

# PRE- AND/OR POST-TEST ON THE FIRST AMENDMENT

**PART I:** Name the five freedoms of the First Amendment. (If using a Scantron sheet, write the answers in the short answer/essay portion.)

- (a)
- (b)
- (c)
- (d)
- (e)

**PART II:** Read the scenarios described below and indicate if you believe the action taken is (a) constitutional or (b) unconstitutional under the First Amendment. Unless otherwise noted, the scenarios refer to public schools.

1. The principal prohibits a student from passing out anti-war brochures on school grounds because they were not produced in school by an official organization. The principal's action is

- (a) constitutional
- (b) unconstitutional

2. In fulfillment of an assignment to write a book report on any book, a student chooses to present a book report on the Holy Bible before her classmates. The student's action is

- (a) constitutional
- (b) unconstitutional

3. The football coach leads his team in prayer before the big game. The coach's action is

- (a) constitutional
- (b) unconstitutional

4. A girl is reading the Holy Bible in study hall, and the teacher takes it away from the girl. The teacher says that the Holy Bible cannot be read in school due to separation of church and state. The teacher's action is

- (a) constitutional
- (b) unconstitutional

5. The principal censors the official student newspaper simply because he disagrees with the position taken in an editorial. The principal's action is

- (a) constitutional
- (b) unconstitutional

6. The principal confiscates all copies of an "underground" newspaper that is produced off school grounds and passed out to students during lunch hour, because he believes an unofficial student newspaper does not have First Amendment protection in school. The principal's action is

- (a) constitutional
- (b) unconstitutional

7. The principal says that an "underground" newspaper may be distributed on school grounds but ONLY in the cafeteria during lunch hours. The principal's action is

- (a) constitutional
- (b) unconstitutional

8. The editor of the student newspaper writes a column in which he calls the principal a “jerk” for demanding the newspaper be submitted for the principal’s prior review before publication. The editor’s action is
- (a) constitutional
  - (b) unconstitutional
9. The student newspaper publishes an editorial calling for students to walk out of their 2nd period class on Tuesday to demonstrate their support of an upcoming school referendum. The newspaper’s action is
- (a) constitutional
  - (b) unconstitutional
10. Five students come to school wearing black armbands to protest a new school rule that prohibits students from wearing hats in school. The students’ actions are
- (a) constitutional
  - (b) unconstitutional
11. During his lunch hour, a student circulates a petition calling for better food and quicker service in the cafeteria. The principal punishes the student for circulating a petition that criticizes the school cooks. The principal’s action is
- (a) constitutional
  - (b) unconstitutional
12. The principal bans the distribution of an “underground” newspaper on school grounds because students have been caught reading it during their class time, which is a disruption. The principal’s action is
- (a) constitutional
  - (b) unconstitutional
13. The principal suspends a student who gave a campaign speech at a school because he used “suggestive” language that could be considered vulgar even though the literal meaning of the words was not obscene. The principal’s action is
- (a) constitutional
  - (b) unconstitutional
14. The principal allows “Away in a Manger” to be broadcast over the public address system during passing periods at school during the Christmas season. The principal’s action is
- (a) constitutional
  - (b) unconstitutional
15. The choir director has the choir sing religious Christmas carols during the Winter Concert at school. The choir director’s action is
- (a) constitutional
  - (b) unconstitutional
16. The principal censors a student newspaper (not considered a public forum) because it contained two articles on divorce and teenage pregnancy. The principal said the stories were too sensitive and unsuitable for immature audiences. The principal’s action is
- (a) constitutional
  - (b) unconstitutional

17. A student newspaper selects any “good taste” pictures from the Internet and uses them to illustrate feature stories. The newspaper’s action is

- (a) constitutional
- (b) unconstitutional

18. The student newspaper prints the names of two 18-year-old students who were arrested (but not yet tried) and charged with stealing computers from the library. The newspaper’s action is

- (a) constitutional
- (b) unconstitutional

19. The school sponsors baccalaureate religious services before graduation. It is an entirely voluntary event, held outside school hours, and all denominations are allowed to participate. The school’s action is

- (a) constitutional
- (b) unconstitutional

20. The principal of a private school censors the student newspaper because it contained an editorial that opposed a new dress code policy. The principal’s action is

