

SPEA – A459 (Fall 2011)
Public Policy and the Arts

Instructor: Michael Rushton
Office: SPEA 260 (Master's Program Office, at the back)
Office hours: M 2:00 – 3:30, or by appointment, or if my door is open.
Email: mirushto@indiana.edu
Blog: mirushto.blogspot.com

Course Description

This course considers the principal aspects of cultural policy in the US and elsewhere. Topics include the ends and means of government support for the arts, multiculturalism, freedom of expression, copyright, other legal rights of artists, and cultural diversity.

I will not approach these topics as an “arts advocate”. Rather, I look at these topics as someone interested in sound social and economic policy towards well-articulated goals, and whatever positions for which we might choose to advocate would follow from that method, somewhat more disinterested than we often see from advocacy organizations. I believe this critical approach leads to a stronger ability to advocate on behalf of what policies you come to see as valuable.

Course Content and Readings

Note there are three sorts of readings in this course: (1) Documents on the web, where you simply follow the URL as provided; (2) readings to be posted on the OnCourse site; and (3) Articles from journals.

All of the journal articles listed below are available online in the IU library. To find articles, go to the IU homepage, then:

- Click “Libraries”
- Click “Resource Gateway”
- Click “Online Full-Text Journals”
- Type the “Journal Title” in the space provided, and click “Search”
- Often a few possible links are given – choose one that includes the year you are looking for.

If you have any troubles, let me know!

Some Useful Websites

You may wish to check these sites on a daily basis, for news from the art world:

www.artsjournal.com

artsbeat.blogs.nytimes.com

Course Outline

This is the plan, although amendments are possible due to unforeseen events, interesting topics that become especially newsworthy, new publications, etc.

Why Public Funding for the Arts?

August 29 & 31: First Thoughts

What makes the arts so special amongst all the other goods and services on offer in the economy that governments the world over choose to provide tax-financed support for artists and arts organizations? Does it matter whether there is broad public support for “high” art? Does the state have a role in trying to shape the culture preferences of the populace?

Babbitt, Milton (1958) “Who Cares if You Listen?” *High Fidelity* (February).
[<http://www.palestrant.com/babbitt.html>].

Scitovsky, Tibor (1972) “What’s Wrong with the Arts is What’s Wrong with Society”
American Economic Review 62(2) (May): 62-69.

Dworkin, Ronald (1985) “Can a liberal state support art?” Chapter 11 in his *A Matter of Principle* (Harvard University Press). [on Oncourse].

September 7: The Economic Approach to Public Funding

Economists often find justification for public subsidy of an activity where there are externalities, which is where the benefits of an activity go beyond those taking part in the buying and selling. Are there externalities in the arts?

Frey, Bruno S. (2011) “Public Support” in Ruth Towse (editor) *Handbook of Cultural Economics, second edition* (Elgar): 370-77.

September 12: The “Economic Impact” Study

In the past decade in the US arts advocates have used studies that purport to show the “economic impact” of the arts in a local community to justify subsidy. What do these studies actually tell us?

“Arts, Culture and Economic Prosperity in Greater Philadelphia”
[<http://www.philaculture.org/sites/default/files/Prosperity%20Report-lores.pdf>].

Seaman, Bruce (2000) “Arts Impact Studies: A Fashionable Excess” in G. Bradford, M. Gary and G. Wallach (eds.) *The Politics of Culture* (The New Press). [on OnCourse]

<http://mirushto.blogspot.com/2008/03/problem-with-economic-impact-i.html>

<http://mirushto.blogspot.com/2008/03/problem-with-economic-impact-ii.html>

<http://mirushto.blogspot.com/2009/05/worst-arts-advocacy-of-year-so-far.html>

September 14: Federal and State Arts Funding in the US.

An overview.

NEA website: www.arts.gov

National Assembly of State Arts Agencies website: <http://www.nasaa-arts.org/>

Indiana Arts Commission website: www.in.gov/arts.

Cowen, Tyler (2004) *How the United States Funds the Arts* (National Endowment for the Arts) [<http://www.arts.gov/pub/how.pdf>].

The National Endowment for the Arts: A History 1965 – 2008.
[<http://www.arts.gov/pub/nea-history-1965-2008.pdf>].

