

Congress OF THE United States
begun and held at the City of New-York, on
Wednesday the fourth of March, one thousand seven hundred and eighty

Bill of Rights

CURRICULUM GUIDE



ACLU

AMERICAN CIVIL LIBERTIES UNION
of MINNESOTA

a project of the

American Civil Liberties Union of Minnesota

Congress OF THE United States

begun and held at the City of New-York, on
Wednesday the fourth of March, one thousand seven hundred and eighty

THE Convention of members of the States, having at the base of their adopting the Constitution:
further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government
RESOLVED by the Senate and House of Representatives of the United States of America
Articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States, all or any
shall be valid to all intents and purposes, as part of the said Constitution: vizth

ARTICLES in addition to, and amendment of the Constitution of the United States of America
in amendment to the fifth Article of the original Constitution:

That enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until
proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less
number of Representatives shall amount to two hundred, after which the proportion shall be so regulated by Congress, that
there be one Representative for every fifty thousand persons.

Any Law varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives
shall make no Law respecting an establishment of Religion, or prohibiting the free exercise thereof; or abridging the freedom of speech
and to petition the Government for a redress of grievances

regulated Militia, being necessary to the security of the United States, shall not be infringed. The right of the people to keep and bear arms, shall not be
shall in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be
of the first, to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be
warrants supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be
shall be held to answer for a capital, or otherwise infamous crime, unless by a presentment or indictment of a Grand Jury, except
when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in
twice take a retrial against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private

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Resource Guide for Teaching the

Bill of Rights

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Preface

Welcome to the Resource Guide for Teaching the Bill of Rights.

This Resource Guide has been designed to assist teachers in introducing the Bill of Rights to students in social studies and American history classes. Emphasizing the First and Fourth Amendments to the Constitution and federal cases interpreting those Amendments, it focuses on issues that directly affect students' lives: dress codes, free speech, religious freedom, locker searches and more.

The Resource Guide can be used in whole or in part. It offers the opportunity to discuss and understand the current and often controversial nature of issues arising under the Bill of Rights. In particular, the Resource Guide highlights the tension between an individual's civil liberties and the government's exercise of power. Since there are no absolute answers, students should be encouraged to think, listen and speak out while exploring these topics.

Acknowledgements

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We also thank the many Minnesota teachers, volunteers, members and anonymous benefactors who made this Bill of Rights Curriculum Guide possible. Specifically we would like to thank Jennifer Bloom, board member of the Minnesota Council for Social Studies, and Johnson Printing and Packaging Corporation.

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Teaching the First Amendment: Student Expressive Conduct

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Introduction

One way to encourage students' understanding of the First Amendment is to show how it applies to their lives in school. Students should be aware that their right to freedom of speech guaranteed by the First Amendment includes the right to free expression. Although students' rights to free expression are more limited in school than out of school, students have some constitutional protection to express themselves through what they wear in school.

While the courts have recognized students' rights guaranteed by the First Amendment, they have struggled with the knowledge that the exercise of those rights may occasionally interfere with education. Courts have tried to balance students' First Amendment rights with the valid need of schools to educate without the disruption that may be caused by free speech and expression.

Courts have ruled on students' rights with respect to the wearing of different types of fashions, political slogans, and hair length, and have held that schools may regulate students' mode of dress and hair length if the style interferes with health or safety regulations. School policies concerning clothing may exist with the intent to prevent a foreseen disruption, which would result from the message expressed by certain types of clothing. However, regulations cannot exist arbitrarily and must reflect a specific educational purpose.

Background Court Cases

I. PURE SPEECH, EXPRESSED BY DRESS, IS A CONSTITUTIONALLY PROTECTED RIGHT IN SCHOOLS IF NOT MATERIALLY DISRUPTIVE.

Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 89 S. Ct. 733 (1969). (To read the entire case, see <http://caselaw.lp.findlaw.com/503>)

This case involved three students who were suspended from school for wearing black armbands to school in protest of the Vietnam War. The school claimed the suspension was necessary in order to prevent a disturbance. However, the U.S. Supreme Court ruled that it was unconstitutional for the school to ban the armbands because they were a form of "pure speech" or expression of ideas and was not speech or conduct that would "materially disrupt" the learning environment in school. According to this decision, students do not lose their right to free expression under the First Amendment to the Constitution when they enter school. The Court's decision applies to all public schools in the country. Unfortunately, the decision's application is not so clear-cut.

What this case means: *Tinker* allows students some rights concerning expression of ideas through what they choose to wear. This case is pertinent to dress code because it infers that some modes of dress can be considered a form of protected speech. However the decision does not relate to hair length, type of style, makeup or any other component of appearance. They are not included in the *Tinker* definition of speech. Students have more right to express themselves when they are outside school than when they are in school.

II. APPEARANCE CAN BE REGULATED BY PUBLIC SCHOOLS.

Bivens v. Albuquerque Public Schools, 899 F. Supp. 556 (New Mexico 1995)

In this case plaintiff Richard Bivens was a high school student who was suspended after wearing sagging pants. The school claimed he was in violation of their dress code, which banned sagging pants because they were considered a gang symbol. Bivens challenged the school's disciplinary measure claiming that his First Amendment rights had been violated. The court used the *Tinker* rule which stated that students' free speech rights could be restricted if the expression resulted in a material disruption in the learning environment. The court then used a two-part test from *Texas v. Johnson*, 491 U.S. 397 (1989), to determine whether sagging pants could be considered a form of speech. The test followed these guidelines: The actor must intend to convey a message through the mode of dress and the message must be one capable of comprehension by those observing the dress. The court said Bivens had indeed intended a message by wearing the pants, which was to underscore his black identity, however his message was not one, which the court believed would be easily understood by others. Therefore speech, as expressed by a style of dress, in this case sagging pants, could not be considered a protected student right.

What this case means: The *Bivens* decision is one example of the many cases which test the *Tinker* rule in disputes over dress regulation in schools. Lower federal courts have not applied the *Tinker* decision liberally. The *Bivens* case held that clothing can be considered a fashion trend, and is therefore not expression protected by the law.

Note: The *Tinker* case was issued from the United States Supreme Court. The *Bivens* case is from a federal district court and so does not have the same precedential value. The lower courts — federal district courts and appeals courts — apply the *Tinker* standards to the particular facts of a situation, which differ from those, presented in *Tinker*. To the extent that the facts of a case are exactly the same as those presented in *Tinker* — or any Supreme Court case for that matter — the Supreme Court case is directly on point and controls. To the extent that the facts are different — as in the case of *Bivens* — then the lower federal courts have to apply the general principles set out in the Supreme Court case in a way that they believe is consistent with the wishes of the Supreme Court. Only by taking the new case to the Supreme Court can there be any definitive determination about the constitutionality of a particular new situation.

III. GANG ACTIVITY PROMPTING SCHOOLS TO ENACT DRESS CODES.

Adams v. Township of Redford, 85 F. 2d 628, (6th Cir. (Mich.))

Eric Adams attended school in Redford, Michigan. The school district was concerned about the frequent gang activity in the area, where students were assaulted for wearing gang symbols. The school learned of a local gang named the Square Boys, and found they identified themselves by wearing black or white colors, especially in the form of the Chicago White Sox emblem. Eric came to school wearing a White Sox jacket and was warned not to wear it to school again. The next day Eric wore the jacket to school and, after Eric waved the jacket in the window of a classroom, the principal confiscated the jacket and suspended Eric for one day. The principal then enacted a dress code with hopes of ending gang violence by prohibiting students from wearing clothing associated with gangs. The prohibited clothing included:

1. The wearing of clothing or altering one's appearance to indicate gang membership.
2. The wearing of beads, earrings, or jewelry that denotes gang colors or symbols.
3. The use of hand signs that communicate gang activity.
4. Any other symbols, items, or activities that the Superintendent of Schools may deem disruptive.

Eric hired a lawyer because he felt that the school had denied his First Amendment right to free speech. The Court, following the Supreme Court rule in *Tinker*, decided that the school must reasonably "forecast a substantial disruption or material interference with school activities" in order to enact the dress code. It was not known whether the principal enacted the dress code after noticing gang activity at the school or because of a vague possibility that there was gang violence in the area. The Court decided that this information was vital to ruling on the case because in order to enact a dress code gang activity must be associated with the school.

Comment: The case was settled and no legal precedent was set. However, it seems to uphold the *Tinker* standard that a school cannot arbitrarily enact a dress code and instead must have more than a vague suspicion of ensuing disruption in order to do so.



Activity One: Classroom Discussion Guide



These questions are designed to generate thinking about First Amendment rights and open initial discussion. They can be used as a written activity, as opening discussion questions for consideration, or journal reflections.

1. How do you decide what to wear to school?
2. How can you express your personality through dress?
3. Can you think of examples of clothing that could interfere with your learning; either something you wear or perhaps what somebody else wears?
4. List five articles of clothing you should definitely be able to wear to school.
5. List five articles of clothing you should definitely NOT be able to wear to school.

