# Spring 2024

# COM 361: Mass Media Law, Policy & Ethics

School of Communication, Illinois State University

Tuesday, Thursday from 2pm-3:15pm (Fell 162)

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Office Hours: Fell 428 / Tuesdays and Thursdays 1-2pm, or by appointment

## Course Description:

This course provides a foundation of understanding for communication students on media law and policy with an additional focus on the ethical commitments that shape the law and inform the norms, codes, and policies adopted by the mass media professional community. This class will cover a wide range of statutes, policy, and case law affecting media operations along with ethical guidelines for practitioners and industry self-regulation guidelines. Throughout the course, you will gain a basic understanding of the American legal system and its institutions; a broad understanding of First Amendment principles as they relate to the communication industry; a practical knowledge of the laws that directly restrict or enhance information gathering, civic engagement, and message dissemination in mass media; and philosophical approaches to guide ethical media decision-making.

After this course, students will be able to articulate the role of free speech, free press, and other principles of media law in democratic governance and use that understanding to be engaged and civically responsible professionals in their media careers. At the same time, this course explores mass media law as a complex set of statutes, policies, and regulations that all seek to manage a fundamental tension between the right to free expression that is fundamental to a functioning democracy and the commercial imperatives of the mass media marketplace. How do mass media professionals balance their civic commitments to facilitating communication and disseminating valuable news, ideas, and expressions through print, broadcasting, and digital platforms while also operating in a marketplace driven by advertising, profit, and engagement? By analyzing mass media law and policy within the context of a constantly changing media marketplace, we might better understand the law not as simply the embodiment of foundational values but rather as something that is ever-changing in response to new technologies, political realities, and economic demands.

## The learning objectives for this course are:

* To explain the First Amendment and its foundational role in democratic governance and civic processes.
* To identify the free expression rights of professional communicators and the limits to those rights.
* To grasp how current laws and regulations developed historically through courts, legislative bodies, and administrative agencies and in response to changing cultural, technological, and economic circumstances.
* To determine the ethical commitments and rationales for key dimensions of mass media law and policy.
* To create a productive, respectful, exciting, creative, and enjoyable learning environment and intellectual community.

**On completion of this course, students should be able to:**

* Demonstrate a wide range of knowledge of American mass media law and policy and its role in democratic governance.
* Use key legal tools available to journalists and media professionals to better understand political and governmental processes.
* Produce professional, thoughtful, and informed arguments about mass media law.

## Required Text

*Mass Media Law* by Clay Calvert, Dan V. Kozlowski, and Derigan Silver(McGraw Hill) [Connect E-Version or Paperback], 22nd edition, 2022.

ISBN (for Connect/E-Version): 9781260837421

ISBN (for Paperback): 9781264177448

ISBN (for Paperback Rental): 9781260837421

You are encouraged to buy the Connect online version of the textbook, which should be the cheapest option available (and has other features like a phone app), but if you learn better reading a paper copy (or if you want a permanent copy rather than just temporary access to these materials), I have included the ISBN number for buying or renting a paperback version. While the 21st edition is the newest, **you are welcome to use an earlier edition, if it is cheaper**.

If you have purchased a Connect/E-Version of the book, you can access it by using the following link: [Mass Media Law, Policy, and Ethics, Spring 2024](https://connect.mheducation.com/class/a-ventimiglia-sections-1-and-2-6).

Additional readings will be available electronically on Canvas or are available via links in the syllabus below.

## Coursework

**Quizzes and Writing Exercises:** Some classes will include writing exercises or activities designed to familiarize you with key legal tools available to media professionals and to help you understand the role that media law plays in broader civic processes. These exercises are delineated in your class schedule below. At other times, you will be asked to complete a short online quiz, covering the assigned reading and in-class lecture. Each assignment is worth 10-20 points. Once assigned, these exercises will need to be completed before the start of the next class. The assignments will add up to a total of 100 points.

**Midterm and Final Exam:** There will be a closed-book mid-term exam and cumulative final exam; however, you will be allowed to bring in one page of notes (reasonable font size and margins please). The exams will be conducted in class. They are each worth 100 points.

**Short Writing Assignment on Case Study:** You have one short (3-5 page) assignment applying what you have learned from your readings and in class to a media law case of your choosing. The assignment can involve analysis of either an underexplored case in mass media law or an ongoing controversy that relates to a topic discussed in this course. This assignment is worth 50 points.

**Final Research Paper and Two-Slide/Poster Presentation:** Your final project will explore a topic in mass media law and policy in depth. This project will result in a final (7-10 page paper) and an oral presentation accompanied by two slides. This project will be worth 150 points (100 points for the paper and 50 points for the presentation). If you have any concerns about your ability to meet the requirements of this course, please come and see me to discuss your concerns.

