

HELEN L. NORTON
University of Colorado School of Law
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EMPLOYMENT

University of Colorado School of Law	2007-present
Ira C. Rothgerber, Jr. Chair in Constitutional Law	2016-present
Professor	2015-present
Associate Dean for Academic Affairs	2011-14
Associate Professor	2007-15
University of Maryland School of Law	2002-2007
Visiting Assistant Professor	
University of Wyoming College of Law	2001
E. George Rudolph Distinguished Visiting Chair in Law	
U.S. Department of Justice	1998-2001
Deputy Assistant Attorney General for Civil Rights	
Counsel to the Assistant Attorney General for Civil Rights	
National Partnership for Women and Families	1989-1998
Director of Legal and Public Policy	
Deputy Director, Work and Family Programs; Staff Attorney	

EDUCATION

J.D., 1989, Boalt Hall School of Law, University of California, Berkeley
Associate Editor, California Law Review

B.A., with distinction, 1985, Stanford University

SCHOLARSHIP

Articles and Book Chapters

Truth and Lies in the Workplace: Employer Speech and the First Amendment, 101 MINN. L. REV.
(forthcoming 2016)

Seri-ously? Free Speech Rights for Artificial Intelligence, 110 NW. U. L. REV. (forthcoming 2016)
(with Toni M. Massaro)

The Government's Lies and the Constitution, 91 IND. L.J. 73 (2015)

Lies To Manipulate, Misappropriate, and Acquire Government Power, in Austin D. Sarat, ed., LAW AND LIES: DECEPTION AND TRUTH-TELLING IN THE AMERICAN LEGAL SYSTEM (Cambridge University Press 2015)

Lies and the Constitution, 2012 SUPREME CT. REVIEW 161 (2013)

The Equal Implications of Government's Hateful Speech, 54 WM. & MARY L. REV. 159 (2012)

Campaign Speech Law With a Twist: When Government is the Speaker, Not the Regulator, 61 EMORY L.J. 209 (2011)

Intermediaries and Hate Speech: Fostering Digital Citizenship for the Information Age, 91 BOSTON U. L. REV. 1435 (2011) (with Danielle Keats Citron)

The Supreme Court's Post-Racial Turn Towards a Zero-Sum Understanding of Equality, 52 WM. & MARY L. REV. 197 (2010)

Government Speech 2.0., 87 DENV. U. L. REV. 899 (2010) (with Danielle Keats Citron)

Constraining Public Employee Speech: Government's Control of Its Workers' Speech to Protect Its Own Expression, 59 DUKE L.J. 1 (2009)

The Measure of Government Speech: Identifying Expression's Source, 88 BOSTON U. L. REV. 587 (2008)

Re-Shaping Federal Jurisdiction: Congress' Latest Challenge to Judicial Review, 41 WAKE FOREST L. REV. 1003 (2006)

Stepping Through Grutter's Open Doors: What the University of Michigan Affirmative Action Cases Mean for Race-Conscious Government Decisionmaking, 78 TEMPLE L. REV. 543 (2005)

Not for Attribution: Government's Interest in Protecting the Integrity of Its Own Expression, 37 U.C. DAVIS. L. REV. 1317 (2004)

You Can't Ask (or Say) That: The First Amendment Implications of Civil Rights Restrictions on Decisionmaker Speech, 11 WM. & MARY BILL RTS. J. 727 (2003)

Essays and Other Shorter Works

Government Speech and Political Courage, 68 STAN. L. REV. ONLINE 61 (2015)

A Few Thoughts on Free Speech Constitutionalism, 2015 U. ILL. L. REV. SLIP OPINIONS 98 (2015)

Cyberharassment and Workplace Law, B.U. L. REV. ANNEX (Oct. 20, 2015),

<http://www.bu.edu/bulawreview/norton-cyberharassment-workplace-law/>

Setting the Tipping Point For Disclosing The Identity of Anonymous Online Speakers: Lessons from Other Disclosure Contexts, 49 WAKE FOREST L. REV. 565 (2014)

