



## Lesson Plan: Is your Speech Free?

### Context of the lesson within the unit:

This lesson will occur in the unit after the students have gained a complete background on Sections I and II of the United States Constitution. This lesson will focus on the 1st Amendment and even more specifically the section of the 1st Amendment that deals with Free Speech. This lesson will be the second lesson about the Bill of Rights following a lesson on the overview and history of the Bill of Rights. The most important right that any individual has is the right of speech and expression. However, most students do not understand their basic right to free speech, and they further do not realize that all speech is not a protected right. It is important for Students to understand the difference between protected and unprotected speech as they begin their journey as productive citizens in our society.

- **Note: That the basic elements of theater have been taught during prior units.**

### Standards Addressed:

#### CA State Content Standards for Social Studies

**12.2** Students evaluate and take and defend positions on the scope and limits of rights and obligations as democratic citizens, the relationships among them, and how they are secured.

**12.2.1** Discuss the meaning and importance of each of the rights guaranteed under the Bill of Rights and how each is secured (e.g., freedom of religion, speech, press, assembly, petition, privacy).

**12.5** Students summarize landmark U.S. Supreme Court interpretations of the Constitution and its amendments.

**12.5.1** Understand the changing interpretations of the Bill of Rights over time, including interpretations of the basic freedoms (religion, speech, press, petition, and assembly) articulated in the First Amendment and the due process and equal-protection-of-the-law clauses of the Fourteenth Amendment.



## CA State Content Standards for Visual and Performing Arts

**2.0 CREATIVE EXPRESSION** Creating, Performing, and Participating in Theatre. Students apply processes and skills in acting, directing, designing, and scriptwriting to create formal and informal theatre, film/videos, and electronic media productions and to perform in them.

**2.1** Make acting choices, using script analysis, character research, reflection, through the rehearsal process.

**2.2** Write dialogues and scenes, applying basic dramatic structure: exposition, complication, conflict, crises, climax, and resolution.

## Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects

### College and Career Readiness Anchor Standards for Reading Grades 6-12

#### Key Ideas and Details

1. Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.
2. Determine central ideas or themes of a text and analyze their development; summarize the key supporting details and ideas.
3. Analyze how and why individuals, events, and ideas develop and interact over the course of a text.

#### Craft and Structure

4. Interpret words and phrases as they are used in a text, including determining technical, connotative, and figurative meanings, and analyze how specific word choices shape meaning or tone.
5. Analyze the structure of texts, including how specific sentences, paragraphs, and larger portions of the text (e.g., a section, chapter, scene, or stanza) relate to each other and the whole.
6. Assess how point of view or purpose shapes the content and style of a text.

#### Integration of Knowledge and Ideas

8. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.



## Objective(s)

Students will understand what rights are given by the first amendment.

Students will know the different types of speech in which they can engage.

Students will demonstrate their understanding of protected or unprotected speech by performing short small group vignettes

Students will explore landmark Supreme Court cases that have dealt with the limitation of free speech.

Students will be able to demonstrate their total understanding of protected and unprotected speech by participating in a mock courtroom drama in which they will argue the merits of a specific free speech case.



## Lesson Plan: Is your Speech Free?

### Essential Questions/Issues:

What is the significance of protected speech under the 1st Amendment of the Bill of Rights, and how can we as citizens ensure freedom of speech is protected?

Is the US Constitution a living document that is always changing?

