

THE COLLEGE BILL OF RIGHTS

The Importance of First Amendment Protections



Equip students with knowledge about the First Amendment on college campuses with this lesson plan brought to you by the Bill of Rights Institute and the Foundation for Individual Rights in Education.

To learn more about your First Amendment rights:
Text **RIGHTS** to 31996 or go to www.CollegeBillofRights.org

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The Importance of First Amendment Protections

OBJECTIVES

- ▶ Students will understand the First Amendment rights of citizens.
- ▶ Students will analyze cases in which college students' rights were infringed.
- ▶ Students will compare and contrast the First Amendment rights of minors attending high school and of young adults who attend college.

STANDARDS

- ▶ **National Center for History in the Schools (9-12):** Era III, Standard 3A, 3B, 3C
- ▶ **Council for Civic Education (9-12):** IIA1, IIA2, IIB1, IIB3, IIC2
- ▶ **National Council for the Social Studies:** Strands 2, 3, 6, and 10
- ▶ **Common Core (9-12):** RI.7, RI.8, RI.9, SL.1, SL.2, SL.3 SL.4, SL.5, RH.1, RH.2, RH.3

HANDOUTS

- ▶ **Handout A:** The College Bill of Rights: The Importance of First Amendment Protections Background Essay
- ▶ **Handout B:** First Amendment Cases on Campus
- ▶ **Handout C:** Presentation Rubric
- ▶ College Bill of Rights Poster

LESSON PLAN

BACKGROUND/WARM-UP

- A. Students should read **Handout A: The Importance of First Amendment Protections Background Essay** and answer the questions at the end.
- B. As a large group, make a list on the board of all of the things that students expect to be different when they go to college.
 - ▶ Have the students review the U.S. Bill of Rights.
 - ▶ Ask students to think about which of the expectations they listed correlate to the protections in the Bill of Rights.
- C. Look back to the list and circle the expectations that are currently restricted because the students are under 18 and/or attending high school.

ACTIVITY

- A. Using the list your class created in the warm-up activity, put a star next to the list of expectations that have to do with the First Amendment, including the freedoms of speech, press, religion, association, assembly, and petition.
 - ▶ If your list does not include all of these rights, ask students to think of examples of each one.
 - ▶ Hold a brief discussion about why these expectations change once people reach the age of 18 or leave high school.
- B. Place students into groups and have them choose one of these focus areas:
 - ▶ The freedoms of religion and association
 - ▶ The freedoms of speech and press
 - ▶ The freedoms of assembly and petition

Note: Divide students into three large groups with one group working on each topic or into six smaller groups with two groups doing the same topic.

- C. Each group should find an example of a situation on campus in which college students endured controversies over the rights specified by their focus area. (Information on cases can be found at www.thefire.org or in the **Handout B: First Amendment Cases on Campus** handout. You can either give them a list of cases or have them choose their own.)
- D. Students should research their case and prepare a presentation for the class. Presentations could include:
 - ▶ Holding a mock trial of the case
 - ▶ Role-playing the events in the case
 - ▶ Creating a multimedia presentation using video, PowerPoint, etc.

- ▶ Creating a newspaper or newscast about the case
 - ▶ Holding a mock interview with both sides of the case
- E. Students can be given as much time as needed to complete their projects in or outside of class, depending on your schedule.
- ▶ Each group should present what they have learned to their classmates.
 - ▶ You may want to use the **Handout C: Presentation Rubric** provided to grade them on their effort and have their classmates grade their effort, using one copy of the handout for each group that presents.

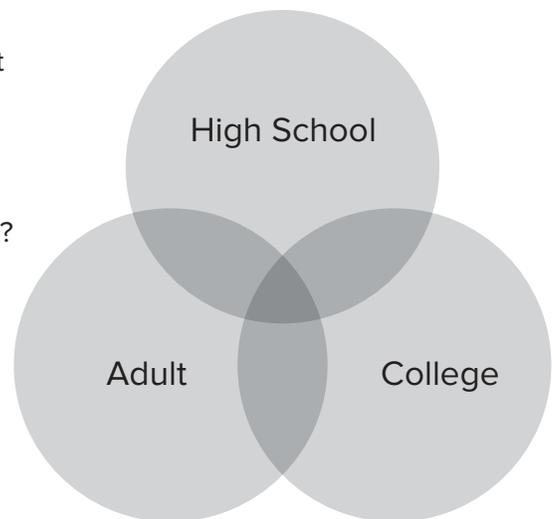
WRAP-UP

To end the class, have students explain (in writing or orally):

- ▶ Is there a difference between the First Amendment rights of high school and college students? Why or why not?
- ▶ What sorts of things can college students do to exercise First Amendment rights that high school students may not be able to?
- ▶ In practice, how are college students' First Amendment rights limited compared to other adults' rights? Do you believe that these limitations are constitutional? Why or why not?