Class Discussion Questions:

1. Should students be free to wear whatever they want to school? Why or why not?
2. Should schools regulate what students wear? Why?
3. If schools regulate dress with the intent to stop disruption and to protect the entire student body, should they also regulate dress in the interest of protecting the individual? For instance, should articles of clothing, which could be considered dangerous to an individual, such as platform shoes, spiked bracelets and necklaces and baggy pants with bellbottoms, all be banned?



Activity Two: Understanding Expressive Conduct Cases



Underlying goals: By discussing each case presented in the packet, students will share viewpoints on what freedom of expression means and begin to understand the pros and cons of regulating this right.

Class Discussion Questions: Questions to help students consider the similarities and differences among the cases.

1. Why was expression protected in the Tinker case and not the Bivens case?
2. Which type of expression is more important to you as a student: Modes of fashion or political speech expressed by clothing?
3. Do you feel fashion should be a protected right of students?
4. If students feel fashion should be a right protected by the First Amendment, ask students to consider if there are any circumstances when fashion should not be a protected mode of expression in school. (For example, to prevent possible disruption caused by modes of dress?)
5. Should students always have the right to wear whatever they choose even if there may be the threat of inciting disruption in school?

Class Activity: Students will produce pictures to represent the essential issue and court ruling in each case. Variations to consider: Students can work in cooperative groups, each group responsible for one ruling. Students can each draw three drawings and then transfer drawings to large pieces of butcher paper so all the visual representations for a particular case are on one sheet. Groups can draw on overheads then project their product and explain the case and ruling to the rest of the class.

Activity Three: Class Court

First Amendment Scenario — Freedom of Expression

A dispute breaks out at Segal High School one day during lunch. Boys and girls are involved in the fight, which consists only of a heated verbal exchange. There is no violence involved in the dispute; however, the leaders of both sides claim the next day they will decide who “rules the school.” In order to demonstrate loyalty to each respective group, students decide to distinguish themselves by their clothing. Those in support of Terrance will wear a black t-shirt and those in support of Vicky wear red shirts. The administration hears of this showdown and decides that violent disputes might terrorize the entire school the next day unless some measure is taken to stop the students. For these reasons the principal announces over the intercom at the end of that day that any student wearing the color black or red to school for the rest of the year will be suspended. The next day only 10 students come to school wearing these forbidden colors, and there is no violence. However, those students are suspended, and they hire a lawyer to defend their First Amendment Rights.

School Lawyer's Arguments

1. The First Amendment does not protect all types of expression.
2. If school officials have a reason for regulating students’ right to free expression because allowing students to wear the shirts would cause a material disruption of the learning environment.
3. The ban did not restrict pure speech.
4. Fashion is not a form of protected speech.
5. The school must maintain discipline and act in the best interest of the students.
6. The school must foster a safe learning atmosphere for students.
7. Regulating the appearance of students is a small price to pay in order to ensure the protection of students.
8. The school is regulating dress on the basis of a prediction alone.

Student Lawyer’s Arguments

1. Freedom of expression is indivisible. The First Amendment protects the right of individuals to wear what they choose.
2. Freedom of expression should be upheld by schools because it is a liberty guaranteed by the constitution.
3. The clothing regulated in this case was not gang related and therefore most likely would not have incited violence.

4. Stripping students of the right to free expression will not solve the problem of student animosity. Rather than taking away a constitutional right, problems might be resolved using a less intrusive method such as peer advocate sessions.
5. This type of expression is protected by the two-part test in *Bivens*. By wearing red or black, students intended to convey a message, one that would be understood by other students.

Follow-up Questions:

The following questions can be used to further discussion, as a written activity, or journal reflection.

1. You be the judge. Which way would you rule? Did the school have the right to regulate expression, or did the students have the right to continue to wear these pieces of clothing to school?
2. Which standard do you think should be applied in this scenario, the one in *Tinker* or *Bivens*?
3. If the judge in *Tinker* had ruled on this case scenario which way do you predict he/she would have ruled? In *Bivens*?
4. Does the school have a right to regulate your clothing in order to ensure your safety?

Activity: Students work in groups to develop arguments about the freedom of expression scenario included in the Guide. The class votes on whether the suspension of the student was appropriate. Divide students into two groups: one representing the school, the other representing the student. Both groups receive all the arguments and need to sort them into two groups: those relevant to their case and those that hurt their case. Students should be prepared to present their cases and address contrary issues. Students should be encouraged to formulate their own surprise arguments that the opposing lawyers may not be ready to defend.

First Amendment Scenario: Freedom of Expression

A dispute breaks out at Segal High School one day during lunch. Boys and girls are involved in the fight, which consists only of a heated verbal exchange. There is no violence involved in the dispute; however, the leaders of both sides claim the next day they will decide who “rules the school.” In order to demonstrate loyalty to each respective group, students decide to distinguish themselves by their clothing. Those in support of Terrance will wear a black t-shirt and those in support of Vicky wear red shirts. The administration hears of this showdown and decides that violent disputes might terrorize the entire school the next day unless some measure is taken to stop the students. For these reasons the principal announces over the intercom at the end of that day that any student wearing the color black or red to school for the rest of the year will be suspended. The next day only 10 students come to school wearing these forbidden colors, and there is no violence. However, those students are suspended, and they hire a lawyer to defend their First Amendment Rights.

Arguments

1. The First Amendment does not protect all types of expression.
2. If school officials have a reason for regulating students’ right to free expression because allowing students to wear the shirts would cause a material disruption of the learning environment.
3. Freedom of expression is indivisible. The First Amendment protects the right of individuals to wear what they choose.
4. The school must maintain discipline and act in the best interest of the students. The ban did not restrict pure speech. Fashion is not a form of protected speech.
5. This type of expression is protected by the two-part test in *Bivens*. By wearing red or black, students intended to convey a message and it was one, which would be understood by other students.
6. The clothing regulated in this case was not gang related and therefore most likely would not have incited violence.
7. The school must foster a safe learning atmosphere for students. Regulating the appearance of students is a small price to pay in order to ensure the protection of students.
8. Stripping students of the right to free expression will not solve the problem of student animosity. Rather than taking away a constitutional right, problems might be resolved using a less intrusive method such as peer advocate sessions.
9. The school is not regulating dress because it is unpopular with the administration but because of the predicted effect on students.
10. Schools should uphold freedom of expression because it is a liberty guaranteed by the constitution.



Activity Four: Case Study Discussion



After discussion of the First Amendment cases in the Guide (*Tinker*, *Bivens*, *Adams*), students should be ready to discuss the cases as a whole or individually.

Activity A: (Class discussion, written activity or journal reflection)

***TINKER* – PURE SPEECH EXPRESSED BY DRESS IS A CONSTITUTIONALLY PROTECTED RIGHT IN NOT MATERIALLY DISRUPTIVE TO THE SCHOOL ENVIRONMENT**

1. What did the students do?
2. How did the school justify suspension?
3. What would the Court decide?
4. What does the Court mean by “pure speech”?
5. Why does this case matter for dress code issues?

***BIVENS* – APPEARANCE CAN BE REGULATED BY PUBLIC SCHOOLS**

1. What did Bivens do?
2. In your own words, what is the two-part test?
3. When is clothing not protected?

***ADAMS* – GANG ACTIVITY PROMPTING SCHOOLS TO ENACT DRESS CODES**

1. What did Adams do?
2. Why did the principal not allow him to wear these clothes?
3. In your own words, when did the Court say a school could enact a dress code?
4. Why does the difference between actual gang activity and possible gang activity at school make a difference for dress code rules?

Activity B:

1. How did the Court decide?
2. What is the relevance of each court case to dress codes?

Teaching the First Amendment: Freedom of Speech

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Introduction

The colonists' experience of the British destruction of printing presses and suppression of revolutionary written materials deepened the Framers' commitment to free speech. Free speech (along with religious freedom, the freedom to assemble and the freedom to petition government) is protected by the First Amendment. The Framers of the Bill of Rights were aware that without the right to expression all other rights are meaningless. Individual rights can only be preserved if the right to speak out exists.

This unit provides the opportunity for students to explore the conflict between government's exercise of power and individual rights from the perspective of the First Amendment. As agents of government and as teaching establishments, schools should cherish and promote free speech. But most school administrators and teachers also feel that schools should promote tolerance and government officials have an interest in preserving order and civility. The individual has a constitutional right to say what he or she likes, with a few exceptions (as carved out by the U.S. Supreme Court, fighting words, threats, and obscenity).

Pre-Test

Students should write their answers to the following questions before beginning discussion on this unit, then re-tested at the end of the unit to gauge any change of opinion. The pre-test can also be used as a journal activity in which students are later asked to reflect upon and analyze their opinion and/or opinion change.

