

**Communication 4930-901**  
**History and Theory of Freedom of Expression**  
**Fall 2003**

**Prof. Gil Rodman**

**Office Hours: Tu 5-6p, Th 1-2p and by appointment**  
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***course description and objectives***

This is a course about the theory and practice of “free speech” as it has evolved in the West over the past several centuries. This is also a course that’s more about questions than answers, and more about wrestling with difficult issues than offering easy solutions. Some of the general questions we’ll examine this semester include:

- Is free speech a right or a privilege?
- Who is allowed to speak and what are they allowed to say?
- What responsibilities (if any) go along with the right to free speech?
- Should “free speech” encompass non-verbal forms of communication?
- Is free speech a necessary feature of a democracy?
- What limits (if any) do we need to place on free speech?
- What types of restriction on expression count as censorship?
- How do we distinguish “expression” from “action”?
- And who’s empowered to make these decisions anyway?

Barring a small miracle or three, we will not solve any of the social, cultural, or political problems that lie at the heart of this class. This course is not designed, however, to provide you with the “right” answers or easy “solutions,” as much as it’s intended to make you think critically about the issues involved. Regardless of what you may believe at the start of the semester, this course will challenge (and perhaps even change) your current way of looking at democracy and free speech as they exist in the US today.

***WARNING!!!***

The subjects that we’ll be discussing this semester are, without exception, controversial ones. As a result, many of our class sessions will generate heated arguments, and it’s possible that you’ll walk away from one or more of our meetings feeling angry, frustrated, and/or offended. Nevertheless, I expect all of our conversations to be characterized by mutual respect. Impassioned arguments and strongly expressed opinions are perfectly acceptable in this class; verbal bullying and personal attacks, on the other hand, will not be tolerated under any circumstances.

### ***permanent course rules***

**1-001. Applicability of rules.** All students must abide by all course rules in the form in which they are in effect at the time. All rules listed in the syllabus are in effect when the semester begins and remain in effect until and unless they are officially changed.

**1-002. Rule types.** There are three types of course rules:

*(a) Permanent course rules.* These rules cannot be changed, amended, or repealed under any circumstances. They are numbered with a “1-” prefix.

*(b) Major course rules.* These rules require at least a supermajority vote (i.e., two-thirds) to be created, changed, amended, or repealed. They are numbered with a “2-” prefix.

*(c) Minor course rules.* These rules require at least a majority vote (i.e., greater than 50%) to be created, changed, amended, or repealed. They are numbered with a “3-” prefix.

**1-003. Hierarchy of rules.** In the event of conflicts between two or more rules, precedent is given to the rule(s) at the highest level of the hierarchy (i.e., major rules take precedent over minor rules, and permanent rules take precedent over both major and minor rules). If conflicting rules are of the same hierarchical type, the rule with the lowest number takes precedent.

**1-004. Professor.** The professor (Gil Rodman) is the final arbiter and enforcer of all course rules. He is the only person authorized to determine and/or assign student grades for any and all portions of the course.

**1-005. Eligible voters.** Only students recognized by the professor as officially enrolled in the course have the right to vote and/or propose rule changes. A student who withdraws from the class mid-semester will have any vote s/he has cast on any open ballots nullified.

**1-006. One student/one vote.** In all voting situations, each student has exactly one vote. In the event that a ballot ends in a tie vote, the professor is empowered to cast the deciding vote. Otherwise, the professor is a non-voting participant.

**1-007. Quorum.** Any ballot that fails to achieve a quorum of at least 50% of all eligible voters will be null and void, regardless of the final outcome of the vote.

**1-008. Passed ballot grade points.** When a ballot passes, the student who officially proposed the ballot in question will have one (1) point added to their final course grade.

**1-009. Timekeeping.** For purposes of all course rules, a “course week” begins at 6:00 pm ET every Tuesday and lasts until 5:59 pm ET on the following Tuesday. The official clock for the course is the one used by the USF Blackboard server.