Secrets, Lies, and Disclosures, 27 JOURNAL OF LAW AND POLITICS 641 (2012)

Government Speech in Transition, 57 S.DAK. L. REV. 421 (2012)

The Equal Protection Implications of Government's Hateful Speech, Legal Workshop, Dec. 12, 2012, <http://legalworkshop.org/2012/12/12/the-equal-protection-implications-of-the-governments-hateful-speech>

Imaginary Threats to Government's Expressive Interests, 61 CASE WESTERN L. REV. 1265 (2011)

Excluding Unemployed Workers from Job Opportunities: Why Disparate Impact Protections Still Matter, 2011 HASTINGS L.J. VOIR DIRE 1

The Court's Post-Racial Turn, Legal Workshop, Feb. 28, 2011,

<http://legalworkshop.org/2011/02/28/william-and-mary-post>

Shining a Light on Democracy's Dark Lagoon, 61 S. CAR. L. REV. 535 (2010)

Regulating Cyberharassment: Some Thoughts on Sexual Harassment 2.0, 87 DENV. U. L. REV. ONLINE 11 (2010)

Constraining Public Employee Speech, Legal Workshop, Oct. 19, 2009,

<http://legalworkshop.org/2009/10/19/1689>

Government Workers and Government Speech, 7 FIRST AM. L. REV. 75 (2008)

The Antidiscrimination Law Implications of Excluding Reproductive Technologies from Employer-Sponsored Health Plans, 8 EMP. RTS. & EMP. POL'Y J. 523 (2004) (transcripted remarks)

What Bush v. Gore Means for Elections in the 21st Century, 2 WYO. L. REV. 419 (2002)

Reprintings of Articles

Constraining Public Employee Speech: Government's Control of Its Workers' Speech to Protect Its Own Expression, selected for reprinting in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2010-11 edition)

The Measure of Government Speech: Identifying Expression's Source, selected for reprinting in Rodney Smolla, ed., THE FIRST AMENDMENT LAW HANDBOOK (2008-09 edition)

AWARDS AND PUBLIC LECTURES

2016 Excellence in Teaching Award, University of Colorado School of Law

2015 Gamm Justice Award (for outstanding written work addressing critical issues in justice; for *The Government's Lies and the Constitution*) (co-recipient)

2014 President's Teaching Scholar, University of Colorado

2013 Excellence in Teaching Award, University of Colorado School of Law

2012 Provost's Faculty Achievement Award, University of Colorado (for *Constraining Public Employee: Government's Control of Its Workers' Speech to Protect Its Own Expression*)

2012 Clifford J. Calhoun Public Service Award, University of Colorado School of Law

2011 Jules Milstein University of Colorado School of Law Faculty Writing Award, University of Colorado School of Law (for *Constraining Public Employee: Government's Control of Its Workers' Speech to Protect Its Own Expression*)

2011 Byron R. White Center for the Study of American Constitutional Law Faculty Writing Award, University of Colorado School of Law (for *The Supreme Court's Post-Racial Turn Towards a Zero-Sum Understanding of Equality*) (co-recipient)

2011 Excellence in Teaching Award, University of Colorado School of Law

2009 Excellence in Teaching Award, University of Colorado School of Law

2008 Excellence in Teaching Award, University of Colorado School of Law

2007 Teacher of the Year, University of Maryland School of Law

Commencement Speaker, University of Wyoming College of Law, May 2003

E. George Rudolph Distinguished Visiting Lecture, "What *Bush v. Gore* Means for Elections in the 21st Century," University of Wyoming School of Law, December 2001

CONGRESSIONAL AND AGENCY TESTIMONY

Federal Antidiscrimination Law Implications of Excluding Currently Unemployed Workers from Consideration for Job Opportunities, Equal Employment Opportunity Commission (2011)

