

# Media Law Notes

46.2  
Spring 2018

## Head Notes

## AEJMC Law & Policy Division



Jason Martin  
Division Head

### QUALITY PAPER REVIEWING IS A HALLMARK OF OUR DIVISION

As a member of the Law and Policy Division leadership for the past several years, I often have been asked about the benefits of division membership.

This question is especially crucial as AEJMC revealed new information in 2017 that only about half of AEJMC organizational members are also members of at least one division.

The benefits of Law and Policy Division membership are numerous, of course. Often cited are opportunities such as a subscription to the flagship journal *Communication Law and Policy*, research ideas, teaching tips, networking opportunities, and the general intellectual stimulation that comes from interacting with colleagues at the annual conference and via social media

However, every spring, my thoughts turn toward one of the most salient benefits that helps membership in our division rise above some others: If you submit a paper to a research competition with AEJMC Law and Policy Division, you are very likely to receive detailed suggestions and constructive criticism that will improve your article, your research agenda, and your development as a scholar.

Frequently this year as division head, I have received correspondence from members who take the time to praise the depth, professionalism, and applicability of our paper reviews. This fact holds true for the national paper competition, the AEJMC Southeast Colloquium regional conference, and certainly for journal submissions. There are few better feelings as a division leader than seeing your members bragging on social media about the quality of engagement they receive from fellow volunteers who lend their expertise in the service of others.

Quality and quantity of reviewer comments are, unfortunately, not the norm across communication divisions or academic disciplines. The value delivered by our division's paper reviewers is notable and laudable. It is a point of pride that serves as a hallmark of an academic culture in which our most veteran scholars are frequently heavily invested in panels, paper Q&A sessions, and providing feedback. It is an accomplishment for which all of our members who offer the extra time and effort should be congratulated.

Therefore, as we approach the national paper competition submission deadline of April 1, please remember to help us maintain this robust culture and tradition by offering to be a reviewer if you do not submit a paper. **Volunteer by sending a note to Research Chair Roy Gutterman at [rgutter@syr.edu](mailto:rgutter@syr.edu) indicating your areas of reviewing expertise.**

If you are unsure whether you will submit a paper or not, let Roy know and he can track the submissions so that we have you on the radar in the event the next month gets too hectic to finish off a potential submission. A bit of time dedicated across our division membership in late April to reviewing papers makes a huge difference, year after year.

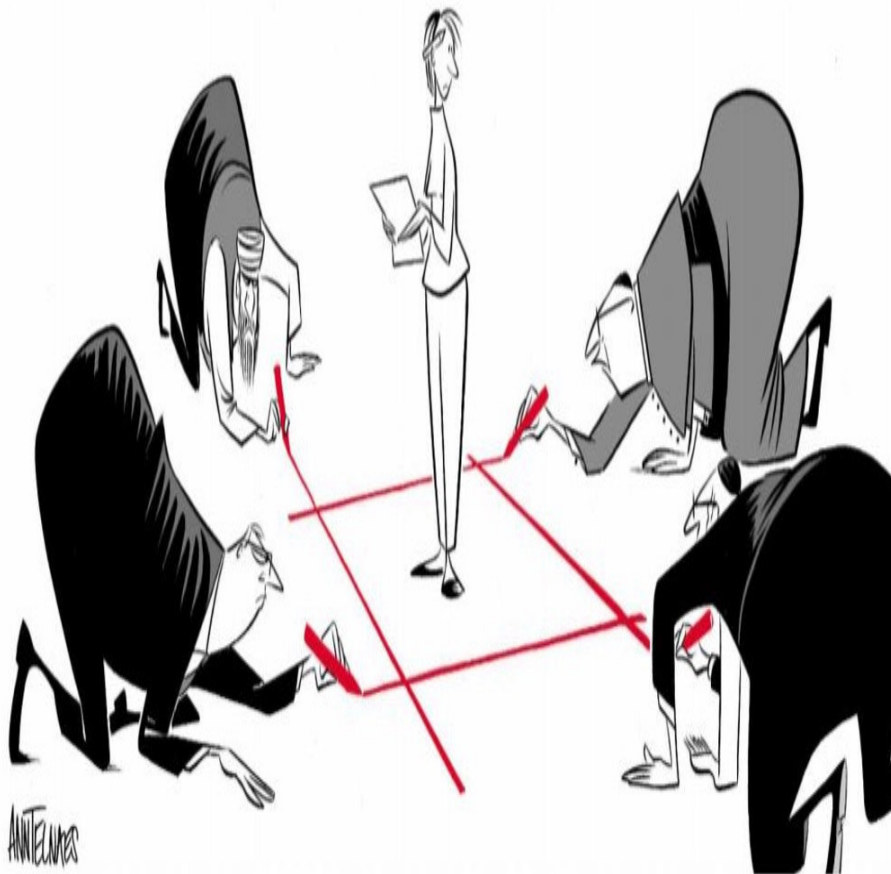
In most recent years, we have had such success recruiting reviewers that only those volunteers who are gluttons for extra reviewing work receive more than three papers. Providing on-time reviews and well-considered feedback not only helps raise the quality of the sessions at the AEJMC conference, but also passes down the culture of quality paper reviewing to the next wave of scholars completing their degrees.



