

WRS: Free Speech and the University (7397/26450)
Fall 2026

MW 2:30 – 4 pm
Face-to-face instruction
Room TBA

Professor Ten Cate

1. Course Description

The past few years have seen far-reaching legislative, regulatory, and administrative activity around speech in the classroom and on campus. This activity includes regulation of course content, diversity program bans, intellectual diversity laws, regulation of tenure standards at public universities, disciplinary action against professors for political speech in the classroom, disciplinary action in response to student protests, suspensions of student organizations, and high-level resignations of university administrators. Debates about educational and cultural aspects of speech at institutions of higher learning—from calls for safe spaces and trigger warnings to accusations about cancel culture—have also intensified. This course examines the boundaries of speech in universities through the lens of some of the most compelling defenses and criticisms of free speech and academic freedom.

2. Learning Objectives

The course exposes students to the complex legal, social, political, and philosophical interests that are implicated in questions regarding the value and limits of free speech at universities. Students also develop their research, writing, and analytical skills by researching and writing a substantial paper. Lastly, students are expected to conduct themselves as members of a scholarly community, culminating in paper presentations and discussions.

3. Required and Recommended Texts

You don't need to purchase a textbook for this course. I will post all reading materials on the Canvas site. I recommend the following books as optional resources (the references are to the most recent editions, but earlier ones are fine):

- Jessica Lynn Wherry & Kristen E. Murray, *SCHOLARLY WRITING: IDEAS, EXAMPLES, AND EXECUTION* (3d ed. 2019)
- Eugene Volokh, *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW* (5th ed. 2016)

4. Grading and Assessment

Grades are based on a final paper. In addition, I may move your grade one level up or down (e.g., from B+ to A- or to B) based on class participation.

Paper. The final paper must be at least 10,000 words and no more than 12,000 words. Footnotes are included in the word count. The paper must be new; it cannot be a revised version of an earlier paper or note. In grading your paper, I consider the originality of your insights; whether the paper identifies and engages thoughtfully with original source materials and existing scholarship; and the quality of organization (at every level) and writing. Use of non-existing sources, misrepresentation of sources, and failure to cite appropriately will result in major deductions and potentially a failing grade.

Participation. Class participation includes your final presentation; contributions to class discussion (including your ability to listen carefully and respond to points raised by others); preparedness to discuss the assigned materials; and engagement with classmates' research projects and with any guest speakers who may join us.

Deadlines. To help pace your writing process, you must meet the following deadlines:

Fri. 9/11 at 6 pm	Submit a one-paragraph paper idea.
Fri. 10/2 at 6 pm	Submit a paper summary of 3-5 pages (single-spaced) and a list of at least 15 sources. You can still change your mind during the writing process, but the summary should provide a thoughtful discussion of the question or issue you plan to explore.
Sun. 11/1 at 6 pm	Draft paper due. This draft does not need to be complete, and some of it can be in outline format, but it should show the structure of your paper and give a clear indication of where you are headed. Ideally, this draft should include 5,000 words.
Sun. 11/22 at 6 pm	Final paper due.

Failure to meet these deadlines may result in a reduction of the course grade or, in severe cases, in failing the course.

No collaboration on drafts. You are permitted (and indeed encouraged) to discuss paper topics, your thesis, and potential resources with your classmates. However, you may not collaborate with other individuals, including other students or attorneys, in preparing the draft and final paper, and you must comply with the AI policy stated below.

5. Class Meetings

Chatham House Rule. To encourage robust discussion, the Chatham House Rule applies in my classroom. Under this rule, “participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” This also means that you may not post online or otherwise share recordings, screenshots, classmates’ remarks, or any other class content.

