JOURNALISM, ADVERTISING & MEDIA STUDIES 559

Freedom of Expression in the Digital Age

Professor David Pritchard
Spring 2018

GOALS OF THE COURSE

JAMS 559 has two goals. First, the course seeks to help you recognize the rights and responsibilities of media professionals. Second, it offers you an understanding of freedom of expression and its relationship to changing conditions in American society.

JAMS 559 deals with challenging material, but it is not a hard course. The material is interesting, and even fun. If you keep up with the reading and ask for help when something doesn’t make sense, you’ll do fine.

REQUIRED READING

Required reading includes *Mass Media Law, 20th edition*, by Calvert, Kozlowski, and Silver, which you can get from [http://uwm.ecampus.com/shop-by-course](http://uwm.ecampus.com/shop-by-course). You’ll find a variety of purchase and rental options. *It is OK to use the 18th or 19th editions (the authors of those editions are Pember and Calvert), which you can purchase online at sites such as [www.cheapesttextbooks.com](http://www.cheapesttextbooks.com) for a fraction of the price of the 20th edition.* Just be sure to have the textbook by the beginning of JAMS 559. The course moves quickly, and if you don’t do the reading you’ll be seriously disadvantaged.

The syllabus and course D2L site contain links to required material (court decisions, laws, songs, and even a couple of comic books) other than the textbook. If you don’t like using D2L, you can access most of this material by holding Ctrl and clicking on the blue links in this syllabus. Also on D2L are written notes and audio podcasts intended to help you understand challenging material. Be sure to check your UWM email regularly for updates.
TESTS AND GRADING

Despite the fact that this section of JAMS 559 does not have face-to-face class meetings, the class will require a significant investment of your time. You should expect to spend at least six hours a week on the class.

The course outline at the end of this syllabus details week-by-week assignments. Please don’t make the mistake of falling behind and thinking that you will be able to catch up in time to do well on an exam – there’s just too much material for last-minute cramming to be successful.

Media law can be complex, so when something isn’t clear please let me know. If you have a question about a certain area of law – for example, is it legal for the media to publish the names of victims of sensitive crimes such as sexual assault? – shoot me an email. I will respond to questions as quickly as I can.

Your course grade will be based on four equally weighted exams that you take via D2L. The exams will be timed, open-book, problem-solving essay tests designed to test your mastery of course content. You will have 150 minutes to complete each exam. Because many of you have never taken this kind of test, I will put a couple of sample questions on the D2L site before the first and second tests.

Each exam question will present a scenario (often taken from real cases in Wisconsin courts) involving a dispute relating to expression. Most test questions will ask you to imagine that you are a judge who must decide which party in a lawsuit or criminal should win – and why they should win.

Successful answers to test questions will (a) identify the important legal issues in the scenario, (b) determine which party should prevail, and (c) clearly explain why the law requires that party to prevail.

The best answers will emphasize legal norms rather than other kinds of norms. That someone may be unethical or unkind doesn’t matter for purposes of the law of freedom of expression. In your real lives, of course, you should not do things that are unethical or unkind! But on JAMS 559 exams legal reasoning is all that matters.
Students who do not complete an exam within the allotted time will receive an exam grade of 0 unless there is a valid reason for not completing it. Problems with your computer or Internet connection are not valid reasons for failing to complete a test. D2L is cumbersome and clunky, so be sure to save your exam answers often as a guard against D2L crashes.

Final grades will reflect the weighted percentage of points you have earned on exams, in accordance with the following scale:

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<thead>
<tr>
<th>Percentage</th>
<th>Final grade</th>
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<tbody>
<tr>
<td>80% or more</td>
<td>at least A-</td>
</tr>
<tr>
<td>70 to 79.99%</td>
<td>at least B-</td>
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<tr>
<td>60 to 69.99%</td>
<td>at least C-</td>
</tr>
<tr>
<td>50 to 59.99%</td>
<td>at least D-</td>
</tr>
<tr>
<td>less than 50%</td>
<td>F</td>
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The grading scale may be different from what you have experienced in other classes. In this section of JAMS 559, you pass if you earn only half of the points.

Keep in mind, however, that JAMS 559 grading is pretty rigorous. The class average on any given test tends to be around 70% of the possible points. I do not grade on a curve, which means you’re not competing with others in the class for grades. In other words everyone could get an A, which would be great! Of course, in theory it is also possible that everyone in the class could get an F. We’d all be very, very depressed if that happened.

ACADEMIC MISCONDUCT

You may use any sources you think will help you write good answers to test questions, but your answers must reflect your original thoughts and be written in your own words. Do not copy material directly from the Internet or other sources (even if you place the material in quotation marks). You must provide information about the sources of any ideas and words that are not your own, including information that came from other students. Passing off someone else’s work at your own is academic misconduct. You can check out how UWM defines academic misconduct at this link: http://uwm.edu/academicaffairs/facultystaff/policies/academic-misconduct/.
Students who commit academic misconduct risk automatic course grades of F and possible suspension from the university. I understand the pressures that may tempt you to take an ethical shortcut. But please don’t – it’s risky and it’s wrong. If you are having trouble with the material, let me know. I’ll be glad to do everything I can to help you make sense of media law.

