

The Law and Free Speech

TEST QUESTIONS

These T/F questions could be used as a Pre- and/or Post-Test.

True or **False**: Free Speech rights are unlimited in the United States. (FALSE)

True or **False**: High school students have the same free speech rights as college students (FALSE. Courts have ruled that schools may limit the free speech rights of high school students.)

True or **False**: High school students have no right to freedom of speech. FALSE: The Supreme Court has ruled that high school students have free speech rights, but that they can be limited when the school fears that the speech will substantially disrupt or interfere with the functioning of the school, when the speech is profane, when the speech is part of a school-sponsored activity, or when the speech advocates the use of illegal drugs.

True or **False**: Students in private schools and colleges have the same free speech rights as students in public colleges (FALSE)

True or False: Colleges may limit the time when students may conduct protests. TRUE

True or False: Colleges may limit the manner in which students may conduct protests. TRUE

True or False: Colleges may limit the place where students may conduct protests. TRUE

True or **False**: Limits to Free Speech rights have been determined by public consensus. FALSE – they have been determined by the Courts.

True or **False**: Public high school officials may restrict free speech rights of students for any reason. FALSE – they may only do so when the school fears that the speech will substantially disrupt or interfere with the functioning of the school, when the speech is profane, when the speech is part of a school-sponsored activity, or when the speech advocates the use of illegal drugs.

True or **False**: Free Speech Rights mean you are free to bang a drum in dorms every night at 2am and announce how strongly you feel about animal rights. FALSE

True or **False**: Free Speech Rights mean you are allowed to block a highway to stop an unpopular speaker from reaching campus to deliver a speech. FALSE

True or **False**: Free Speech Rights mean you may stop a person from expressing views you disagree with. FALSE

True or **False**: Free Speech Rights mean you have the right to attend an advertised speech and shout over the invited speaker, so that the audience can't hear him or her. FALSE

True or False: Free Speech Rights mean you have the right to write an angry rebuttal to a speech you found offensive, and publish it online. TRUE

True or False: The First Amendment's most crucial purpose is protecting minority viewpoints: TRUE - "the weak, the unpopular, the oddballs, the misfits, and the underdogs."

True or **False**: Free Speech Rights mean you may physically prevent people from attending a speech by a speaker you disagree with. FALSE

True or False: Free Speech Rights mean you may disagree with a person's views, even if they are a professor or are famous. TRUE

True or False: Free Speech Rights mean you may disagree with a person's views, even if they are a powerful politician or rich celebrity. TRUE

True or False: Free Speech Rights mean you may write and distribute an article ridiculing a person whose ideas you find ridiculous or repellant. TRUE, but it does not mean that every publication has to run your article.

True or False: Free Speech Rights mean you may ridicule someone whose ideas you find ridiculous. TRUE, but not if it is disruptive in a public school, and it doesn't mean other people have to like it.

True or **False**: Free speech rights mean you can say anything you want, without any consequences. FALSE Most speech is legally protected, unless it falls into one of the narrow, unprotected guidelines. This means it cannot be prosecuted by the government, since it is protected under the Constitution. It does not mean that there might not be social repercussions for expressing a strong opinion.

True or False: Speech that does not fall into one of the 5 categories of unprotected speech are protected by the First Amendment. TRUE, although it may be subject to Time, Manner, and Place Restrictions on a school campus.

True or **False**: Rude, impolite or hateful speech are not protected by the First Amendment. FALSE.

True or **False**: Incitement means any speech that recommends taking violent action. FALSE – Incitement must spur people to imminent (immediate) violence to be actionable.



True or **False**: “Hate Speech” is not protected by the Constitution. FALSE – even offensive speech is protected. The Supreme Court has ruled this repeatedly.

True or **False**: “Hate Speech” is clear and easy to define. FALSE – the concept of “hate speech” is considered too vague to use to form coherent law.

True or **False**: You may use your Free Speech Rights to threaten other people, as long as you don’t actually touch them. FALSE – True threats and intimidation are NOT protected by the First Amendment.

True or False: You are allowed to say or write negative things about people, according to the First Amendment. TRUE, as long as you do not write things that without a good reason to think they are true.

True or **False**: Assault is a form of free speech. FALSE.

True or **False**: Words are a form of violence. FALSE. In our system of government and our culture, we distinguish between words and actions, unless the words convey a true threat to physically harm someone or their property.