Recording of Class. Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. Any recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. You must delete any recordings at the end of the semester. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Guest Speakers. We may be joined by one or more guest speakers. Guest speakers speak in their personal capacity, and positions they take cannot be ascribed to their employers or to anybody else. To ensure that they can speak relatively freely, I will not record any meetings with guest speakers. You are prohibited from making your own recording, except if permitted for accommodations reasons, and you are absolutely prohibited from distributing any recordings. In addition, given the sensitivity of the topics we discuss, you should not discuss anything a guest speaker says with anybody who is not enrolled in the class. Although papers can be informed by guest speakers’ statements, you may not use guest speakers as sources and should not quote or refer to specific statements from guest speakers in your paper.

Violations. Violations of the Chatham House Rule, the rules regarding recordings, and the rules regarding guest speakers constitute breaches of the UHLC Honor Code, professionalism, and trust. Potential consequences include being reported to the Honor Board and a downward adjustment of your course grade.

6. Attendance

As a requirement for accreditation of law schools by the American Bar Association, regular and punctual class attendance is necessary. To fulfill this requirement, UHLC mandates that students be present for 80% of the regularly scheduled class meetings. UHLC professors cannot waive this requirement. Please email me if you anticipate you will be absent from class.

7. Office Hours

I will hold office hours from 4 – 5 pm on Mondays and Wednesdays. I am happy to discuss your ideas and writing process throughout the semester. To ensure that each student receives the same feedback opportunities, I will only review drafts submitted on Canvas per the course schedule.

8. Honor Code

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code's provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

9. Generative AI

The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Work Product). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, AI-Generated Work Product, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written material one might generate themselves. AI Generated Work Product can include computer code or programs as well as human language content.

Prohibition. Subject to the exceptions immediately below, your continuing enrollment in this course obligates you not to generate or use any AI Generated Work Product in relation to any activity or assessment in this course. The term “assessment” means any material generated for this course that is submitted to the professor or presented in a class session, regardless of whether it is graded content.

Exceptions. The following AI-Generated Work Product uses are exceptions to the prohibition above. Specifically, you may use AI-Generated Work for:

- Identifying source material for your research.
- Early outlines for your paper.
- Checking text drafted by you for misspellings, grammar, and punctuation errors.

The intent is to permit the generation and use of AI-Generated Work Product for specific, narrowly defined activities related to this course.

If asked by the professor, you must disclose how you used AI-Generated Work.

10. Syllabus Changes

I may need to modify the course syllabus. If I do, I will announce any changes as soon as possible.

11. Additional Information and Resources

Please see the end of this syllabus (after “Course Outline”) for additional information and resources related to this course.

COURSE OUTLINE

This outline provides a guide to the topics I expect to cover in our course. I post all reading materials on Canvas. Given the rapid developments in this area, I expect to replace many of the listed materials. I will send an updated syllabus before our first class.

FREE SPEECH DEFENSES AND CRITICISMS

Week 1 Introduction to the Course

Mon. 8/24 Review the syllabus and complete the survey (I will provide the link before
Wed. 8/26 our first class meeting)

Introduction to Free Speech – John Stuart Mill

- J.S. Mill, *On Liberty* (1859)
- Nishi Shah, *Why Academic Freedom Matters* (2021)

Starting a Research Project

- Martha Minow, *Archetypal Legal Scholarship: A Field Guide* (2013)
(posted in the “scholarly writing” module)

Week 2 “Instrumental” Free Speech Defenses

Mon. 8/31
Wed. 9/2

- Justice Oliver Wendell Holmes, dissent in *Abrams v. United States* (1919)
- Margaret Jane Radin, *Contested Commodities* (1996)
- Irene Ten Cate, *Speech, Truth, and Freedom: An Examination of John Stuart Mill’s and Oliver Wendell Holmes’s Free Speech Defenses* (2010)
- Ashutosh A. Bhagwat, *The Story of Whitney v. California: The Power of Ideas* (2004)
- Justice Louis Brandeis, concurring opinion in *Whitney v. California* (1927)

Individual-Centered Free Speech Defenses

- Vincent Blasi, *Free Speech and Good Character* (1998)
- Seanna Valentine Shiffrin, *A Thinker-Based Approach to Freedom of Speech* (2011)