# THE STATE OF OUR SATIRICAL UNION



HUSTLER MAGAZINE, INC V. FALWELL AT 30



APRIL 20—21, 2018  MINNEAPOLIS

# Law and Policy at the 43rd Annual AEJMC Southeast Colloquium March 8-10, 2018 in Tuscaloosa, Alabama.

The Law and Policy Division was strongly represented this year at the SE Colloquium.

In addition to the four panels for our division, there was also a Research in Progress session on Saturday morning that was moderated by Brooks Fuller. There's some exciting research in our division on deck for Washington D.C. in August.

Friday Dinner : a traditional Tuscaloosa dinner at Dreamland BBQ.





## Get out of your classrooms... and into other ones

By Erica Salkin,  
Associate Professor of Communication Studies,

If your Facebook feed is anything like mine, then it lit up last September when the Brookings Institute released a study suggesting that college students in the United States did not understand or support their rights to free speech and expression. The validity of that study has been challenged based on its survey sample and timing, but the core idea that young people are not vigorous champions of the First Amendment left many of us disquieted.

How could the next generation not value its right to free speech? There are the usual anecdotal suspects – the interpersonal differences of digital communication, the impact of cyberbullying, and a more entrenched partisan political environment. We grew up believing that stick and stones could break our bones, but words would never hurt us. Would today's high school and college students say the same?

It's easy to say that the solution to First Amendment misunderstandings lies in education. As Thomas Jefferson once said, "Light and liberty go together" – to maintain our freedom, we need to teach it again and again. And we do – if you're reading this newsletter, you probably teach one or more courses every year on the First Amendment, free speech, free press, or some subset of those topics. The students who come to your classes likely do so because they are interested in your topic or are fulfilling a requirement for a program that they have self-selected (journalism, communications, or law). That selection process, however, means in many ways, we're preaching to the choir in these classes.

To turn – or even stem – the tide, we need to get out of our classrooms and into others.

For the past four years, I've spent a day at an area middle school to talk with 8th graders about the First Amendment. I walk them through the 45 words, talk about incorporation, and then hone in on a specific element – some years it's student speech rights, other years it's press freedoms. This past year, we talked about why the law wasn't the solution to "fake news" and why.

Each time, after sharing the same presentation to six groups of 60 to 90 13- and 14-year-olds, I am left in awe of the work of our public school teachers. They have so much information to cover in such short periods of time, and they do so with energy, grace and a sheer love for learning. They want their students to have access to ALL the ideas, and it's a pleasure to be a part of that process by speaking from my area of specialization.

But I am even more impressed with the young minds in front of me. Sure, some check out as soon as they realize that a guest speaker means they can sit in the back of the room and doze. But there are always a solid group of students who pay attention, who ask questions, who laugh at all the right places and who start to put the pieces together as they figure out how these constitutional concepts apply to them. At the end of the day, I'm exhausted, but it's a worthwhile exhaustion. And next year, I'll do it again.

