

The Law and Free Speech

STANDARDS AND OBJECTIVES

AP US HISTORY STANDARDS

NAT - 1.O

NAT - 2.O

POL - 1.O

POL - 2.O

POL - 3.O

Key Concepts - 3.1.II, 3.2.I, 3.2.II, 3.2.III, 4.1.I.B, 4.1.II.D, 4.1.III.B, 4.1.III.C, 5.2.I.B, 5.2.II, 5.3.1, 5.3.II.A, 5.3.II.B, 5.3.II.E, 7.1.II.D, 7.2.1.C, 8.2.I.A, 8.2.II, 8.2.III.B, 8.2.III.F

AP US GOVERNMENT AND POLITICS STANDARDS

Constitutionalism (CON)

Liberty and Order (LOR)

Civic Participation in a Representative Democracy (PRD)

Competing Policy-Making Interests (PMI)

LOR-2.C: Explain the extent to which the Supreme Court's interpretation of the First and Second Amendments reflects a commitment to individual liberty.

LOR-2.C.2: The Supreme Court has held that symbolic speech is protected by the First Amendment, demonstrated by *Tinker v. Des Moines Independent Community School District* (1969), in which the court ruled that public school students could wear black armbands in school to protest the Vietnam War.

LOR-2.C.3: Efforts to balance social order and individual freedom are reflected in interpretations of the First Amendment that limit speech, including:

- Time, place, and manner regulations w/ Defamatory, offensive, and obscene statements and gestures
- That which creates a "clear and present danger" based on the ruling in *Schenck v. United States* (1919)

LOR-2.C.4: In *New York Times Co. v. United States* (1971), the Supreme Court bolstered the freedom of the press, establishing a "heavy presumption against prior restraint" even in cases involving national security.

CON-5.B: Explain how the exercise of judicial review in conjunction with life tenure can lead to debate about the legitimacy of the Supreme Court's power.

CON-5.B.1: Precedents and *stare decisis* play an important role in judicial decision making.

CON-5.B.2: Ideological changes in the composition of the Supreme Court due to presidential

appointments have led to the Court's establishing new or rejecting existing precedents.

LOR-2.B: Describe the rights protected in the Bill of Rights.

LOR-2.B.1: The Bill of Rights consists of the first ten Amendments to the Constitution, which enumerate the liberties and rights of individuals.

LOR-2.C: Explain the extent to which the Supreme Court's interpretation of the First and Second Amendments reflects a commitment to individual liberty.

CON-6: The Supreme Court's interpretation of the U.S. Constitution is influenced by the composition of the Court and citizen-state interactions. At times, it has restricted minority rights and, at others, protected them.

CON-6.A: Explain how the Supreme Court has at times allowed the restriction of the civil rights of minority groups and at other times has protected those rights.

PMI-3: Public policy promoting civil rights is influenced by citizen-state interactions and constitutional interpretation over time.

PMI-3.A: Explain how the government has responded to social movements.

PMI-3.A.1: The government can respond to social movements through court rulings and/or policies, as in:

- Brown v. Board of Education (1954), which declared that race-based school segregation violates the Fourteenth Amendment's equal protection clause
- The Civil Rights Act of 1964
- Title IX of the Education Amendments Act of 1972
- The Voting Rights Act of 1965

NATIONAL COUNCIL FOR THE SOCIAL STUDIES (NCSS) STANDARDS

1, 2, 5, 6, 10

COMMON CORE STANDARDS - ENGLISH LANGUAGE ARTS & HISTORY/SOCIAL STUDIES

CCSS.ELA-LITERACY.RH.9-10.1

CCSS.ELA-LITERACY.RH.9.10.4

CCSS.ELA-LITERACY.RH.9-10.10

CCSS.ELA-LITERACY.RH.11-12.1

CCSS.ELA-LITERACY.RH.11-12.4

CCSS.ELA-LITERACY.RH.11-12.5

CCSS.ELA-LITERACY.RH.11-12.6

CCSS.ELA-LITERACY.RH.11-12.8

CCSS.ELA-LITERACY.RH.11-12.9

CCSS.ELA-LITERACY.RH.11-12.10

STATE STANDARDS (NJ AND PA)

