CONSTITUTIONAL LAW II
Syllabus – Fall 2015
(18th edition)

Your readings for this semester will be in Sullivan & Feldman, Constitutional Law (18th ed.) and 2014 Supplement to Sullivan.*

The American Bar Association, the School of Law, and I require regular and punctual class attendance. At the beginning of each class meeting, I will circulate an attendance sheet for you to sign. It is your responsibility to ensure that you have signed the sheet. I WILL WITHDRAW YOU FROM THIS COURSE IF YOU ARE ABSENT FOR MORE THAN FOUR (4) CLASS PERIODS.

NOTE: IT IS AN HONOR CODE VIOLATION FOR A STUDENT TO MISREPRESENT THE STUDENT’S ATTENDANCE OR THE ATTENDANCE OF ANOTHER STUDENT.

I. Freedom of Expression

A. Introduction

1. The Creation of First Amendment Law

d. Miller v. California (1973) 1015-1018
e. FCC v. Pacifica Foundation (1978) 1054-1058

B. Regulation of Direct Speech or Writing (Content Based) – Government as Regulator

1. Incitement/Political Speech 899-909; 931-938
2. Fighting Words 938-942; 950-955

*Approximately 30 pages per week.
3. Protection of Reputation and Sensibilities | 978-1009
4. Group Libel and Hate Speech | 955-977
5. Commercial Speech | 1084-1110

C. Symbolic Conduct | 1123-1156

D. Government’s Power, In Its Various Capacities, to Limit Speech

1. Governmental Capacities  
Handout

2. Government as Property Owner  
   a. Traditional Public Forum (streets, sidewalks, parks)  
      1. Definition and Rights | 1156-1167  
      2. Hostile Audience | 942-950  
      3. Time, Place, and Manner Restriction | 1167-1170; 1178-1192; S 51-52
   b. Speaker Access to Non-Traditional Public Forum Property Owned by Government | 1200-1221
   c. Religious Speech on Public Property | 1222-1228
   d. Private Property Rights | 1221-1222

3. Government as Educator – Public Schools (Elementary and Secondary) | 1229-1241

4. Government as Employer | 1242-1254; S 52-53

5. Government as Patron – speech subsidized by Public funds | 1261-1277; S 53-59

E. Problems of Modern Media: Each Medium Unique (Government as Regulator Again)

1. Freedom of the Press | 1303-1318
2. Other Media | 1463-1475
3. Sexually Explicit Expression | 1009-1084

F. Statutory Techniques: Vagueness & Overbreadth | 1277-1295
G. Ancillary Issues

1. Right Not to Associate 1340-1343; 1370-1376

2. Limits on Campaign Spending 1383-1391; 1421-1433; S 63-75

II. The First Amendment and Religion

A. Overview 1477-1489

B. The Free Exercise Clause 1491-1496; 1510-1517; S 77-83

C. The Establishment Clause Handout
S 83-86

First Assignment: Pages 885-898; 1111-1112