### Higher Order Thinking Questions

1. Are there different types of speech that can be interpreted and what is the consequence of a population not knowing? (Analysis)
2. Evaluate the general tests or questions that Supreme Court has come up with to limit the freedom of speech? (Evaluation)
3. What are some of the cases on which the Supreme Court has ruled which have limited or protected different types of speech? Explain the reasoning behind the decision.(Application)
4. What is your personal feeling about free speech? Do you feel that the Supreme Court has made a correct decision in the cases presented or other cases you know? (Analysis)



## Lesson Plan: Is your Speech Free?

### Assessment:

Students will be evaluated through informal checks for understanding, teacher observation, self-reflections, and performing an authentic task (GRASPS) evaluated by a rubric. (See rubric and GRASPS)

	<b>GRASPS: The purpose of this is to make the assessment (and therefore the lesson very realistic.</b>
<b>GOAL</b>	Your goal is to successfully argue to an impartial panel of judges the merits of the Supreme Court case that has been assigned to you.
<b>Role</b>	<p>You will be either assigned to a pro or con free speech legal team. Within your group you will organize the team into the following roles.</p> <p>1 lead attorney 1 associate attorney 1 legal secretary</p> <p>Remaining group members will be assigned paralegals</p>
<b>Audience</b>	Your audience will be a 2-3 impartial panel of judges who will make the final decision of who made the best argument for their side of the case.
<b>Situation</b>	<p>Due to recent events around the country dealing with groups protesting a variety of topics the idea of what is protected speech has been pushed to the forefront as a hot button social issue. The Supreme Court wants to review past cases dealing with this issue and your "law office" has been given a landmark case dealing with free speech for you to review and argue again in front of the Supreme Court. The review of this past case may hold precedent on how the supreme court will rule on future cases. Your legal team will prepare the arguments for whether or not the speech in this case should be protected under the 1st Amendment of the United States Constitution. Your legal team should use its knowledge of what makes speech protected or not based on what it learned in the prior vignettes.</p>
<b>Performance</b>	Your performance will take place in a courtroom in front of an impartial panel of judges. You will take on the role you have been assigned in your group.
<b>Standards for Success</b>	<p>Legal Teams- Your courtroom performance will convince the panel of judges that your argument has the strongest foundation. You will have to adhere to all assigned court room regulations which included proper use of time during opening statements, briefs and oral arguments as well as filing all the proper paper work at the conclusion of the case.</p> <p>Judges- You will need to listen to arguments given by both sides of the case. You then must ask thought provoking questions to both sides in order to bring clarity to yourself and the other panel members. It will be your questions that will guide you to your ultimate decision on the case. You then must file all your paperwork with the clerk of the court for review.</p>



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**Quality Criteria: You will be assessed on your 1st Vignette Presentation by the following criteria.**

	<b>Advanced</b>	<b>Proficient</b>	<b>Basic</b>	<b>Below Basic</b>
<b>Performance</b>	The vignette included all required elements of theater assigned. (Character, Dialogue) The vignette also clearly demonstrated the assigned topic.	The vignette included all required elements of theater assigned. (Character, Dialogue). The Vignette lacked some clarity of the assigned topic.	The vignette did not include all of the elements of theater or the elements of theater were poorly demonstrated and lacked authenticity. The assigned topic was not clearly addressed.	The vignette failed to demonstrate any of the elements of theater and did not address the assigned topic in any way.



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**You will be assessed on your Final Courtroom Presentation by the following criteria.**

	Advanced 4	Proficient 3	Basic 2	Far Below Basic 1
Elements of Theater	The performance included all required elements of theater assigned. (Character, Dialogue)	The performance included all required elements of theater assigned. (Character, Dialogue). But did not sustain throughout the performance.	The performance missed more than one of the required elements of theater.	The performance fail to demonstrate any of the elements of theater.
Notes and Writing	The group had detailed written notes and completely filled out the argument worksheet. This worksheet was composed by the legal secretary based on group collaboration led by the paralegals.	The group had detailed written notes and had at least three arguments filled out on the argument worksheet. This worksheet was composed by the legal secretary based on group collaboration led by the paralegals.	The group had some written notes and had at least two arguments filled out on the argument worksheet. This worksheet was composed by the legal secretary based on group collaboration led by the paralegals.	The group had little to no written notes and had less than two arguments filled out on the argument worksheet. This worksheet was composed by a member of the group.
Presentation skills	The lead and associate lawyers talked clearly and were organized in their arguments. They included the elements of theater in their presentation.	The lead and associate lawyers talked clearly and were somewhat organized in their arguments. They included the elements of theater in their presentation.	The lead and associate lawyers did not work collaboratively together and were not organized in their arguments. All elements of theater were not met.	No clear arguments were given and lawyers were unorganized in their approach to the case. All elements of theater were not met.