The Protecting Older Workers Against Discrimination Act: Hearing on H.R. 3721 Before the Subcomm. on the Constitution, Civil Rights, and Civil Liberties of the H. Comm. on the Judiciary, 111th Cong. (2010)

The Protecting Older Workers Against Discrimination Act: Hearing on S. 1756 Before the S. Comm. on Health, Education, Labor, and Pensions, 111th Cong. (2010)

Employment Non-Discrimination Act: Ensuring Opportunity for All Americans: Hearing Before the S. Comm. On Health, Education, Labor, and Pensions, 111th Cong. (2009)

Protecting American Employees from Workplace Discrimination: Hearing on H.R. 1431 Before H. Subcomm. on Health, Employment, Labor and Pensions of the H. Comm. on Education and Labor, 110th Cong. (2008)

The Employment Non-Discrimination Act of 2007: Hearing on H.R. 2015 Before H. Subcomm. on Health, Employment, Labor, and Pensions of the H. Comm. on Education and Labor, 110th Cong. (2007)

Civil Rights Division Oversight: Hearing Before S. Comm. on the Judiciary, 110th Cong. (2007)

AMICUS BRIEFS

Brief filed in the U.S. Court of Appeals for the District of Columbia Circuit on behalf of *Amici* National Women's Law Center, et al., in *UPMC Braddock v. Perez* (December 2013)

Brief filed in the United States Supreme Court on behalf of *Amici* National Women's Law Center, et al., in *Thompson v. North American Stainless, LP* (September 2010)

Brief filed in the United States Supreme Court on behalf of *Amici* National Partnership for Women & Families, Mexican American Legal Defense and Education Fund, Lawyers' Committee for Civil Rights under Law, et al., in *Lewis v. City of Chicago* (November 2009)

Brief filed in the United States Supreme Court on behalf of *Amici* National Partnership for Women & Families, et al., in *Ricci v. DeStefano* (April 2009)

Brief filed in United States Circuit Court of Appeals for the Fourth Circuit on behalf of *Amici* National School Boards Association, American Association of School Administrators, National League of Cities, et al., in *Page v. Lexington County Sch. Bd. No. One* (October 2007)

SCHOLARLY PRESENTATIONS

Presenter, "Truth and Lies in the Workplace: Employer Speech and the First Amendment," Free Expression Scholars Conference, Yale School of Law, May 2016

Co-presenter, "Siriously? Free Speech Rights for Artificial Intelligence," We Robot 2016 Conference, University of Miami School of Law, April 2016

Commenter, "A Listener-Based Approach to Campaign Disclosures," Keller Center for the Study of the First Amendment Conference on Money and the First Amendment, University of Colorado, April 2016

Presenter, "The Government's Lies and the Constitution," American Constitution Society's Second Annual Constitutional Law Conference, Barry University School of Law, April 2016

Presenter, "The Free Speech Rights and Responsibilities of Powerful Speakers," Speech Holes: A Workshop on Free Speech Theory, University of Arizona College of Law, February 2016

Co-presenter, "Siriously? Free Speech Rights for Artificial Intelligence," Symposium on Free Speech Foundations, Northwestern University Law Review, October 2015

Presenter, "Lies to Manipulate, Misappropriate, and Acquire Governmental Power," Sixth Annual Loyola University Law School Constitutional Law Colloquium, November 2015

Commenter, "Law and the Production of Violence," Yale Free Expression Scholars Conference, May 2015

Presenter, "Workplace Truth and Lies," Fifth Annual Constitutional Law Colloquium, Loyola-Chicago Law School, November 2014

Presenter, "Lies to, About Being, and to Become the Government," Symposium on "Law and Lies," University of Alabama School of Law, October 2014

Presenter, "Workplace Truth and Lies," Colloquium of Scholarship on Labor and Employment Law, University of Colorado School of Law, September 2014

Presenter, "When Government Lies: The Constitutional Implications of Government's Deliberate Falsehoods," Yale Free Expression Scholars Conference, May 2014