In an increasingly siloed world, it can be easy to think of our content as only relevant to our departments, our schools, or our colleges. Disciplinary expectations, the journey toward promotion and tenure and even our buildings and facilities reinforce that mindset. Breaking past those boundaries and supporting our fellow educators at the university and K-12 level can be a powerful step toward reversing the growing misunderstanding of First Amendment freedoms.

I don't doubt that many reading this article already guest lecture across their campuses and across their communities. If you do, consider sharing that experience with your colleagues or with fellow Law & Policy division members. For those of you who have presented to K-12 classes, share how you made your content accessible to younger students and helped them engage with difficult topics. What worked? What didn't? And what would you recommend to others?

The story of free speech and free press in the United States is a great one. **Let's go tell it.**

*Anyone interested in sharing their experiences with guest lecturing in other academic departments or the K-12 setting on the First Amendment, free speech or related issues can do so here: <https://goo.gl/forms/csIZx5OYmWR-40JZv1>. Results will be shared with Law & Policy officers, who will distribute either via email or on the division's website.*

*You may contribute anonymously if you wish.*

# AEJMC 2018 CONFERENCE

August 6 - 9 • Washington, DC • The Renaissance Hotel Downtown



## Hotel

### The Renaissance Hotel Downtown



Located: 999 9th St NW, Washington, DC 20001 USA • (202) 898-9000 • FAX: (202) 289-0947

#### RATES:

Single/double • \$199 (+14.8% room tax) • Room block expires July 15, 2018 – Or until gone.

# **AEJMC Law and Policy Division Call for Papers (and Reviewers) Washington, DC 2018**

The Law and Policy Division invites submission of original research papers on communications law and policy for the 2018 AEJMC Conference in Washington, DC. Papers may focus on any topic related to communications law and/or policy, including defamation, privacy, FCC issues, intellectual property, obscenity, freedom of information, and a myriad of other media law and policy topics. Papers outside the scope of communications law and policy will be rejected.

The Division welcomes a variety of theoretical orientations and any method appropriate to the research question. A panel of judges will blind-referee all submissions, and selection will be based strictly on merit. Authors need not be AEJMC or Law and Policy Division members, but they must attend the conference to present accepted papers.

Paper authors should submit via the online submission process as described in the Uniform Paper Call. Law and Policy Division papers must be no longer than 50-double-spaced pages with one-inch margins and 12-point font, including cover page, appendices, tables, footnotes and/or endnotes, and end-of-paper reference list, if applicable. (Footnotes and/or endnotes and reference list may be single-spaced.) Papers that exceed 50 total pages or are not double-spaced will be automatically rejected without review. Although Bluebook citation format is preferred, authors may employ any recognized and uniform format for referencing authorities, including APA, Chicago, or MLA styles.

Papers that include author-identifying information within the text, in headers, or within the embedded electronic file properties will be automatically rejected (review the instructions on the AEJMC website for stripping identifying information from the electronic file properties). Authors are solely responsible for checking the final uploaded version of their paper for any and all author identifying information. Submitting before the conference deadline will allow you to fully check your submissions as they are entered into the system so that a resubmission prior to the deadline is possible if necessary.

There is no limit on the number of submissions authors may make to the Division. Any paper previously published or presented at a conference except the AEJMC Southeast Colloquium or the AEJMC Midwinter Conference is not eligible for the competition.

The Division again will award a Top Debut Faculty Paper. The top paper accepted by a faculty member who has never had a paper accepted by the Division will be awarded a prize of \$150 and will receive free conference registration. For papers with multiple authors, multiple faculty and/or faculty and student, to be eligible none of the authors of the paper may have previously had a paper accepted by the Division at the national conference. In addition, only the faculty author presenting the paper will be eligible for free conference registration.

Student authors should clearly indicate their student status on the cover page. Student-only submissions will be considered for the \$100 Whitney and Shirley Mundt Award, given to the top student paper. Co-authored papers are eligible for the competition so long as all authors are students. The Law and Policy Division will also cover conference registration fees for the top three student paper presenters. In the case of co-authored student papers, only the student author presenting the paper will be eligible for free conference registration.

# AEJMC Law and Policy Division Call for Papers

## Instructions/Logistics

All research papers must be uploaded through an online server to the group appropriate to the paper's topic via a link on the AEJMC website: [www.AEJMC.org](http://www.AEJMC.org). The following uniform call will apply to ALL AEJMC paper competitions.