**Lesson Plan: Is your Speech Free?**

**Lesson Activity Steps: Lesson Activity Steps: DAY 1**

Purpose	Teacher	Students
<p><b>20 minutes</b></p> <p><b>Hook</b></p>	<p>Teacher will pass out the school speech of from the Bethel School District vs. Frasier.</p> <p>Teacher will read excerpts from the speech. The teacher will then have the students think about and then briefly discuss the following questions.</p> <p>1) Do you think this speech would or should be allowed in our school? Teacher will have the students input their answers into the website <a href="http://www.pollanywhere.com">www.pollanywhere.com</a>.</p> <p>2) If not, what elements of the speech may not be allowed.</p>	<p>Students will sit in their groups and listen to the excerpts from the speech read by the teacher.</p> <p>Students will answer the questions posed by the teacher. Students will input their answers into the website <a href="http://pollanywhere.com">pollanywhere.com</a></p>
<p><b>35 minutes</b></p> <p><b>Through</b></p>	<p>Teacher will ask the students if they know the rights protected under the 1<sup>st</sup> Amendment. Teacher will write down on the board the 5 parts of the 1st Amendment. Freedom of Speech, Religion, Press, Assembly, Petition.</p> <p>Teacher will review the basic elements of theater that the students have already learned earlier in the year. (Character, Dialogue, Plot and Theme.)</p> <p>Teacher will divide the class into six equal groups and then pass out one of six general guidelines of whether speech is protected or not. Teacher will also pass out the elements of theater reminder cards.</p> <p>Teacher will give each group five to ten minutes to prepare their vignette which will should clearly illustrate the protected speech guidelines assigned to them. The vignette should be between one and two minutes in length.</p>	<p>Students will answer the question of “what rights do citizens have under the First Amendment.”</p> <p>Students will create their one to two minute vignettes that will clearly demonstrate the speech guidelines assigned to their group.</p> <p>Students will include in their vignette the basic elements of theater that they learned earlier in the year.</p>



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<p><b>25 minutes</b></p> <p><b>Beyond</b></p>	<p>Teacher will display 2 to 3 Supreme Court cases dealing with the issues of protected speech. The class using polleverywhere.com will predict what the supreme court decision was.</p> <p>The teacher will use <b>Case Study 2</b> <b>Burning a selective service registration certificate.</b></p> <p>The teacher will have the students text their answers into the website. Once a majority opinion has been reached teacher will ask students to answer why they voted the way they did. The teacher will make sure the students use one of the guidelines when answering their opinion.</p> <p>The teacher will reveal the actual Supreme Court ruling and discuss the decisions made by the Supreme Court.</p> <p>Teacher will do the same with <b>Case Study 3</b> <b>Gathering petitions in a shopping mall.</b></p>	<p>Students will read and listen to each case study and try and predict whether the speech in the individual case was protected or not.</p> <p>The students will reflect on the general guidelines that were presented earlier in the classroom the six group vignettes.</p>
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## Lesson Activity Steps: DAY 2

