

Unit 3

Chapters 36 – 42

I. Constitution

A. Branches of Government

1. Executive—(president) executes the laws
2. Legislative—makes the laws
3. Judicial—interprets the laws

B. Amendments

1. Bill of rights—guarantee an American citizen certain rights basic to human life
2. 14th—due process-equal protection
3. Original Constitution-had no Bill of Rights it was added after the pressure in 1791 by 1st Congress
4. Amendments 1-8 – civil rights (specific)
5. Amendments 9 and 10- rights of people and states
6. Four methods of amending the Constitution

C. Living Constitution

1. Historical- oldest written constitution
2. Adaptation- has the ability to adopt to change-right and left
3. Studying the Constitution- studying individual freedom
 - a. Rights - are not absolute you cannot infringe on the rights of others
 - b. Citizens vs. private actions- Constitution protects citizens and does not extend to private actions
 - c. Enforcing Rights- can be time consuming and expensive
 - d. Due process – 5th Amendment

II. Freedom of Speech

A. Definition- Right to communicate information or ideas by speech, writing, art, media.

1. First Amendment- both parties are protected maker and receiving.
2. Protected Parties-1st Amend.- both parties are protected maker and receiver
3. Market Place- free market place of ideas even if unpopular
4. Heart of Democracy- 1st is the heart of a democracy

B. Vagueness

1. Definition- laws which restrain free speech must be specific and reasonably Clear so that normal laymen can understand what is prohibited.
2. Enforcement- must be non-discriminatory by police
3. Interpretations- broad interpretations are prohibited

C. Obscenity- The portrayal of sex in art, literature, and movies

1. Definition- also known as pornographic
2. Miller v. California
 - a. Average person and their community standards feel that the work is lewd
 - b. State laws against openly offensive sexual conduct
 - c. The work that does not have serious literary, artistic, pol. or scientific value

D. Defamation

1. Definition- is expression about a person that is false and damages a person reputation
2. Slander- defamation through spoken form
3. Libel- defamation in written
4. Public Official- special rules
 - a. public vs. private
 - b. expression must be false damaging and with malice
 - c. intentional disregard for the truth

E. Commercial speech- this includes most forms of advertising

1. States may regulate or even ban
2. Prohibit any deceptive or misleading advertisement
3. Libel- defamation in written
4. Public Official- special rules
 - a. public vs. private
 - b. expression must be false damaging and with malice
 - c. intentional disregard for the truth

F. Defamation

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 - a. public vs. private
 - b. expression must be false damaging and with malice
 - c. intentional disregard for the truth

G. Fight Words/Offensive Speakers/ Hostile Audiences

1. Definition- 1st Amendment does not protect expression that is so abusive to cause a reaction
2. Three-part test
 - a. words spoken face to face
 - b. break of peace
 - c. public disturbance (3 people is riot)
3. Clear and Present Danger- rule was the action substantial enough to violate the law
4. Balancing Test – the court balances individual interest of free expression vs. govt. seeking to protect people by prohibiting the expression
5. Incitement Test- speech can be prohibited only when is directed toward producing imminent (soon to happen) lawlessness (Treason)
6. Hate Speech – motivated by bigotry and racism

H. Time, Manner, and Place Restrictions- not what but when, how and where

1. Government cannot regulate content of speech
2. Most restrictions occur at local levels – public forums
3. Ex.- loud Rock concert

I. Symbolic Speech

1. Definition- conduct that is designed to express an idea
2. Examples
 - a. sits in
 - b. demonstrations
 - c. armbands and buttons

J. Vagueness and Overinclusive

1. Definition- laws which restrain free speech must be specific and reasonably clear so that normal laymen can understand what is prohibited.
2. Enforcement- must be non-discriminatory by police
3. Interpretations- broad interpretations are prohibited

III. Freedom of the Press

A. Introduction- 1st amendment protects against the government denying citizens information from printing media (print and electronic)

1. Court decision- the courts have been staunch defenders of the press
2. Equality of.....Press subjects all our political and legal institutions to public scrutiny
3. Why a free press- necessary to establish a strong, independent, press that provides a variety of information and opinions so that citizens will be well informed on matters of the public importance