**1-010. Higher law.** No course rules can be created, changed, or amended in such a way as to violate either (a) federal, state, or local laws or (b) official USF rules and regulations.

### ***major course rules***

#### **2-001. Required course materials.**

(a) Readings. All required course readings will be available online via the course website. [N.B.: You may be able to find some of the readings from different sources (both online and in print form) than the ones listed on the course website -- but you use such alternate versions at your own risk.]

(b) Internet access. In addition to the required reading being available online, all of your written work will be submitted online. As a result, you will not be able to complete the course successfully without being able to access the Net regularly. If you don't already have Net access from your home or workplace, you will need to make use of the open-use computer labs provided by Academic Computing (see separate handout for more information about the locations of these labs).

(c) Yoga mat. You will be required to purchase a molded rubber yoga mat (in USF green and/or gold only; minimum length of 120 inches) that you will bring to class every week starting on 9 September. Students who come to class without their yoga mats will have their attendance/participation grade for that week docked by 10%.

**2-002. Grading schedule.** Your final course grade will be calculated based on the following schedule:

***Attendance/Participation	20%
***Reading journal	10%
Thought paper	10%
Case studies (10% each)	0-50%
Position papers (10% each)	0-50%
Take-home final exam	30%

Items marked with asterisks (\*\*\*) apply to the final course grade for all students. The remaining 70% of your final course grade will be based on the specific written assignments that you choose to complete. If you complete written work that's worth more than 70% (e.g., all 5 case studies and the take-home final (80%); or the thought paper, 4 positions papers, and 4 case studies (90%)), only the best 70% will be used to calculate your final course grade.

Final course grades will not use the plus/minus grading system.

**2-003. Attendance.** Attendance will be taken at the start of every class period, and all unexcused absences, late arrivals, and/or early departures will count against you. If you accumulate more than 1.5 weeks in unexcused absences, the professor reserves the right to lower your semester grade by more than the 20% normally assigned to attendance/participation. Absences will be considered “excused” solely at the professor’s discretion.

**2-004. Participation.** This is not a course designed for the passive spectator, and you will be expected to contribute meaningfully to our discussions -- in-class and online -- on a weekly basis. There are three major pieces of the participation portion of your grade:

- In-class group exercises
- In-class discussions
- Online discussions (Blackboard Discussion Board)

Participation grades will be assessed and calculated on a weekly basis, and the minimum level of participation necessary to earn a D for any given week will be to participate actively and meaningfully in our in-class group exercises. Additional participation -- during our in-class discussions and/or on the Blackboard Discussion Board -- will boost your weekly participation score proportionately.

A few additional notes/tips re: participation:

- Should you miss class, your attendance/participation grade for that week will consist entirely of your contribution to our online discussions. As such, you should plan to add to that aspect of our conversations more extensively during the week immediately following any class you miss -- regardless of whether your absence is officially excused or not.
- Because participation grades will be calculated on a weekly basis, it will not help your score to “pile on” participation points late in the semester in an effort to make up for previous weeks when your participation was low.
- The professor will make a concerted effort to insure that as many people as possible get to contribute to our in-class discussions. Unfortunately, our numbers this semester are too large to guarantee that everyone will be able to earn the maximum possible participation grade each week solely through their contributions to our in-class discussions. With this in mind, you should plan on contributing to our online discussions on a weekly basis.
- “Fluff” contributions will not help your grade -- and the professor reserves the right to penalize students who, in his judgment, make repeated and obvious efforts to pad their participation score with off-topic comments.

**2-005. Blackboard.** Our online discussions will take place on Blackboard, a Web-based educational software package that is accessible through the USF web “portal”: <https://my.usf.edu>

The portal's front page includes information on how to sign up for the USF NetID you'll need to enter the Blackboard site. Once you've logged into the portal successfully, click on the "Courses" tab at the top of the screen, which will lead you to a list of Blackboard sites for your current courses. In addition to our online discussions, we will use Blackboard in several ways this semester:

- as a way to communicate course-related announcements in between our weekly class meetings
- as an online archive for official course documents
- as the place where you will turn in all your written work for the class

Further details about using Blackboard will be available on a separate handout.