<p><b>Intro</b></p> <p><b>10 Minutes</b></p>	<p>Teacher will review the previous class information on guidelines for protected speech. Teacher will have the students <b>Case Study 6 Third-party candidate inclusion in televised debates</b>. The teacher will simply ask the students by a raise of hands what they think the result of this case was. (This step is basically a review and will get the students in the correct frame of mind for today's activity)</p>	<p>Students will listen and simply answer any of the questions by raising hands.</p>
<p><b>Through</b></p> <p><b>55 minutes</b></p>	<p>Teacher will divide the class into two "legal teams" preparing to argue a case in front of the Supreme Court. Each side will be given time limits to their arguments and rebuttals. Two-Three students will serve as judges and will decide which legal team made a stronger case. This decision will be made based off the arguments and not any preconceived biased.</p> <p>Once the class is divided into the three groups the teacher will hand out the Lawyer Argument Worksheet which includes spaces for students to write who will do what role. Each team will need to select a one lead attorney, one associate attorney, one legal secretary and the rest paralegals. The two attorneys will present the arguments to the judges and come up with their 30 to 60 second opening statement. The legal secretary will write all the information on the Lawyer Argument Worksheet and the paralegals will each come up with at least one argument to give to their respective attorney's. Once the roles have been assigned the teams will have 20-30 minutes to prepare their arguments and record them on their worksheet.</p> <p>During the work time the Judges will be handed the Judges Worksheet in which they will take a look at the case and they will record on the sheet 3 initial questions they have about the case. They must have at least one question for both the pro and con side. Their 3rd question can be for either team. The judges are not to discuss their initial thoughts and opinions of the case.</p>	<p>Students will divide into teams and assign themselves roles.</p> <p>Students will fill out the worksheets fulfilling each duty of their assigned roles, as described by the teacher.</p>



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	<p>After the work time the teacher will call the court into order. Each side starting with the pro side will state their opening statement. This will be done by the lead attorney. Once both opening statements have been read the pro side will get to present their first argument. Then the con side will present their first argument. And back and forth until all arguments have been made. Judges can at anytime ask questions of the legal teams (anyone from the team may answer) . However, during the presentation of arguments there will be no discourse between the legal teams. During oral arguments paralegals from each team will record the other teams arguments and write down questions for their attorneys to ask.</p> <p>Once oral arguments have been completed there will be a 2-3 minute recess for each team to discuss any questions that they want to ask the other team. After this recess the back and forth arguments in which both legal teams can discourse between each other will begin. Again judges and interrupt at any moment with any questions they may have.</p> <p>As the activity is happening the judges are responsible for jotting down any arguments that they thought were compelling for each team and arguments that they thought were weak. They will record this on their Judges Worksheet.</p> <p>After time has been called by the teacher it will be time for the rendering of a decision. The teacher will go to each judge and ask which side they thought did a better job presenting their case and the argument they thought held the most weight on their opinion.</p> <p>Once the activity is over the teacher will collect all the worksheets and then reveal the actual supreme court decision on the case and discuss with the class.</p>	<p>Students will participate in the court room drama remembering the aspects of theater.</p> <p>The lawyers will present arguments and the paralegals will record any questions based from the other teams arguments.</p> <p>Students will engage in arguments based on guidelines set by the teacher.</p>
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<b>15 minutes</b>  <b>Beyond</b>	Students will write a reflective piece based on essential question 4  What is your personal feeling about free speech? Do you feel that the Supreme Court has made a correct decision in the cases presented or other cases you know?	Students will write a reflective piece based on two questions.
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## Special Needs of students are considered in this lesson:

Students with special needs are considered in this lesson in many ways. First the polling feature of this lesson is completely anonymous thus giving them a comfort level even if they do not know the correct answer.

This lesson gives the flexibility to the teacher to pair students with special needs to another student who can aid and guide in the learning process.

This lesson allows ELD students the opportunity to learn by acting and kinesthetically being involved in the lesson.

## Extension Ideas:

Have the students create an infomercial explaining the limits of speech.

Have the students research current school free speech issues or things that may have happened at their school.



## Lesson Plan: Is your Speech Free?

### Materials and Resources Needed:

Screen, projector, internet access, PowerPoint, activity handouts, a few student cell phones.