B. Prohibiting Publications

1. Gag Order- where a judge forbids the press from reporting on testimony or evidence. (6th amendment, fair trial)
2. Steps vs. the Gag Order
 - a. postponing trial
 - b. moving the trial
 - c. screen jurors for discrimination
 - d. instructions.....of jurors
3. Prior Restraint and the Constitution- the gag rules are censorship before publication, which is unconstitutional unless;
 - a. Legal vs. Illegal- publication would cause a certain, serious, and irreparable harm
 - b. Pentagon Papers Case- no lesser means would prevent the harm
 - c. the prior restraint would, in fact work
4. Denying Access to Information
 - a. not allowing the press to or public access to certain info.
 - b. 1979 Supreme Court- not allow the press or public into pretrial hearing
5. Disclosing information
 - a. basic problem
 - b. reaction

IV. Expression in Special Places

1. Definition- schools, bases, prisons
2. Public Forums- places where public expression, such as speech and assembly are likely to occur.
3. Court cases
 - a. Tinker v. Des Moines S.D.
 - b. Hazelwood v. Kuhlmeier
4. Prisons and the Military -- penological

V. Freedom of Association and Assembly

A. Introduction

1. Definition- once can associate with one another and join and form groups for pol., soc., econ., religious.
2. Assembly and Petition- not a specific right but grows out other constitutional rights

B. Why are these rights important?

VI. Freedom of Religion

A. Introduction- no law respecting a state religion or prohibit the free exercise

1. Establishment Clause- no state religions-does not allow the govt. to pass laws which would prefer one over another
2. Free exercise- allows a person to worship or believe as they choose
3. Protect the two clauses establishment clause and the free exercise clause

B. Establishment Clause

1. A Wall.....of separation between church and state
2. Church aided by government
 - a. exempt from tax
 - b. receive services like fire and police
 - c. some tax states allow bus transportation to parochial students
 - d. textbooks to parochial
3. Testing the Establishment Clause
 - a. statute must have a secular (non-religious) purpose
 - b. the primary fact-must neither advance or inhibit (hold back) religion
 - c. the operation of the law must not foster excessive involvement of govt. with religion

C. Free Exercise Clause- religious belief that is protected, but actions based on belief may be restricted as it relate to society

VII. Due Process

A. Definition – fairness

B. Substantive – whether a law unreasonably infringes on liberty (Federalism)

C. Procedural – fairness in how government action takes place

1. Seriousness of the harm
2. Risk of making an error w/o the procedures
3. Cost to the government

VIII. Right to Privacy

A. Introduction

1. right to privacy not to mention specifically in the const.
2. Our foundation to privacy stems from the Olmsted case (1928) - **the right to be left alone**
3. the most controversial situations of right to privacy is search and seizure
4. Life decision, marriage, ect.

B. Zones of privacy

C. Privacy in homes – Lawrence v. Texas (1986)

D. Privacy at school

E. Information gathering and privacy

1. Public vs. Private
2. Banking and financial Reporting
3. Privacy Act 1974

F. Birth control and Abortion

Unit 3

Chapter 36-37

Identify and/or Explain

1. Amendments
2. Due Process
3. Balancing test
4. Federal
5. "marketplace of ideas"
6. "Congress shall make no law
7. Obscenity
8. Defamation
9. Public figures
10. Slander
11. Libel
12. New York Times v. Sullivan
13. Commercial Speech
14. "strength wars"
15. Offensive speakers
16. Fighting Words
17. Clear and Present danger
18. Dennis v. U.S.
19. Incitement Test
20. Hate Speech
21. Time, Place, and Manner
22. "public forum"
23. Symbolic Speech
24. Vagueness

Questions

1. List the first ten Amendments. Briefly explain the importance of the 1st Amendment.
(15)
2. What is the importance of "due process"?