This is the “official” history published by the NEA; the first half is chronological, and the second half is by genre of art – you do not need to read the whole thing for this class, but it is a useful reference. We return to the history of the NEA later, in the classes devoted to public opinion and to freedom of expression and public funding of the arts.

September 19: The National Endowment for the Arts

What is the NEA for? What is the vision of the current Chairman?

O’Brien, Tom (2007) “A portrait of the arts agency as neo-Victorian” *Arts Education Policy Review* 108(5) (May-June): 18-21.

Ivey, Bill. (2005) “America needs a new system for funding the arts” *Chronicle of Higher Education* (February 4): [<http://chronicle.com/weekly/v51/i22/22b00601.htm>]

Pogrebin, Robert. (2009) “New endowment chairman sees arts as economic engine” *New York Times* (August 7).
[http://www.nytimes.com/2009/08/08/arts/08rocco.html?_r=2&hpw].

Rocco Landesman “Art Works” October 21, 2009.
[<http://www.arts.gov/artworks/?p=13#more-13>].

September 21: Arts Education Policy

Guest lecturer Scott Jones – readings TBA.

September 26: State Arts Agencies

What is the mission of state arts agencies? Do they, should they, replicate the NEA at the state level, or is there something distinctive in their role? What is the variation across states in level of government support?

Lowell, Julia F. (2004) *State Arts Agencies 1965-2003: Whose Interests to Serve?* RAND Research in the Arts. [<http://www.rand.org/pubs/monographs/MG121/>].

Lewis, Gregory and Michael Rushton (2007) “Understanding State Spending on the Arts: 1976-1999” *State and Local Government Review* 39(2): 107-114.

Support for Private Giving to the Arts in the US

September 28: The income tax and estate tax deductions

The federal subsidy of arts organizations through the income tax deduction for charitable contributions to nonprofit arts organizations is much larger than the amounts given by government in direct subsidy, and this is something quite distinctive compared to other countries. What are the implications of this model of support?

Schuster, J.M. (1999) “The other side of the subsidized muse: indirect aid revisited” *Journal of Cultural Economics* 23 (1/2): 51-70.

Rushton, M. (2008) “Who pays? Who benefits? Who decides?” *Journal of Cultural Economics* 32(4): 293-300.

Rushton, M. “The personal income tax and the charitable deduction revisited.”

This is a paper I’m working on concerning the proposal to limit the value of the charitable tax deduction for high-income earners – I will post the current draft during the week before class.

Dokko, Jane K. (2009) “Does the NEA crowd out private charitable contributions to the arts?” *National Tax Journal* 62(1) (March): 57-75.

October 3: Fractional giving

What are the challenges in designing a fair treatment of charitable donations of major works of art to nonprofit museums?

Kahn, Jeremy (2006) "Museums fear tax law changes on some donations" New York Times (September 13).
[<http://www.nytimes.com/2006/09/13/arts/design/13gift.html>].

Wiezorek, Samuel G. (2007) "Winokur, lose, or draw: Art collectors lose an important tax break" Houston Business & Tax Law Journal 8 (Fall): p. 90.
[<http://www.hbtj.org/v08p1/v08p1wieczorekar.pdf>].

The Art Law Blog "Fractional Gift News" (August 11, 2009)
[<http://theartlawblog.blogspot.com/2009/08/fractional-gift-news.html>].

Measuring Willingness to Pay for the Arts

October 5: Contingent Valuation

Can we accurately measure how much the public is willing to pay for the arts? If we could, should that be the sole way in which we measure the value of the arts?

Portney, Paul P. (1994) "The Contingent Valuation Debate: Why Economists Should Care" *Journal of Economic Perspectives* 8(4) (Fall): 3-17

Hanemann, W. Michael (1994) "Valuing the Environment through Contingent Valuation" *Journal of Economic Perspectives* 8(4) (Fall): 19-43

Diamond, Peter A., and Jerry A. Hausman (1994) "Contingent Valuation; Is Some Number Better than No Number?" *Journal of Economic Perspectives* 8(4) (Fall): 45-64.