- (a) constitutional
- (b) unconstitutional

21. A student wears a button in class that says, “Legalize Marijuana.” The student’s action is

- (a) constitutional
- (b) unconstitutional

22. A student wears a button in class that says, “Smoke Marijuana.” The student’s action is

- (a) constitutional
- (b) unconstitutional

23. A student wears a shirt in class showing a marijuana leaf and the words, “Tastes Good!” The student’s action is

- (a) constitutional
- (b) unconstitutional

24. A student in class wears a large cross necklace and a shirt that says, “I Love Jesus.” The student’s action is

- (a) constitutional
- (b) unconstitutional

25. A student in class wears a shirt with a Nazi swastika. The student’s action is

- (a) constitutional
- (b) unconstitutional

**PART III:** Match the area of unprotected speech with the proper example.

- A. -- Obscenity
- B. -- Defamation
- C. -- Expression intended and likely to incite imminent lawless action
- D. -- Fighting words
- E. -- Unwarranted invasion of privacy
  - (AB) Deceptive or misleading advertisements or those for illegal products or services
  - (AC) Clear and immediate threats to national security
  - (AD) Copyright violations
  - (AE) Expression on school grounds that causes a material and substantial disruption of school activities

\_\_\_26. "False light." Information unflatteringly portrays a person as something that he or she is not.

\_\_\_27. Information is maliciously published that contains false information about a person that significantly damages that person's reputation.

\_\_\_28. A student wears a Confederate flag T-shirt that so inflames certain classmates that fights break out.

\_\_\_29. The student newspaper publishes a picture taken from the Internet without first gaining permission from the owner of the picture to reproduce it.

\_\_\_30. A consumer (buyer) is misled by information that significantly misrepresented a product or service.

\_\_\_31. Published information that appeals to a prurient interest in sex by portraying sexual conduct in a patently offensive way.

\_\_\_32. Someone discloses a vital secret in an attempt to help the enemy during time of war.

\_\_\_33. When words (apart from the content of the ideas they conveyed) are likely to shock passersby and incite them to commit unlawful acts.

\_\_\_34. If words are directly linked to lawless action which is about to happen or if the words help cause such lawless action.

\_\_\_35. "Misappropriation." The information was unauthorized use of a person's name, likeness, voice or endorsement to promote the sale of a commercial product or service.

**PART IV:** Match the information with the proper Supreme Court case.

A. -- Tinker v. Des Moines Independent Community School District (1969)

B. -- Hazelwood School District v. Kuhlmeier (1988)

\_\_\_36. The Spectrum student newspaper

\_\_\_37. Vietnam War

\_\_\_38. "Expression must not create a clear and substantial disruption of school activities."

\_\_\_39. Black armbands

\_\_\_40. Divorce and teenage pregnancy

\_\_\_41. Censorship is permitted for legitimate educational reasons not intended to silence a viewpoint that school officials disagree with or that is unpopular.

\_\_\_42. Students and teachers do not shed their constitutional rights to freedom of speech at schoolhouse gate.

\_\_\_43. The more recent Supreme Court decision

\_\_\_44. "Students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved."

\_\_\_45. If a student publication by either school policy or practice has been opened up as a "public forum" or "forum for student expression" where students have been given authority to make the content decisions, the standards of which case applies?

**PART V:** Multiple Choice

46. How many words are in the First Amendment?

45    65    75    85    95

47. How many freedoms are listed in the First Amendment?

3    5    6    8    9

48. How many amendments are in the Bill of Rights?

3    5    9    10    13

49. What year was the Bill of Rights ratified?

1776    1787    1791    1795    1799

50. Which is not one of the 3 Rs of the First Amendment?

ratification    rights    responsibility    respect

# TEST ANSWERS

## PART I:

The five freedoms of the First Amendment are religion, speech, press, assembly, and petition.

## PART II:

1. (b) Students have the right to distribute material of protected speech, but school officials can determine the reasonable time and place of distribution.

2. (a) So long as it was the student who chose to do the book report on the Holy Bible, it is constitutional. But if the student begins “preaching” rather than stick to the teacher’s criteria for the book report, then the speech is no longer protected in a public school.

3. (b) In a public school, the law requires a separation between church and state. The coach is not allowed to promote religion by leading his team in prayer.

4. (b) Just as public school officials are not allowed to promote religion, they are not allowed to deny the religious rights of a student.

5. (b) The First Amendment protects the right to express unpopular views. The principal cannot legally censor an opinion simply because he disagrees with it. At the least, he must have a legitimate, educational reason for suppressing speech.

6. (b) “Underground” newspapers have First Amendment protection at school and may be distributed on school property during school hours at a reasonable time and place determined by school officials.

7. (a) School officials may regulate the reasonable time and place for distributing an “underground” newspaper on campus during school hours.