Additional information specific to an individual group's call is available at the end of the uniform call information.

- 1. Submit the paper via the AEJMC website link ([www.aejmc.org](http://www.aejmc.org)) to the AEJMC group appropriate to the paper's topic. Format should be Word, WordPerfect, or a PDF. PDF format is strongly encouraged.**
- 2. The paper must be uploaded to the server no later than 11:59 P.M. (Central Daylight Time) Sunday, April 1, 2018.**
- 3. Also upload a paper abstract of no more than 75-words.**
- 4. Completely fill out the online submission form with author(s) name, affiliation, mailing address, telephone number, and email address. The title should be printed on the first page of the text and on running heads on each page of text, as well as on the title page. Do NOT include author's name on running heads or title page.**
- 5. Papers uploaded with author's identifying information WILL NOT BE CONSIDERED FOR REVIEW AND WILL AUTOMATICALLY BE DISQUALIFIED FROM THE COMPETITION. ALL AEJMC DIVISIONS, INTEREST GROUPS AND COMMISSION PAPER SUBMISSIONS WILL ABIDE BY THIS RULE WITHOUT EXCEPTION.**

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If you are not writing a paper, we need reviewers ...

Questions or to volunteer to review, please contact Roy Gutterman, Law and Policy Division Research Chair, Syracuse University, Phone: (315) 443-3523; email: [rsgutter@sy.edu](mailto:rsgutter@sy.edu)

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# AEJMC Law & Policy Division Call for Submissions: Teaching Ideas Competition

The Law & Policy Division seeks submissions for the ninth annual Teaching Ideas Competition. The division wants to hear all of your ideas for innovation in teaching communication law and policy. Submissions can focus on creative approaches for studying a case or cases; new ideas for incorporating emerging issues and technologies into courses; effective in-class group activities or assignments that help students synthesize key lessons; group projects that encourage collaborative learning; lesson plans or syllabi that reveal innovative approaches for a seminar or skills courses; ideas for experiential or service learning; or ideas from any other area of teaching and learning that will help others improve their courses.

Winning submissions will receive certificates and cash prizes: \$100 for first place, \$75 for second place, and \$50 for third place. Winners will be invited to present their ideas as part of a pre-conference session and will be recognized during the Law & Policy Division's business meeting in Washington, D.C. Winning ideas will also be showcased on the division website and in Media Law Notes.

All submissions must be received by April 25, 2018. Submissions must be sent as an email attachment (preferably a Word or PDF document) to Teaching Chair Jared Schroeder at [jcschroeder@smu.edu](mailto:jcschroeder@smu.edu). Please use "Teaching Ideas Competition" in the subject line.

Include your name, affiliation, contact information, and the title of your idea at the top of your submission. Describe your teaching idea in 1-2 pages (single-spaced) in this format: introduction of your idea, your rationale for it, an explanation of how you implement the idea, and student learning outcomes. Include any related links at the bottom of the submission. Please attach any relevant attachments to the submission email.

A panel of judges will blind review each submission based on the idea's creativity, innovation, practicality, and overall value to students. Submissions will be acknowledged via email but not returned.

Submitters need not be Law & Policy Division members. Both faculty and graduate students are welcome to submit. Past entrants who were not awarded may revise and resubmit ideas from previous years. Winners will be notified by mid May.

If you have questions, please contact Jared Schroeder at [jcschroeder@smu.edu](mailto:jcschroeder@smu.edu).

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# College Campuses and Speech

By Roy S. Gutterman

College campuses have long been hotbeds of speech, protests and thought. The American college campus, where young people come to learn and grow as adults and scholars develop new ideas, was always a place where part of that education included being confronted by and confronting varying viewpoints.

In recent months, college campuses across the country have been wrestling with some difficult free speech issues, and it looks like it is not getting better.

In February, protesters rioted in Berkeley, nearly burning down a building because conservative firebrand Milo Yiannopoulos was booked to speak at the University of California. The speech was canceled.

More recently, the University of Florida estimated it would have to spend upwards of \$500,000 to provide security for neo-Nazi Richard Spencer's appearance. Earlier in the year, Spencer sued Auburn University, so he could exercise his First Amendment rights to speak on that campus.