Sunstein, Cass S. (2002) "Coherent and Incoherent Valuation: A Problem with Contingent Valuation of Cultural Amenities". University of Chicago, Cultural Policy Center, Working Paper.
[<http://culturalpolicy.uchicago.edu/workingpapers/Sunstein12.pdf>]

Throsby, David (2003) "Determining the Value of Cultural Goods; How Much (or How Little) Does Contingent Valuation Tell Us?" *Journal of Cultural Economics* 27 (3/4): 275-285.

October 10: Contingent Valuation Applications

Two examples using contingent valuation methods.

Bille Hansen, Trine (1997) "The Willingness-to-Pay for the Royal Theatre in Copenhagen as a Public Good" *Journal of Cultural Economics* 21(1): 1-28 [don't worry about the high-tech math in section 3 of the paper].

David Maddison and Terry Foster (2003) "Valuing congestion costs in the British Museum" *Oxford Economic Papers* 55(1): 173-190 [again, don't sweat the math].

October 12: Public Opinion in the US

What do opinion polls tell us about public support for the arts? What demographic factors are correlated with support for public funding?

Paul DiMaggio and Becky Pettit (1999) "Public opinion and political vulnerability: Why has the National Endowment for the Arts been such an attractive target?" Princeton University, Center for Arts and Cultural Policy Studies, Working Paper #7. [<http://www.princeton.edu/~artspol/workpap/WP07%20-%20DiMaggio%20and%20Petit.pdf>].

Brooks, Arthur C. (2004) "In Search of True Public Arts Support" *Public Budgeting and Finance* 24(2): 88-100.

Lewis, Gregory B., and Arthur C. Brooks (2005) "A Question of Morality: Artists' Values and Public Funding for the Arts" *Public Administration Review* 65(1): 8-17.

Lewis, Gregory B. (2006) "Public Spending on the Arts as Morality Policy: The Structure of Public Attitudes" *Policy Studies Journal* 34(1): 131-138.

In the City

October 17: Local Funding

Local arts councils in some metro areas have earmarked revenues for the arts. How should such funding mechanisms be designed, what factors should be taken into account?

Rushton, Michael (2004) "Earmarked Taxes for the Arts: US Experience and Policy Implications" *International Journal of Arts Management* 6(3 – Spring): 38-49.

Rushton, Michael (2005) "Support for Earmarked Public Spending on Culture: Evidence from a Referendum in Metropolitan Detroit" *Public Budgeting and Finance* 25(4 – Winter): 72-85.

October 19: Cultural Districts

Why would a city designate an official cultural district? What is their purpose? Why would state governments adopt plans to give official status to some (but not all) of these local districts?

Stern, Mark J., and Susan C. Seifert (2007) "Cultivating 'Natural' Cultural Districts" Social Impact of the Arts Project:
[<http://www.trfund.com/resource/downloads/creativity/NaturalCulturalDistricts.pdf>]

National Assembly of State Arts Agencies (2008) "State Cultural Districts" State Policy Brief [http://www.nasaa-arts.org/artworks/policy_brief_2008.pdf].

Indiana Arts Commission (2009) "Statewide Cultural District Program Guidelines" [http://www.in.gov/arts/files/FY2010_Statewide_Cultural_District_Guidelines.pdf].

October 24: The "Creative Class" and all that

Will investment in the local arts and culture scene bring economic growth through attracting the "creative class" of entrepreneurs and innovators?

Florida, Richard (2002) "Bohemia and Economic Geography" *Journal of Economic Geography* 2(1): 55-71.

Glaeser, E.L. (2005) "Review of Florida's 'The Rise of the Creative Class'" *Regional Science and Urban Economics* 35: 593-6.

Markusen, Ann (2006) "Cultural Planning and the Creative City" [http://www.hhh.umn.edu/projects/prie/pdf/271_planning_cultural_space.pdf].

October 26: In the Country

Can "creative class" models work outside of large metropolitan areas?

Markusen, Ann (2007) "A Consumption Base Theory of Development: An Application to the Rural Cultural Economy" *Agricultural and Resource Economics Review* 36(1) (April): 9-23.

McGranahan, David, and Timothy Wojan (2007) "Recasting the Creative Class to Examine Growth Processes in Rural and Urban Counties" *Regional Studies* 41(2): 197-216.

Planning

October 31: Strategic Planning in Publicly-Funded Arts Councils

How does an arts council set its mission?