Unit 3

Chapter 38-42

Identify and/or Explain

1. Censorship
2. Gag order
3. Prior restraint
4. FOIA
5. "shield laws"
6. Public forums
7. Tinker v. Des Moines SD
8. Hazelwood v. Kuhlmeier
9. Penological
10. Establishment clause
11. Free-exercise clause
12. "wall of separation"
13. "endorsement test"
14. belief v. action
15. Wisconsin v. Yoder
16. Due Process
17. Procedural due process
18. Substantive due process
19. INA
20. Goss v. Lopez
21. "zones of privacy"
22. Lawrence v. Texas
23. FERPA
24. FOIA
25. Privacy Act
26. USA Patriot Act
27. Roe v. Wade
28. Planned Parent v. Casey

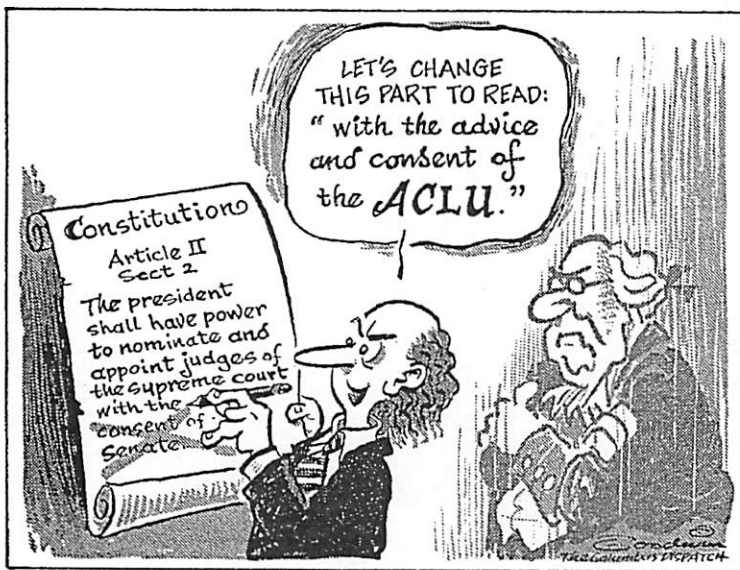
Questions

1. List three factors required in certain situations regarding procedural due process. (6)

Chapter 36—Individual Rights and Liberties

MULTIPLE CHOICE

1. Which of the following statements is true?
 - a. The Bill of Rights was designed to protect against the power of the federal government.
 - b. Most protections in the Bill of Rights have been applied to the states through the First Amendment.
 - c. There are 30 amendments to the U.S. Constitution.
 - d. The Bill of Rights was designed to limit both federal and state governmental power.
2. Which of the following statements is true?
 - a. The rights in the U.S. Constitution are absolute.
 - b. The Constitution protects people from action by the government.
 - c. Suing for violations of constitutional rights is a swift and inexpensive process.
 - d. States can take away federal constitutional rights through state statutes.



LOUIS (DOC) GOODWIN
Courtesy Columbus Dispatch

3. The point of this political cartoon is that the American Civil Liberties Union (ACLU)
 - a. should have been included in writing the U.S. Constitution.
 - b. is a powerful force in shaping what the Constitution means.
 - c. does a better job than the Senate in ratifying the selection of judges.
 - d. none of the above

COMPLETION

1. The _____ Amendment protects against unreasonable searches and seizures.
2. The _____ Amendment provides the right to jury trials in civil cases.
3. The _____ Amendment guarantees freedom of religion.
4. The _____ Amendment guarantees freedom from cruel and unusual punishment.

5. The _____ Amendment ensures freedom from the quartering of soldiers in private homes during peace time.

MATCHING

Match each item with the correct statement below. Some items may not be used.

- | | |
|-------------------------|-------------------------------|
| a. absolute | e. government action |
| b. amendment | f. human rights |
| c. constitutional floor | g. social and economic rights |
| d. due process | h. test |
1. refers to standard by which cases are decided in the courts
 2. type of rights not included in U.S. Constitution
 3. an addition to the U.S. Constitution
 4. U.S. Constitution protects against this type of violation
 5. unrestricted exercise of rights

SHORT ANSWER

1. List five actions individuals should take if they feel their rights have been violated.
2. List three basic constitutional law understandings and explain what they mean.