## **2-006. Written assignments -- general rules.**

*(a) Where/how to submit assignments.* All your written work *must* be submitted online in the appropriate forums on the course website. The word counts listed for each assignment are *estimates* of how much you'll need to write to complete them well. The professor will not automatically penalize shorter assignments, but it's unlikely that you will be able to do "A"-quality work if your assignments are considerably shorter than the suggested length.

*(b) Deadlines.* All your written assignments must be posted to the appropriate forums on the course website *by 6 pm* on the relevant due dates. Late work will generally *not* be accepted except in cases of genuine emergency. In the event that the professor does accept late work, he reserves the right to reduce its grade in direct proportion to its lateness. The minimum penalty in all such cases will be one full letter grade.

*(c) Grammar/spelling/etc.* The grades for your written assignments will be based primarily on the content (rather than the form) of the work you submit: e.g., an insightful, smartly argued essay with a couple of typos will almost always receive a higher grade than a grammatically flawless paper that has a weak argument. However, if your work is filled with grammar/spelling mistakes -- especially if those get in the way of understanding your actual argument -- your grade *will* be negatively affected. Thus, it would be wise to *spellcheck* and *proofread* all your written work at least once before actually submitting it.

*(d) Accepted languages.* All written assignments completed after 9 September *must* be submitted in one (or more) of the following languages:

Bottle-nosed Dolphin	Mayan
Flemish	Navajo
Klingon	Proto-Indo-European
Mandarin Chinese	Wolof

Written work submitted in any other languages -- including English -- will automatically be penalized a full letter grade.

*(e) Backup copies.* As a safety precaution, you should *always* keep at least a hard copy -- and preferably a hard copy *and* a disk copy -- of any written work you hand in.

**2-007. Reading journal.** For at least 10 of the 13 weeks for which reading is assigned, you will write a short (150-250 word) journal entry in response to at least one of the readings assigned that week. Individual journal entries are due by 6 pm on the class date for which the readings in question are assigned, and will be graded on a ✓+/✓/✓- scale. Further details about this assignment are available on a separate handout. That handout constitutes a legally binding extension of this course rule.

**2-008. Thought paper.** This assignment (750-1000 words, due 2 September) will be *ungraded*. Assuming you turn the paper in, you should receive full credit for doing so (though the professor reserves the right to give partial (or even no) credit to papers that fail to meet the assignment's requirements). Further details about this assignment are available on a separate handout. That handout constitutes a legally binding extension of this course rule.

**2-009. Position papers.** Over the course of the semester, the professor will post specific prompts for each of five (5) different position paper assignments. Each of these prompts will require you to reflect on specific issues arising from the assigned reading and/or other course material in an critical (i.e., thoughtful, analytical, and persuasive) essay of 750-1000 words. Due dates are listed below (see rule #2-019). Further details about this assignment are available on a separate handout. That handout constitutes a legally binding extension of this course rule.

**2-010. Case studies.** Over the course of the semester, the professor will post five case studies involving freedom of expression issues to the course website. For each case study, your task will be to write up a report that outlines the most important arguments from each side of the case (two lists of at least 10 items each), and that makes a persuasive argument of 750-1000 words outlining the best solution to the case. Due dates are listed below (see rule #2-019). Further details about this assignment are available on a separate handout. That handout constitutes a legally binding extension of this course rule.

**2-011. Take-home final exam.** The take-home final (due 9 December) will consist entirely of essay questions and will be based on the assigned readings and/or other course material. It will consist of one mandatory essay question and two questions that you will choose from a larger selection. Each of the three essays should be 750-1000 words long and will be weighted equally in your exam grade. Further details about this assignment are available on a separate handout. That handout constitutes a legally binding extension of this course rule.

