



**Department of Law and Legal Studies**  
*Regulating Freedom of Expression in Canada*  
LAWS 3502A (0.5 Credit) Winter 2024

**Instructor:** Kory Smith

**Email:** korysmith@carleton.ca

**Class Time:** Tuesday, 6:05 p.m. – 8:55 p.m.

**Method of Delivery:** In-person

**Class Location:** Please check Carleton Central for current Class Schedule

**Office Hours:** By appointment (Zoom/telephone)

**Prerequisites:** 1.0 credit in LAWS at the 2000 level

**Notice:** This syllabus is subject to minor modification throughout the semester at my discretion. It is your responsibility to be familiar with the content of this syllabus. Please approach me with any questions or need for clarification.

**Disclaimer:** The views expressed during this course are from a personal perspective and do not represent those of the Department of Justice Canada.

**Calendar Course Description:** The claimed relationship between freedom of expression and Canadian democracy, including the historical development of the right and various limits on it, and the regulatory structures governing contemporary media, criminalized and commercial expression, and use of media in the courtroom.

**Course Description:** Freedom of expression has become a contentious topic of debate in our increasingly fractious political and social environment. This course will explore the relationship between freedom of expression and Canadian democracy, including the historical development of the right and various limits on it, and the regulatory structures governing contemporary media, criminalized and commercial expression, and use of media in the courtroom. This course is designed to be as experiential as possible. Methods of instruction include interactive lecturing, class discussion, and guest speakers. Assignments and in-class activities will be used to help you strengthen your research, writing, and oral communication skills. Your grade in the course will be based on attendance and participation, a weekly discussion question response, and an essay.

**Learning Objectives:** The learning objectives for this course are twofold. There are substantive objectives (things I want you to know about) and there are skills objectives (things you can learn to do better).

At the end of the course, you should be able to:

- Explain the philosophical underpinnings and historical emergence of free speech;
- Identify significant sites of contestation of expression in Canada;
- Reflect on the myriad ways in which your own communicative practices are both constrained and enabled through the idea and practice of freedom of expression; and
- Think critically about the ways in which digital, mobile, and social media are impacting the mediascape in which you communicate.

At the end of the course, you should be able to:

- Review, understand, and summarize complex, university-level readings;
- Participate in and lead classroom discussions;
- Conduct library and online research;
- Produce written work that is clear, accurate, and concise; and
- Properly cite using the McGill Guide format

**Instructor's Responsibilities:** I am responsible for facilitating learning of the course material. I will also work diligently to produce open and inviting learning environments, be available for consultation during office hours, and return graded work in a timely manner.

**Students' Responsibilities:** You must attend class, complete weekly readings, participate in class discussions, and hand in assignments on time. You are required to be present, professional, and engaged for guest speakers. The content of these talks is also key course content. You must also adhere to Carleton University's Students Rights and Responsibilities Policy (you can access the policy at <https://carleton.ca/secretariat/wp-content/uploads/Students-Rights-and-Responsibilities-Policy.pdf>).

**Learning Environment:** Many of the themes we'll be discussing in class are sensitive. When it comes to issues relating to freedom of expression, debate and disagreement are inevitable and healthy. Approach the readings and class discussions with an open mind, listen carefully and thoughtfully to your peers, and treat all the members of our community with respect. Derogatory comments and hateful behavior towards others (and their views) will not be tolerated.

**Communicating with the Instructor:** Please email me from your Carleton University email account. I will attempt to reply to all student queries within 48 hours. Before emailing me a question you should:

- Consult the syllabus; and
- Check the Brightspace course page for announcements.

**Required Textbook:** We will be working with the following textbooks:

1. Hamilton, Sheryl N. & Robinson, Sandra. *Law's Expression – Communication, Law and Media in Canada*, 2nd ed (Toronto: LexisNexis Canada, 2019).
2. Emmet Macfarlane, ed, *Dilemmas of Free Expression* (Toronto: University of Toronto Press, 2021).