ABOUT THE PROFESSOR

David Pritchard has been on the UWM faculty since 1993. He was a tenured faculty member at Indiana University prior to coming to UWM. In addition to teaching at Indiana and UWM, Pritchard has been a visiting professor at a number of universities outside the United States (the Institut français de presse and the Institut d’études politiques de Lyon, both in France, and Université Laval in Canada). Before moving into the academic world, Pritchard was a journalist for seven years. He earned his Ph.D. at UW-Madison.

Pritchard has published two books (Holding the Media Accountable: Citizens, Ethics, and the Law and Les journalistes canadiens: Un portrait de fin de siècle) as well as more than 50 scholarly articles and essays. He has done research and consulting for major media corporations, law firms, and government agencies in both Canada and the United States. He has received research grants from numerous sources, including the U.S. Department of Justice and the Federal Communications Commission.

OFFICE HOURS

I enjoy meeting with students. My regular office hours are from 2 to 4 p.m. Wednesday. If that time doesn’t fit your schedule, please email me so that we can set up a mutually convenient time for either a face-to-face meeting in my office (Bolton 578) or a phone conversation.
Course schedule

Week 1 (Jan. 22-26) – Introduction to law and courts.
- Calvert, Kozlowski & Silver, chapter 1, pp. 1-36.

Week 2 (Jan. 29-Feb. 2) – First Amendment, part 1.
- Calvert, Kozlowski & Silver, chapter 2, pp. 37-83.

Week 3 (Feb. 5-9) – First Amendment, part 2; EXAM 1.
- Calvert, Kozlowski & Silver, chapter 3, pp. 85-144.
- Take EXAM 1 on Thursday, Feb. 8, between 12 a.m. and 11:59 p.m.

Week 4 (Feb. 12-16) – Libel, part 1 (elements of libel).
- Calvert, Kozlowski & Silver, chapter 4, pp. 145-175.

Week 5 (Feb. 19-23) – Libel, part 2 (fault).
- Calvert, Kozlowski & Silver, chapter 5, pp. 177-212.

Week 6 (Feb. 26-March 2) – Libel, part 3 (defenses, state law)
- Calvert, Kozlowski & Silver, chapter 6, pp. 213-246.
- Wisconsin Statutes, section 895.05(1) (reporter’s privilege).
- Wisconsin Statutes, section 895.05(2) (retractions and corrections).
- Wisconsin Statutes, section 942.01 (defamation).

Week 7 (March 5-9) – False and misleading news; EXAM 2.
- Wisconsin Statutes, section 12.05 (false representations affecting elections).
- Wisconsin Statutes, section 942.03 (giving false information for publication).
- Take EXAM 2 on Thursday, March 8, between 12 a.m. and 11:59 p.m.
Week 8 (March 12-16) – Privacy 1.
- Calvert, Kozlowski & Silver, chapter 7, pp. 249-292.
- Kim Janssen, “Jordan says ‘it was never about the money’ after $8.9M jury award,” Chicago Tribune, August 21, 2015.

Week 9 (March 26-30) – Privacy 2.
- Calvert, Kozlowski & Silver, chapter 8, pp. 295-322.

Week 10 (April 2-6) – Copyright 1.
- Calvert, Kozlowski & Silver, chapter 14, pp. 510-559.
- Copyright Comic Book (Lima, Peru: Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual, 2011).

Week 11 (April 9-13) – Copyright 2; EXAM 3.
- Center for Democracy & Technology, Campaign Takedown Troubles: How Meritless Copyright Claims Threaten Online Political Speech, September 2010.
- Take EXAM 3 on Thursday, April 12, between 12 a.m. and 11:59 p.m.

Week 12 (April 16-20) – Sex and broadcasting.
- Federal Communications Commission, Obscenity, Indecency & Profanity FAQ.

Week 13 (April 23-27) – Regulation of advertising 1.
- Calvert, Kozlowski & Silver, chapter 15, pp. 561-609.
Week 14 (April 30-May 4) – Regulation of advertising 2.

- Nicole Kobie, “Publishers paying George Takei to promote stories isn’t just weird — it’s an FTC violation,” Quid Pro Quo, Nov. 15, 2017.
- Code of Federal Regulations, §73.1212 (Sponsorship identification; list retention; related requirements).
- Department of Agriculture, Trade, and Consumer Protection, “Advertising and Marketing.”

Week 15 (May 7-10) – Digital media law; EXAM 4.
- Digital Media Law Project, “Risks Associated with Publication.”
- Take EXAM 4 on Thursday, May 10, between 12 a.m. and 11:59 p.m.