Presenter, "The Equal Protection Implications of Government's Hateful Speech," University of Colorado Public Law Colloquium: Race in America, February 2014

Presenter, "When Government Lies: The Constitutional Implications of Government Falsehoods," Fourth Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, November 2013

Presenter, "Setting the Tipping Point for Disclosing the Identity of Anonymous On-line Speakers: Lessons from Other Disclosure Contexts," Symposium on Internet Privacy Regulation, Wake Forest School of Law, October 2013

Commenter, "Regulating Hate Speech," Yale Free Expression Scholars Conference, May 2013

Presenter, "Lies and the Constitution," Chicago-Kent College of Law Colloquium Series, January 2013

Presenter, "Lies and the Constitution," Third Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, November 2012

Presenter, "The Equal Protection Implications of Government's Hateful Speech," Law and Society Annual Meeting, June 2012

Presenter, "Secrets, Disclosure, and First Amendment Autonomy," Symposium on Anonymity and Identity in the Information Age, Cardozo School of Law, May 2012

Presenter, "Government Speech in Transition," Symposium on the Future of Government Speech, University of South Dakota School of Law, March 2012

Presenter, "Secrets, Lies, and Disclosure," Conference on Disclosure, Anonymity and the First Amendment, University of Virginia School of Law, October 2011

Presenter, "Government Speech and Equal Protection," Second Annual Constitutional Law Colloquium, Loyola-Chicago School of Law, October 2011

Presenter and Roundtable Participant, "Intermediaries and Hate Speech: Fostering Digital Citizenship for the Information Age," Roundtable on Hate Speech, Center on the Internet and Society, Stanford University School of Law, January 2011

Presenter, "The Unexpected Virtues of Government's Partisan Speech," Symposium on Government Speech: The Government's Ability to Compel and Restrict Speech, Case Western University Law School, November 2010

Presenter, "The Unexpected Virtues of Government's Partisan Speech," Constitutional Law Colloquium: How Democratic is the Constitution?, Loyola-Chicago Law School, November 2010

Presenter, "Electoral Exceptionalism and Government Expression," Symposium on Structural and Doctrinal Questions in Constitutional Law: Is Our Constitutional Order Broken?, University of Connecticut School of Law, October 2010

Presenter, "The Supreme Court's Post-Racial Turn," Law and Society Annual Meeting, Chicago, May 2010

Presenter, “Government Speech 2.0,” Ira C. Rothberger, Jr. Conference on Government Speech, University of Colorado Byron White Center on Constitutional Law, Denver, January 2010

Commenter, “Cyberharassment, Regulation, and Free Speech,” Cyber Civil Rights Symposium: New Challenges for Civil Rights and Civil Liberties in Our Networked Age, Denver University School of Law, November 2009

Presenter, “Government Speech in Transition,” Symposium on The Fourth Circuit Court of Appeals: Its Tradition, Its Jurisprudence, and Its Future, University of South Carolina School of Law, October 2009

Presenter, “The Post-Racial Constitution: What *Ricci* Means for Equal Protection Law,” Colloquium on Current Scholarship in Labor and Employment Law, Seton Hall University School of Law, September 2009

Presenter, “Does Empathy for Some Necessarily Mean Prejudice Against Others? What *Ricci* Means for Antidiscrimination Law,” Rocky Mountain Junior Legal Scholars Workshop, Brigham Young University School of Law, September 2009

Commenter, “Workplace Discrimination: How it Occurs and Legal Responses,” Law and Society Annual Meeting, Denver, May 2009

Commenter, “Cyber Civil Rights,” Fordham University Law Center on Law and Information Policy, January 2009

Presenter, “When May Government Control Its Workers’ Speech to Protect Its Own Expression?” Colloquium on Current Scholarship in Labor and Employment Law, California Western, University of San Diego, and Thomas Jefferson Schools of Law, October 2008

