

Artificial Intelligence, Big Tech, and the First Amendment

University of Florida Levin College of Law Syllabus & Reading Assignments Spring 2024 (2 credit hours)

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Office Hours: Tuesday 10-12

Class Meeting Time and Location: HH 359; Th. 1:15-3:15

Course Description and Objectives:

This class deals with the emerging promise and threat posed by AI-generated content, focusing on the application of constitutional principles governing free expression to that content. As the title of the course suggests, you will learn basic principles of First Amendment Law, but you will also learn how those principles interact with tort law and criminal law. Topics include how to address AI-generated speech that invades privacy, defames, threatens, incites, or perpetuates bias and discrimination. We will also examine the use of AI in journalism, discuss the role of AI in magnifying disinformation in a way that may threaten democracy, and will look at proposals for regulation of the Big Tech platforms to help address the nascent threats AI poses.

There is a substantial component of First Amendment law in this class, and we will be reading a number of U.S. Supreme Court decisions. This class will reinforce your skills in constitutional analysis and will give you a thorough grounding in the portion of the First Amendment that addresses content-based regulations of expression, medium-specific principles of First Amendment Law, defamation, threats, privacy invasions, and copyright infringement. I will bring in current controversies in the news that raise issues related to this class. Please feel free to bring current controversies to my attention so I can share them with the class.

My objectives are for students to predict how certain aspects of First Amendment Law, tort law, and criminal law are likely to apply to AI-generated expression. After the course, students should be able to apply rules and doctrines to novel fact patterns involving artificial intelligence; understand and be able to employ the major methodologies the Supreme Court uses to resolve First Amendment cases; and use advocacy skills to make cogent and persuasive arguments in writing on all sides of AI issues related to free speech.

Student Learning Outcomes:

At the end of this course, I expect you to be able to:

- articulate whether and how the First Amendment protects AI-generated content;
- articulate why some First Amendment doctrines appear to be “medium-specific” and make cogent arguments for whether that aspect of First Amendment jurisprudence should apply to Big Tech platforms;
- identify content-based and content-neutral regulations of expression and apply appropriate doctrines to analyze the constitutionality of content moderation requirements for Big Tech platforms and others;
- identify harmful kinds of speech that AI has generated and will generate and discuss the legal principles that will govern tort and criminal liability;
- understand the role of AI in journalism and the dangers of overreliance on AI to generate news content;
- understand the contributions of AI to disinformation and be able to make cogent arguments and suggestions for how the law should address this problem, consistently with the First Amendment;
- articulate the purposes of the First Amendment, and
- analyze the constitutionality of proposed regulations of AI.

Required Materials: I will provide the cases and articles needed for this course. Please be sure to register for the Canvas page for this course. Please bring the materials for class with you to aid the quality of our discussion.

Class Participation and Professionalism:

Participation in classroom discussion is crucial to your success in learning. I will employ various strategies to encourage and incentivize your participation, but it is not part of your grade in the course. I am a “soft” Socratic teacher, meaning I will call on students randomly to answer questions. You can notify me before class if you do not want to be called on for a particular class; just make sure you do not do it often. If I call on you and you say you are unprepared, I will circle back to you the following day. I employ this method to encourage you to read the material carefully. I also strive to model the legal reasoning process, generate discussion of the type you might have with a colleague or partner in your law firm, and allow the class to gain from the insights of those who may be reticent to volunteer. I have high expectations for your performance in this class and your eventual performance as attorneys.

Grading Evaluation--Methods by which students will be evaluated:

I will evaluate your performance in this class based on your performance on the final exam (90%) and two small papers of about 300 words (10% total) assigned during the semester. The papers will be graded on a 5-point scale, where 5 represents an A /A-, 4 represents a B+/B, 3 represents a B-/C+, 2 represents a C, and 1 represents a C- or below. The papers will not be curved, but the final exam and final grade in the course will be. The final exam will be scored on a scale of 90 points (45 points per essay question).

Final Exam Format: Your final exam in this course will be a 1.5-hour, open-book, in-class exam. It will consist of two essay questions worth 45 points each. I will provide you with the instructions for the final exam on the Canvas Page for this course approximately one week before the final exam date. There will be a word limit and/or space limit.

Class Attendance:

Please let me know if you will miss class or have missed class. You may miss two classes without an excuse. If you miss more than two classes without a valid excuse, you will be dropped from the class.

Please do not arrive late to class if you can avoid it. Let me know if you must leave early. Please turn off your cell phone during class and focus on what is happening in the classroom. I reserve the right to lower your final grade if you engage in behavior that disrupts the learning environment for your classmates.

Exam Delays and Accommodations

The law school policy on exam delays and accommodations can be found here:

<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/forms-applications/exam-delays-accommodations-form>.

Information on UF Law Grading Policies

This course follows the Levin College of Law's grading policies found [here](#).

Letter Grade Point Equivalent

A 4.0

A- 3.67

B+ 3.33

B 3.0

B- 2.67

C+ 2.33

C 2.0

C- 1.67

D+ 1.33

D 1.0

D- 0.67

E (Failure) 0.0

Online Course Evaluation Process:

Students are expected to provide feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>.

Recordings of Class Discussions.

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

ABA OUT-OF-CLASS HOURS REQUIREMENTS: ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. According to ABA Standard 310, given that we will have three "classroom hours" per week, at least 6 hours of preparation are required outside of class.

Statement on Academic Honesty:

UF Law's Honor Code is located [here](#). As future members of the legal profession, I expect you to conduct yourself with the highest degree of integrity, truthfulness, professionalism, and respect for the rules and the dignity of others. Any dishonesty or attempt to gain unfair advantage while in law school will be scrutinized by the Bar in determining whether you will gain admission. Act accordingly.

Our Classroom:

Every student is a valued member of our classroom. It is important to the learning environment that you feel included and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I will gladly call you what you'd like to be called.

You may change your "Display Name" in Canvas if you desire. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Allie" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear on Canvas. This does not change your legal name for official UF records.

Health and Wellness Resources:

- U Matter, We Care: If you or someone you know is in distress, please contact umatter@ufl.edu, 352-392-1575, or visit U Matter, We Care website to refer or report a concern and a team member will reach out to the student in distress.
- Counseling and Wellness Center: Visit the Counseling and Wellness Center website or call 352-392-1575 for information on crisis services as well as noncrisis services.
- Student Health Care Center: Call 352-392-1161 for 24/7 information to help you find the care you need or visit the Student Health Care Center website.
- University Police Department: Visit UF Police Department website or call 352- 392-1111 (or 9-1-1 for emergencies).

Basic Needs Assistance:

Any student who has difficulty accessing sufficient food or lacks a safe place to live is encouraged to contact the Office of Student Affairs. We care about you, and we can help.

UF LEVIN COLLEGE OF LAW POLICIES:

Other information about UF Levin College of Law policies, including compliance with the UF Honor Code, Grading, Accommodations, Class Recordings, and Course Evaluations can be found at this link: <https://ufl.instructure.com/courses/427635/files/74674656?wrap=1>.

Readings/Assignments for Class 1 (2 hours)

[AI, Explained: Why It's Different This Time | WSJ Tech News Briefing \(youtube.com\)](#)

['Godfather of AI' discusses dangers the developing technologies pose to society \(youtube.com\)](#)

Harms of Agentic Systems, <https://arxiv.org/pdf/2302.10329.pdf>

Whitney v. California, [Whitney v. California | Oyez](#)