A note to teachers: Before the discussion, it may be a good idea to establish a “no names” rule prohibiting students from discussing particular people.

1. Should people have a right to say whatever they wish?
2. Should there be limits on free speech? If so, what should those limits be?
3. Should students be allowed to swear in the classroom? Under what circumstances is this okay? Not okay?
4. What words are okay? Not okay? Examples: No swearing? Is “sucks” okay? How about “shut up!”?
5. Who should decide?
6. Should students be allowed to call other students a potentially hurtful name like “chubby”?

Is it okay to call someone "retarded" if a student doesn't know the answer to a teacher's question?

7. If someone in a class is religiously opposed to phrases that take the Lord's name in vain, should such phrases be disallowed?
8. Do you think people have a right not to hear profanity if they wish not to? Do you think people have a right to unconditionally use profanity if they wish to?

Teaching the First Amendment: Free Speech

Background Court Cases

I. PUBLIC SCHOOL STUDENTS HAVE FREE SPEECH RIGHTS.

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

This landmark U.S. Supreme Court decision recognizes that students have the same constitutional rights as every other American citizen. Students do not shed these rights as they pass through "the schoolhouse gate." The case arose when three students were suspended from school for wearing armbands to protest the Vietnam War. The Court found that the school officials had acted unconstitutionally in suppressing the students' free speech rights. The Court, however, recognized that school officials need some flexibility and control of students in order to fulfill the educational role of the school. Thus, school officials may prohibit student conduct which "materially disrupts or involves substantial disorder" in the classroom. (*To read the entire case, see <http://caselaw.lp.findlaw.com/503>*)

II. STUDENTS' SEXUALLY EXPLICIT SPEECH IS NOT PROTECTED.

Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986).

A high school student was suspended for two days for giving a sexually suggestive nominating speech during a school assembly attended by many students, including some 14-year-olds. The U.S. Supreme Court ruled that the student's free speech rights had not been violated and upheld the suspension. The Court distinguished the sexual speech in this case from the political speech of *Tinker* and determined that sexually explicit speech is not protected under the *Tinker* test. The Court said, "A high school assembly or classroom is no place for a sexually explicit monologue directed towards an unsuspecting audience of teenage students." The Court also remarked that schools "must teach by example the shared values of a civilized social order. . . (and) may determine that the essential lessons of civil, mature conduct cannot be conveyed in a school that tolerates lewd, indecent, or offensive speech and conduct." (*To read the entire case, see <http://caselaw.lp.findlaw.com/us/478/675.html>*)

Comment: The *Bethel* case marks the beginning of the Court's erosion of students' free expression rights. (Sexually explicit speech by adults is protected, so long as it is not obscene.) With the exception for sexually explicit speech, the Court has opened the way to further exceptions, including a potential exception for hate speech. Its emphasis on the school's mission to teach civility could be read as a rationale for barring hate speech in some circumstances.

III. SCHOOL OFFICIALS CAN CENSOR SCHOOL-SPONSORED ACTIVITIES.

Hazelwood School District v. Kuhlmeier, 484 U.S. 260, 108 S.Ct. 562 (1988).

In this case, the U.S. Supreme Court held that a high school principal's deletion of two articles from a student newspaper did not violate the First Amendment rights of the students. The student newspaper was written and edited by a journalism class. The principal felt one story contained inappropriate material and did not respect the privacy rights of pregnant students and their boyfriends. Another story did not allow the divorced parents of one student to respond to remarks made by their daughter.

The stories were not published since the end of the school year was approaching and there was not enough time for the students to make the necessary changes to the stories. The Court reasoned that the *Tinker* "material disruption" test does not apply to expressive activities of students that could be perceived as reflecting the school's official position.

The *Tinker* test still applies to personal expression occurring on school premises or speech that is not part of the curriculum. Although such censorship remains prohibited, the Court determined that censorship occurring in a school-sponsored context can be allowed as long as the actions of the school officials "are reasonably related to legitimate pedagogical (educational) concerns."

Comment: School officials' efforts to combat prejudice can be considered a legitimate pedagogical concern because a victim of verbal harassment may find learning difficult or because the school seeks to create a learning environment free from negative factors such as derogatory speech. Thus, *Hazelwood* could be used to justify prohibiting hate speech when it occurs in a school-sponsored context. (To read the entire case, see <http://caselaw.lp.findlaw.com/us/484/260.html>)

IV. PUBLIC UNIVERSITY POLICY ON HATE SPEECH DECLARED UNCONSTITUTIONAL.

Doe v. University of Michigan, 721 F. Supp. 852 (E.D. Michigan 1989).

In response to racial harassment incidents and intolerance on campus, the University of Michigan adopted a policy that prohibited "stigmatizing or victimizing individuals or groups on the basis of race, ethnicity, religion, sex, sexual orientation, creed, national origin, ancestry, age, marital status, handicap or Vietnam-era veteran status." Doe, a graduate student, said he was concerned that certain theories proposing biologically-based differences between the sexes and races could be considered sexist and racist under the university's policy. He said he was afraid that this policy

would restrict class discussion.

The federal district court ruled that the policy was unconstitutional. Although narrowly drawn restrictions may be placed on some speech (e.g., obscenity, libel, "fighting words"), broad restrictions based on the content of speech are unconstitutional. The policy was also declared to be impermissibly vague because students would be forced to guess whether a comment would be punished by the university. The court emphasized that the university could not prohibit "speech simply because it was found to be offensive, even gravely so, by large numbers of people."

Comment: This decision applies to a public university where classroom disruption is of less concern and where very strong weight is given to the free exchange of ideas. A similar policy in a high school could be interpreted differently so as to restrict students' free expression rights to a degree greater than that permitted in a university setting.

V. STATES CAN MAKE IT A CRIME TO USE OBSCENE OR FIGHTING WORDS.

Cohen v. California, 403 U.S. 15 (1971).

The Supreme Court said that for a state to regulate speech with criminal laws, that speech must be either "obscenity" or "fighting words." To be obscene, the speech must appeal to the shameful interest in sex and have no social, literary, artistic or political value. Fighting words, meanwhile, is speech directed at someone that causes, or is intended to cause, an imminent outbreak of physical violence. In this case, a man was prosecuted for wearing a jacket bearing "*&#@& the Draft" in a Los Angeles county courthouse. He was prosecuted under a California "offensive conduct" statute that outlawed "use of any vulgar, profane, or indecent language within the presence or hearing of women and children..." The Supreme Court overturned his conviction. The words were not erotic, the Court said. They also were not fighting words, since they were not directed at anyone in particular, did not prompt a violent reaction, and were not intended to cause violence.

VI. OBSCENITY IS NOT CONSTITUTIONALLY PROTECTED SPEECH.

Miller, after conducting a mass mailing campaign to advertise the sale of "adult" material, was convicted of violating a California statute prohibiting the distribution of obscene material. Some unwilling recipients of Miller's brochures complained to the police, initiating the legal proceedings. In a 5-to-4 decision, the Court held that obscene materials did not enjoy First Amendment protection. The Court modified the test for obscenity established in *Roth v. United States* and *Memoirs v. Massachusetts*, from "utterly without redeeming social value" to : (a) whether 'the average person, applying contemporary community standards' would find that the work, taken as a whole, appeals to the prurient interest. . . (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value."

Miller v. California <http://laws.findlaw.com/us/418/915.html>

VII. A GOVERNMENT’S INTEREST IN ORDER AND MORALITY OUTWEIGHS THE SLIM SOCIAL BENEFIT DERIVED FROM “FIGHTING WORDS”.

Chaplinsky v. New Hampshire, 315 U.S. 568, 62 S.Ct. 766 (1942).

A man who called a police officer “a *&\$ damned racketeer” and “a damned Fascist” was convicted under a law forbidding people to “address any offensive, derisive or annoying word to any other person who is lawfully in any street or other public place ...” The Supreme Court upheld his conviction. First Amendment free speech rights are not absolute, and certain classes of speech – including lewd, obscene, profane and “fighting” words – have been constitutionally forbidden. When “such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.”

VII. *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

Brandenburg, a leader in the Ku Klux Klan, made a speech at a Klan rally and was later convicted under an Ohio criminal syndicalism law. The law made illegal advocating "crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or political reform," as well as assembling "with any society, group, or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism."

The Supreme Court held that held that the Ohio law violated Brandenburg's right to free speech. The Court used a two-pronged test to evaluate speech acts: (1) speech can be prohibited if it is "directed at inciting or producing imminent lawless action" and (2) it is "likely to incite or produce such action." The criminal syndicalism act made illegal the advocacy and teaching of doctrines while ignoring whether or not that advocacy and teaching would actually incite imminent lawless action. The failure to make this distinction rendered the law overly broad and in violation of the Constitution.



Activity One: Opening Classroom Discussion



Note to teachers: The cases and examples covered in this unit are hot button issues for many students and need to be dealt with carefully.