True or **False**: Coercion is the way to win an argument. FALSE. Coercion means force. We hold discussions and debates and win arguments using reason, evidence and persuasion—not force.

True or **False**: “Might makes right.” FALSE. In our culture, disagreements are settled using words and reason, not force.

True or **False**: Harassment is something that only needs to happen one time. FALSE. By definition, harassment is something that happens to an individual repeatedly.

True or **False**: Harassment is something that can be directed at a group of people. FALSE. By definition, harassment is the specific targeting of an individual.

True or False: To be considered harassment, behavior must be unwelcome. TRUE. The same behavior would not be considered harassment if the targeted person welcomed it.

True or False: Calling someone every morning at 5am to say I hate you would be considered harassment. Probably True, but this is a Trick Question. It depends on whether the behavior was “welcome” or not.

True or False: Calling someone every night at midnight to say I love you would not be considered harassment. Probably False, but this is a Trick Question. It depends on whether the behavior was “welcome” or not.

True or **False**: There is one clear, defining standard of what is “hateful” speech. FALSE.



True or False: You cannot be charged with defamation if your allegations are true. TRUE. Defamation must be a false statement.

True or **False**: Exaggerations and ordinary insults can be considered legal defamation. FALSE.

True or False: Famous people and political leaders may be ridiculed without being able to sue for defamation. TRUE. Most famous people and “public figures” have difficulty winning defamation cases. This is particularly true of satire and parody and comedic portrayals.

True or **False**: The government may prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. FALSE. This is the bedrock principle of Free Speech Law.

True or **False**: Standards of offensiveness do not vary from place to place, group to group, individual to individual, and decade to decade. FALSE. Standards of offensiveness differ widely, thus making it difficult to use as a legal standard (plus, offensive speech is protected by the First Amendment.)

Which of the following types of speech may be restricted by a public high school

- a. disruptive
- b. indecent
- c. speech that is part of a school-sponsored activity
- d. speech that promotes illegal drug use
- e. all of the above*

Which type of expressive speech would NOT be considered “school-sponsored?”

- a. your Facebook posts*
- b. the yearbook
- c. the school newspaper
- d. speakers at graduation

Why are free speech rights different at a public institution than a private one?

- a. public institutions are part of the government*
- b. private institutions cost money
- c. public institutions are larger
- d. private institutions existed before the Constitution was written

Why may private institutions restrict freedom of speech?

- a.** Because they enjoy being difficult
- b.** Because the Constitution generally does not limit what private institutions can do*
- c.** Because they dislike the Constitution
- d.** Because I said so

Which of the following are legal exceptions to Free Speech Rights, as established by the courts?

- a.** Incitement
- b.** Harassment
- c.** True threats and intimidation
- d.** Obscenity
- e.** Defamation
- f.** All of the Above*

The legal definition of harassment means:

- a.** anything another person finds annoying
- b.** anything another person finds offensive
- c.** targeting a specific individual repeatedly*
- d.** targeting a group of individuals generally

Which legal exception to Free Speech in school must be “so severe, pervasive and objectively offensive that it effectively bars a victim’s access to an educational opportunity.”

- a.** Incitement
- b.** Harassment*
- c.** True Threats and Intimidation
- d.** Obscenity
- e.** Defamation

Which of the following is NOT true of defamation

- a.** it is false communication
- b.** it harms the other’s reputation
- c.** it causes the general public to hate or disrespect them
- d.** it can be written but not spoken*
- e.** It causes people to stop associating with the defamed person



A college professor disagreed with students' chalk messages on a public area of a public campus. The students were part of a formal student club and had obtained prior permission from campus administration for the chalkings. The professor enlisted help from several of his students to scrub out the chalkings. When the student group members objected, the professor stated: "You have permission to put it down. I have permission to get rid of it. This is our part of free speech." Is he correct?

Yes

No*

Explanation: Your free speech rights do not include the right to interfere with others' free speech rights. According to the university's own policies [Fresno State]: "The right of self expression does not extend to preventing the self-expression of others."

Which is NOT an exception to Free Speech in the United States of America?

- a. Threats
- b. Harassment
- c. Hate Speech*
- d. Defamation
- e. Incitement

True or **False**: Offensive ideas are not protected by the First Amendment.

FALSE. As Justice Oliver Wendell Holmes has stated, "If there is any principle of the Constitution that more imperatively calls for attachment it is the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate."