The Law of Public Communication 12th edition Lee Test Bank

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Test Bank
Chapter 2
Updated 2022

I. True/False Questions

1) The framers of the Constitution intended the First Amendment to protect citizens from interference with their freedom of expression by state and local governments as well as by the federal government. (False)

2) When adopted by the states in 1791, the First Amendment protected citizens' free speech rights from interference by state and local governments as well as from interference by the federal government. (False)

3) The Supreme Court disfavors content regulations, yet the First Amendment protects political speech more than it protects advertising. (True)

4) During the McCarthy Era of the 1950s, the Supreme Court ruled in Dennis v. United States that a citizen's membership in the Communist Party constituted a clear and present danger to the nation. (True)

5) The Supreme Court has ruled that high school students have a constitutional right to criticize the principal in a school sponsored newspaper. (False)

6) "Fighting words," by definition, incite large groups to riot. (False)

7) "Fighting words" are words delivered face-to-face that provoke another individual to retaliate physically. (True)

8) In Brandenburg v. Ohio, the Supreme Court ruled that threatening to get "revengence" at some distant time constitutes a clear and present danger. (False)

9) In Virginia v. Black, the Supreme Court ruled that burning crosses in any location is always an unprotected expressive act intended to intimidate. (False)

10) In Elonis v. United States, the Supreme Court ruled that Anthony Elonis could be convicted of posting a true threat if the prosecution proved he had an intent to intimidate when he posted a vicious message about his estranged wife. (True)

11) It violates the First Amendment to forbid judicial candidates from speaking on public issues during an election campaign. (True)

12) A board of city commissioners could constitutionally prohibit a civil rights parade that might have a "tendency" to draw hostile opposition. (False)

13) The independent, off-campus student newspaper with website is a traditional public forum. (False)

14) It is constitutional to punish all expression in the legal category of "hate" speech, the Supreme Court has ruled. (False)

15) The European Union may prohibit hateful speech that is protected in the United States. (True)

16) It is constitutional to punish all expression in the legal category of "depicting cruelty to animals," the Supreme Court has ruled. (False)

17) A federal appeals court has ruled (Kowalski v. Berkeley County Schools) that school officials can punish a high school student for off-campus internet posts that harass and bully a fellow student. (True)

18) It is a crime, the Supreme Court has ruled, to falsely claim to have won a military medal. (False)

19) The Supreme Court has ruled the First Amendment prohibits a state university from denying funding to a campus religious magazine if the university funds magazines on other topics. (True)

20) American courts generally will not enforce judgments against American media by foreign courts for libel, hate speech, invasion of privacy and other torts if the expression would be protected under the First Amendment in the United States. (True)

21) Six members of the current Supreme Court would be considered “absolutists.” (False)

22) One of the main purposes of First Amendment due process is to prevent government officials from acting arbitrarily when they ban or regulate speech. (True)

23) In Texas v. Johnson, the Supreme Court ruled that flag burners might be punished because the government has a compelling interest in maintaining the peace and preserving the flag as a symbol of national unity. (False)

24) The president of State University can remove bottled fetuses from an anti-abortion display at the university's designated public forum if the fetuses are "highly offensive" to other students. (False)

25) A federal appeals court ruled a sheriff running for reelection violated the First Amendment rights of jailors when the sheriff fired them for “Liking” the sheriff’s opponent on Facebook. (True)

26) Courts have ruled the First Amendment permits the government to punish Facebook for hosting posts of fake news. (False)

27) The Supreme Court ruled that Westboro Baptist Church protesters engaged in fighting words when they held up signs near military funerals proclaiming, "God hates fags." (False)

28) The Supreme Court ruled California could ban the sale of violent video games to minors because the state had a compelling interest in preventing antisocial conduct. (False)

29) Public officials may block users from their social media pages on the basis of viewpoint, even if the pages are used for official purposes, because a social media accounts are never considered public forums. (False)

30) In 2019, the U.S. Court of Appeals for the Second Circuit held that then-President Trump's practice of blocking critics from his Twitter account was unconstitutional viewpoint discrimination. (True)

31) Twitter's policy of banning all political ads leading up to the 2020 presidential election, to avoid the potential spread of misinformation, violated the First Amendment. (False)

32) Social media platforms are free generally to set their own rules regarding the content they host, and they may do so without engaging in actionable censorship of their users because the platforms are not state actors subject to constitutional limits. (True)

II. Multiple Choice

1) If a court applies the strict scrutiny test to a government speech regulation, the government must prove to the court the government has a _____ for regulating the speech.