These questions will prepare students for reading summaries of *Tinker*, *Hazelwood* and other student free speech cases. They can also help students understand that speech can be hurtful.

1. Should students in school have the same free speech rights that adults have?
2. What does it feel like to be the target of an insult?
3. What does it feel like to be the target of an insult that is based on your age, race, religion, disability, and sexual orientation, sex?
4. What does it feel like to be the victim of an untrue rumor?
5. How can someone else's speech affect you personally? Could it affect your performance in school?
6. Should there be a difference between the free speech rights of students on a college campus and the free speech rights of students at a public school?
7. Should students be allowed to criticize teachers?
8. Should students be allowed to publish or make widely known your dissatisfaction with a teacher (e.g. write a letter to the editor, stand outside school with a sign, complain at a PTSA meeting about a specific teacher)? If no, why not? If yes, what are reasonable things to say?
9. Should teachers be allowed to publicly express dissatisfaction with students (e.g. announce failing students during an assembly, publish a dunce list, talk about bothersome students at a party, write an article to the paper reporting a specific student as a cheater and liar)? If no, why not? If yes, what are reasonable things to say or publish?
10. Should your peers be able to say whatever they want about you (e.g. racist things, sexist things, anti-gay things, untrue rumors)? If no, why not? If yes, what are reasonable things to say or publish?



Activity Two: Understanding Free Speech Cases



Underlying goal: To increase students' appreciation that the law is not just abstract but applies in very real ways to them. Encourage opposing views and full discussion by everyone who wants to speak.

Activity: After reading summaries of First Amendment cases I-VIII, either in class or as homework, divide students into groups or assign each group one of the cases. Students will create two situations to role-play that demonstrate the case to the rest of the class. In the first play, the students need to show what happened to bring about the case, including the school's reaction. In the second, they will re-enact the event and show how the Court rules the school can respond.

Discussion Questions:

1. Have courts made fair decisions about students' First Amendment rights?
2. What is offensive speech?
3. Should there be a "penalty" for offensive speech? If so, what penalty?



Activity Three: Human Graph Evaluating Free Speech Circumstances



First Amendment Scenario: Free Speech vs. Hate Speech

There is an upcoming election for senior class president in a public high school. The two candidates are William Reynolds, who is Protestant, and Melanie Klein, who is Jewish. In the school cafeteria the day before the election, the supporters of the two candidates urge them to begin an impromptu non-school-sponsored debate.

Melanie begins and tells the students that they should vote for her because she intends to look out for the best interests of her fellow classmates. She plans to encourage more student input in administrative decisions, promote more student activities, and foster school spirit. William begins his remarks with the following statement: "The choice in this election is simple. Do not vote for my opponent because you do not want a Jew as your class president." He follows this comment with many more derogatory remarks. His supporters soon begin insulting Melanie as well. She breaks down in tears.

The teacher on duty hears the exchange and takes William to the principal's office. Because the principal proposes to suspend William from school for a month, a hearing is convened at which William's lawyer and the school's lawyer make their arguments. William's lawyer makes the case in favor of First Amendment protection for William's comments at the impromptu debate, while the school's lawyer argues in favor of the school's right to regulate such derogatory "hate" speech.

Using this scenario, choose either Activity A or B.

Activity A: Class will become a “human graph” in order to explore how class opinion changes with respect to free speech as the circumstance of the speech changes. Draw or tape a line for students to stand on down the middle of the classroom. Students step off the line to the right if they disagree with suspension or to the left if they agree with the suspension. After presenting the case, students should vote with their feet as to what they believe is right. Students then return to the line and re-vote as each of the variations of setting, remarks, and types of insults is presented.

First Amendment Scenario Variations

Change the setting:

1. William’s remarks occurred during a school-sponsored assembly.
2. William’s remarks occurred during a debate after school, but on school property.

Change remarks:

3. William’s remarks were even more shocking.
4. William’s remarks were less shocking.

Change the insults:

5. William’s remarks were racist in nature.
6. William’s remarks were sexist in nature.
7. Melanie insults William using slurs such as “Nazi” or “Skinhead.”
8. One candidate is an animal rights activist who insults his/her opponent because he/she is wearing leather.

Activity B: Class Court: Students work in groups to develop arguments about the hypothetical free speech vs. hate speech case scenario. The class votes on whether to suspend William. Divide students into two groups: one representing the school, the other representing William. Both groups receive all the arguments and need to sort them into two groups: those relevant to their case and those that hurt their case. Give each group the random list of arguments. Students should prepare to present their cases and address contrary issues. Students should be encouraged to formulate their own surprise arguments that the opposing lawyers may not be ready to defend.

School Lawyer's Arguments

1. First Amendment is not absolute. Exceptions include “fighting words,” slander, sexual harassment, clear and present danger.
2. The school has a mission to teach values of society, including tolerance and non-discrimination.
3. Racism and anti-Semitism should not be advanced in the school.

4. Hate speech is the equivalent of “fighting words.” The insults can be so piercing that the victim's natural reaction is to strike back.
5. School authorities need to protect the students in the audience from exposure to socially inappropriate behavior.
6. The school is not regulating speech because it is unpopular but because of its effects on the victim, the audience, and the educational process.

Student Lawyer's Arguments

1. Free speech is indivisible. The First Amendment protects the right of individuals to make offensive remarks.
2. One of the most important values a school must teach is free speech.
3. Hate speech is a symptom of a larger problem, which will not be solved by suppressing the speech and glorifying the speaker. Education is a more effective way of addressing the problem.
4. Hate speech is not the same as “fighting words” because hate speech does not always incite physical violence.
5. The school needs to promote a free exchange of ideas. The solution to “bad speech” is more speech, not suppression of speech.
6. The school may regulate only a narrow set of speech categories as outlined by previous Supreme Court decisions.

Other Arguments

- First Amendment is not absolute. Exceptions include “fighting words,” slander, sexual harassment, clear and present danger.
- Free speech is indivisible. The First Amendment protects the right of individuals to make offensive remarks.
- Hate speech is a symptom of a larger problem that will not be solved by suppressing the speech and glorifying the speaker. Education is a more effective way of addressing the problem.
- Hate speech is not the same as “fighting words” because hate speech does not always incite physical violence.
- Hate speech is the equivalent of “fighting words.” The insults can be so piercing that the victim’s natural reaction is to strike back.
- One of the most important values a school must teach is free speech.

- Racism and anti-Semitism should not be advanced in the school.
- School authorities need to protect the students in the audience from exposure to socially inappropriate behavior.
- The school has a mission to teach values of society, including tolerance and non-discrimination.
- The school is not regulating speech because it is unpopular but because of its effects on the victim, the audience, and the educational process.
- The school may regulate only a narrow set of speech categories as outlined by previous Supreme Court decisions.
- The school needs to promote a free exchange of ideas. The solution to “bad speech” is more speech, not suppression of speech.

Follow-up Questions:

These questions can be used as a written activity, as discussion questions, or journal reflections.

1. How did class opinion change?
2. On which variations did people most agree or disagree?
3. What caused you to change your opinions?
4. How do circumstances affect our perception of First Amendment guarantees?
5. Is it worth it to accept hate speech to keep everyone's free speech rights intact?
6. Are there ways to combat hate speech and racism besides limiting speech?



Activity Four: Cooperative Evaluation of Cases



Activity: Students are divided into groups and assigned one of the cases. Each group must:

1. Draw an illustration to demonstrate both sides of the argument (for example, to represent Cohen, students could draw a picture showing someone wearing a strange outfit with someone else covering the eyes of a child);
2. Develop a poll and ask 10 other students their opinions about the central issue of the case;
3. Clearly explain the judge's decision ;
4. Explain if they agree or disagree with the decision;
5. Explain the opinions found in the poll and how they parallel or diverge from the decision of the case.

Alternate Activity: Students create a slogan that represents the judge' ruling in each case. (For example, the slogan "Live and let live" would represent the Cohen decision.)

Follow-up Questions:

1. Have courts made fair decisions about people's First Amendment rights?
2. Should there be a criminal penalty for public profanity?
3. Is it right for laws that distinguish between conduct directed at men and conduct directed at women and children?

 **Activity Five: Class Court** 

First Amendment Scenario: Public Profanity

Joe joins a group of friends at the park for a game of football. They choose an open field without many people around so they will have plenty of room. Joe catches a pass and realizes he has a clear path to the end zone. But five yards from the goal line, he trips on a tree root and drops the ball. Frustrated, he shouts a string of profanities. At that moment, a woman and her two small children walk by the field, as does a police officer on patrol. The officer issues Joe a ticket under a state law making it a crime “to use any indecent, immoral, obscene, vulgar or insulting language in the presence or hearing of any woman or child.” Joe’s lawyer asks to have the charge against Joe dismissed, arguing that the law unconstitutionally infringes on Joe’s free speech rights. The government’s lawyer argues, however, that the government has a duty to protect children from profanity.