King, K. and Mark Blaug (1976) “Does the Arts Council Know What It Is Doing?” in Mark Blaug (ed.) *The Economics of the Arts* (Martin Robertson) pp. 101-31. [On OnCourse].

Schuster, J. Mark (2001) “Policy and Planning with a Purpose, or The Art of Making Choices in Arts Funding”. Working Paper, Cultural Policy Center, University of Chicago. [<http://culturalpolicy.uchicago.edu/workingpapers/Schuster10.pdf>].

Copyright

Note the emphasis here is on questions of policy – for example, what sorts of works ought to be covered, whether parody ought to be fair use, whether the duration is too long – rather than on details of the law, which are covered in the Art & Law course.

November 2: The Basics

Copyright Office “Circular 1: Copyright Office Basics” [<http://www.copyright.gov/circs/circ1.html>]. Also be sure to check the provisions on “fair use”, at Section §107: [<http://www.copyright.gov/title17/92chap1.html#107>].

November 7: Policy Issues

Conflicts will arise between copyright holders and those who would want to use their works without license. Here we consider four examples, and think about policy options for setting the scope of copyright protection.

Rushton, Michael (2001) “An Economic Approach to Copyright in Works of Artistic Craftsmanship” *Intellectual Property Quarterly* [2001]: 255-274. [On OnCourse].

Posner, Richard A. (1992) “When is Parody Fair Use?” *Journal of Legal Studies* 21(1): 67-78.

Akerlof, George A., et al (2002) “The Copyright Term Extension Act of 1998: An Economic Analysis” AEI-Brookings Joint Center for Regulatory Studies, Brief 02-1. [<http://www.aei.brookings.org/admin/authorpdfs/page.php?id=16>].

Rushton, M. (2002) “Freedom of Expression and Copyright: An Economic Analysis” in Ruth Towse (ed.) *Copyright and the Cultural Industries* (Edward Elgar). [On OnCourse].

November 9: Moral Rights

These are rights held by creators even after they have transferred ownership of a work to someone else. Do we need such rights? If they matter to an artist, couldn't they just be put into the contract between the artist and the buyer?

Rushton, Michael (1998) "The Moral Rights of Artists: Droit Moral ou Droit Pécuniaire?" *Journal of Cultural Economics* 22 (1): 15-32.

Landes, William M. (2001) "What has the Visual Artist's Rights Act of 1990 Accomplished?" *Journal of Cultural Economics* 25(4): 283-306.

Rushton, Michael (2001) "The Law and Economics of Artists' Inalienable Rights" *Journal of Cultural Economics* 25(4): 243-257.

Martin v. City of Indianapolis, 192 F.3d 608 (7th Cir. 1999).
[\[http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=7th&navby=docket&no=984041\]](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=7th&navby=docket&no=984041).

Wilkes, Nicole B. (2001) "Public responsibilities of private owners of cultural property: Toward a national art preservation scheme" *Columbia-VLA Journal of Law & the Arts* 24: 177-211.

Freedom of Expression

November 14 & 16: A Costs and Benefits Approach

This is a very large topic. In this course we will consider one possible way of thinking about freedom of expression, looking at the expected costs and benefits of allowing certain forms of controversial expression.

Thomas Jefferson Center for the Protection of Free Expression. *Art on Trial: The Arts, the First Amendment, and the Courts*.
[\[http://www.tjcenter.org/ArtOnTrial/index.html\]](http://www.tjcenter.org/ArtOnTrial/index.html).

Posner, Richard A. (1989) "Art for law's sake" *American Scholar* 58(4): 513-520.

Rasmusen, Eric (1998) "The Economics of Desecration: Flag Burning and Related Activities" *Journal of Legal Studies* 22(2, part 1): 245-70.

Sullivan, Kathleen M. (1995) "Free Speech and Unfree Markets" *UCLA Law Review* 42: 949-965.

Piarowski v. Illinois Community College District 515, 759 F.2d 625 (7th Cir. 1985).
[\[http://www.projectposner.org/case/1985/759F2d625/\]](http://www.projectposner.org/case/1985/759F2d625/).

