



The First Amendment

Freedom of Expression

What are the Expression Clauses?

- Free Speech
- Free Assembly
- Freedom to Petition for Redress of Grievances

How Does This Apply to Us?

- Absolute Guarantee of Free Speech?
 - Justice Hugo Black
- *Edwards v. South Carolina* (1963)
- Symbolic Speech
 - *Spence v. Washington*
 - *W.V. St. Board of Ed. V. Barnette*
 - *Texas v. Johnson*

How Does This Apply to Us?

- Limits on Free Speech
 - National Security
 - Fighting Words
 - Obscenity
- Freedom of Association
- Freedom of the Press

Who Must Abide by the 1st Amendment?

- Federal Government
- State Government
 - Due to 14th Amendment as applied in *Gitlow v. New York* (1925)



The First Amendment

Freedom of Religion

Religion Clauses

- Establishment Clause
 - “respecting the establishment of religion”
- Free Exercise Clause
 - “nor prohibiting the free exercise, thereof”

General School Rules

- Students have the right to pray or discuss their religious views with peers as long as it is not disruptive.
- The history of religions are permissible school subjects.
- Students may study religion and documents as long as they are not used to promote a religion.

General School Rules

- Schools may discuss religious beliefs of the origin of life in religion or social studies classes.
- Students may express religious beliefs in their school work (must follow assignment criteria)
- Students do not have the right to give sermons but may state religious point of view as long as it relates to class discussion.

General School Rules

- Students have the right to distribute religious materials at school during appropriate times set up by the school.
- Students have the right to persuade their peers on religious issues (just like politics), but too much can be considered harassment.

General School Rules

- Schools must allow religious clubs equal access to facilities.
- Public Schools may teach *objectively* about religious holidays.
- Students may wear religious symbols/messages on clothing.
- Students may read the Bible or other religious literature during free time.

General School Rules

- Character traits such as honesty, sportsmanship, civility and courage may be taught but not as religious tenets.

What Schools May Not Do!

- School personnel are prohibited from persuading religious activity.
- Schools may not teach creation science.
- Schools may not refuse to teach evolution in order to avoid offending someone.

What Schools May Not Do!

- Students may not use a class oral presentation as an opportunity to conduct a religious service.
- Religious leaders may not be given access to students to deliver religious materials.
- Schools may not observe religious holidays as religious events.



Inaccuracies about Church and State

INACCURACY #1

- “Separation of church and state” is not in the Constitution.
- The words are not but Jefferson’s concept very much is.
 - Defining the concept is where the debate lies.
 - According to their own words, many of the founding fathers would be shocked to see attempts to eliminate religion from the public square.
 - They would see this as a violation of the 1st Amendments guarantees.
 - Jefferson’s letter to the Danbury, CT Baptists was designed to alleviate their fear that govt. would interfere in their faith, not that they could not interfere in govt. (democracy)

INACCURACY #2

- The United States was founded as a Christian nation.
- The vast majority of people who have come here were Christian, but the last thing the founders wanted was a nation where any one sect of Christianity controlled government or vice versa. We have evolved over time to include other non-Christian faiths into the equation.

INACCURACY #3

- The 1st Amendment was only intended to prevent the establishment of a national church.
- True, but....
 - This being the sole interpretation is very much up for debate based upon the wording of the amendment because...
 - Congress had the opportunity to state the above and chose not to.

INACCURACY #4

- School sponsored prayer and Bible reading took place in every public school before 1962.
- Several states had already removed these actions in schools before 1962. Just not in the south and mid-west.

INACCURACY #5

- There is NO prayer in schools!!
- False
 - *Engel v. Vitale*
 - *This case did not eliminate prayer from schools. It banned the school from initiating prayer.*
 - *Students may pray as long as they do not interrupt the educational environment.*

INACCURACY #6

- The Supreme Court has ruled that *secular humanism* is the established religion of public schools.
- The case cited to back this statement dealt with public office not schools.