Activity: Students work in groups to develop arguments using the freedom of speech scenario. Divide students into two groups: one representing the government, the other representing Joe. Each group should be given the random list of arguments listed below. Both groups receive all the arguments and need to sort them into two groups: those relevant to their case and those, which hurt their case. Students should be prepared to present their cases and address contrary issues. Students should be encouraged to formulate their own *surprise* arguments that the opposing *lawyers* may not be ready to defend.

Joe's Lawyer's Possible Arguments:

1. The First Amendment says the government can make “no law” restricting free speech, and this literally means “no law.”
2. Obscenities spontaneously shouted after mishaps are not obscene. They are not erotic and do not appeal to the prurient interest.
3. Similarly, spontaneous obscenities are not “fighting words.” They are not aimed at anyone in particular and are not intended to incite violence.
4. A law prohibiting “any indecent, immoral, obscene, vulgar or insulting language” is unconstitutionally vague. People cannot tell what words they are not allowed to use.
5. Outlawing obscenity in the presence or hearing of women and children, but not men, is unconstitutional.

Government's Lawyer's Possible Arguments:

1. Free speech rights are not absolute. The government can limit obscene speech, for example.
2. The government has legitimate interests in protecting children from hearing profanity and in preserving order and morality.

3. Profanity has little societal value, and the government's interests in order and morality outweigh whatever value it has.
4. Spontaneous profanity does not express ideas or thoughts, and therefore is not speech protected by the First Amendment.
5. A law prohibiting obscenity in the presence of women and children does not violate the Equal Protection Clause because men and women are treated equally.

Random Arguments

- A law prohibiting “any indecent, immoral, obscene, vulgar or insulting language” is unconstitutionally vague. People cannot tell what words they are not allowed to use.
- A law prohibiting obscenity in the presence of women and children does not violate the Equal Protection Clause because men and women are treated equally.
- Free speech rights are not absolute. The government can limit obscene speech, for example.
- Obscenities spontaneously shouted after a mishap are not obscene. They are not erotic and do not appeal to the prurient interest.
- Outlawing obscenity in the presence or hearing of women and children, but not men, is unconstitutional.
- Profanity has little societal value, and the government's interests in order and morality outweigh whatever value it has.
- Similarly, spontaneous obscenities are not “fighting words.” They are not aimed at anyone in particular and are not intended to incite violence.
- Spontaneous profanity does not express ideas or thoughts, and therefore is not speech protected by the First Amendment.
- The First Amendment says the government can make “no law” restricting free speech, and this literally means “no law.”
- The government has legitimate interests in protecting children from hearing profanity and in preserving order and morality.

Follow-up questions:

The following issues and activities can be used to further discussion, write extended response essays, or reflect upon in journals.

1. Is it worth it to accept profanity to keep everyone's free speech rights intact?
2. What might be the implications of a law like this? For instance, could a child be charged for cursing at a classmate on the playground? Or could a minister be arrested for saying damn or hell during a sermon?

3. As a result of this case, have you changed your mind on the issue of public profanity?
4. How would the following variations in the statute change opinions?
 - a. The statute is not limited to women and children.
 - b. The statute is limited only to children.
 - c. The statute specifies certain words or types of words that are prohibited (perhaps similar to the broadcast ban on profane terms that deal with excretory or sexual organs or functions).

Teaching the First Amendment: Religious Freedom

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Introduction

The Establishment Clause of the First Amendment prohibits the federal government from establishing one or more official religions for the country. It also prohibits the government from favoring one religion over another or religion over non-religion. The Free Exercise Clause of the First Amendment prevents the government from putting unreasonable restrictions on particular religious practices. At the time of the first settlements in America, Europe was suffering from religious wars that had torn the continent apart since the early sixteenth century.

Almost every government in Europe had a government-sponsored Christian church. Those who were not members of that established church were denied certain rights. They were often excluded from universities and disqualified for civil or military positions. Sometimes they were persecuted or even killed for their beliefs.

The concept that different religions could coexist was not yet widely accepted. Most colonies have an established church, and there was general intolerance for nonmembers.

The religious movement of the 18th century, the Great Awakening, drew many away from the idea of an established church. But as evidenced by the Constitution, many also believed that freedom to practice the religion of one's choice was an essential right that needed protection.

James Madison, author of the First Amendment, believed that government should do only what is necessary to keep the peace and prevent one religious group from violating the rights of others and that government should not otherwise interfere with religion in any way.

Teaching the First Amendment: Religious Freedom

Background Court Cases

I. PUBLIC SCHOOL STUDENTS HAVE FIRST AMENDMENT RIGHTS

Tinker v. Des Moines Independent Community School District, 393 U.S. 503, (1969).

This landmark Supreme Court decision recognizes that students do not shed their constitutional rights as they pass through "the schoolhouse gate." The case arose when three students were

suspended from school for wearing armbands to protest the Vietnam War. The Court found that the school officials had acted unconstitutionally in suppressing the students' free speech rights. The Court, however, recognized that school officials need a certain amount of flexibility and control over the students to fulfill the educational role of the school. Thus, school officials may prohibit student speech that would reasonably lead school authorities to forecast substantial disruptions or material interference with school activities.

II. GOVERNMENT MAY NEITHER ADVANCE NOR INHIBIT RELIGION.

Lemon v. Kurtzman, 403 U.S. 602 (1971).

A Pennsylvania statute provided financial support for teacher salaries, textbooks, and instructional materials for secular subjects to non-public schools. A Rhode Island statute provided direct supplemental salary payments to teachers in non-public elementary schools. Each statute made aid available to "church-related educational institutions." The Supreme Court held that in order for the Pennsylvania and Rhode Island statutes to be constitutional, they must have "a secular legislative purpose," whose principal effects neither advance nor inhibit religion, and it must not foster "an excessive government entanglement with religion." The Court found that the subsidization of parochial schools furthered a process of religious inculcation, and that the "continuing state surveillance" necessary to enforce the specific provisions of the laws would inevitably entangle the state in religious affairs.

III. STUDENT INITIATED PRAYER AT FOOTBALL GAMES VIOLATES THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT.

Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000)

Prior to 1995, a student elected as Santa Fe High School's student council chaplain delivered a prayer, described as overtly Christian, over the public address system before each home varsity football game. One Mormon and one Catholic family filed suit challenging this practice and others under the Establishment Clause of the First Amendment. The District Court enjoined the public Santa Fe Independent School District (the District) from implementing its policy as it stood. While the suit was pending, the District adopted a new policy, which permitted, but did not require, student-initiated and student-led prayer at all the home games and which authorized two student elections, the first to determine whether "invocations" should be delivered at games, and the second to select the spokesperson to deliver them. After the students authorized such prayers and selected a spokesperson, the District Court entered an order modifying the policy to permit only nonsectarian, non-proselytizing prayer. The Court of Appeals held that, even as modified by the District Court, the football prayer policy was invalid. On appeal the School District argued that, its policy did not violate the Establishment Clause because the football game messages were private student speech, not public speech. The Supreme Court held that the football game prayers were public speech authorized by a government policy and taking place on government property at government-sponsored school-related events and that the District's policy involved both perceived and actual government endorsement of the delivery of prayer at important school events.

IV. GOVERNMENT CANNOT INTERFERE WITH RELIGION

Wallace v. Jaffree, 472, U.S. 3860 (1985)

A parent challenged the constitutionality of Alabama's school prayer and meditation statute. In a close decision, the U.S. Supreme Court ruled that the statute authorizing a daily period of silence in public schools for meditation or voluntary prayer was an endorsement of religion and violated the Establishment Clause of the First Amendment. This ruling established that schools must pursue a course of complete neutrality toward religion and that government cannot act in such a way as to favor one religion over another.

Class Discussion and Pre-test:

Students should write their answers to the following questions before beginning discussion on this unit, then re-tested at the end of the unit to gauge any change of opinion. The pre-test can also be used as a journal activity in which students are later asked to reflect upon and analyze their opinion and/or opinion change.

1. What are the advantages and disadvantages of having religious diversity in a society?
2. Since most people in America are Christians, why shouldn't we take a vote to make Christianity the official religion of the United States?
3. Almost everybody agrees that prayer is a good thing. Why don't we say a short prayer before school starts every day asking God to guide us in our studies and work for that day?



Activity One: Key Facts



Activity: After reading summaries of First Amendment cases, fill in the key facts:

Tinker v. Des Moines

Key Facts

Courts recognize students _____ but school officials may _____.

Wallace v. Jaffree

Key Facts

Schools must remain _____ and cannot _____.

Wallace v. Jaffree

Daily prayer and meditation in public school is a _____ of the First Amendment.

Lemon v. Kurtzman

The standard for reviewing whether a law endorses religion is whether it _____ and _____ with religion.