PA 8.1.9 A, B, C, D
PA 8.1.12 A, B, C, D
PA 8.3.9 A, B, C, D

NJ 6.1.12.A.1.a
NJ 6.1.12.A.2.a
NJ 6.1.12.A.2.e
NJ 6.1.12.A.13.b
NJ 6.1.12.A.14.b

AMERICAN SCHOOL COUNSELOR ASSOCIATION (ASCA) NATIONAL STANDARDS FOR STUDENTS

Personal/Social Development

PS:A1 Acquire Self-knowledge

PS:A1.6 Distinguish between appropriate and inappropriate behavior

PS:A1.7 Recognize personal boundaries, rights and privacy needs

PS:A1.8 Understand the need for self-control and how to practice it

PS:C1 Acquire Personal Safety Skills

PS:C1.2 Learn about the relationship between rules, laws, safety and the protection of rights of the individual

LEARNING OBJECTIVES:

At the end of this learning module:

Students will be able to identify Oliver Wendell Holmes, Jr. and Louis Brandeis.

Students will be able to explain the basic facts and significance of 3 Supreme Court cases related to Freedom of Speech.

Students will be able to identify famous quotations by Supreme Court Justices.

Students will be able to explain the legal origins of modern free speech rights.

Students will be able to identify historical events influencing Supreme Court rulings on Free Speech in the first half of the 20th century.

Students will be able to relate landmark Supreme Court rulings to modern free speech issues.

Students will be able to identify the Espionage Act of 1917.

Students will be able to differentiate between *Adams v. United States*, *Whitney v. California*, and *Schenck v. United States*.

Students will be able to describe the significance of the rulings in *Adams v. United States*, *Whitney v. California*, and *Schenck v. United States*.

Students will be able to define dissent, concur/concurrence/concurring, fallacies, ratified, espionage, incite, sedition, scurrilous, stringent, substantive, syndicate, syndicalism.

Students will be able to describe the different First Amendment protections for students in different

situations (high school v college, public v. private, Time, Manner, Place restrictions).
Students will be able to list and explain the 5 exceptions to free speech.
Students will be able to distinguish examples of protected speech from unprotected speech.
Students will be able to define incite, incitement, imminent, intimidation, prurient, presumptively, defamation, libel, slander, pervasive, offensive, contempt, fallacies, avert, dissent, persuasion, libel, slander, parody, satire, and coercion.
Students will be able to name 2 Supreme Court justices who have defended free speech rights.
Students will be able to explain the limits on freedom of speech.
Students will be able to explain ways in which they can exercise their first amendment rights appropriately.
Students will be able to identify which free speech expressions are permitted or not permitted in a high school setting.
Students will be able to explain why free speech rights are different in high school than in college.
Students will be able to distinguish between public and private institutions, and explain why private institutions may have different rules.
Students will be able to define reasonable limits to free speech.
Students will be able to explain why free and open exchange of ideas is valuable on a college campus.
Students will be able to list the 5 exceptions to free speech, as defined by the courts.
Students will be able to distinguish protected speech from unprotected speech.
Students will be able to identify an example of a current First Amendment conflict or violation.
Students will explain how fundamental rights guaranteed by the United States Constitution and the Bill of Rights (freedom of religion, the right to vote, and the right to due process) contribute to the continuation and improvement of American democracy. *
Students will be able to explain how to exercise citizenship rights and responsibilities. *
Students will be able to respond effectively to hearing views they dislike.
Students will be able to explain what steps to take if they feel their rights are being violated.
Students will be able to evaluate the impact of the Constitution and Bill of Rights on current day issues.
Students will be able to analyze a speech code and assess whether it meets the requirements of the First Amendment.
Students will be able to Explain how interpretations of the Constitution and debates over rights, liberties, and definitions of citizenship have affected American values, politics, and society.*