A. rational interest
B. compelling interest
C. probable cause
D. reasonable interest
E. none of the above

Answer: B

2) A state university speaker's platform, established in 2010, is _____ public forum.

A. a traditional
B. a dedicated
C. a public content
D. a nonpublic
E. none of the above

Answer: B

3) The City of Midville adopts a law making it illegal for "a large number" to picket at one time. A court likely will find the law _____.

A. unnecessary
B. unconstitutionally vague
C. content-specific
D. viewpoint-specific
E. an acceptable time, place, and manner restriction
Answer: B

4) The Supreme Court has ruled the government has a compelling interest to stop speech before publication whenever:
A. anonymous, libelous political flyers might be circulated
B. "sensitive" government documents might be published
C. the government declares the national interest "possibly could be harmed"
D. all of the above
E. none of the above
Answer: E

5) A federal appellate court in California ruled that web pages depicting abortion doctors in "Wanted Posters" constitute _____.
A. a "likely danger"
B. protected political speech
C. unprotected ethnic slurs
D. a true threat
E. none of the above
Answer: D

6) The state university president can remove bottled fetuses from an anti-abortion display at the Student Public Forum if:
A. the fetuses are offensive
B. the president opposes abortions
C. abortions are legal in the state
D. a and b
E. none of the above; the president CANNOT control speech content at a public forum
Answer: E

7) First Amendment rights include the power for a citizen to:
A. refuse to pledge allegiance to a religion or political group
B. solicit money for churches, political parties and ideological causes
C. petition the government for redress of grievances
D. all of the above
E. a and c only
Answer: D

8) Courts and theorists say the First Amendment serves several purposes, EXCEPT:
A. finding Truth
B. promoting free economic markets
C. allowing change with stability

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D. serving democratic governance
E. promoting self-fulfillment
Answer: B

9) Which amendments are involved when a court rules that a state violates freedom of expression.
A. 1st Amendment only
B. 1st and 5th amendments
C. 14th Amendment only
D. 1st and 14th
E. all of the above amendments
Answer: D

10) Which of the following is NOT an unconstitutional content-based regulation?
A. a law prohibiting marches by the American Civil Liberties Union
B. a law banning protests aimed at foreign embassies and their government policies
C. a law prohibiting distribution of all leaflets inside university buildings
D. a regulation banning Neo-Nazi marches
E. none of the above is a content-based regulation
Answer: C

11) The government can license the following media operators because they operate on a limited spectrum.
A. cable operators
B. newspaper publishers
C. broadcasters
D. internet service providers
E. advertising agencies
Answer: C

12) In McIntyre v. Ohio Elections Commission, the Supreme Court ruled that a state statute banning anonymous campaign literature "designed to influence voters" was:
A. a constitutional prohibition on potentially fraudulent campaign literature
B. a constitutional prohibition on potentially libelous campaign literature
C. an unconstitutional subject matter regulation
D. a and b above
E. none of the above
Answer: C

13) A county ordinance prohibits a newspaper, its website and its blogs from publishing stories favoring legalization of marijuana, stories the ordinance says "might encourage young people to engage in harmful activity." When a newspaper or website challenges the law as a violation of the First Amendment, a court will subject the ordinance to:
A. a balancing test
B. a clear and present danger test

C. strict scrutiny
D. the youthful protection exception
E. none of the above
Answer: C

14) When arrested during an antiwar protest in Indiana, Gregory Hess shouted, "We'll take this fucking street later." The Supreme Court ruled Hess's speech to be an example of:
A. a clear and present danger.
B. a true threat
C. obstruction of a police officer
D. fighting words.
E. none of the above
Answer: E