Santa Fe Independent School District v. Doe

Student led, student initiated prayer at graduation _____ the establishment clause because it takes place on _____ property at _____ and that the District's policy involved both _____ and _____ of the delivery of prayer at important school events.



Activity Two: Class Discussion



Underlying goal: Students will begin to appreciate that the law is not just abstract, but applies to them in very real ways. Opposing views and full discussion by everyone who wants to speak should be encouraged.

Content Background: Students' First Amendment rights

The Supreme Court has ruled that students do not give up their rights when they come to school. In *Tinker*, the Court said that certain speech was protected. *Tinker* also said that schools may limit speech if it will cause a material or substantial disruption. The courts have considered the *Tinker* standard when deciding student rights cases since the 1969 decision.

Wallace v. Jaffree established that schools and governments must neither endorse religion nor favor one religion over another.

Activity: (Choose any of the following)

1. Students will produce pictures to represent the essential issue and court ruling in each case.
2. Students can role-play the cases. Working in groups, students develop a skit to demonstrate the essential point of each case.
3. Working in groups, students can develop overhead or multi-media presentations to explain the case, ruling, and significance to the rest of the class.

Discussion Questions:

1. Does *Wallace v. Jaffree* make it illegal for students to pray by themselves or with another student during recess?
2. What if the courts allowed school board members to independently make decisions on this subject? How could things change? Would this be beneficial or harmful?
3. In *Santa Fe School District v. Doe*, Why did the school district think that changing its policy to have the students choose whether to have "invocations" delivered at football games and whom the spokesperson would make a difference?

Activity Three: Poll Comparison

Student attorneys present hypothetical religious freedom case to the class “court.” The class votes on whether the school policy is justified.

First Amendment Scenario: Religious Symbols

Wanda is a member of the Wiccan faith. Wicca is a pagan religion recognized by the U.S. courts. Wiccans celebrate the changing of the seasons and nature. They do not worship the devil; they do not promote violence; they do not try to convert others to their faith.

The major icon of the Wicca religion is the pentagram, a five-pronged star inside of a circle. It is like what a cross is to members of the Christian faith or the Star of David is to members of the Jewish faith. Wanda wears the pentagram her parents gave her to school every day. The pentagram is also a gang symbol. Wanda is not a gang member.

The principal at Center High School, which Wanda attends, saw incidences of gang violence becoming more frequent at their school. In the middle of the school year he issued a new policy banning gang symbols because gangs have used the symbol to intimidate rival gangs and other students.

The principal told Wanda that she could continue to wear her pentagram, but that she would have to wear it under her clothing.

Wanda's lawyer says that she has a right to celebrate her religion as much as Christians who wear the cross do. The school lawyer says that the principal's first duty is to maintain order and discipline in the school and that he feels that the display of pentagrams is disruptive.

The School Lawyer's Arguments

1. Student speech may be regulated if school officials feel that a “material and substantial” disruption would occur if that speech was exercised.
2. While the right to hold particular religious beliefs is absolute, the right to freely exercise those beliefs is not. The Wicca religion does not require its followers to wear pentagrams.
3. The school district is not trying to influence Wanda's religious beliefs. The policy allows her to wear her pentagram under her clothing while in school and does not address wearing the pentagram off of school grounds. The policy is only concerned with conduct, not speech.
4. The purpose of the policy is to provide a safe and secure fruitful education environment for all students so that discipline and learning are not interfered with. In a high school setting, these concerns must override the concerns of one particular student.

Wanda's Lawyer's Arguments

1. While school officials may regulate student speech in certain circumstances in order to advance valid educational objectives, such regulation must be consistent with the First Amendment.
2. The policy is constitutionally overbroad because it prohibits First Amendment guarantees of freedom of speech and association. The school has no conceivable valid interest in prohibiting Wiccans from carrying on their activities in a school setting.
3. The policy directly violates the establishment clause because it illegally favors some religions (Christianity) over another (Wicca). The establishment clause guarantees complete neutrality by the state.
4. The policy directly violates the free exercise clause because it is specifically directed at Wanda's religious beliefs.
5. The school district has an obligation to provide a safe environment. BUT THE CONSTITUTIONAL RIGHTS OF ITS CITIZENS OVERRIDES THAT OBLIGATION. The Supreme Court has stated that, "the loss of First Amendment rights for even a short period of time unquestionably constitutes irreparable injury."

Activity: The class brainstorms questions for two different polls in order to evaluate which arguments are more persuasive to the school population.

First poll: questions should be based on the school lawyer's arguments (example: Do you believe the school has a right to regulate behaviors that could cause a serious disruption?)

Second poll: questions should be based on Wanda's lawyers' arguments (example: Do you believe schools have the right to violate students Free Speech rights in order to maintain order?).
NOTE: The last question on both polls is "Should a student be allowed to wear a religious symbol to school that bothers others?"

The students should then distribute both polls to other students. For example, each student could take one of each and be required to have two people in the lunchroom take the poll. Finally, the results of the poll are analyzed to see if student answers to the last question are influenced by the previous questions.

Poll Discussion Questions:

1. Which arguments were more persuasive to other students, based on the poll results?
2. Which arguments are more persuasive to you, in reality, based on the cases studied?
3. How can survey data be distorted?
4. What are the implications of survey bias?

Follow-up Discussion: Change the scenario to see if students might change their opinion based on the following:

1. The student is a Satanist who believes in animal sacrifice and devil worship. (NOTE: This can be a really touchy issue in some situations).
2. The student belongs to a religion that requires her to pray in a loud manner that might be disruptive to the educational process.
3. The student is a known gang member who says she joined the Wicca religion, but has no knowledge of or seeming interest in the religion.

Follow-up Questions:

The following questions can be used to further discussion, as a written activity, or to reflect upon in a journal.

1. In the interest of creating a more civil society, shouldn't schools teach the values taught in most modern religions without forcing those values upon them?
2. Is religion that important any more? As we enter the 21st century, might we not be better off by de-emphasizing religion in and out of schools?
3. Has your mind changed about the question of religion in school?
4. How can polls be used to bias respondents?
5. How can we use poll information to further understanding or is polling data irrelevant?

Alternate Activity: The arguments can be used to run a class court, which mirrors the class court found in the Student Expressive Conduct unit.

Teaching the Fourth Amendment: Locker Searches

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Introduction

The colonists' experience of house-to-house searches by British officers led to the Fourth Amendment requirement that the police obtain a warrant from a judge before entering someone's home. The underlying philosophy can be put simply as the citizen's basic "right to be left alone" by government. Although the word "privacy" is not used in the Bill of Rights, the Fourth Amendment protects our right to privacy, while curbing possible police abuse of power.

The courts use two standards before a warrant to stop or search is given. The first, *probable cause*, is knowledge of enough facts to cause a cautious person to believe that a particular person has committed a crime. The second, *reasonable suspicion*, is reason to suspect that a person has committed, or is about to commit, a crime. Reasonable suspicion is a less demanding standard than probable cause. However, reasonable suspicion does not exist unless a person can articulate a reasonable explanation of why he/she suspects that a particular person is involved in an illegal activity.

The Fourth Amendment places a limit on the government's power. Although the police might solve crimes more efficiently without the Fourth Amendment, the Amendment guarantees a citizen's right to be left alone unless there is sufficient cause to believe that he/she committed the crime.

Background Court Cases

I. SUPREME COURT ESTABLISHES GUIDELINES FOR STUDENT SEARCHES

New Jersey v. T.L.O., 469 U.S. 325, 105 S. Ct. 733 (1985).

A student, whose initials are "T.L.O.", was caught smoking in the school bathroom and was taken to the Assistant Principal's office to be questioned. When T.L.O. denied that she had been smoking, the Assistant Principal searched her purse and found cigarettes and rolling papers. A further search revealed marijuana, a pipe and a substantial amount of money in small bills. The Assistant Principal then opened a zippered compartment in her purse and found letters implicating T.L.O. in selling drugs to other students. The evidence was turned over to the police and the state brought delinquency charges against the student.

The student argued that the evidence found in her purse was illegally obtained and therefore could not be used against her. The court stated that school officials are agents of the state and are bound by the Fourth Amendment when they conduct student searches. However, the officials must also

have a certain amount of flexibility in order to maintain discipline in the school. Thus, school authorities do not need a warrant or full probable cause to search a student. “The legality of a search of a student depends simply on the reasonableness, under all circumstances, of the search.”

The court established a reasonableness test consisting of two parts. First, there must be reasonable suspicion to justify the search. Second, the actual extent of the search must be related to the circumstances that justified the original search and must not be “excessively intrusive in light of the age and sex of the student and the nature of the infraction.” Using this test, the court decided that the Assistant Principal did not violate T.L.O.’s Fourth Amendment rights when he searched her purse.

II. REASONABLENESS TEST APPLIED TO LOCKER SEARCHES

State of West Virginia v. Joseph T., 335 S.E-2d 728 (W.Va. 1985).