## Grade Breakdown

100 points – Quizzes and Exercises (20%)

100 points – Mid-term Exam (20%)

50 points – Short Writing Assignment (10%)

100 points – Final Exam (20%)

150 points – Final Research Project [Research Paper and Presentation] (30%)

Total: 500 points

## Course Policies

**Attendance and Participation:** This course relies on active and prepared discussion from all of us. Your attendance is essential for your own success as well as for the contributions you will make with your fellow students. When in class, be engaged with the discussion. Turn off your cell phones. Laptops are to be used for note taking only. I will take attendance in class. Good attendance (missing two classes or less) gets you an extra 10 points added to your total score with each additional absence over two resulting in the loss of 2 points from that total.

I will formally take attendance in each class, and **those that regularly attend class will be rewarded up to 10 extra points added to their final grade**. If you are feeling ill or are not able to attend class for other (legitimate) reasons, please let me know in advance. I may provide an option to attend class via Zoom, if necessary.

**Student E-Mail:** Students will be expected to have a working e-mail account and to regularly log into Canvas. Weekly course information will be available to all students via Canvas so it is essential that your account is current and that you access it regularly. Inability to use or have access to Canvas may compromise your success in this class.

**Assignment Due Dates:** Deadlines are firm and non-negotiable as they would be in the professional world. Clear deadlines are essential to the fair treatment of students who do complete assignments on time. Assignments are happily accepted early.

**Academic Integrity:** Students are expected to be honest in all academic work. A student’s placement of his or her name on any academic exercise shall be regarded as assurance that the work is the result of the student’s own thought, effort, and study. Students who have questions regarding issues of academic dishonesty should refer to the University regulation that outlines unacceptable behaviors in academic matters. It is the student and faculty’s responsibility to uphold the principles of Academic Integrity. Academic Integrity is an important part of this University and this course. Academic Integrity is required of you the student and myself as the instructor. Academic Integrity should be used in preparation of this course, in class time, regarding exams, and with regard to written assignments. In certain circumstances (such as cheating or plagiarism) faculty may be required to refer a student(s) to Community Rights & Responsibilities for a violation of Illinois State University’s Code of Student Conduct (Quoted from “Community Rights and Responsibilities at Illinois State University”).

**Absences due to Student Bereavement**: Students who experience the death of an immediate family member or relative as defined in the University Student Bereavement Policy will be excused from class for funeral leave, subsequent bereavement, and/or travel considerations. Students are responsible for providing appropriate documentation to the Dean of Students office and for contacting the instructor as soon as possible to make arrangements for completing missed work. More information is available in the Student Bereavement Policy at <http://policy.illinoisstate.edu/students/2-1-27.shtml>

**Student Access and Accommodation Services**: Any student needing to arrange a reasonable accommodation for a documented disability and/or medical/mental health condition should contact Student Access and Accommodation Services at 350 Fell Hall, (309) 438-5853, or visit the website: [www.StudentAccess.IllinoisState.edu](http://www.StudentAccess.IllinoisState.edu)

**Mental Health Resources:** Life at college can get very complicated. Students sometimes feel overwhelmed, lost, experience anxiety or depression, struggle with relationship difficulties or diminished self-esteem. However, many of these issues can be effectively addressed with a little help. Student Counseling Services (SCS) helps students cope with difficult emotions and life stressors. Student Counseling Services is staffed by experienced, professional psychologists and counselors, who are attuned to the needs of college students. The services are FREE and completely confidential. Find out more at [www.Counseling.IllinoisState.edu](http://www.Counseling.IllinoisState.edu) or by calling (309) 438-3655.

**Campus Safety and Security:** Illinois State University is committed to maintaining a safe environment for the University community. Please take a few moments to make sure you are signed up for ISU Emergency Alerts at [www.security.illinoisstate.edu/emergency\_alert](http://www.security.illinoisstate.edu/emergency_alert). Also, note the information posted in each classroom about emergency shelters and evacuation assembly areas (both are indicated on stickers inside every classroom). Additional safety information is available on the Campus Safety and Security website, [www.security.illinoisstate.edu](http://www.security.illinoisstate.edu).

**Contributing to Research:** Graduate students and faculty in the School of Communication regularly conduct research and often solicit participation from students. You can find out about ongoing studies at the [School of Communication Research Study Announcement Board](https://sites.google.com/site/ilstusocstudies/school-of-communication-research-study-announcement-board). If you participate in one of these studies, please let me know, as there may be extra-credit opportunities for participating.

