

2010 Equal Justice Under Law High School Student Survey

The First Amendment and Freedom of Speech

SCHOOL: _____

GENDER: Female _____ Male _____

AGE: _____

The First Amendment to the Constitution of the United States begins with the words, "Congress shall make no law . . . abridging the freedom of speech." The First Amendment affects our daily lives by ensuring that as individuals in a free, democratic society we have the freedom to voice our opinions, criticisms, objections and passions largely free from government interference.

Although the words seem unqualified, freedom of speech is not absolute. Since the adoption of the First Amendment, the U.S. Supreme Court has held that some types of speech or expression may be regulated. At the same time, the Court has granted protection to some areas of expression that the Framers clearly had not contemplated.

Directions: Based on your own opinion, please rank the following scenarios in order of **least protected speech** (1) to what you think you should be **most protected speech** (5). Be ready to explain your thinking.

This survey is anonymous. Please answer as honestly as you can. Your opinion matters.

Part I: Ranking Activity

Scenario 1: In response to demonstrations at abortion clinics, a state law was passed that said protesters within one hundred feet of any healthcare facility could not come closer than eight feet to any other person (without consent) for the purpose of protest, education, distribution of literature or counseling. Demonstrators who offered abortion alternatives to women entering abortion clinics challenged the statute as a violation of free speech.

Scenario 2: A man joined a picket line that was peaceably protesting against his former employer. State law made it an offense to picket. He was arrested and fined \$100. The man, a union president, was the only picketer to be arrested and tried under the law.

Scenario 3: A man stood on the sidewalk in front of the U.S. Supreme Court building and distributed leaflets to passersby concerning the removal of unfit judges from the bench. A Supreme Court police officer approached and told him, accurately, that the United States Code prohibited the distribution of leaflets on the Supreme Court grounds, which includes the sidewalk. A woman entered upon the sidewalk in front of the Court with a large sign on which was written the First Amendment. A Court police officer approached and informed her that she would have to go across the street if she wished to display the sign. The man and the woman filed suit declaring that the statute was unconstitutional.

Scenario 4: A Ku Klux Klan leader in a rural area contacted a television reporter in a nearby city to cover a KKK rally. Portions of the rally were filmed, showing several men in robes and hoods, some carrying firearms, first burning a cross and then making speeches that included the possibility of "revengeance" [sic] against "niggers," "Jews," and those who supported them. One of the speeches also claimed that "our President, our Congress, our Supreme Court, continues to suppress the white, Caucasian race," and announced plans for a march on Washington to take place on the Fourth of July. The leader was charged with advocating violence under the state criminal syndicalism statute for his participation in the rally and for the speech he made.

Scenario 5: An operator of a very large mail-order business dealing in sexually explicit material had conducted a mass mailing campaign to advertise the sale of illustrated books, labeled "adult" material (a common euphemism for pornography). A packet of his brochures was mailed to and opened by the manager of a restaurant and his mother. They had not requested the brochures and complained to the police. The operator was found guilty of violating a state law prohibiting the knowing distribution of obscene material.

Part II: The First Amendment and Political Protests—which is the best policy?

Which option do you support as the best policy response to protests at military funerals?

1. People should not be allowed to protest a funeral within one hour of its commencement and until one hour after the funeral has ended.

2. People should not be allowed to protest a funeral within one hour before the start of a funeral or up to one hour after a funeral has ended. Protestors must stay at least 200 feet away from the funeral site.

3. People should not be allowed to protest within 1000 feet of any funeral service or funeral procession.

4. People should be able to protest at or near funerals – everyone has the right to express their political opinions freely and without limitation.