One morning the Assistant Principal of a high school detected alcohol on the breath of one of the students. This student said he had been drinking at Joseph T.’s home before school. While the Assistant Principal questioned Joseph, two teachers searched his locker. The teachers found papers, pipes and marijuana cigarettes in a pocket of Joseph's jacket. This evidence was turned over to local authorities and Joseph was placed on probation for possession of marijuana.

Joseph appealed the decision, claiming that the evidence was illegally obtained. The Supreme Court of Appeals of West Virginia applied the T.L.O. test to the facts of the case and decided that the search was not unreasonable. The Assistant Principal had reasonable suspicion to believe that the locker search would produce alcohol. Furthermore, the teachers were not intrusive by searching the jacket. They reached this conclusion by direct comparison with the T.L.O. case, in which the Supreme Court reasoned that the search of the student’s zippered pocket in her purse was not unduly intrusive. The Court decided that the discovery of marijuana was “reasonably related” to the search for alcohol and therefore the evidence should not be suppressed.

III. STUDENTS HAVE EXPECTATION OF PRIVACY IN THEIR LOCKERS

In the Interest of Guy Dumas, 515 A.2d 984 (Pa. Super. 1986).

Guy was seen taking cigarettes from his locker in his high school and giving one to a fellow student. Upon being notified, the Assistant Principal confiscated the cigarettes. The Assistant Principal suspected that Guy was involved with drugs and, although he could not explain why he suspected this, he searched Guy’s locker. The search produced marijuana cigarettes.

A delinquency petition was filed in Juvenile Court against Guy. His motion to suppress the evidence was granted and the Commonwealth of Pennsylvania appealed. The Superior Court of Pennsylvania affirmed the order to suppress the evidence, relying upon the Supreme Court’s statement in T.L.O. that students have an expectation of privacy in their purses, jackets and other belongings that they bring with them to school. The Pennsylvania Court reasoned that this expectation should also extend to lockers once personal belongings are placed in the locker. Because this expectation

of privacy also pertains to lockers, the court applied the reasonableness test of T.L.O. and determined that the search was not reasonable.

The Court held that it was not reasonable for the Assistant Principal to suspect that there would be more cigarettes in Guy's locker once he had taken the pack from his hands. Furthermore, it was not reasonable to assume that because Guy possessed cigarettes, he also possessed marijuana. In a concurring opinion, one of the justices emphasized that this decision has limited scope. Guy's high school did not restrict items that could be placed in lockers and did not conduct regular searches. However, if students are informed that searches will be conducted, an expectation of privacy may not exist.

IV. T.L.O. REASONABLENESS TEST DEMONSTRATES INCONGRUENCIES

T.J. v. State of Florida, 538 So.2d 1320 (Fla. 47. Ct. 1989).

After school one day a fight erupted between two students at a bus stop. One student pulled out a knife and, although she did not use it, she told the other student that she would bring the knife to school the next day. The following morning the frightened student reported the incident to a teacher and said that either the other student involved in the fight or T.J. (a close friend of the student) would have the knife. The Assistant Principal searched the student involved in the fight, but did not find the knife. She then searched T.J.'s purse but did not find the weapon. In the course of searching T.J.'s purse, the Assistant Principal opened a zippered pocket in the purse even though it did not appear to contain the knife.

She found a small plastic bag containing cocaine. Delinquency charges were brought against T.J. for possession of cocaine. She appealed on the grounds that the search was improper. The Florida Court of Appeals decided that the search was not reasonable because it exceeded the scope justified by the Assistant Principal's suspicion (the zippered pocket clearly did not contain the weapon). In addition, no reasonable suspicion sufficient to justify a search for drugs developed while the Assistant Principal was searching for the knife. The delinquency charges were reversed.

Comment: A comparison of this case to the Joseph T. case shows how two courts can reach opposite decisions, yet both applied the facts of T.L.O. to reach these decisions. The Florida court in the T.J. case reasoned that it was not reasonable to charge the student with cocaine possession when the cocaine was found during a search for a knife. However, the West Virginia court considered marijuana admissible evidence against Joseph T. even though it was discovered during a search for alcohol.

These opposing decisions highlight a concern that Supreme Court Justice Brennan articulated in his dissenting opinion to the T.L.O. decision: "As compared with the relative ease with which teachers can apply the probable-cause standard, amorphous 'reasonableness under all the circumstances' standard freshly coined by the court today (in the T.L.O. decision) will likely spawn increased litigation and greater uncertainty among teachers and administrators."



Activity One: Opening Class Discussion



These questions are designed to generate thinking about Fourth Amendment rights and open initial discussion. They can be used as a written activity, as opening discussion questions for consideration, or journal reflections.

Class Discussion:

What does *privacy* mean to you?

1. How do you feel about a friend reading a private letter or a parent searching your room?
2. Is a right to privacy absolute or does it depend on circumstances?
3. Do parents have a right to search the bedroom of their child out of pure snooping?
4. Do parents have a right to search the bedroom of a child to look for drugs or paraphernalia if their child is suffering a drug overdose?
5. Do teachers have the right to search the backpacks of students because they think a student is lying about losing homework?
6. Do teachers have a right to search the backpack of a student if they suspect the student is selling drugs?
7. Do principals have a right to search backpacks?
8. Do teachers have the right to strip search a whole class if one of the students report that money was taken from her backpack? Does it make a difference if the teachers found the money?
9. What's the big deal about privacy anyhow?

Activity:

Read summaries of the court cases I-IV involving searches of students' persons or belongings, either in class or for homework. Only students who complete the following reading-guide can participate in discussion.

Reading-Guide

Supreme Court Establishes Guidelines for Student Searches

Finish the following sentences:

In *New Jersey v. T.L.O.*:

The student was caught _____.

The Assistant Principal found _____.

The student believed she had a right to _____.

The school authorities believed they had a right to _____.

The Court ruled a school does not need a warrant or full probable cause to search a student. However, a school search must meet the “reasonableness test” which means first

_____ and second _____.

Reasonableness Test Applied to Locker Searches

In *State of West Virginia v. Joseph T.*:

Joseph was in trouble because _____.

Teachers found _____.

Joseph believed _____.

The Court said the Assistant Principal _____.

and also that _____.

Students Have Expectation of Privacy in Their Lockers

In the Interest of Guy Dumas

Guy was caught _____.

The Assistant Principal then _____.

The Court determined _____.

The Court also said students might not have expectation of privacy if _____.

T.L.O. Reasonableness Test Demonstrates Incongruencies

In T.J. v. State of Florida:

An incident at a school involved _____.

The Assistant Principal then _____.

The Assistant Principal found _____.

The Court decided _____.

The dilemma is _____.



Activity Two: Discussion



Underlying goals:

Students should begin to realize that judges do not make decisions based only on abstract law. Judges are bound by the three types of law – the Constitution, legislation, and previous decisions (case law).

Content Background:

Student Fourth Amendment rights: The Supreme Court has ruled (in *New Jersey v. T.L.O.*, summary above) that school officials and teachers, acting as agents of the government, do not need a warrant to search. In addition, they are not held to the high “probable cause” standard, but must have “reasonable suspicion” to conduct a search. The search must be related to the objective and cannot be unduly obtrusive.

Class Activity:

Students have a roundtable discussion about their Fourth Amendment rights. They are in charge of the direction of the discussion. Students who have completed the reading guide sit in the middle of the room to have the discussion while those who have not read the cases will evaluate the discussion of the others but may not participate. They can be tallying the number of responses given in the discussion, or write out the questions posed or some kind of assignment which keeps them silently engaged.

Questions to Consider:

1. Have the courts been making fair decisions about students’ Fourth Amendment rights?
2. A good court decision should offer clear guidance as to what is and is not constitutional. Even if a principal or teacher had read T.L.O. and the other cases, how could he or she know if the suspicion was reasonable enough to warrant a search?
3. What are situations at school where you feel safer because teachers and principals can search lockers?
4. What are situations at school where searches are completely unfair?

Optional Activity:

Divide students into groups and assign each group a different case: one representing the school, the other representing the student. Both groups receive all the arguments and need to sort them into two groups: those relevant to their case and those that hurt their case. Give each group the

random list of arguments. Students should be prepared to present their cases and address contrary issues. Students should be encouraged to formulate their own surprise arguments that the opposing group may not be ready to defend.

Variation:

Students could be required to develop their own arguments based on the case studies.

Fourth Amendment Scenario: Locker Searches

There is a fight in the yard of a public school one morning before the first class of the day. Only students are present in the schoolyard at that time. One student involved in the fight receives a stab wound. The Principal is unable to find a witness who is willing to speak out, but she knows that the culprit is a student. The Principal is worried about enforcing the law and the safety of the students. As the stabbing occurred in the morning, she suspects that the weapon is probably still on school property. Each student has a locker with a unique combination lock. The Principal, however, has a master key that will open any locker at the school. All students know about the master key, but they are not aware of it ever being used. The Principal conducts a sweep search of all lockers and finds a switchblade in the locker of Johnny Dangerous. She reports Johnny to the police and he is charged with assault and battery with a dangerous weapon. Hoping to keep the jury from considering the weapon as evidence in the case, Johnny's attorney wants to keep the evidence from being presented in court.