## Important Dates

**2/29:** Short Writing Assignment Due

**3/7:** Midterm Exam

**4:30:** Final Paper and Presentations

**TBD:** Final Exam

## Course Schedule

**Week 1: Introduction and the Importance of Media Law and Policy Education**

T (1/16): Syllabus

TH (1/18): Ugland, “Expanding Media Law and Policy Education,” *Communication Law and*

*Policy* (2019).

Thomas Hess, “What is a Media Company? A Reconceptualization for the Online World,” *International Journal of Media Management* (2014).

Optional: *Mass Media Law*, “Ch. 1 The American Legal System.”

**Week 2: Free Speech Part 1 (The First Amendment and its Limits)**

T (1.23): *Mass Media Law*, “Ch. 2: The First Amendment: The Meaning of Freedom” (39-

78).

TH (1/25): *Mass Media Law*, “Ch. 2: The First Amendment (Continued)” (78-86).

**Week 3: Free Speech Part 2 (Free Speech and National Security)**

T (1/30): *Mass Media Law,* “Ch. 3: The First Amendment: Contemporary Problems” (116-146).

Quiz #1: First Amendment Basics Quiz

TH (2/1):[“Events Surrounding the U.S. Capitol Insurrection Raise Significant Media Law Issues and Questions,”](https://hsjmc.umn.edu/news/2021-01-11-events-surrounding-us-capitol-insurrection-raise-significant-media-law-issues-and) Report from the Silha Center for the Study of Media Ethics and Law (January 11, 2021).

Optional: Stanley Fish, “There’s No Such Thing as Free Speech and it’s a Good Thing, Too,”

(1994).

**Week 4: Free Speech Part 3 (University Speech) / How to Read and Opinion**

T (2/6): *Mass Media Law,* “Ch. 3: The First Amendment: Contemporary Problems” (87-115).

 Mark Walsh, “[If Critical Race Theory is Banned, Are Teachers Protected by the First Amendment](https://www.edweek.org/policy-politics/does-academic-freedom-shield-teachers-as-states-take-aim-at-critical-race-theory/2021/06)?” *Education Week* (June 10, 2021).

TH (2/8): Orin Kerr, “How to Read a Legal Opinion, *Green Bag* Vol. 11, No. 1 (2007)

*Mahanoy Area School District v. B.L.* (June 23, 2021).

 Amicus Brief from Student Press Law Center for *Mahanoy Area School District v. B.L.* (March 31, 2021).

**Week 5: Defamation Law**

T (2/13): *Mass Media Law,* “Ch. 4 and 5: Defamation.”

Writing #1: Analysis of *Mahanoy* ruling.

TH (2/15): John C. Watson, “Times v. Sullivan: Landmark or Landmine on the Road to

Ethical Journalism?” *Journal of Mass Media Ethics* (2009).

Adam Liptak, [“Two Justices Say Supreme Court Should Reconsider Landmark Libel Decision,”](https://www.nytimes.com/2021/07/02/us/supreme-court-libel.html) *New York Times* (July 2, 2021).

Explore: “[President Trump Plans for Libel Laws](https://firstamendmentwatch.org/donald-trumps-plans-libel-laws/),” *First Amendment Watch* (2018).

**Week 6: Commercial Speech/Advertising and Trademark Law**

T (2/20): *Mass Media Law*, “Ch. 15: Regulation of Advertising” (603-644).

Quiz #2: Defamation Law Quiz

TH (2/22): *Mass Media Law,* “Ch. 14: Copyright and Trademark” (543-555).

**Week 7: Copyright Law**

T (2/27): *Mass Media Law,* “Ch. 14: Copyright and Trademark” (555-601).

TH (2/29): Aram Sinnreich, “Copyright Piracy,” from *The Essential Guide to Intellectual*

*Property* (176-197).

Christopher Buccafusco, “[Viral Sea Shanties on TikTok Expose America’s Broken](https://www.businessinsider.com/viral-sea-shanties-tiktok-reveal-about-our-broken-copyright-system-2021-1)

[Copyright System](https://www.businessinsider.com/viral-sea-shanties-tiktok-reveal-about-our-broken-copyright-system-2021-1),” *Insider* (January 31, 2021).

Madhavi Sunder, “[It’s about Time Black Creators of Pop Culture were Paid for](https://www.latimes.com/opinion/story/2021-07-07/tiktok-black-creators-strike-dance-copyright)

[their Art,](https://www.latimes.com/opinion/story/2021-07-07/tiktok-black-creators-strike-dance-copyright)” *LA Times* (July 7, 2021).

**Due: Short Writing Assignment**

**Week 8: Midterm Week**

T (3/5): Midterm Exam Review

Writing #2: Analysis of articles on copyright and TikTok.