EXTENSIONS

- A. Read samples of the Federalist Papers and the Anti-Federalist papers. Write an essay comparing and contrasting their arguments about the Constitution.
- ▶ How have understandings of First Amendment rights changed since the ratification of the Bill of Rights?
- B. Research recent cases involving the First Amendment and high school students and adults. Compare these cases to cases involving college students from the above activity.
- ▶ How are the cases different? How are they similar? Create a three-circle Venn diagram showing the similarities and differences between these three types of cases. (See the sample on the right.)
- C. After your research, answer these questions:
- ▶ Do you think that high school students should have the same First Amendment rights as college students?
 - ▶ Do you think college students should have the same First Amendment rights as other adults?



Ratification of the Constitution and the Bill of Rights

The United States Constitution was completed in September of 1787 and was sent to the states for ratification. A debate over ratification followed. Anti-Federalists, as they have come to be called, opposed ratifying the new Constitution. One of their arguments against it was that it needed a listing of rights the national government could not violate, as had been traditional in England. Federalists, who supported the Constitution as written, argued that listing certain exceptions to power could be dangerous. What if people assumed the government had all powers except those listed? Eventually, Congress drafted twelve amendments and sent them to the states for ratification. Three-fourths of the states approved ten of the amendments, which were added to the Constitution in 1791. These ten amendments became known as the Bill of Rights.

The Bill of Rights

The rights listed in the ten amendments of the Bill of Rights include freedom of religion, speech, press, assembly, and petition; the right to bear arms; protection from the quartering of troops; protection from unreasonable search and seizure; the right to due process of law; the right to speedy, public trials by jury; protection against cruel and unusual punishment and excessive bail; the protection of rights not specifically enumerated; and powers not listed, which were reserved to the states and the people.

The First Amendment

Although each of these amendments still protects the rights of citizens of the United States today, the First Amendment is one of the most powerful. The First Amendment states: “Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the people peaceably to assemble and to petition the Government for a redress of grievances.” The expressive rights broadly protected by the First Amendment, however, are often called into question throughout the country. Regulations of religion, speech, press, assembly, and petition occur regularly in national, state, and local laws, and these laws are debated by citizens and the court system to determine their constitutionality.

How Does the First Amendment Affect You?

Once people turn 18, they come into the full enjoyment of their rights as adults. This means that, in theory, the First Amendment rights of a college freshman attending a public university are the same as the rights of any other adult. In practice, however, public universities claim that they have a special need to restrict First Amendment rights in ways that might be unconstitutional in other settings. Sometimes, universities’ restrictions are constitutional, but in many cases, they violate students’ rights.

Public university students are particularly affected by the First Amendment and their colleges’ understanding of it. Private

universities are not bound by the First Amendment and are legally allowed to restrict speech in ways that public universities may not. However, most nevertheless promise to respect the right to free speech and other rights addressed by the First Amendment. This reading explores some issues and events that are especially important for rising college students to understand in light of their constitutional rights.

Freedoms of Religion and Association

The first two clauses of the First Amendment protect freedom of religion. The first asserts that Congress will not establish a national religion. The second clause of the First Amendment states that Congress cannot deprive citizens of their right to exercise whichever religion they choose (the Free Exercise Clause). As is often the case, First Amendment rights overlap. Practicing your religion often means saying certain things (freedom of speech) or gathering in groups (freedom of assembly). Religious speech and religious associations are no different from other types of speech or organizations. A public college cannot deny equal treatment to student religious organizations, political organizations, and other kinds of organizations under the First Amendment.

In the case of *Rosenberger v. Rectors of the University of Virginia* (1995), for instance, the Supreme Court ruled that the University of Virginia violated the First Amendment rights of students producing a Christian newspaper on campus when it denied the newspaper funding due to the paper's religious views. Five years later, in *Board of Regents of the University of Wisconsin System v. Southworth* (2000), the Supreme Court upheld the mandatory student-activity fee used by the University of Wisconsin to partially support

student organizations, including religious groups, in a manner that was neutral toward the groups' views and beliefs. Together, the *Rosenberger* and *Southworth* decisions establish that religious student organizations on campus have the same right to student-fee funding as other types of student groups, and that such funding must be distributed by the university in a viewpoint-neutral manner.