November 21: Freedom of Expression and Public Funding of the Arts

National Endowment for the Arts v. Karen Finley, 118 S.Ct. 2168 (1998).
[<http://www.law.cornell.edu/supct/html/97-371.ZO.html>].

Sullivan, Kathleen M. (1992) "Are Content Restrictions Constitutional?" *Journal of Arts Management and Law* 21(4): 323-325.

Hamilton, Marci A. (1996) "Art Speech" *Vanderbilt Law Review* 49(1): 73-122.

Rushton, Michael (2000) "Public Funding of Controversial Art" *Journal of Cultural Economics* 24(4): 267-282.

Brooklyn Institute of Arts and Sciences v. City of New York, 64 F. Supp.2d 184 (E.D.N.Y. Nov 01, 1999). [<http://www.museum-security.org/brooklyn%20november%201999.htm>].

Strauss, David A. (2001) "The false promise of the first amendment" in L. Rothfield (ed.) *Unsettling "Sensation"* (Rutgers University Press). [On OnCourse].

November 28: On the web

Thinking about internet policy as arts policy

Lee, Robin S. and Tim Wu (2009) "Subsidizing creativity through network design: Zero-pricing and net neutrality" *Journal of Economic Perspectives* 23(3): 61-76.

Diversity

November 30: International

What does it mean to talk about "cultural diversity"? How would we measure it? Does it warrant special protective measures?

UNESCO (2005) *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*.
[<http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>].

Cowen, Tyler (2002) "Culture in a Global Economy" The 2000 Hans L. Zetterberg Lecture. [<http://www.gmu.edu/jbc/Tyler/culture-in-the-global-economy.PDF>].

Geertz, Clifford (2003) "Off the Menu: A Review of 'Creative Destruction'". *The New Republic* (February 17): 27-29.

December 5: National

Should local and national government funders account for diversity in a dedicated way? What are the implications for government funding the more diverse is the local population?

Garfias, Robert (1991) "Cultural Diversity and the Arts in America" in Stephen Benedict (ed.) *Public Money & The Muse* (Norton): [<http://aris.ss.uci.edu/rgarfias/bio-research/DIVERST1.pdf>].

Rushton, Michael (2003) "Cultural Diversity and Public Funding of the Arts" *Journal of Arts Management, Law and Society* 33(2): 85-97.

December 7: Spare

A wrap-up, a chance to catch up on any topics needing a little more discussion.

December 14 (Wednesday): Final Exam 10:15 – 12:15

http://registrar.indiana.edu/time_sensitive/finalexamsche4108.shtml.

Evaluation and Grading

Students will prepare three short papers on topics in public policy and the arts, to be assigned later. There is a final exam December 14. The final grade will be calculated as follows:

Two best papers	30 marks each
Final exam	40 marks

The grading scale is as follows:

Letter grade	Percentage
A+	97-100
A	93-96.99
A-	90-92.99
B+	87-89.99
B	83-86.99
B-	80-82.99
C+	77-79.99
C	73-76.99

SPEA Academic Policies - Academic Dishonesty

SPEA faculty do not tolerate cheating, plagiarism, or any other form of academic dishonesty. If you have not done so, you should read the IUB Code of Student Rights,

Responsibilities, and Conduct, which can be accessed at <http://dsa.indiana.edu/Code/> so you will be sure to understand what these terms mean and what penalties can be issued for academic dishonesty. Academic dishonesty can result in a grade of F for the class (an F for academic dishonesty cannot be removed from the transcript). Significant violations of the Code can result in expulsion from the University.

Plagiarism is using another person's words, ideas, artistic creations, or other intellectual property without giving proper credit. According to the Code of Student Rights, Responsibilities, and Conduct, a student must give credit to the work of another person when he does any of the following:

- a. Quotes another person's actual words, either oral or written;
- b. Paraphrases another person's words, either oral or written;
- c. Uses another person's idea, opinion, or theory; or
- d. Borrows facts, statistics, or other illustrative material, unless the information is common knowledge.

AMERICANS WITH DISABILITIES ACT STATEMENT:

I will make accommodations for students registered with Adaptive Educational Services (AES) on the Indianapolis campus (Phone: 317-274-3241 or e-mail AES@iupui.edu) or the Disability Services for Students Office in Franklin Hall on the Bloomington campus (Phone: 812-855-7578).