TH (3/7): **In-Class Midterm Exam**

**SPRING BREAK [3/11 to 3/15]**

**Week 9: Telecommunications Law**

T (3/19): *Mass Media Law,* “Ch. 16: Telecommunication Regulation.”

TH (3/21): Ian Klein, “Enemy of the People: The Ghost of the F.C.C. Fairness Doctrine in the

Age of Alternative Facts,” *Hastings Communication and Entertainment Law*

*Journal* 45 (2020).

**Week 10: Privacy Law and Publicity Rights**

T (3/26): *Mass Media Law,* “Ch.7 Invasion of Privacy: Appropriation and Intrusion.”

 Louis Brandeis and Samuel Warren, “The Right to Privacy,” *Harvard*

*Law Review* (1890).

Quiz #3: Telecommunications Quiz

TH (3/28): *Mass Media Law,* “Ch. 8: Invasion of Privacy: Publication of Private Information

and False Light.”

Tom Rasmussen, “[Why the Paparazzi are Suing Celebrities over Instagram Pics](https://i-d.vice.com/en_uk/article/a3xkmb/why-the-paparazzi-are-suing-celebrities-over-instagram-pics),”

(2019).

 “[Lawsuits over Paparazzi Images on Instagram Raise Celebrity Questions over](http://www.thefashionlaw.com/home/lawsuits-over-instagram-images-raise-celebrity-questions-over-right-of-publicity)

[Right to Publicity](http://www.thefashionlaw.com/home/lawsuits-over-instagram-images-raise-celebrity-questions-over-right-of-publicity),” *The Fashion Law* (October 19, 2018).

**Week 11:** **Access to Information and Research Guidance**

T (4/2): Research Guidance for Final Papers

Quiz #4: Privacy Law Quiz

TH (4/4): *Mass Media Law,* “Ch. 9: Gathering Information.”

Writing #3: Topic Proposal for Final Paper

**Week 12:** **Media Coverage of Courts and the Law**

T (4/9): *Mass Media Law,* “Ch. 11 and 12: Free Press – Fair Trial."

Quiz #5: Access to Information Quiz

TH (4/11): Reporters Committee for Freedom of the Press, “[Police, Protestors, and the Press](https://www.rcfp.org/wp-content/uploads/imported/PPTP.pdf),” (2012).

 [“Members of the Press Detained and Targeted with Use of Force by Law Enforcement Despite Court Order During Racial Justice Protests in April 2021,”](https://hsjmc.umn.edu/news/2021-04-18-members-press-detained-and-targeted-use-force-law-enforcement-despite-court-order) Report from the Silha Center for the Study of Media Ethics and Law (April 18, 2021).

**Week 13:** **Section 230 and Digital Platform Regulation**

T (4/16): Jeff Kosseff, “The Gradual Erosion of the Law that Shaped the Internet: Section 230’s Evolution over Two Decades,” *The Columbia Science & Technology Law Review* (2016): 1-22.

Writing #4: Literature Review for Final Paper

TH (4/18): Robert Gorwa, “What is Platform Governance?” *Information, Communication, &*

*Society* (2019).

**Week 14: Data Journalism and the Filter Bubble**

T (4/23): Philip Napoli, “What if More Speech is No Longer the Solution? First

Amendment Theory Meets Fake News and the Filter Bubble,” *Federal Communications Law Journal* (2018).

Executive Order, “Preventing Online Censorship,” (May 28, 2020).

Optional: Preliminary Injunction on Florida Senate Bill 7072

Writing #5: Thesis Proposal and Outline for Final Paper

TH (4/25): D. Victoria Baranetsky, “[Data Journalism and the Law](https://www.cjr.org/tow_center_reports/data-journalism-and-the-law.php)” (2018).

Jamie Williams, “[D.C. Court: Accessing Public Information in not a Computer](https://www.eff.org/deeplinks/2018/04/dc-court-accessing-public-information-not-computer-crime)

[Crime](https://www.eff.org/deeplinks/2018/04/dc-court-accessing-public-information-not-computer-crime),” (2018) *Electronic Frontier Foundation.*

Optional: Jack Goldsmith, “[The U.S. Media is in the Crosshairs of the New Assange](https://www.lawfaremedia.org/article/us-media-crosshairs-new-assange-indictment)

[Indictment](https://www.lawfaremedia.org/article/us-media-crosshairs-new-assange-indictment),” *Lawfare* (May 24, 2019).

Gabe Rottman, “[The Assange Indictment Seeks to Punish Pure Publication](https://www.lawfaremedia.org/article/assange-indictment-seeks-punish-pure-publication),”

*Lawfare* (May 24, 2019).

**Week 15: Final Exam Review and Presentations**

T (4/30): Presentations and Final Paper Due

TH (5/2): Exam Review