### References:

California Department of Education Content Standards for Social Studies

[www.pollanywhere.com](http://www.pollanywhere.com)



## Lesson Plan: Is your Speech Free?

### Student Handouts:

#### *Case Study 1*

#### **Permits and demonstrations**

A group of National Socialist Party of America members decided to hold a demonstration in a city with a large number of Jewish residents, many of whom survived the Holocaust. The party members wanted to display the swastika, a symbol of Nazi beliefs that for many people represents the Holocaust itself. The citizens of the city were not only deeply offended by the Nazis' beliefs but feared that violence would result if the National Socialist Party members were allowed to parade through their streets in uniform and distribute materials "inciting and promoting hatred against Jews ... ." The city government passed several ordinances regulating public demonstrations. These ordinances required the organizers of any parade or assembly that involved more than 50 persons to obtain insurance coverage. The ordinances also gave the city council the authority to deny a permit for a demonstration if that demonstration might result in disorder. The council also banned demonstrations by members of groups wearing military-style uniforms, as well as all demonstrations that "incite violence, hatred, abuse, or hostility toward a person or group of persons by reasons or reference to religious, racial, ethnic, national, or religious affiliation." The National Socialist Party of America then sued, declaring the ordinances unconstitutionally interfered with their rights to free speech.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## **Case Study 2**

### ***Burning a selective service registration certificate***

In 1966 four friends burned their draft cards on the steps of the South Boston Courthouse to protest the Vietnam War. After the cards were burned, a crowd that had been watching attacked the four young men. An FBI agent in the crowd took the men into the courthouse, where they were arrested and charged with violating a law that made it illegal to destroy or mutilate a draft card. The protesters said that this law unconstitutionally denied them freedom of speech.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## **Case Study 3**

### ***Gathering petitions in a shopping mall***

Mike Robins and a group of his classmates went to their local shopping mall to seek support for their opposition to a United Nations resolution they believed to be anti-Semitic. They set up a table to distribute pamphlets and to ask shoppers to sign a petition. A security guard at the mall asked them to leave, and they did.

Robins and his friends then sued the shopping mall, claiming that their First Amendment rights had been violated. The shopping mall responded that free expression could be restricted at the mall because (1) it was private property, (2) the shopping center's regulations forbid "publicly expressive" activities, and (3) the actions of the protesters interfered with people shopping and therefore with the merchants' ability to make a living.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## **Case Study 4**

### **Obscene or indecent phone calls**

The federal government passed a law making it illegal to offer commercial, interstate services that involved “obscene” or “indecent” telephone communications. The law was aimed at “dial-a-porn” services. These services provide a taped, sexually explicit message that is activated when customers dial a phone number. Customers are charged for the call. One company sued, claiming that the law was unconstitutional under the First Amendment.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## **Case Study 5**

### **Distribution of anonymous political flyers**

On April 27, 1988, Margaret McIntyre passed out flyers outside a school where a public meeting was being held to discuss an increase in school taxes. McIntyre's flyers urged people not to vote for the tax increase. The flyer was signed "Concerned Parents and Taxpayers" but did not give the name or address of the individual(s) issuing the literature.

A school official complained, and McIntyre was charged with violating an Ohio state law against distributing anonymous literature about election issues. The law required that the name and address of a person or organization be printed on all campaign pamphlets, flyers, brochures, etc. The law was to protect candidates and voters from anonymous libelous or false information that might unfairly influence the results of an election. However, it applied to all anonymous literature, even if was not libelous or obviously false.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## **Case Study 6**

### **Third-party candidate inclusion in televised debates**

An independent candidate with little popular support, Ralph Forbes, was denied permission to participate in a debate sponsored by a state-owned public television station in 1992. The Arkansas Educational Television Commission (AETC) had selected the two major party candidates to debate. Forbes sued for his inclusion.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?



## Case Study 7

### Student speech at school assemblies

At a voluntary school assembly, a public high school student delivered a speech nominating a candidate for student government office. The school-sponsored activity was attended during the school day by approximately 600 students, many of whom were 14-year-olds. The student used a graphic, sexual metaphor throughout the speech. The speech began, “I know a man who is firm — he’s firm in his pants, he’s firm in his shirt, his character is firm — but most ... of all, his belief in you, the students of Bethel, is firm.”