ESSAY

1. Explain the purpose of a “constitutional floor” and how it restricts federal, state, and local governments.

Chapter 37—Freedom of Speech

MULTIPLE CHOICE

1. Murray Orr is arrested for screaming obscenities on his front lawn at 3:00 in the morning. What restriction justifies limitation on his speech?
 - a. symbolic speech
 - b. commercial speech
 - c. over inclusive
 - d. time, place, and manner
2. The Mayor of Whitville attempts to pass a law outlawing “street meetings” in his town. Why can’t he do this?
 - a. the establishment clause
 - b. the free exercise clause
 - c. the Second Amendment
 - d. the First Amendment
3. George Smith was arrested for disturbing the peace. He was arrested while preaching to pedestrians at a train station in a “loud, irritating, and harassing tone.” Which limitation applies?
 - a. time, place, and manner
 - b. obscenity
 - c. balancing test
 - d. commercial speech
4. Ernest Seawright makes a speech on a public street corner that causes a riot. What limitation applies?
 - a. commercial speech
 - b. obscenity
 - c. incitement test
 - d. time, place, and manner
5. Martha Owens and her band are fined for playing their music so loud that it disturbed their next door neighbors. What limitation applies?
 - a. commercial speech
 - b. incitement test
 - c. time, place, and manner
 - d. clear and present danger

COMPLETION

*Write **Neutral** on the line if the restriction on free speech is neutral, or write **Content-based** if the restriction on free speech is content-based.*

1. Permits are required for parades in the city. _____
2. Speech that stigmatizes a person on the basis of sexual orientation is illegal. _____
3. No posters can be placed on utility poles. _____
4. Speech codes prohibit college students from verbally stigmatizing an individual on the basis of race, ethnicity, religion, and other reasons. _____
5. Demonstrators are not permitted on military bases. _____

MATCHING

Match each item with the correct statement below.

- | | |
|---|----------------------|
| a. overinclusive | f. commercial speech |
| b. time, place, and manner restrictions | g. defamation |
| c. obscenity | h. fighting words |
| d. vague | i. symbolic speech |
| e. Bill of Rights | |
1. first ten amendments to the Constitution
 2. speech that is directed at the selling of goods or services
 3. false statements that damage a person's reputation
 4. words that are extremely abusive and provoke someone to take action
 5. a general term applying to anything that is considered lewd
 6. laws that unnecessarily prohibit too much expression
 7. conduct that expresses an idea
 8. laws regulating when, where, and how speech is allowed
 9. indefinite, uncertain, imprecise

SHORT ANSWER

1. List two ways in which state or local governments can regulate sexually explicit material.
2. Describe the issues considered in free speech cases decided under the judicial tests of clear and present danger, balancing, and incitement.
3. List three ways that the First Amendment applies to the Internet.

ESSAY

1. Explain how the courts have responded to college and university speech codes punishing speech that stigmatizes individuals on the basis of race, ethnicity, religion, and other bases.
2. Explain what, if any, First Amendment protections are granted to the Nazi flag. Would this be different in Germany? Explain your answer.

Whoever places on public or private property a symbol . . . or graffiti, including but not limited to a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion, or gender, commits disorderly conduct and shall be guilty of a misdemeanor.

3. Analyze this city ordinance. List at least three arguments why this ordinance violates free speech.
4. List at least three arguments why this ordinance does *not* violate free speech.

Chapter 38—Freedom of the Press

MULTIPLE CHOICE

1. An attempt by the government to prevent the printing of a news story involves
 - a. shield laws.
 - b. the establishment clause.
 - c. prior restraint.
 - d. sedition laws.
2. The First Amendment protects us from
 - a. freedom of speech.
 - b. government censorship.
 - c. government's right to bear arms.
 - d. freedom of petition.
3. In *The Case of the Gag Order*, the judge was concerned about the defendant's right to
 - a. an impartial judge.
 - b. privacy.
 - c. a fair trial.
 - d. accurate media coverage.
4. Which law requires federal agencies to release certain information in their files to the public?
 - a. *Freedom of Press Act*
 - b. *Freedom of Information Act*
 - c. *Freedom of Association Act*
 - d. *Freedom of Compliance Act*
5. In the case involving the Pentagon Papers, the Supreme Court ruled that censorship was
 - a. valid because the information contained classified military secrets
 - b. valid because the information had been leaked unlawfully
 - c. unconstitutional because the information had come directly from a government employee
 - d. unconstitutional because the information posed no present and immediate danger to national security