8. (a) While name-calling may be protected in this case, many reputable journalists would consider it a breach of ethics. Many who support the rights of student journalists urge students to practice the “3 R’s” of the First Amendment: Rights, Responsibilities, and RESPECT. Students should carefully consider the purpose of their words and which strategies of expression will most effectively to the attainment of their goals.

9. (b) Speech that calls for students to do something illegal or to do something that would create a substantial disruption in school is not protected by the First Amendment.

10. (a) Except for the subject of protest, this case is very similar to *Tinker v. Des Moines*, in which the U.S. Supreme Court ruled that within certain parameters student expression in school is protected by the First Amendment.

11. (b) Within the parameters of *Tinker* and/or *Hazelwood*, students are permitted to circulate petitions during school hours. Once again, to help prevent such an activity from creating a clear and substantial disruption, school officials may regulate the reasonable time and place for circulating a petition. Courts in different jurisdictions have not agreed over the issue of whether or not school officials may require prior review of a petition. Until the U.S. Supreme Court agrees to hear such a case, lower courts and local school policies will dictate the practice within their own jurisdictions.

12. (b) The obligation in this case is to discipline the student who is off task. Had the student been reading *Newsweek* magazine during class time, would that publication be banned at the school?

13. (a) This is the scenario of the 1986 case of *Bethel v. Fraser* in which the U.S. Supreme Court ruled that while a campaign speech delivered during an assembly for a student council election may have been protected beyond school walls, it could be censored in a school setting. The Court ruled: “It does not follow ... that simply because the use of an offensive form of expression may not be prohibited to adults making what the speaker considers a political point, the same latitude must be permitted to children in public school. In explaining its decision, the Court reasoned that one mission of school is to promote “‘habits and manners of civility’ that are essential to a democratic society.”

14. (b) While secular Christmas songs, such as “Here Comes Santa Claus,” are protected, a song with a religious theme used in the manner described would likely be ruled as a violation of the separation of church and state doctrine.

15. (a) Intention is the key. The choir can perform a religious Christmas carol as long as the song is approached as a musical exercise without the intention of promoting religious beliefs. In the same sense, a public school can offer a course on the religions of the world.

16. (a) This is the scenario of the U.S. Supreme Court’s Hazelwood decision. If school officials show that they have a valid education purpose for their censorship and that the censorship is not intended to silence a particular viewpoint that they disagree with or that is unpopular, they may suppress student speech. In certain cases, such as a student newspaper being recognized as a public former, the broader protection of the Tinker decision would be applied.

17. (b) Student newspapers are required to honor copyrights just as commercial publications are. Be sure to get permission from the owner of the photographer to reproduce the work if it has copyright protection.

18. (a) It is important for student journalists to understand the law of the press, particularly libel law, because the law applies to the student press, too. To say that two students were arrested and charged with a crime is protected, so long as the facts are accurate. But if the reporter writes that the students were arrested for stealing computers, he would be placing himself and his newspaper in jeopardy of a libel suit. Since the case has not yet gone to court, the reporter should not write the students were arrested “for stealing.” They may be innocent. Write instead that the students were “charged with” stealing. That fact is accurate.

19. (b) A public school can not sponsor religious services.

20. (a) Students in private schools do not have the same First Amendment protections as students in public schools.

21. (a) Censorship of student expression can not be based solely on the popularity of the message. For a student to promote a political position, such as the legalization of marijuana, is protected speech under both Tinker and Hazelwood so long as the requirements of those decisions are met.

22. (b) School officials would be justified in suppressing speech in school that promotes unlawful acts.

23. (b) School officials would be justified in suppressing speech in school that advertises illegal products.

24. (a) Absent any other compelling reasons, students are allowed to wear religious icons in school.

25. (b) Court rulings on the issue of students who wear controversial icons in school have been inconsistent. For example, while some courts have protected the right of students to wear “Confederate Flag” T-shirts, other courts have ruled in favor of school policy that bans them. Courts take into consideration the emotional climate of a school and the potential for substantial disruption in rendering their decisions. A student who wears a T-shirt with a Nazi swastika may be required to remove it if school officials can show it would create a clear and substantial disruption of the learning environment.

**PART III:**

- 26. (e)
- 27. (b)
- 28. (ae)
- 29. (ad)
- 30. (ab)
- 31. (a)
- 32. (ac)
- 33. (d)
- 34. (c)
- 35. (e)

**PART IV:**

- 36. (b)
- 37. (a)
- 38. (a)
- 39. (a)
- 40. (b)
- 41. (b)
- 42. (a)
- 43. (b)
- 44. (a)
- 45. (a)

**PART V:**

- 46. (a)
- 47. (b)
- 48. (d)
- 49. (c)
- 50. (a)