These textbooks are available for purchase at the Carleton University Bookstore. Additional readings will be made available on Brightspace.

**Course Requirements and Assignments:** Your final grade in this course is based on attendance and participation, a class presentation, an essay proposal and annotated bibliography, an essay, and a group project. You must complete all assignments to pass this course. All written assignments are to be completed individually. Discussing ideas with others is encouraged, but each of you must complete and submit your own work. Late assignments will be penalized 5% per business day late, up until 10 days, after which they will not be accepted. If for some reason you cannot complete the work required, please see me immediately. Please do not leave things to the last minute; if you are struggling to meet deadlines, come see me.

**Assignment of Grades:** All grades assigned by me are provisional grades. Final grades are released by the Registrar. Grades will be assigned according to the Undergraduate Calendar (see General Regulations, Academic Standing and Conduct).

**Late Penalties and Requests for Extensions:** The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

**Extensions for longer than 7 days will normally not be granted.** In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

**Course Evaluation:**

Type	Weight	Due date
Attendance and participation	10%	Ongoing
10 Weekly discussion question responses	50%	Ongoing
Essay Proposal	10%	January 30, 2024
Essay	30%	April 9, 2024

Attendance and Participation: Attendance and participation are necessary for the success of this course. Each week you should come to class having done your reading and prepared to engage with the course material with other students and myself. You will receive 1 attendance mark and up to 1 participation mark for each class you attend throughout the semester. Your participation

mark will be based on the quality of your contribution to weekly in-class discussions, group work, and writing assignments. At the end of the semester, your attendance and participation marks will be added together and converted to a percentage.

Weekly Discussion Posts: Discussions provide students with the opportunity for more focused, continuous engagement with the course material and social issues. During the first half of each class, you will be tasked with writing a response to a discussion question. You will not have a discussion question the first week of the semester (January 9, 2024) and the last two classes of the semester (April 2 and 9, 2024). Your response should include reference to the assigned course content (weekly reading and lecture content). Your response can also identify questions that come from the course content and/or what you found interesting. More in-depth responses will refer to and use concepts presented in the reading and lecture. Responses should be at least 1-2 paragraphs long. Your TA will grade your responses based on how relevant it is to the discussion question and the academic quality of the response. A detailed rubric is available on Brightspace. Your TA will grade your response by the next class.

Essay Proposal: You will submit a 2-page double-spaced proposal that outlines what you intend on researching for your essay. Essay proposals are due in class on January 30, 2024.

Essay: You will write an 8–10-page double-spaced essay on a topic related to the course. Essays are due in class on April 9, 2024.

## **Course Schedule:**

### **Week 1 (January 9)**

Topic: Course Introduction

Readings: None

### **Week 2 (January 16)**

Topic: Foundations and Limits of Freedom of Expression

Readings:

1. John Stuart Mill, “Of the Liberty of Thought and Discussion” in John Stuart Mill, *On Liberty*.
2. *Law’s Expression*, Chapter 1

Evaluation: Discussion question response

### **Week 3 (January 23)**

Topic: Privacy

Readings:

1. *Law’s Expression*, Chapter 2

Evaluation: Discussion question response

### **Week 4 (January 30)**

Topic: Regulating Reputation

Readings:

1. *Law's Expression*, Chapter 3

Evaluation: (1) Discussion question response; (2) essay proposals are due in class

### **Week 5 (February 6)**

Topic: Obscenity, Sex, and Expression

Readings:

1. *Law's Expression*, Chapter 4 (pp. 89-111)
2. Lara Karaian & Dillon Brady, "Revisiting the "Private Use Exception" to Canada's Child Pornography Laws: Teenage Sexting, Sex-Positivity, Pleasure, and Control in the Digital Age" (2019) 56:2 Osgoode Hall LJ 301.
3. Julie Yan, "Art in the Dichotomy of Freedom of Expression & Obscenity: An Anti-Censorship Perspective" (2017) 40:3 Man LJ 365.