Prior to the assembly, two teachers had advised the student, Matthew Fraser, not to give the speech because it was inappropriate. The next day the assistant principal notified him that his speech was in violation of the school’s “disruptive-conduct rule.” He was given an opportunity to explain his conduct. After admitting he knew he was using explicit sexual innuendo, Fraser was suspended and his name was removed from the list of potential graduation speakers.

Is this speech protected?

If not, what harm might occur as a result of the speech?

What value or right is conflicting with free speech in this case?

### Answers, case studies: when may speech be limited?



## CALIFORNIA ON MY HONOR

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**Case 1** — This case, which involved the National Socialist Party of America and the Village of Skokie (a suburb of Chicago), generated rulings in both Illinois state and federal courts. The Illinois Supreme Court, by a 6-to-1 margin, held that displaying swastikas was a form of symbolic speech protected by the First Amendment. The court further held that the “fighting words” doctrine developed by the Supreme Court did not permit “prior restraint” of the Nazis’ speech because advance notice of the march gave citizens the option of avoiding face-to-face insults. Such prior restraint to prevent violence, which the court admitted was a possibility, amounted to a “heckler’s veto.”

A month later, a federal district judge ruled that Skokie’s ordinances were unconstitutional, holding that not only did the ordinances censor certain kinds of speech, they provided for censorship on the basis of what might be said, rather than what was actually said. The judge said, “The ability of American society to tolerate the advocacy even of the hateful doctrines espoused by the plaintiffs without abandoning its commitment to freedom of speech and assembly is perhaps the best protection we have against the establishment of any Nazi-type regime in this country.” This decision was upheld by the court of appeals. When the Supreme Court refused to hear [National Socialist Party of America v. Skokie, 432 U.S. 43 \(1977\)](#). The decision of the court of appeals held.

**Case 2** — In the case of the [United States v. O’Brien](#), the Supreme Court ruled 8 to 1 against the protesters. The Court held that Congress had the authority to raise armies and could therefore require that Selective Service registration certificates (draft cards) be handled in particular ways. The military purposes of the draft law outweighed David O’Brien’s right to expression through symbolic speech (i.e., burning of his draft card). He had alternative ways to express himself that did not involve violating a valid law that prohibited destroying the card.

**Case 3** — In this case, [Pruneyard Shopping Center v. Robins](#) (1980), the court ruled that Robins’ manner of speech was orderly and the activity was conducted in the common public area of the mall. Since the California Constitution protected “speech and petitioning, reasonably exercised, in shopping centers even when the shopping centers are privately owned,” the time, place, and manner test was not violated and the speech was protected.

This case affirms the legal principle that state and local governments may give their citizens more free-speech rights than are accorded them by the First Amendment and the federal constitution.



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**Case 4** — In this 1989 case, [\*Sable Communications of California v. FCC and Thornburgh\*](#), the Supreme Court said that the government could ban “obscene” communications but not “indecent” communications. While the Supreme Court agreed that preventing children from hearing indecent messages was a valid goal, it did not think this goal justified making indecent communications illegal. While stopping “indecent” speech would protect children, it would also unconstitutionally deny adults access to protected “indecent” speech. The Supreme Court and other courts have cited *Sable* to rule unconstitutional federal laws setting limits on Internet expression.

**Case 5** — The Court ruled in [\*McIntyre v. Ohio Elections Commission\*](#) (1995) that Ohio’s ban on anonymous elections literature was too broad to achieve the purpose that it was intended to achieve — protecting voters and candidates from false, misleading or libelous statements. While such a state interest might be compelling, the remedy used by the state was too broad. The court stated, “Anonymous pamphleteering is ... an honorable tradition of advocacy and of dissent” and held that McIntyre’s speech was protected.