Johnny's Lawyer's Arguments

1. Reasonable suspicion is needed before a search can be conducted. There was no suspicion at all regarding Johnny's possible possession of a weapon.
2. The search needs to be related to the objective and cannot be unduly intrusive.
3. This search was not sufficiently limited in scope and was extremely intrusive.
4. Students have a reasonable expectation of privacy in their lockers similar to that expected when one spends the night in a hotel room for which the manager has a master key.
5. Schools have an educational role and should educate students about their rights through the actions of the school officials. Our schools must not become totalitarian institutions.

Prosecutor's Arguments

1. There were reasonable grounds for the search. There was danger to the student body; the principal needed to protect the students; she knew a student was involved and that the weapon probably was still on school property
2. The scope was reasonably limited only to lockers.
3. Individual suspicion is not needed to conduct such a search.
4. The students knew that the Principal had a master key and, therefore, had no expectation of privacy in their lockers.
5. School officials, particularly principals, have a lower burden than law enforcement officers with respect to students' Fourth Amendment rights.
6. School officials do not need a warrant or probable cause to conduct a search.

Random List of Arguments

- Reasonable suspicion is needed before a search can be conducted. There was no suspicion at all regarding Johnny's possible possession of a weapon.
- School officials, particularly principals, have a lower burden than law enforcement officers with respect to students' Fourth Amendment rights.
- School officials do not need a warrant or probable cause to conduct a search.
- Schools have an educational role and should educate students about their rights through the actions of the school officials. Our schools must not become totalitarian institutions.
- Students have a reasonable expectation of privacy in their lockers similar to that expected when one spends the night in a hotel room for which the manager has a master key.
- The scope was reasonably limited only to lockers. Individual suspicion is not needed to conduct such a search.
- The search needs to be related to the objective and cannot be unduly intrusive. This search was not sufficiently limited in scope and was extremely intrusive.
- The students knew that the Principal had a master key and, therefore, had no expectation of privacy in their lockers.
- There were reasonable grounds for the search. There was danger to the student body; the principal needed to protect the students; she knew a student was involved and that the weapon probably was still on school property.

Follow-up Activity: Students could consider the following variations and re-decide or even re-argue the case.

Fourth Amendment Scenario Variations

Change the setting:

1. The search occurred in a private room.
2. The principal searched purses.
3. The principal searched pockets.
4. The principal conducted pat-down searches of students.

Change the amount of suspicion:

1. The principal suspects one of a small group of students and limits search to lockers of these students.

Change the results of the search:

1. Nothing is found.
2. Johnny's locker has beer and/or marijuana.
3. Johnny's locker contains a large amount of drugs.
4. Evidence connecting Johnny to a string of crimes is uncovered in his locker.
5. Beer is found in the locker of a student not involved in the schoolyard fight.

Alternative Activity: Another option is to survey class opinion change using the human graph activity described in the Free Speech Unit.

Follow-up Questions:

1. Is it important enough to protect privacy rights even if it means that someone who is guilty may go free?
2. Does the Fourth Amendment discourage state officials from doing illegal searches?

Additional Resources: Founding Documents

Constitution of the United States

Bill of Rights

Constitution of the United States

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to our posterity, and ourselves do ordain and establish this Constitution for the United States of America.

Article I

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a Representative who shall not have attained to the age of twenty five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each state shall have at least one Representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the journal.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time: and no person holding any office under the United States, shall be a member of either House during his continuance in office.

Section 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and

inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;--And

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto Law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Section 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No state shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article II

Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one

of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen Years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

The President shall have power to fill up all vacancies that may happen during the recess of the

Senate, by granting commissions which shall expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4. The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article III

Section 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more states; — between a state and citizens of another state; — between citizens of different states; — between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

Article IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New states may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Article V

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the

Constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII

The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty seven and of the independence of the United States of America the twelfth. In witness whereof We have hereunto subscribed our Names,

G. Washington-President. and deputy from Virginia

New Hampshire: John Langdon, Nicholas Gilman

Massachusetts: Nathaniel Gorham, Rufus King

Connecticut: Wm: Saml. Johnson, Roger Sherman

New York: Alexander Hamilton

New Jersey: Wil: Livingston, David Brearly, Wm. Paterson, Jona: Dayton

Pennsylvania: B. Franklin, Thomas Mifflin, Robt. Morris, Geo. Clymer, Thos. FitzSimons, Jared Ingersoll, James Wilson, Gouv Morris

Delaware: Geo: Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco: Broom

Maryland: James McHenry, Dan of St Thos. Jenifer, Danl Carroll

Virginia: John Blair, James Madison Jr.

North Carolina: Wm. Blount, Richd. Dobbs Spaight, Hu Williamson

South Carolina: J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler

Georgia: William Few, Abr Baldwin

The Bill of Rights

The Conventions of a number of the States having, at the time of adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, and as extending the ground of public confidence in the Government will best insure the beneficent ends of its institution;

Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, that the following articles be proposed to the Legislatures of the several States, as amendments to the Constitution of the United States; all or any of which articles, when ratified by three-fourths of the said Legislatures, to be valid to all intents and purposes as part of the said Constitution, namely:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people

Other Amendments to the Constitution

Amendment XI (1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

Amendment XII (1804)

The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — the person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such

number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XIII (1865)

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV (1868)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV (1870)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XVI (1913)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census of enumeration.

Amendment XVII (1913)

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XVIII (1919)

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

Amendment XIX (1920)

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment XX (1933)

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission.

Amendment XXI (1933)

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any state, territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several states, as provided in the Constitution, within seven years from the date of the submission hereof to the states by the Congress.

Amendment XXII (1951)

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress.

Amendment XXIII (1961)

Section 1. The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a state, but in no event more than the least populous state; they shall be in addition to those appointed by the states, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a state; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXIV (1964)

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any state by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXV (1967)

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within

forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI (1971)

Section 1. The right of citizens of the United States, who are 18 years of age or older, to vote, shall not be denied or abridged by the United States or any state on account of age.

Section 2. The Congress shall have the power to enforce this article by appropriate legislation.

Amendment XXVII (1992)

No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

TEACHER EVALUATION FORM

Please complete and return to ACLU of Minnesota, 450 N. Syndicate St., Suite 230, St. Paul, MN 55104 or fax: 651-647-5948.

In order to ensure that the Resource Guide is as effective as possible, we ask teachers to fill out this evaluation form and return it upon completion of any portion of the projects contained here.

Date: _____

How did you learn about the Resource Guide?

- From a colleague
- From the ACLU of Minnesota newsletter
- From ACLU of Minnesota website
- Other

Identification Information (optional):

Name: _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____

Please identify your school and city.

1. Did you find the Resource Guide to be a useful aide in your classroom?

If so, what was most useful?

If not, why? _____

2. For what subject (class) did you use it? For how many school hours?

3. Do you believe that the Resource Guide will be useful for purposes of preparing students for

the social Studies component of the Minnesota Graduation Standards test?

4. Did you use the entire Resource Guide or just a portion? _____
5. If just a portion, please identify which section (s) and the length of time devoted per section in your classroom:
- a. Student Expressive Conduct _____ b. Hate Speech _____
- b. Hate Speech _____ d. Public Profanity _____
- c. Public Profanity _____ f. Authentic Assessment Activities _____

6. Were the topics interesting to the students? If so, which topics worked best and why?

7. Should we include other topics and if so, what on?

8. Are there any topics that should be removed and if so, why?

9. Were the Teaching Aids at the end of each section adequate for your needs? If not, why not?

10. Are there additional Teaching Aids that would make the Resource Guide most useful for you?

11. Will you recommend that your teacher colleagues use these materials in their classes? If not, why not?

12. Will you use it again? Yes No

13. Please share any other comments below:

STUDENT EVALUATION FORM

Please complete and return to ACLU of Minnesota, 450 N. Syndicate St., Suite 230, St. Paul, MN 55104 or fax: 651-647-5948

In order to ensure that the Resource Guide is as effective as possible, we ask students to fill out this evaluation form and return it upon completion of any portion of the projects contained here.

Date: _____

Identification Information (optional):

Name: _____

Address: _____

Phone: _____ Fax: _____

E-mail: _____

Please identify your school and city.

1. Was this program interesting to you? _____

2. What was the most interesting? _____

3. What was the least interesting? _____

4. Do you want to learn more about how the legal system works? _____

5. Do you want to learn more about the Constitution? _____

6. Please tell us anything else you think we should know about this program:

7. Would you be willing to provide a Statement of Support that we can use to promote the program? If so, please provide the comment below:
