

Constitutional Law: Principles and Practice

Freedom of Expression

Chapter 11

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Freedom of Speech

- What speech is
 - Spoken words and other forms of expression
 - Pure speech and speech-plus
- Why speech is protected
 - Marketplace of ideas
 - Political speech
 - Tolerance
 - Autonomy

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Freedom of Speech (cont.)

- Symbolic speech = action that delivers a message without using spoken language
- The right to speak in public is fundamental.
- People have the right NOT to speak.
- Students do NOT have the same freedom of speech rights as adults.

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The First Amendment Does NOT Protect

- Obscenity
- Fighting words
- Speech intended to incite illegal action

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Defamation

- Injuring the reputation of another person
 - Libel
 - Slander
- Defamation is not protected under the First Amendment, unless:
 - The person defamed is a public figure
 - The defamatory statements relate to matters of public concern

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Hate Speech

- Derogatory language about race, gender, religion, or sexual orientation
- Often involves ethnic and racial slurs
- Some cities and educational institutions have codes of conduct about hate speech.
- The Court is building a body of case law decisions to address issues of hate speech.

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Commercial Speech

- Speech that proposes a commercial transaction
- Has limited First Amendment protections
 - Misleading and untruthful statements are NOT protected.
 - Government can regulate commercial speech where there is a legitimate state goal.

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Political Campaign Finance Laws

- **Controversial issue:**
 - Whether limitations can be placed on contributions to a political candidate
 - Whether the political candidate can be limited in the amount spent campaigning
- **The Court found that the limitation on contributions was constitutional but not the limitation on expenditures.**

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Peaceable Assembly and the Right to Petition

- Citizens have the right to freedom of assembly through the Fourteenth Amendment.
- Citizens may NOT:
 - Riot
 - Block public roads

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Freedom of the Press—The Press Clause of the First Amendment

- Issues between freedom of the press and the right of a defendant to a fair trial
- Conflicts between First and Sixth Amendments
- The Supreme Court has not officially recognized reporter's privilege.
- The press and the public have the same
 - Access to courtrooms and prisoners
 - Rights re: warrants and subpoenas