Yet despite the First Amendment's protections, colleges and universities frequently restrict students' religious liberty and right to engage in religious speech. For example, the University of Wisconsin at Eau Claire informed the resident assistants (RAs) in its dormitories that they were not permitted to host Bible, Torah, or Koran study sessions in their dorm rooms because their religious beliefs might make them less "approachable" to students who did not hold the same beliefs. The university held to its declared policy even after the Foundation for Individual Rights in Education (FIRE)—a nonpartisan nonprofit organization dedicated to defending student and faculty rights—wrote letters to the university, the University of Wisconsin System President, and the Wisconsin Attorney General, pointing out that at a public institution, this ban on religious expressive activity was unconstitutional viewpoint discrimination. It was only after one RA student filed a lawsuit against the university that the school reversed its policy and recognized the religious liberty of its student RAs.

In another case, William Paterson University, a public school in New Jersey, attacked the free speech rights of Muslim student Jihad Daniel for engaging in religious expression. The university found him guilty of "discrimination" and "harassment" for expressing his religious belief that homosexuality is a "perversion" in a private email to a professor. The email was in

response to an unsolicited announcement the professor had sent out over email regarding a university event that promoted a positive view of lesbian relationships. On the basis of this single, private response to a professor, the university sanctioned Daniel without sufficient due process or consideration of the religious basis for his comment.

Freedoms of Speech and Press

The freedoms of speech include spoken, written, and artistic expressions of ideas, and these rights also have been understood to protect expressive conduct. Freedom of the press is explicitly included in the First Amendment. Courts have also held that the First Amendment protects a right to receive information.

The Supreme Court has made clear that students enjoy their full free speech rights on public university campuses. In *Healy v. James* (1972), the Court declared, “[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, ‘the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.’” In *Papish v. Board of Curators of the University of Missouri* (1973), the Court heard the case of a student who had been expelled for distributing on campus a publication deemed to contain “indecent speech.” In deciding this case on First Amendment grounds, the Court stated that “the mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of conventions of decency.” The Court reversed the student’s expulsion.

In spite of these precedents, colleges and universities often limit their students’ speech

and press rights. Syracuse University’s School of Education, for example, effectively expelled graduate student Matthew Werenczak from its teaching program for his post on his own Facebook page complaining about a racially-charged comment made in his presence by a community leader. Even after Matthew completed the requirements for his reinstatement (including a special course of diversity training and counseling for “anger management”), he was denied readmission.

In the area of student press, a finance committee at the University of West Georgia cut funding from a campus newspaper after the paper reported on the issue of corruption in the student government. In addition, following the publication of an article satirizing fraternity life at the university, the student government (whose president was a Chi Phi fraternity member) passed a bill calling for a funding freeze of the newspaper. The newspaper staff believed these were unlawful actions in response to constitutionally-protected student expression, including reporting on the important issue of whether corruption was taking place in the student government.

Freedoms of Assembly and Petition

Citizens of the United States have the right to assemble peaceably under the First Amendment. Groups can come together for any number of reasons, including to raise awareness of issues in the national or local spotlight and to spread their ideas to a larger audience. Citizens may also petition the government when they voice their opinions about specific policies and laws or when they try to bring about changes in policies.

In two recent cases, federal courts have upheld the right of students on public university campuses to assemble, and have struck down university policies that heavily restricted this right. In 2012, at the University of Cincinnati,

members of the student group Young Americans for Liberty (YAL) were told that they could not gather signatures and talk to students across campus in support of a statewide ballot initiative. Instead, the YAL members were limited to the university's "free speech zone," which made up just 0.1 percent of the university's 137-acre campus. The students were also told that if they were seen "walk[ing] around campus" gathering signatures, campus security would be alerted. To protect their right to assemble peaceably and engage in protected political speech, the students sued their school in federal district court. After reviewing the university's policy, the court sided with the students. It issued a permanent injunction instructing the university to never again enforce the policy, and ordered that the university may not restrict student speech in the outdoor areas of campus unless the restriction is "narrowly tailored to serve a compelling University interest."

Similar circumstances surrounded the challenge of Texas Tech University's "free speech zone" policy, which restricted the right to assemble peaceably, as well. At a large public university campus with a student body of 28,000, Texas Tech restricted free

speech to a single free speech "gazebo" measuring just 20 feet in diameter. Though the university added other free speech zones during the course of litigation, the judge held that university policy must be interpreted to allow free speech for students on "park areas, sidewalks, streets, or other similar common areas ... irrespective of whether the University has so designated them or not." The case is also notable for the activities of the student group Students for Free Speech (SFS) at Texas Tech, which organized a campus-wide petition drive that attracted more than 900 student signatures in support of free speech. When Texas Tech administrators failed to respond to this initiative, SFS members organized a creative protest event: a "funeral procession for free speech," complete with eulogies, a clergyman, and a full-size wooden coffin.