Presenter, “Policing the Line Between Government Speech and Censorship,” Northeast People of Color and the Law Conference, Boston University School of Law, September 2008

Presenter, “Government’s Expressive Interests in the Speech of Its Employees,” Jurisgenesis: New Voices in the Law, Washington University and St. Louis University Schools of Law, June 2008

Presenter, “Government Workers and Government Speech,” Symposium: Public Citizens, Public Servants – Free Speech in the Post-*Garcetti* Workplace,” University of North Carolina School of Law, February 2008

Presenter, “An Employment Law Perspective on Conscience-Based Refusals by Health Care Workers,” Maryland Health Care Ethics Committee Network, University of Maryland School of Law, June 2006

Panelist, “The Antidiscrimination Law Implications of Excluding Reproductive Technologies from Employer-Sponsored Health Plans,” Joint Program of the Employment Discrimination and Employee Benefits Law Sections, American Association of Law Schools Annual Meeting, January 2004

COURSES TAUGHT

Civil Procedure
Constitutional Law
Employment Discrimination Law
Employment Law
Equality, Speech, and Religion: Constitutional Values in Tension (seminar)
First Amendment Law
General Civil Litigation Clinic
Legal Writing
Legislation and Regulation
Problem-Solving, Professional Judgment, and Decisionmaking
Sex Discrimination Law
Torts

SERVICE AND OUTREACH ACTIVITIES

Major Law School Service

Associate Dean for Academic Affairs, University of Colorado School of Law, 2011-14
Chair, Academic and Student Affairs Committee, 2016-present
Member, Dean's Search Committee, 2015-16
Chair, Appointments Committee, 2015-16
Member, Policy, Management, & Budget Committee, 2011-14, 2015-present
Member, ABA Self-Study Committee, 2015-16
Member, Evaluations Committee, 2015-16
JD/MPA Dual Degree Advisor, 2008-present
Member, Academic and Student Affairs Committee, 2011-14
Member, Public Service Committee, 2012-15
Member, Dean's Committee for Diversity, 2010-14
Co-Chair, Legal Writing Coordinator and Legal Writing Faculty Search Committees, 2012
Member, Scholarship Application Review Committee, 2012 and 2010

Member, Faculty Appointments Committee, University of Colorado School of Law, 2010-11 and 2008-09

Member, Admissions Committee, University of Colorado School of Law, 2009-2010

Member, Clinical Hiring Committee, University of Colorado School of Law, 2008-09

Faculty Secretary, University of Colorado School of Law, 2007-08

University of Colorado at Boulder Service

President's Teaching Scholar, 2014-present

Member, Department of Athletics' Gender Equity Compliance Review Committee, University of Colorado, 2016-present; 2009-2010

Faculty Affiliate, University of Colorado Sports Governance Center, 2015-present

Member, Intercollegiate Athletics Committee, University of Colorado, 2008-14

Member, Provost's Faculty Achievement Award Selection Committee, 2013

Professional Service

Member, Litigation Committee, American Association of University Professors, 2011-present

Member, 20th Judicial District Victims Assistance and Law Enforcement Board 2008-13

Presidential Transition Team, Lead Agency Reviewer for the Equal Employment Opportunity Commission, 2008-09

Member, National Advisory Commission, Workplace Flexibility 2010 (2008-2010); Legal Working Group, Workforce Flexibility 2010 (2005-08)

Co-chair, American Bar Association, Section on Labor and Employment Law, Committee on Equal Opportunity in the Profession (2001-2004)

Co-chair, ABA Section on Labor and Employment Law, EEO Law Committee (1997-2000)

President, Board of Directors, YWCA of the National Capital Area (1995-97); Board Member (1993 – 2002)

Member, Board of Directors, National Employment Law Project (1994-98)

Volunteer Attorney, Washington Legal Clinic for the Homeless (1991-99)

