

# The First Amendment

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## Information

Professor: Dr. Goelzhauser

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Course: POLS 4160

Office Hours: T 12:00–2:00 (MAIN 324B)

## Course Description

This course provides an introduction to the United States Constitution's First Amendment. The First Amendment reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." This panoply of provisions, which collectively recognize core liberties concerning expression and religion, are among the most fundamental building blocks of the American political order. In this course, we will consider the original meaning and contemporary application of these provisions through the lens of major Supreme Court decisions. We will also consider how existing jurisprudential principles inform our understanding of cutting-edge First Amendment questions and the importance of American political institutions in shaping the development of First Amendment doctrine. By the end of the semester you will have acquired factual knowledge, learned fundamental principles and theories, and improved your ability to analyze and critically evaluate issues concerning the First Amendment.

## Reading

Readings and a detailed course schedule are available on Canvas.

## Grading

Grades will be comprised of the following components:

- First Exam (35%)
- Second Exam (35%)
- Research Paper (20%)
- Simulation Performance (10%)

Final grades will be distributed according to the following scale:

A	93-100	C	73-76
A-	90-92	C-	70-72
B+	87-89	D+	67-69
B	83-86	D	63-66
B-	80-82	D-	60-62
C+	77-79	F	59 and below

## **Course Topics**

### **Foundations**

1. Judicial Review
2. Incorporation
3. State Action

### **Expression**

1. Free Speech Methodology
  - Places
  - Prior Restraint
  - Content-Based vs. Content-Neutral Restrictions
  - Overbreadth and Vagueness
2. Non-Speech Expression
  - Association
  - Symbolic
  - Commercial
  - Donations
3. Limitations
  - Incitement
  - Fighting Words
  - Threats
  - Obscenity
  - Profanity
  - Torts

### **Religion**

1. Free Exercise
  - Accommodation
  - Noncompliance
  - Laws of General Applicability
2. Establishment
  - Interpretive Approaches

- Displays
- School Prayer
- Vouchers
- Release Time

## Simulation

We will conduct Supreme Court simulations involving First Amendment questions that are currently pending on the Supreme Court's docket or percolating in lower federal or state courts. There are two components to the simulation. The first is a written paper predicting how the Supreme Court would rule on the selected question. The second is participation as an attorney or justice in a simulated round of oral argument addressing the selected question. The paper is worth 20% of the course grade; performance during the simulation is worth 10% of the course grade. Additional details will be provided separately.

## Course Policies

Applicable [university policies](#) will be followed. These include, but are not limited to, policies on matters such as [excused absences](#), [classroom conduct](#), [academic integrity](#), and [disability-related accommodation](#). Students are bound by university policies regardless of prior knowledge or understanding. As a result, it is good practice to periodically review these policies.

Although the university's policy on [excused absences](#) addresses numerous contingencies, it delegates discretion to faculty with respect to several matters. As a result, the following policies are adopted pursuant to university's regulations. First, excused absences will generally be limited to the mandatory and "other allowable" reasons delineated by university policy. There is a strong presumption against the grant of excused absences for any other reason, though exceptions may be considered on a case by case basis. Second, appropriate independent documentation must generally be provided for any excused absence. If documentation cannot be provided for good reason, other verification may be required. I reserve the right to determine what constitutes acceptable documentation or verification for purposes of classifying an absence as excused subject to applicable university policy. Third, without an excused absence, make-up exams can be taken and late papers submitted within 24 hours of the original deadline with a 20% reduction in grade for that course component. Time will be tolled on non-business days, including weekends and university holidays.

The syllabus is subject to change.