COMPLETION

Complete each of the following statements with the appropriate choice below. Some items may not be used.

access to information	right to a fair trial
<i>Freedom of Information Act</i>	right to privacy
prior restraint	shield law
protection of sources of information	viewpoint-neutral

1. The state-owned public broadcaster refused to include Ralph Forbes in the debates between the major political party candidates. It claimed that this was a _____ exercise of journalistic discretion not to include him, because Forbes lacked serious voter support not because of his views.
2. The U.S. Supreme Court has ruled that the media does not have special rights of _____ or _____.
3. After reading the story in the *New York Times* about a doctor who murdered several patients, authorities charged the doctor with murder. Defense attorneys requested information from the *New York Times* to help with its defense. The defense argued that its _____ was at stake.
4. After reading the story about a doctor who murdered several patients, authorities charged the doctor with murder. Defense attorneys requested information from the *New York Times* to help with its defense. The state's _____ would protect the reporter's sources of information.

5. The purpose of the _____ is to allow citizens to learn about the business of government.

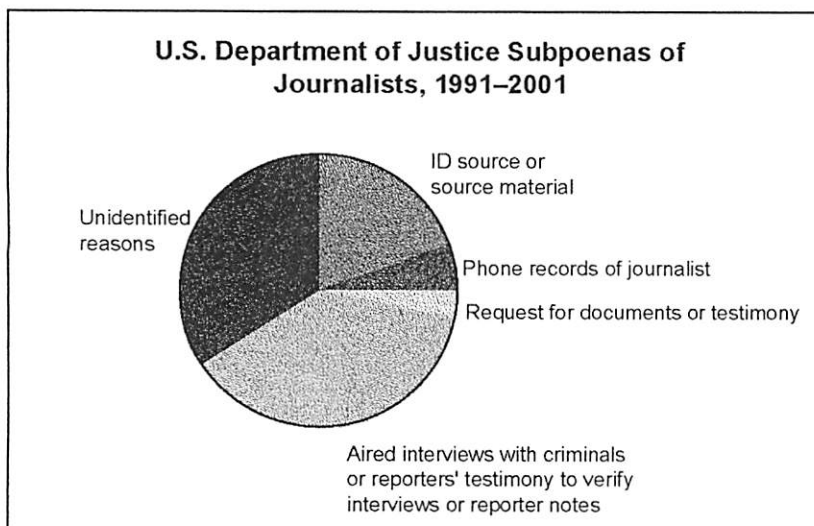
MATCHING

Match each item with the correct statement below. Some items may not be used.

- | | |
|--|--|
| a. censorship | 1. court ban on media coverage |
| b. exception | 2. examining and deleting information the government finds objectionable |
| c. <i>Freedom of Information Act</i> | 3. prohibiting publication |
| d. gag order | 4. state law that gives journalists the right not to disclose confidential sources |
| e. prior restraint | 5. provides free legal services to journalists |
| f. Reporters' Committee for Freedom of the Press | |
| g. qualified privilege | |
| h. shield law | |

SHORT ANSWER

1. Give one argument for and one argument against requiring government-owned television stations to provide an automatic right of access to all political candidates who qualify to be on the ballot.
2. Which is more restrictive, a gag order or a trial closing order? Explain.



Source: Reporters' Committee for Freedom of the Press, 2001

3. What was the most frequent type of specific subpoena issued by the U.S. Justice Department from 1991 to 2001?
4. What was the least frequent type of specific subpoena issued by the U.S. Justice Department?

5. The judge in the Martha Stewart case refused to allow the media to be present in the courtroom when the lawyers were questioning potential jurors because she feared the reporters would intimidate the jurors who would not give truthful answers to the voir dire questions. What right is the judge concerned about?