Evaluation: Discussion question response

### **Week 6 (February 13)**

Topic: Expression, Revenge, and Vulnerable Subjects

Readings:

1. *Law's Expression*, Chapter 4 (pp. 111-120)
2. Alexa Dodge, "Nudes are Forever: Judicial Interpretation of Digital Technology's Impact on 'Revenge Porn'" (2019) 34:1 CJLS 121.

### **Reading Week – No Class (February 20)**

### **Week 7 (February 27)**

Topic: Hate Speech

Readings:

1. *Law's Expression*, Chapter 5

Evaluation: Discussion question response

### **Week 8 (March 5)**

Topic: Propertizing Expression: Intellectual Property

Readings:

1. *Law's Expression*, Chapter 6

Evaluation: Discussion question response

### **Weeks 9 (March 12)**

Topic: Academic Freedom

Readings:

1. Jeffrey Adam Sachs, "Faculty Free Speech in Canada: Trends, Risks, and Possible Futures" in Emmet Macfarlane, ed, *Dilemmas of Free Expression* (Toronto: University of Toronto Press, 2021) 236-251.

Evaluation: Discussion question response

**Week 10 (March 19)**

Topic: The Right to Protest and Counter-Protest

Readings:

1. Cara Faith Zwibel, “The Right to Protest and Counter-Protest: Complexities and Considerations” in Emmet Macfarlane, ed, *Dilemmas of Free Expression* (Toronto: University of Toronto Press, 2021) 111-129.

Evaluation: Discussion question response

**Week 11 (March 26)**

Topic: Regulating Expression on Social Media

Readings:

1. Carissima Mathen, “Regulating Expression on Social Media” in Emmet Macfarlane, ed, *Dilemmas of Free Expression* (Toronto: University of Toronto Press, 2021) 91-110.

Evaluation: Discussion question response

**Week 12 (April 2)**

Topic: Cancel Culture

Readings:

1. Eve Ng, “Introduction” in Eve Ng, *Cancel Culture: A Critical Analysis* (Cham, Switzerland: Palgrave Macmillan, 2022) 1-12.
2. Gwen Bouvier, “Racist Call-Outs and Cancel Culture on Twitter: The Limitations of the Platform’s Ability to Define Issues of Social Justice” (2020) 38 *Discourse, Context & Media* 1.

**Week 13 (April 9)**

Topic: Course Wrap Up

Readings:

1. *Law’s Expression*, Chapter 7

Evaluation: Essays are due in class

## REGULATIONS COMMON TO ALL COURSES AT CARLETON UNIVERSITY

In accordance with the Carleton University Undergraduate Calendar Regulations, the letter grades assigned in this course will have the following percentage equivalents:

A+ = 90-100	B+ = 77-79	C+ = 67-69	D+ = 57-59
A = 85-89	B = 73-76	C = 63-66	D = 53-56
A - = 80-84	B - = 70-72	C - = 60-62	D - = 50-52
F = Below 50	WDN = Withdrawn from the course		

ABS = Student absent from final exam

DEF = Deferred (See above)

FND = (Failed, no Deferred) = Student could not pass the course even with 100% on final exam

### Academic Regulations, Accommodations, Plagiarism, Etc.

University rules regarding registration, withdrawal, appealing marks, and most anything else you might need to know can be found on the university's website, here:

<https://calendar.carleton.ca/undergrad/regulations/academicregulationsoftheuniversity/>

You may need special arrangements to meet your academic obligations during the term. For an accommodation request, the processes are as follows:

### Academic Accommodations for Students with Disabilities

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at **613-520-6608** or **pmc@carleton.ca** for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

\*The deadlines for contacting the Paul Menton Centre regarding accommodation for December exams (Fall) is November 15, 2023 and for April exams (Winter) is March 15, 2024.