Week 3 Free Speech and Other Values

Wed. 9/9

- Catharine A. McKinnon, *Speech and Equality* (1993)
- Jeremy Waldron, *The Harm in Hate Speech* (2012)
- Louis Michael Seidman, *Can Free Speech Be Progressive?* (2018)

**** Submit your paper idea on Canvas by Fri. 9/11 at 6 pm ****

Week 4 Paper Ideas Roundtable

Mon. 9/14
Wed. 9/16

Discussion of each student’s paper idea

SELECTED TOPICS

(subject to change depending on developments and student interests)

Week 5 State Regulation of Public Universities

Mon. 9/21
Wed. 9/23

Assignments TBA

From Idea to Draft

Assignments TBA

Week 6 State Regulation of Public Universities (cont'd)

Mon. 9/28 Assignments TBA

Wed. 9/30

**** Submit a paper summary and list of sources on Canvas by Fri. 10/3 at 6 pm ****

Week 7 The University as Facilitator of Academic Inquiry and Speaker

Mon. 10/5 • University of Chicago, *Report of the Committee on Freedom of Expression* (2014)

Wed. 10/7

• University of Chicago, *Kalven Committee: Report on the University's Role in Political and Social Action* (1967)

• Brian Sousek, *Academic Freedom and Departmental Speech* (2022)

Other assignments TBA

Week 8 A Closer Look at University Campus Speech Policies

Mon. 10/12 Assignments TBA

Wed. 10/14

Academic Freedom and Its Boundaries

• Matthew W. Finkin & Robert C. Post, *For the Common Good: Principles of American Academic Freedom* (2009)

Other assignments TBA

Week 9 The Middle East Conflict on American University Campuses

Mon. 10/19 Assignments TBA

Wed. 10/21

Week 10 Academic Freedom and DEIB

Mon. 10/28 Assignments TBA

Wed. 10/30

Cancel Culture

Assignments TBA

**** Submit your draft paper on Canvas by Sun. 11/2 at 6 pm ****

Week 12 Finalizing Your Paper and Draft Conferences

Mon. 11/2 On Monday 11/2, we will discuss the later stages of the paper-writing process. There will be no class meeting on Wednesday; instead, each student will meet with me to discuss draft papers

Weeks 13 / 14 Paper Presentations

**** Submit your final paper on Canvas by Sun. 11/23 at 6 pm ****

Week 15 Last Class

Mon. 11/24 Debriefing

Additional Information and Resources

Mental Health and Wellness Resources. The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App.

- ***UH Counseling and Psychological Services (CAPS).*** CAPS offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit uh.edu/caps, call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed. The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment. The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

- ***Texas Lawyers' Assistance Program (TLAP).*** TLAP supports lawyers and law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website provides links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.
- ***Center for Student Advocacy and Community (CSAC).*** CSAC is where you can go if you need help but don't know where to start. CSAC is a "home away from home" and serves as a resource hub to help you get the resources needed to support academic and personal success.

Through our Cougar Cupboard, all students can get up to 30 lbs of FREE groceries a week. Additionally, we provide 1:1 appointments to get you connected to on- and off-campus resources related to essential needs, safety and advocacy, and more. The Cougar Closet is a registered student organization advised by our office and offers free clothes to students so that all Coogs can feel good in their fit. We also host a series of cultural and community-based events that fosters social connection and helps the cougar community come closer together. Visit the CSAC homepage or follow us on Instagram: @uh_CSAC and @uhcupbrd. YOU belong here.

- **Women and Gender Resource Center (WGRC).** WGRC’s mission is to promote the success of all students, faculty, and staff through educating, empowering, and supporting the UH community. The WGRC suite is open to you. Stop by the office for a study space, to take a break, grab a snack, or check out one of the WGRC programs or resources. Stop by Student Center South room B12 (Basement floor near Starbucks and down the hall from Creation Station) from 9 am – 5 pm Monday through Friday.

Title IX / Sexual Misconduct. Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

Reasonable Academic Adjustments/Auxiliary Aids. The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713)743-5400, or emailing jdcenter@Central.UH.EDU.