ESSAY



Source: Reporters' Committee for Freedom of the Press, 2001

1. Review the reasons for the 88 subpoenas issued from 1991 to 2001 in which the U.S. Department of Justice ordered journalists to provide information. Explain what the subpoenas require the journalists to do and their rights to refuse to obey the subpoenas based on the First Amendment and on state shield laws. What will happen to journalists who refuse to comply with the subpoena?

Chapter 39—Expression in Special Places

MULTIPLE CHOICE

- In the case of *Tinker v. Des Moines School District*,
 - students at a suburban high school supported the U.S. actions in Vietnam.
 - the question raised was, “Was the disruption brought about by the symbolic speech of the students enough to allow restriction of their speech?”
 - the school district won the final decision.
 - students were suspended for using fighting words.
- The standard that freedom of expression “does not end at the schoolhouse gate” was established in a case involving
 - school prayer.
 - flag burning.
 - students marching on the principal’s office.
 - students wearing armbands to protest the Vietnam War.
- In which of the following places is freedom of speech *least* restricted?
 - military bases
 - prisons
 - public forums
 - schools
- Based on the ruling in *Hazelwood v. Kuhlmeier*, a student newspaper would probably
 - not be allowed to print an editorial critical of the way President Bush has handled the occupation of Iraq.
 - not be allowed to print a “for and against” article on a constitutional amendment banning flag burning.
 - be allowed to print an article critical of a school board decision requiring community service of all high school seniors.
 - be allowed to print an article urging students to join white power and neo-Nazi groups to stop minorities in the school from “getting too much power.”
- Legitimate penological objectives include
 - security.
 - safety.
 - orderly running of the institution.
 - all of the above

COMPLETION

Complete each of the following statements with the appropriate choice below. Some choices are not used.

freedom of expression

limited forum

materially and substantially disrupts

military base

legitimate penological interest

public forum

school-sponsored student publication

symbolic speech

- The *Tinker* case stands for the rule that students’ right to free speech can be restricted when it _____ the educational process.
- Military bases, public schools, and prisons are each an example of a _____ for free speech.

3. A ban on all political speeches and distribution of campaign literature on a _____ would not violate the right to free speech, because of the need for order and discipline.
4. In the *Hazelwood v. Kuhlmeier* case, the school had greater editorial control over the content of the newspaper because it was a _____.
5. Students have sometimes claimed that they have a right to wear the clothing of their choice under the right to _____.

*Write **Sponsored** on the line if the expression is sponsored by the school, or write **Not Sponsored** if the expression is not sponsored by the school.*

6. Wearing T-shirt to school stating "Bush Lied" _____
7. Spring musical put on by high school drama class as part of their final grade _____
8. School newspaper _____
9. Official Web site for school _____
10. Wearing yellow ribbon to school to show support for troops _____
11. Student speech at school assembly _____
12. Web site created by students on their own time with their own computers _____

MATCHING

Match each item with the correct statement below. Some items may not be used.

- | | |
|------------------------------------|-----------------------|
| a. dress and grooming | e. penological |
| b. <i>Hazelwood</i> case | f. public forums |
| c. legitimate educational concerns | g. symbolic speech |
| d. limited forums | h. <i>Tinker</i> case |
1. educators may control the content of school-sponsored publications if these are present
 2. relating to prisons or corrections
 3. armbands are an example of this type of speech
 4. prisons, public schools, and military bases
 5. established the right of students to free speech

SHORT ANSWER

1. What arguments can be made for and against punishing a student for a tattoo associated with gang activity?

2. Decide which of the following prison rules that restrict prisoners' rights meet the standard of being reasonably related to legitimate penological objectives.

Inmates may not write to inmates in other institutions because of fears of escape plans.

Inmates may not marry other inmates because warden believes that women inmates should marry a better class of persons.

Inmates may not have visitors because visitors may bring in contraband.

Inmates may only receive books directly from publishers to reduce contraband into prison.

Religious services for Catholic inmates must be held on Saturday night because all the other times for religious services are filled on Sunday.

Inmates may not contact attorneys while in prison because they may sue the prison for civil rights violations.