**Case 6** — Forbes lost in district court but won on appeal. AETC appealed to the Supreme Court, where the case was argued on October 8, 1997. In a 6-to-3 decision, the court found in favor of AETC since AETC had created a “nonpublic forum” when it selected participants by “objective indications of their popular support” rather than their points of view. [\*Arkansas Ed. Television Comm. v. Forbes\*](#) determined that public broadcasters can exclude participants from sponsored debates as long as the debates are not public forums. News coverage of the case can be found on [washingtonpost.com](http://washingtonpost.com).

**Case 7** — The U.S. Supreme Court ruled in [\*Bethel School District No. 403 v. Fraser\*](#) that school systems may prohibit the use of vulgar and offensive language at school-sponsored activities or forums. The informal suggestion by teachers not to give the speech was sufficient warning to Fraser. The decision held: “It is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse. Nothing in the Constitution prohibits the states from insisting that certain modes of expression are inappropriate and subject to sanctions. The inculcation of these values is truly the work of the school, and the determination of what manner of speech is inappropriate properly rests with the school board.”

Note that this decision applies only to school-sponsored expression. The *Bethel* ruling and standard do not apply to individual expression, such as wearing an inscribed pin or a shirt with a message that does not disrupt the school or educational process. The court made it clear in *Bethel* that it was not overturning *Tinker*, with the “disruption” standard that applies to individual expression. And that test survived *Hazelwood*, as well.



## Lawyer Argument Worksheet

**Name of your law firm:** \_\_\_\_\_

**Members of your law firm:**

**Lead Attorney** \_\_\_\_\_

**Associate Attorney** \_\_\_\_\_

**Legal Secretary** \_\_\_\_\_

**Paralegal #1** \_\_\_\_\_

**Paralegal #2** \_\_\_\_\_

**Paralegal #3** \_\_\_\_\_

**Stance On the Issue** \_\_\_\_\_

**Opening Statement (30-60 seconds) Notes here:**

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**Paralegal #1 Argument:**

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**Paralegal #2 Argument:**

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# CALIFORNIA ON MY HONOR

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## Judges Worksheet

### Initial Questions

#### Pro Side:

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#### Con Side:

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#### Third Question (either side):

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### Pro-side Notes

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### Con-side Notes

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## Guidelines for Protected Speech Templates

### Group One

- **Clear And Present Danger**
- Will this act of speech create a dangerous situation?
- The First Amendment does not protect statements that are uttered to provoke violence or incite illegal action.

### Group Two

- **Fighting Words**
- Was something said face-to-face that would incite immediate violence?
- Supreme Court stated that the “English language has a number of words and expressions which by general consent [are] ‘fighting words’ when said without a disarming smile. ... Such words, as ordinary men know, are likely to cause a fight.”

### Group Three

- **Libel and Slander**  
Was the statement false, or put in a context that makes true statements misleading?
- You do not have a constitutional right to tell lies that damage or defame the reputation of a person or organization.



## Group Four

- **Obscenity**
- Obscene materials do not enjoy First Amendment protection.
- In the three-part Miller test, three questions must receive affirmative responses for material to be considered “obscene”:
  - Would the average person, applying the contemporary community standards, viewing the work as a whole, find the work appeals to the prurient interest?
  - Does the work depict or describe sexual conduct in a patently offensive way?
  - Does the work taken as a whole lack serious literary, artistic, political, or scientific value?

## Group Five

- **Conflict with Other Legitimate Social or Governmental Interests**
- Does the speech conflict with other compelling interests? For example, in times of war, there may be reasons to restrict First Amendment rights because of conflicts with national security.

## Group Six

- **Time, Place, Manner**
- A question to ask: Did the expression occur at a time or place, or did the speaker use a method of communicating, that interferes with a legitimate government interest?



## Lesson Plan: Duties of Citizenship

### Outline of Unit Plan:

United States Constitution