL). He provided technical legal assistance and training to African civil society leaders, government officials, law students, and other stakeholders to improve the legal framework protecting the freedom of association, assembly, and expression. Emerson previously served as assistant general counsel to the New York City Council, where he worked to increase transparency for council members’ discretionary spending, and contributed to the council’s amicus brief against the NYPD’s “Stop and Frisk” program. In 2011, he was as senior policy fellow in the office of a member of Parliament in Ghana. Emerson previously conducted research and wrote about U.S. foreign policy for The Century Foundation, a progressive think tank, and worked for the National Democratic Institute’s Central and West Africa Team. Emerson holds a J.D. from the New York University School of Law, a Master of Public Affairs degree from the Woodrow Wilson School at Princeton, and an undergraduate degree in political science at Stanford.

March 5, 2024

Spring Break: NO CLASS

March 12, 2024

**Topic:
Reading:
Speaker:**

March 19, 2024

**Topic:
Reading:
Speaker:**

March 26, 2024

**Topic:
Reading:
Speaker:**

April 2, 2024

**Topic:
Reading:
Speaker:**

April 9, 2024

**Topic:
Reading:
Speaker:**

April 16, 2024

**Topic: Free Speech Careers
Reading: None
Speaker: Professor Connolly**