ESSAY

1. Based on the *Tinker* and *Hazelwood* decisions, give one argument for and one argument against the school's action in the following situations.
- A. The faculty advisor to the school newspaper censors an article by students reporting on abortions undergone by classmates. No names are used in the article but the school is small enough so that the young women could likely be identified.
 - B. The principal cancels the school's production of the musical *Hair* once she learns that it involves nudity.
 - C. High school students were suspended for refusing to remove buttons worn in support of a teachers' strike. The buttons read: "Do Scabs Bleed?" and "I'm Not Listening, Scab."

Chapter 40—Freedom of Religion

MULTIPLE CHOICE

- Which of the following could be part of the U.S. Supreme Court's dissenting opinion in the case of *Wisconsin v. Yoder*?
 - Life in an Amish community is essential for practicing this faith.
 - The Wisconsin law interferes with the free exercise of religion for the Amish.
 - Education through age 16 is necessary for students to achieve economic self-reliance.
 - It is the parents' liberty to direct the upbringing of their children.
- The establishment clause
 - was considered to establish a "wall of separation" according to Thomas Jefferson.
 - deals with people's right to practice their beliefs.
 - makes secular governments unconstitutional.
 - invalidates the rule of freedom of religion.
- The courts have generally held school-sponsored prayer during regular school hours to be
 - allowed if done before classes begin.
 - a violation of the First Amendment.
 - allowed if a time for silent prayer is set aside.
 - never allowed even if students just pray to themselves.
- The free exercise clause is associated with
 - religion.
 - press.
 - assembly.
 - athletics.
- The Supreme Court uses a three-part test to decide whether a law is a violation of the establishment clause. Which of the following is part of the test?
 - The operation of the law must foster excessive entanglement of government with religion.
 - The primary effect of the law must neither advance nor prohibit religion.
 - The law must have a religious purpose.
 - The primary purpose of the law must be to promote religion.

COMPLETION

*Determine whether each of the following statements describes an **Establishment Clause** issue or a **Free Exercise Clause** issue.*

- Rabbi invocation and benediction at school graduation _____
- Amish refusal to send children to school through age 16 _____
- Mormon man's claim to be able to have more than one wife since polygamy is a recognized part of his religion _____
- State program that provides vouchers to low-income parents to help pay tuition at a variety of nonpublic schools including religiously affiliated schools _____
- Public school-sponsored prayer _____

Chapter 41—Due Process

MULTIPLE CHOICE

- Hyung Joon Kim was deported after the U.S. Supreme Court decided that the federal law that allowed deportation without a hearing of permanent residents who had committed certain crimes did not violate
 - substantive due process.
 - procedural due process.
 - neither a nor b
 - both a and b
- In *Goss v. Lopez*, the U.S. Supreme Court determined that due process rights of students suspended for ten days or less were violated because the schools did not provide
 - oral or written notice of charges.
 - explanation of the evidence against the students.
 - an opportunity for students to present their side of the story.
 - all of the above
- A sex offender released from prison complained that personal information about him was included on a state-sponsored Internet site. He claimed that listing his information without a court hearing to determine whether he was currently dangerous violated his right to
 - substantive due process.
 - procedural due process.
 - freedom of expression.
 - none of the above
- Doctors in one state claimed that the law making it a crime to assist another person in committing suicide violated the due process clause. The state argued that
 - there is a right of mentally competent, terminally ill adults to commit physician-assisted suicide.
 - its interest in preserving life outweighs an individual's interest in physician-assisted suicide.
 - its assisted suicide law violates due process.
 - none of the above
- The due process procedures required in specific situations depend on
 - the seriousness of the harm that might be done to the citizen.
 - the risk of making an error without the procedures.
 - the cost to the government, in time and money, of carrying out the procedures.
 - all of the above

COMPLETION

Determine whether each of the following describes Substantive Due Process or Procedural Due Process.

- Basis for striking down child labor laws in the first third of the twentieth century _____
- Includes notice and a chance to have a say _____
- Prevents arbitrary, unreasonable decisions _____

4. Requires a compelling state interest when social and economic laws affect privacy _____
5. May include right to hearing, cross examination, access to attorney _____
6. Use decreased as courts deferred more to wisdom of legislators _____
7. Most due process cases today _____

MATCHING

Match each statement with the correct item below. Some items may not be used.