The First Amendment rights of citizens are debated regularly across the country. Although college students' rights are protected by the Bill of Rights, issues relating to the freedoms of religion, speech, press, assembly, and petition sometimes arise at colleges and universities. It is up to the students at these institutions of higher learning to be aware of their rights, and to help fight to protect them.

COMPREHENSION AND CRITICAL THINKING QUESTIONS

1. What rights are protected by the First Amendment?
2. Why did the Founders consider these rights essential to self-government?
3. How does religious liberty relate to the right to speak and think freely?
4. What is association? How does it relate to the First Amendment?
5. What is expression? How does it relate to the First Amendment?
6. Why is free political speech particularly important in a democratic republic?
7. How would your life be different today if you weren't protected by the First Amendment? How might your life be different in the future if you weren't protected by the First Amendment?
8. What are you most interested in learning about your First Amendment rights on college campuses?

The Foundation for Individual Rights in Education (FIRE) assisted the students involved in the First Amendment issues at public universities mentioned in this essay. Here are some of the outcomes:

- ▶ Daniel was eventually cleared of the baseless charges once FIRE wrote to the university and took the case public. After FIRE exposed Syracuse's treatment of Werenczak to public scrutiny, Syracuse readmitted him into the School of Education's teaching program.
- ▶ After FIRE intervened on behalf of the University of West Georgia newspaper by writing to the university, the school's finance committee restored and even increased the funding allocated to the newspaper.
- ▶ The litigation in the Young Americans for Liberty case was coordinated in part by FIRE.
- ▶ With the help of FIRE, students and their peers at Texas Tech had their First Amendment rights vindicated in federal court.

B

First Amendment Court Cases

FREEDOMS OF RELIGION AND ASSOCIATION

[Louisiana State University: Threat to Muslim Group's Freedom of Association](#)

[University of Wisconsin at Eau Claire: Ban on RAs' Leading Bible Studies](#)

[Princeton University: Refusal to Recognize Religious Group](#)

[Indian River Community College: Ban on 'The Passion of the Christ' and Repression of Free Speech](#)

[Brown University: Wrongful Suspension of Religious Student Group](#)

FREEDOMS OF SPEECH AND PRESS

[Binghamton University: Student Suspended for Posters Criticizing Department of Social Work and Government Agency](#)

[Indiana University - Purdue University Indianapolis: Student Employee Found Guilty of 'Racial Harassment' for Reading a Book](#)

[Missouri State University: Investigation of Student Paper for Editorial Cartoon](#)

[Saint Augustine's College: Student Prohibited from Walking at Graduation Due to Facebook Post](#)

[Colorado College: Students Found Guilty for Satirical Flyer](#)

[San Francisco State University: Students Investigated for Stepping on Flags](#)

FREEDOMS OF ASSEMBLY AND PETITION

[Catholic University of America: Rejection of Campus NAACP Chapter](#)

[University of North Carolina at Greensboro: Punishment of Free Speech Protestors](#)

[Valdosta State University: Student Expelled for Peacefully Protesting Parking Garages](#)

[Hampton University: Gay and Lesbian Student Group Denied Recognition Without Explanation](#)

[DePaul University: Censorship of Student Group Protesting Ward Churchill](#)

For links to information on these cases, visit www.collegebillofrights.org and click on the Lesson Plan tab.

C

Presentation Rubric

Directions: As you listen to the groups' presentations, rate each group in each area on a scale of 0 to 4.

Group Name and Topic:

	Explanation of Topic Area <i>(How well did the group explain the First Amendment freedoms in their topic?)</i>	Content Expertise <i>(How well did the group understand their case?)</i>	Preparedness <i>(How prepared was the group?)</i>	Creativity <i>(How engaging was the presentation to the audience?)</i>
0	The group didn't discuss their topic area at all.	Most members of the group didn't understand what happened in the case.	The group was not prepared.	The audience was falling asleep because they were so bored.
1	The group told the audience their topic area, but did not explain it fully.	A couple of the group members seemed to understand the case, but others didn't seem to be involved.	The group made many mistakes. It is obvious they had not practiced.	The audience was engaged momentarily.
2	The group discussed their topic area, but didn't give examples.	About half of the group understood the case and were involved in the presentation.	The group made a couple of mistakes, but you could tell they tried to prepare.	The audience was engaged for half of the time.
3	The group discussed their topic area, and provided a couple of examples.	Most of the group understood the case and were involved in the presentation.	The group gave a decent presentation, but they could have done more to polish it.	The audience was engaged, but there could have been more pizzazz.
4	The group explained their topic area specifically and used several strong examples.	All of the group members clearly understood the case and were involved in the presentation.	The presentation was smooth, and even if there were small mistakes, they overcame them.	The audience was highly engaged and participated in the presentation.
Score	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>