Selected Professional Presentations

Speaker, "Implicit Bias," The Academy, Boulder, January 2015

Speaker, "Implicit Bias and Employment Decisionmaking," Arnold and Porter, Denver, October 2014

Panelist, "Supreme Court Preview," Holland & Hart, Denver, October 2013

Panelist, "Supreme Court Preview," Byron White Center for Constitutional Law, CU Law, October 2013

Speaker, "The First Amendment: Foundational Principles and Emerging Issues," Center for Education in Law and Democracy, Denver, June 2013

Speaker, "Presidential Transition Processes," University of South Dakota Guest Speaker Series, March 2012

Speaker, "Implicit Bias in Decisionmaking," Inclusive Excellence Leadership Series, Denver University School of Law, February 2012

Speaker, "Implicit Bias in Decisionmaking," Colorado Judicial Institute, February 2012

Speaker, "What *Citizens United* Means for Democracy and the First Amendment," Center for Education in Law and Democracy, Denver University, June 2011

Speaker, "Constitutional Equality Arguments Before the Equal Protection Clause," *Creating the American Legal System: 1776-1845*, Four Corners Community History Project, Denver Institute, June 2011

Speaker, "The Role of Unconscious Bias in Legal Practice," Legal Inclusiveness and Diversity Summit, Denver, March 2011

Speaker, "Addressing Implicit Bias in the Legal Workplace," Qwest Legal Group, Denver, February 2011

Speaker, "Implicit Bias and Legal Employment," Deans' Diversity Council, CU-Boulder, October 2010

Speaker, "Implicit Bias and Its Implications for Equal Employment Opportunity," Colorado Campaign for Inclusive Excellence Continuing Legal Education Program, Denver, July 2010

Speaker, "Addressing Implicit Bias in the Workplace," Gibson Dunn & Crutcher Diversity Speakers' Series, Denver, June 2010

Panelist, “The Supreme Court, the First Amendment, and Campaign Finance Reform,” Public Forum on *Citizens United v. Federal Election Comm’n*, Keller Center for the Study of the First Amendment, CU-Boulder, March 2010

Speaker, “Addressing Implicit Bias in the Workplace,” Holland and Hart PEAK (Professional Education for Attorney Knowledge) Speakers’ Series, Denver, July 2009

Speaker, “Employment Litigation in the Post-*Ricci* World,” NAACP Legal Defense and Educational Fund, Inc. National Civil Rights Training Institute, Washington, DC, October 2009

Speaker, “What Can We Expect from the New Equal Employment Opportunity Commission,” The Impact Fund’s Employment Discrimination Class Action Conference, Berkeley, CA, March 2009

Speaker, “Accommodating Religious Belief and Expression,” American Bar Association Annual Meeting, Section on Individual Rights and Responsibilities, New York City, August 2008

Panelist, “Judicial Independence,” League of Women Voters Community Forum, Boulder, September 2008

Panelist, “The Supreme Court on Employer Liability for Subordinate Bias: *BCI Coca-Cola Bottling Co. of Los Angeles v. EEOC*,” American Constitution Society Briefing, Washington, DC, April 2007

Presenter, “Developments in Federal and State Antidiscrimination Law,” Maryland Judicial Education Institute, Baltimore, September 2004

Panelist, “The University of Michigan Cases and Their Implications for Affirmative Action in Employment,” American Bar Association Section of Labor and Employment Law Annual Meeting, San Francisco, August 2003

Panelist, “Do Our Differences Make a Difference? Diversity and Law Practice,” American Bar Association Section of Labor and Employment Law Annual Meeting, Washington, DC August 2002

Panelist, “The Lessons of *Korematsu* for Today’s Fight against Terrorism,” University of Wyoming College of Law Post 9-11 Forum (September 2001)

BAR MEMBERSHIPS

California (inactive)

Colorado

District of Columbia

Maryland (inactive)

United States Supreme Court

United States Court of Appeals for the First Circuit

United States Court of Appeals for the Fourth Circuit