- | | |
|------------------------------|-------------------------------|
| a. compelling state interest | e. implied fundamental rights |
| b. Fifth Amendment | f. permanent resident aliens |
| c. Fourteenth Amendment | g. procedural due process |
| d. harm, cost, risk | h. substantive due process |
1. requires state and local governments to provide due process
 2. right to marry, right to bear and rear children, right to travel, and right to privacy in certain areas of family life
 3. justification required to preserve laws that affect a fundamental right
 4. fair administration of the law
 5. have fewer rights than U.S. citizens

SHORT ANSWER

1. What does the term *due process* mean? What are the important elements of due process? What does due process offer us in the way of rights?
2. In *Goss v. Lopez*, the Supreme Court ruled that due process had not been afforded the suspended students because certain requirements were not met, including a hearing and an opportunity for the students to tell their side of the story. Assume you are a Supreme Court justice who disagrees with this ruling. Write a dissenting opinion and justify your position.
3. Arrange the threatened losses below from those requiring the least due process to those requiring the most due process.
 - the death penalty
 - loss of welfare benefits
 - loss of hunting license
 - loss of freedom with 10 years in prison
 - permanent expulsion from public school

ESSAY

1. How do the *Cruzan* case and the assisted suicide cases differ? How are they the same?

Chapter 42—The Right to Privacy

MULTIPLE CHOICE

1. In analyzing whether suspicionless drug testing of political candidates is constitutional, the Supreme Court
 - a. examined whether or not there is a problem of drug use by politicians.
 - b. balanced the privacy rights of candidates with the state's interest in having drug-free officials.
 - c. determined whether there is a compelling state interest in drug testing.
 - d. determined whether or not people object to drug testing.
2. Which of the following statements is true today?
 - a. There is a movement to limit privacy protections under the U.S. Constitution.
 - b. There is a movement to expand privacy protections under the U.S. Constitution.
 - c. There are few state laws protecting privacy.
 - d. There is little popular support for privacy.
3. Which is true of the *Family Educational Rights and Privacy Act*?
 - a. Students may have access to their high school records.
 - b. Parents may have access to their children's school records.
 - c. Police may have access to all students' school records.
 - d. Army recruitment officers may have access to all students' school records.
4. Where is privacy protected the most?

a. airports	c. work
b. school	d. home
5. Overturning a 1986 case, the U.S. Supreme Court in 2003 ruled that the sexual practices of two consenting adults in their own home
 - a. are protected by the constitutional right to privacy and the fundamental right to be let alone.
 - b. are not constitutionally protected.
 - c. cannot be criminalized but can be the subject of civil action.
 - d. none of the above

MATCHING

Match each statement with the correct item below. Some items may not be used.

- a. balancing test
 - b. *Family Educational Rights and Privacy Act*
 - c. *Freedom of Information Act*
 - d. *Planned Parenthood of Southeastern Pennsylvania v. Casey*
 - e. possession of obscenity at home
 - f. *Privacy Act of 1974*
 - g. *Roe v. Wade*
 - h. zones of privacy
1. prevents government from releasing most information about a person without consent
 2. established the constitutional right to an abortion under the right to privacy
 3. areas derived from several rights in the Constitution

4. basis for unsuccessful claim that peer grading violates the rights of students
5. standard used to resolve conflicts of right to privacy with other important government interests

SHORT ANSWER

1. The right to privacy is not explicitly mentioned in the Constitution. Explain how this right, nevertheless, has been given to individuals.
2. Explain how computers have affected individuals' privacy.

ESSAY

1. A statute in your state provides that "no abortion shall be performed on a woman under 18 years of age until at least 48 hours after both of her parents have been notified." The two-parent notice requirement is mandatory unless the woman states that she is a victim of parental abuse or neglect. A "judicial bypass" provision in the law allows a court to dispense with the two-parent notification if the minor can prove to the court that she is "mature and capable of giving informed consent," or if it can be proven that an abortion without notice to both parents would be in her best interest. A group consisting of doctors, clinics, and pregnant minors is filing suit because the group believes the law violates the due process and equal protection clauses of the Fourteenth Amendment. Develop arguments for and against the constitutionality of the statute.