The First Amendment of the United States Constitution governs laws concerning individual and associated expression of conscience, with society, and to government. This course examines in depth some of the various doctrines that have arisen from the First Amendment’s speech and religion clauses. The course also may consider related provisions of the Montana Constitution and federal and state law. Particular topics covered will vary according to student interest and recent developments.

**Readings.** The primary text is Choper, Fallon, Kamisar and Shiffrin, *Leading Cases in Constitutional Law* (West 2013) (“C”), and supplemental cases and materials available online (*). Some material is review from Constitutional Law and indicated in brackets. You may use an older edition as long as you cover the reading. In addition to the assigned reading, be prepared to discuss your classmates’ casenotes for that week.

**Questions.** I am generally available. Stop by my office any time my door is open or email for an appointment. Otherwise, please post questions on Moodle rather than emailing so your colleagues can benefit from them.

**Assessment.** Your grade has three components: *discussion* (20%), *casenote* (20%), and *paper* (60%). *Discussion* measures ongoing constructive engagement in class discussion. *Casenote* measures a 500-1000 word summary and analysis of a case or current event relevant to that week’s topic, posted on Moodle by the Monday before class. (You can come to me for ideas; one good place to look is Montana.) Sign up for your week on Moodle (*limit two per week*). You may expand your casenote into your paper. *Paper* measures the legal research, analysis, and writing of a 3000-word minimum (5000-word minimum for AWR) paper due by e-mail no later than May 23.

**Academic Honesty.** All students must practice academic honesty. Academic misconduct is subject to an academic penalty by the course instructor and/or a disciplinary sanction by the University. All students need to be familiar with the Student Conduct Code of the University of Montana. The Code is available for review online at [http://life.umt.edu/vpsa/student_conduct.php](http://life.umt.edu/vpsa/student_conduct.php). Law students should also be familiar with the Law School Honor Code in the Law Student Handbook.

**Disabilities.** The University of Montana assures equal access to instruction through collaboration between students with disabilities, instructors, and Disability Services for Students (“DSS”). If you think you may have a disability adversely affecting your academic performance, and you have not already registered with DSS, please contact DSS in Lommasson 154. The Law School will work with you and DSS to provide an appropriate accommodation.

*The syllabus is subject to change depending on course and legal developments.*
1. INTRODUCTION: DYNAMICS OF FIRST AMENDMENT DOCTRINE (89)
   In class: We will hear the oral arguments in *McCullen v. Coakley*, No. 12-1168.

2. INCITEMENT (* *)
   Read: *Rice v. Paladin Enterprises*, 128 F.3d 233 (4th Cir. 1997); *Planned Parenthood v. American Coalition of Life Activists*, 290 F.3d 1058 (9th Cir. 2002)

3. OBSCENITY & PORNOGRAPHY (39)
   2/11 Review: Content-Based Laws and Overbreadth (7.1.VI: pp 485-89, 495-502)
   Read: Obscenity (7.1.III: pp 434-50); Near-Obscene Speech (7.3.I: pp 525-33); Harm to Children & Harm to Women (7.1.VI.A-B: 469-484)

4. OFFENSIVE SPEECH (23)
   2/18 Review: Offensive Words and Disturbing the Peace (7.1.IV.C: pp 457-61)
   Read: Group Libel (7.1.II.A: pp 396-400); Fighting Words & Hostile Audiences (7.1.IV.A-B: 453-457); Racist Speech Revisited (7.1.VI.C: 484-485); Hate Speech Revisited (7.3.IV: 558-572)

5. REPUTATION & PRIVACY (35)
   2/25 Review: Seditious Libel (7.1.II.B: pp 400-405)
   Read: Reputation & Privacy (7.1.II.B-E: pp 405-434); Private Speech (7.3.III: 552-558)

6. COMMERCIAL SPEECH (25)
   3/4 Read: Ownership of Speech (7.1.V: 462-469); Commercial Speech (7.3.II: 533-552)

7. JUSTICE AND NEWSGATHERING (25)
   3/11 Read: Justice and Newsgathering (7.5: 587-612)

8. MASS MEDIA (31)
   3/18 Read: Access to the Mass Media (7.8.I: 645-660); The Electronic Media and Content Regulation (7.8.II: 660-676)

9. GOVERNMENT SUPPORT OF SPEECH (17 + *)

10. EXPRESSIVE ASSOCIATION (* *)
    4/8 Review: Compelled Speech (7.9.I: pp 676-85); Expressive Ass’n (7.9.II: pp 685-94)

11. CAMPAIGN FINANCE (25)
    4/15 Read: Wealth & the Political Process (7.10: 695-720)
12. **ESTABLISHMENT** (20 + *)
   4/22 **Review:** Aid to Religion (8.1.I-II: pp 721-28); Religion and Public Schools (8.IV: pp 741-47); Acknowledgement of Religion (8.IV: pp 760-70)
   **Read:** Establishment Clause (8.1: pp 728-741, 747-750, 770-774); *Town of Galloway v. Greece*, 681 F. 3d 20 (2d. Cir. 2012)

13. **FREE EXERCISE** (3 + *)
   4/29 **Review:** The Free Exercise Clause (8.2.I: pp 774-90); Intersection of Establishment and Exercise (8.4: pp 793-97, 800-801)
   **Read:** Unusual Religious Beliefs (8.2.II: pp 790-791); Preference Among Religions (8.3: pp 791-793); *Korte v. Sebelius*, __ F. 3d. __ (7th Cir. Nov. 8, 2013)