**2-012. Banned Book Week essay.** In recognition of Banned Book Week (an annual event sponsored by the American Library Association, which runs from 20-27 September this year), you will choose a book from the ALA's list of "banned books" and write a 3000-word report on it (due 23 September). This report will *not* be graded, but failing to turn it in will result in a penalty of 25% deducted from your final course grade.

**2-013. Academic integrity.** In keeping with official USF policy, academic dishonesty will *not* be tolerated in any form. To help avoid potentially disastrous misunderstandings, the following is a *partial* list of major examples of academic dishonesty:

- Plagiarism in any of its various forms
- Copying another student's work on any written assignments (including reading journals, thought papers, position papers, case studies, and/or the final exam)
- Knowingly and/or willingly allowing someone else to copy your work on any written assignments (including reading journals, thought papers, position papers, case studies, and/or the final exam)
- Having someone else complete your written work for you

The *minimum* penalty for violation of these rules is a score of *zero (0)* for the assignment in question. Depending on the severity of the violation, the professor reserves the right to assign you a grade of FF for the course (which, by University rules, is *not* subject to grade forgiveness).

Further information about the University's official policies with respect to academic dishonesty -- including more detailed explanations of what constitutes "plagiarism" and "cheating" -- can be found online at <http://www.ugs.usf.edu/catalogs/0304/adadap.htm>

**2-014. Note selling.** The purchase and/or sale of either written notes or audio recordings of our class meetings is strictly prohibited.

**2-015. Cell phones.** Cell phones, beepers, pagers, etc. are to be *turned off* or set to vibrate *silently* before you come to class. If your phone rings or if your beeper/pager goes off loudly enough to cause a significant distraction during class, the professor reserves the right to penalize your attendance/participation grade for that class period.

**2-016. Veteran's Day.** Because Tuesday, 11 November is an official USF holiday, we will hold a make-up class on Thursday, 27 November from 6:00-8:50 pm ET. Attendance at this make-up class is mandatory.

**2-017. Religious holidays.** In keeping with the University Policy on Religious Observances, students who anticipate being absent from class due to a major religious observance must provide notice to the professor *in writing by 2 September* explaining which class period(s) you expect to miss and why.

**2-018. Favre Loyalty Oath.** From 9 September onward, all of our weekly class meetings will begin with a mandatory group recitation of "The Oath of Eternal Loyalty to Brett Favre." The full text of this oath (which you should commit to memory) is as follows:

I swear by all that is holy and true in the cosmos  
That I shall be forever faithful to Brett Favre,  
Who shines forth like Packer gold on a cloudy day,

And is the greatest quarterback ever to trod upon the frozen tundra.  
I shall honor Brett faithfully and fully,  
Forswearing all other football allegiances,  
And defend his name and legend, if need be, with my very life.

Failure to memorize the Oath completely and accurately, to participate in the weekly recitation, and/or to abide by the noble ideals expressed in the Oath will result in a penalty of one (1) point subtracted from your final course grade for each infraction.

**2-019. Reading/assignment schedule.** The schedule below lists our scheduled class meetings, reading assignments, and due dates for all written work except the reading journal. You will be expected to have completed all readings in advance of the dates listed.



**Sep 2 Thought paper due**

*Areopagitica*

**Sep 9**

*On Liberty* (chapters I-III)

**Sep 16**

*On Liberty* (chapters IV-V)

*The Declaration of Independence*

*The Constitution of the United States*

*The Bill of Rights*

**Sep 23 Case study #1 due**

“clear and present danger”

Schenck v. United States, 249 US 47 (1919)

Gitlow v. New York, 268 US 652 (1925)

Whitney v. California, 274 US 357 (1927)

Brandenburg v. Ohio, 395 US 444 (1969)

“fighting words”

Chaplinsky v. New Hampshire, 315 US 568 (1942)

Terminiello v. Chicago, 337 US 1 (1949)

Cohen v. California, 403 US 15 (1971)

**Sep 30 Position paper #1 due**

subversive politics (part 1)

Debs v. United States, 249 US 211 (1919)

Stromberg v. California, 283 US 359 (1931)

De Jonge v. Oregon, 299 US 353 (1937)