## **For Religious Obligations**

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

## **For Pregnancy**

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

## **For Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: [www.carleton.ca/sexual-violence-support](http://www.carleton.ca/sexual-violence-support)

## **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

## **Plagiarism**

The University Academic Integrity Policy defines plagiarism as “*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.*” This includes reproducing or paraphrasing portions of someone else’s published or unpublished material, regardless of the source, and presenting these as one’s own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else;



- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

A student found to have plagiarized an assignment may be subject to one of several penalties including but not limited to: a grade of zero, a failure or a reduced grade for the piece of academic work; reduction of final grade in the course; completion of a remediation process; resubmission of academic work; withdrawal from course(s); suspension from a program of study; a letter of reprimand.

All allegations of plagiarism are reported to the faculty of Dean of FPA and Management. Documentation is prepared by instructors and departmental chairs. The Dean writes to the student and the University Ombudsperson about the alleged plagiarism. The Dean reviews the allegation. If it is not resolved at this level then it is referred to a tribunal appointed by the Senate. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

### **Assistance for All Carleton University Students**

Academic and Career Development Services: <https://carleton.ca/career/>

Writing Services: <http://www.carleton.ca/csas/writing-services/>

Peer Assisted Study Sessions (PASS): <https://carleton.ca/csas/group-support/pass/>

### **Student Mental Health**

As a university student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. Here is a list that may be helpful:

**Emergency Resources (on and off campus):** <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

#### **Carleton Resources:**

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

#### **Off Campus Resources:**

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

### **Other Important Information**

- Student or professor materials created for this course (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the author(s). They are intended for personal use and may not be reproduced or redistributed without prior written consent of the author(s).
- Students must always retain a hard copy of all work that is submitted.
- Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and Dean.
- Carleton University is committed to protecting the privacy of those who study or work here (currently and formerly). To that end, Carleton's Privacy Office seeks to encourage the implementation of the privacy provisions of Ontario's *Freedom of Information and Protection of Privacy Act* (FIPPA) within the university. In accordance with FIPPA, please ensure all communication with staff/faculty is via your Carleton email account. To get your Carleton Email you will need to activate your MyCarletonOne account through Carleton Central. Once you have activated your MyCarletonOne account, log into the MyCarleton Portal.
- Please note that you will be able to link your MyCarletonOne account to other non-MyCarletonOne accounts and receive emails from us. However, for us to respond to your emails, we need to see your full name, CU ID, and the email must be written from your valid MyCarletonOne address. Therefore, it would be easier to respond to your inquiries if you would send all email from your connect account. If you do not have or have yet to activate this account, you may wish to do so by visiting <https://students.carleton.ca/>.

## Important Dates

<b>Winter 2024 Sessional Dates and University Closures</b>	
<i>Please find a full list of important academic dates on the calendar website: <a href="https://calendar.carleton.ca/academicyear/">https://calendar.carleton.ca/academicyear/</a></i>	
<b>January 8, 2024</b>	Winter term begins.
<b>January 19, 2024</b>	Last day for registration and course changes (including auditing) in full winter and late winter courses.
<b>January 31, 2024</b>	Last day to withdraw from full winter and the winter portion of fall/winter courses with a full fee adjustment.
<b>February 19, 2024</b>	Statutory holiday. University closed.
<b>February 19-23, 2024</b>	Winter break. No classes.
<b>March 15, 2024</b>	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
<b>March 27, 2024</b>	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade, in full winter term or fall/winter undergraduate courses, before the official April final examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
<b>March 29, 2024</b>	Statutory holiday. University closed.
<b>April 10, 2024</b>	Winter term ends.
	Last day of full winter, late winter and fall/winter term classes.
	Classes follow a Friday schedule (full winter and later winter courses).
	Last day for handing in term work and the last day that can be specified by a course instructor as a due date for term work for full winter term and late winter courses.
	Last day for take home examinations to be assigned.
<b>April 13-25, 2024</b>	Final examinations in full winter, late winter and fall/winter term courses will be held. Examinations are normally held all seven days of the week.
<b>April 25, 2024</b>	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.