It is a tall order bringing in a speaker such as Spencer, whose politics and viewpoints will offend and possibly inflame a fair number of listeners. As revolting as his message may be, a college campus is exactly the kind of place to have such a speaker.

For those of us who teach First Amendment or media law on college campuses, the past year has generated a wealth of content and controversy to discuss in class. Current events has given us a lot to talk about.

Such speakers, though, draw ire and counter-protests, in which opponents sometimes are so vocal they drown out the speaker. Some may argue that that is counter-productive to free speech principles. Others would say, this is exactly how debate should play out.

Campus politics and free speech issues have collided on college campuses for as long as there have been college campuses (at least in the United States). During the Red Scares, left-leaning students and faculty faced potential blacklisting and other repercussions for their political viewpoints. Throughout the Civil Rights movement, protests and speakers were part of the college experience across the country, and breeding grounds for political involvement and a catalyst for social change.

And, college campuses across the country were the focal point of many protests against the Vietnam War in the 1960s and '70s. Some campuses, Syracuse University included, were shut down by protests. No campus protest shaped the public's view of the war more than that at Kent State University in Ohio where National Guardsmen shot and killed four and seriously wounded nine student protesters in 1970. Some believe the Kent State shooting changed the public's views on the war.

## ADVERTISING

In the decades since, the college experience has changed, and so have the politics and the protests. Today, many on the political right feel that their viewpoints are being censored, punished or shut down.

To that end, in September, Attorney General Jeff Sessions waded into the waters when he announced that the Department of Justice would file a "Statement of Interest" in a free speech challenge at Georgia Gwinnett College. "Freedom of thought and speech on the American campus are under attack," Sessions said. "The American university was once the center of academic freedom - a place of robust debate, a forum for the competition of ideas. But it is transforming into an echo chamber of political correctness and homogenous thought, a shelter for fragile egos."

Guttermann:

A federal law empowers the attorney general to “attend to the interests of the United States in a suit pending in a court.” The weight of such intervention is unclear and discussions with both a criminal law professor and a former United States Attorney could not fully define what this federal intervention really means.

Even as the statement of interest lauds free speech values and the marketplace of ideas, there could be questions about the DOJ’s commitment to free speech. The Georgia case involves a religious advocate who wanted to distribute religious materials on campus and was confined to a “free speech zone.” He argues the public college is violating his First Amendment rights.

This raises the question: is this DOJ intervention making a statement on behalf of a particular speaker’s viewpoints or does the government truly believe in free speech and the marketplace of ideas? After all, this is the same DOJ that is prosecuting an activist, Desiree Fairouz, who is accused of disrupting Sessions’ confirmation hearing with her loud laughter.

Of course, more speech is always good. And, it is important that the DOJ, perhaps only cosmetically, is taking a stand to support free speech.

A new book, aptly titled “Free Speech on Campus,” UC Berkeley Law School Dean Erwin Chemerinsky and Howard Gillman, chancellor of UC Irvine, explains the tensions associated with free speech these days. They write:

“Free speech thrives when members of society agree that individuals should be free to make their own choices about what to believe and how to behave. It thrives when people agree that they should be able to challenge government leaders and advocate for social change. It is valued when people are open to new ideas about how the world works, how society should be organized, and what values are more important.”

Maybe we can all learn a little about speech, even without going to colleges.

*A version of this piece was published in October in The Post Standard and Syracuse.com.*

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## **AEJMC 2018 Election**

AEJMC members will be able to elect new leadership when AEJMC’s 2018 election online voting system opens March 2. Eligible members will receive an email with a built-in link to the AEJMC ballot. Response deadline is April 2, 2018. After that the online system will be closed and votes tallied.

Eligible members without an email address on file, or whose email bounces back to AEJMC, will receive a paper ballot. Paper ballots must be returned to AEJMC by April 6. Returned paper ballots will be counted and added to the final totals.

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If you have any news to share with the division or would like to contribute to the newsletter, please contact Clerk/Newsletter Editor Christopher Terry via email: [CRTERRY@UMN.EDU](mailto:CRTERRY@UMN.EDU)



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**Law  
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2017-18**