Watkins v. United States, 354 US 178 (1957)

Lamont v. Postmaster General, 381 US 301 (1965)

**Oct 7**

subversive politics (part 2)

Tinker v. Des Moines, 393 US 503 (1969)

Ladue v. Gilleo, \_\_\_ US \_\_\_ (1994)

hate speech

R.A.V. v. St. Paul, 505 US 377 (1992)

Wisconsin v. Mitchell, 508 US 476 (1993)

**Oct 14 Case study #2 due**

the pledge of allegiance and flag burning

Minersville v. Gobitis, 310 US 586 (1940)

West Virginia v. Barnette, 319 US 624 (1943)

Street v. New York, 394 US 576 (1969)

Texas v. Johnson, 491 US 397 (1989)

United States v. Eichman, 496 US 310 (1990)

**Oct 21            Position paper #2 due**  
the press and national security  
New York Times v. United States, 403 US 715 (1971)  
libel and defamation of character  
New York Times v. Sullivan, 376 US 254 (1964)  
Hustler v. Falwell, 485 US 46 (1988)

**Oct 28**  
obscenity, nudity, and pornography (part 1)  
Jacobellis v. Ohio, 378 US 184 (1964)  
Miller v. California, 413 US 15 (1973)

**Nov 4            Case study #3 due**  
obscenity, nudity, and pornography (part 2)  
Barnes v. Glen Theatre, 501 US 560 (1991)  
Erie v. Pap's, \_\_\_ US \_\_\_ (2000)  
Ashcroft v. Free Speech Coalition, \_\_\_ US \_\_\_ (2002)

**Nov 11           VETERAN'S DAY -- NO CLASS**  
**Position paper #3 due**

**Nov 18**  
public media  
FCC v. Pacifica Foundation, 438 US 726 (1978)  
Reno v. ACLU, \_\_\_ US \_\_\_ (1997)  
United States v. American Library Association, \_\_\_ US \_\_\_ (2003)

**Nov 25           Case study #4 due**  
libraries and the arts  
Board of Education v. Pico, 457 US 853 (1987)  
NEA v. Finley, \_\_\_ US \_\_\_ (1998)

**Dec 2            Position paper #4 due**  
parades and free association  
Forsyth County v. Nationalist Movement, 505 US 123 (1992)  
Hurley v. Irish-American Gay Group of Boston, \_\_\_ US \_\_\_ (1995)  
Boy Scouts of America v. Dade, \_\_\_ US \_\_\_ (2000)

**Dec 9            FINALS WEEK -- NO CLASS**  
**Take-home final due**  
**Case study #5 due**  
**Position paper #5 due**

### ***minor course rules***

**3-001. Creating ballots.** With the sole exception of rule changes proposed in class on 25 August (see rule #3-011 below), all changes/additions/amendments to the existing course rules must be proposed in the form of an official ballot item.

This ballot item must consist of a post to the “Ballots” forum on the Discussion Board page of the course website. In order to be recognized as a legal ballot, the subject line of all posts proposing a new ballot item must take the form “PROPOSAL #mm-dd-username” -- where “mm-dd” are numbers representing the date of your post, and where “username” is your official Blackboard user ID.

*Example: the subject line of a properly formatted ballot item posted by the professor on 2 September would be “PROPOSAL #09-02-grodman”*

Discussion Board posts that fail to follow the requirements listed above precisely will not be considered to be legitimate ballots. Votes cast on any illegitimate ballots will be null and void, regardless of the final outcome of such votes.

**3-002. Ballot text.** The full and complete text of any Discussion Board post that fulfills the formatting requirements listed above shall be considered an official ballot item, subject to a legally binding vote by the class. Only the text contained within an official ballot item can be legally voted on and/or implemented. In the event that a ballot item is officially voted into law, any and all language contained within that ballot item will become a legally binding addition to the official course rules.

**3-003. One proposal per student per week.** All eligible voters may propose a maximum of one (1) official ballot per course week. In the event that an eligible voter proposes more than one legally formatted ballot in a single course week, only the first such ballot proposed will be considered to be legitimate.

