

First Amendment Law  
Professor Teachout  
Fall Term, 2018

Reading Assignment for the First Class (Tuesday, August 28<sup>th</sup>)

Texts: Chemerinsky, Constitutional Law (5<sup>th</sup> ed., 2017) and 2018 Supplement

[Note: You will need the 2018 supplement because of the number of important First Amendment cases handed down by the Court since the 5<sup>th</sup> edition of the text appeared. Almost half the supplement is devoted to recent First Amendment cases.]

Office Hours: T & Th, 10:00-11:00 a.m. or by appointment.

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Course Overview

This course is designed to provide students with a solid grounding in First Amendment law and a practical appreciation of the distinctive modes of analysis the Court employs in dealing with different types of First Amendment questions. The course introduces students to the full range of First Amendment issues: free speech, free press, right of association, free exercise of religion, and the prohibition against establishment. The primary goal of the course is to provide students with a helpful analytical framework for identifying and analyzing different types of First Amendment problems. A secondary goal is to provide students with hands-on experience in dealing with First Amendment issues as they are likely to appear in practice. A third goal is to prepare students for dealing with First Amendment questions on the bar exam.

Over the course of the semester, students will be assigned four practice-related exercises. These exercises will be assigned not individually but to teams composed of four or five students. You will have an opportunity to form a team for working on these exercises. If you would prefer being assigned to a team, I will arrange that. These exercises are not graded but they are taken into account as an element of class participation. In the past, exercises have included the following: drafting a motion to dismiss a criminal complaint, drafting an aggressive panhandling ordinance, drafting a memo to a school board regarding school dress code policy, and evaluating possible constitutional challenges to a mandatory labeling requirement. They are designed to give you hands-on experience dealing with First Amendment problems.

In addition to the assigned text and supplement, students are encouraged to keep track of recent developments relating to First Amendment law and to consult the discussions of important pending First Amendment cases in the leading Supreme Court blog: <http://www.scotusblog.com/>

Assigned Reading for the First Class

Session #1 (Tuesday, August 28<sup>th</sup>): Historical Context: Freedom of Speech and Press in Eighteenth Century America: The Sedition Act Trials

We will spend the first class session discussing the historical context for protection of freedom of speech and press in America, under the common law, the new state constitutions, and the U.S. Constitution and the first ten amendments. I will be posting an outline on TWEN of my lecture but will also, for this class only, bring hard copies of the outline to distribute in class. You need not worry about reading over the outline carefully in advance, but you should skim it to get a sense of coverage. We will be addressing developments under both state and federal law during this early period. In dealing with current First Amendment issues, it is crucial you appreciate this historical context and understanding.

In preparation for class, please read pp. 1-26 of Ragsdale, “The Sedition Act Trials.” We will focus primarily on the trial of Mathew Lyon since it has local relevance. Be prepared to explain what the Alien and Sedition Act prohibited, what sorts of statements were subject to prosecution, where the trial of Mathew Lyon was held, who presided, who represented Mathew Lyon, what his arguments were, and what the ultimate disposition was.

Read: [Amendment I, U.S. Constitution](#)  
Ragsdale, “The Sedition Act Trials” (2005) pp. 1-26 at:  
<https://www.fjc.gov/sites/default/files/trials/seditionacts.pdf>