**3-004. Scope of proposed rule changes.** Proposed rule changes must relate primarily to official course business in a clear and explicit fashion, and must be enforceable within the existing structure of the course. The outcome of any and all ballots must be fully decidable by means of a simple Yes/No vote.

**3-005. Voting period.** With the sole exception of voting connected to rule changes proposed in class on 25 August (see rule #3-011 below), for any and all legitimate ballot items, the official voting period begins at the moment the ballot item is posted to the “Ballots” forum on the Discussion Board page of the course website, and ends exactly 7 days later.

**3-006. Voting on ballots.** All voting on ballot items shall be done via e-mail. Legal votes must be sent to [gbrodman@mindspring.com](mailto:gbrodman@mindspring.com) during the official voting period for any given ballot item and *must* take the following form:

- The subject line must contain the full name of the ballot item in question.
- The body of your e-mail must contain:
  - your name
  - your social security number
  - your vote, which must consist of one and only one of the following words:  
Yes, No, Abstain

Votes on separate ballot items must be submitted in separate e-mails. Votes that are unclear, ambiguous, and/or conditional will be null and void. Once cast, votes cannot be changed or retracted -- so vote *carefully*.

Votes that fail to follow these requirements *precisely* will *not* be considered to be legitimate votes, either for deciding the outcome of a ballot or for constituting a quorum.

**3-007. Changed rules.** Changes to existing rules are considered to have passed if and only if:

- they have been proposed in accordance with the official course rules
- they have been voted on in accordance with the official course rules
- they have been judged by the professor not to be “illegal” rule changes (e.g., changes that violate existing course rules)
- they have received the number of Yes votes necessary to change the rule(s) in question, as determined by their hierarchical type

**3-008. New rules.** New rules are considered to have passed if and only if:

- they have been proposed in accordance with the official course rules
- they have been voted on in accordance with the official course rules
- they have been judged by the professor not to be “illegal” rule changes (e.g., changes that violate existing course rules)

Unless their wording specifically states otherwise, new rules will be assigned to one of the hierarchical categories (e.g., “major” or “minor”) at the highest level appropriate to the percentage of Yes votes they received. Under the initial course rules, this means that a new rule that receives at least a two-thirds majority Yes vote will be implemented as a major course rule, whereas a new rule that receives only a simply majority Yes vote will be implemented as a minor course rule.

**3-009. Effective date of rule changes.** Any rule change(s) resulting from a passed ballot shall take effect at the start of the course week following the completion of the official voting period. No ballot may have retroactive application, even if its wording explicitly states otherwise.

**3-010. Formal record of rule changes.** The full and complete text of any rule changes resulting from a passed ballot shall be added to the official course rules posted on the course website.

**3-011. First class ballots.** During our first class meeting on 25 August, students will have the opportunity to meet in small groups, each of which will collectively review the existing course rules (as listed in the syllabus and assignment handouts). After that review process, each group will be allowed to propose one (1) official ballot item in class. Using the official form provided for this purpose, any such ballot items must be submitted to the professor by the end of class on 25 August.

N.B.: There are no fewer than five (5) *deliberately* flawed rules in the initial syllabus. You are *strongly* encouraged to locate these, to propose rule changes that would repeal and/or modify them, and to vote these rule changes into effect. Otherwise, by rule #1-001, even these “bad” rules will remain in effect until and unless they are officially changed.

Subsequent to that class meeting, the professor will take the full text of any ballot items submitted and post them to the “Ballots” forum of the course website. Any such proposals will be considered legitimate ballot items and treated as such in accordance with the official course rules, *except*:

- the official voting period for any such ballot items will end at 12:00 noon ET on 2 September
- for purposes of rule #1-008, grade points for any such ballot items that are officially voted into law will be awarded to all listed members of the group that originally proposed them

This rule does *not* infringe on the rights of any student to propose a separate ballot item during the first course week in accordance with the official course rules.