15) None of the following categories of speech enjoy constitutional protection EXCEPT:
A. false advertising
B. obscenity
C. depictions of animal cruelty
D. true threats
E. fighting words
Answer: C

16) A public official's social media page may be a _____ public forum if used to conduct official business and/or to interact with citizens about public affairs.
A. traditional
B. dedicated
C. limited
D. nonpublic
E. B & C
Answer: E

17) Which of the following is generally true about the regulation of user content on social media platforms?
A. the U.S. government cannot, consistent with the First Amendment, require platforms to prohibit hateful user content
B. platforms voluntarily combat hateful user content by creating their own site rules regarding user content
C. a platform's content rules often differ from the principles of First Amendment doctrine
D. all of the above
E. A & B
Answer: D

18) In the 2021 case *Mahanoy Area School District v. B.L.*, the Supreme Court held that:
A. School administrators have a duty to inculcate values respecting freedom of speech
B. Off-campus student speech could be punished if it involved bullying, harassment, or threats aimed at teachers or other students

C. Parents are better suited than administrators, generally, to supervise what students say off campus
D. A school's regulatory interests are diminished if student speech occurs outside of school hours from an off-campus location and if it is transmitted digitally through a personal device
E. All of the above
Answer: E

19) In 2017, the Federal Communications Commission, with a new Republican majority, began the process of overturning "net neutrality" regulations imposed on Internet service providers by the Obama-era FCC. Since then …
A. The U.S. Congress has tried unsuccessfully to pass net neutrality legislation
B. Individual states have tried to pass net neutrality legislation, with California succeeding.
C. Under the Biden administration, Jessica Rosenworcel, the FCC's chairwoman, voiced support for restoring net neutrality regulations.
D. All of the above
E. None of the above

III. Key Terms/Short Answers

1) Absolutist: *Explain briefly why Justices Black and Douglas were characterized as absolutists.*

Black and Douglas argued that "no law" in the First Amendment prohibited legislatures or courts from imposing restrictions on virtually any speech or publishing.

2) Fourteenth Amendment: *What is the contribution of the Fourteenth Amendment to the First Amendment freedom of expression? Give an example.*

The Fourteenth Amendment allows the courts to strike down state and local government regulations that would violate First Amendment freedoms if imposed by the federal government. In Near v. Minnesota, the Supreme Court declared unconstitutional a state statute forbidding scandalous and malicious speech. The Court ruled the statute violated the First and Fourteenth Amendments.

3) Vagueness and Overbreadth: *What is the difference between a vague and an overbroad law? Give examples.*

A vague law is so unclear that a reasonable person cannot understand it and know what expression is prohibited; to avoid running afoul of a vague law, speakers will censor themselves. An overbroad law regulates speech that constitutionally may be regulated but it also regulates protected speech. The Supreme Court declared "indecency" in the Telecommunications Act of 1996 to be unconstitutionally vague because it was not precisely defined. The law prohibiting

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indecency was also overbroad because it unconstitutionally prohibited protected indecent speech for adults while constitutionally prohibiting indecency for minors.

4) Bad Tendency Test: *Why have courts said good riddance to the "bad tendency" test?*

The bad tendency test was vague and elusive, allowing government to prohibit or punish expression having a "tendency" to harm, without the government having to demonstrate the speech would cause concrete harm.

5) True Threat: *Define a true threat. Give an example.*

A true threat is speech in which the speaker intentionally puts a person in fear of physical harm. Examples: Burning a cross on a black family's front yard; YouTube video in which an angry father threatens to kill a judge; "Wanted" posters online threatening abortion doctors.

6) Self-governance theory: *Explain briefly the self-governance theory of freedom of expression championed by Alexander Meiklejohn.*

Freedom of expression serves a governing value by allowing citizens of a democracy—particularly voters—to discuss, assess and monitor their government. Meiklejohn argued that all political speech is absolutely protected by the First Amendment.

7) Incorporation: *What does it mean to "incorporate" the bill of rights into the Fourteenth Amendment? Give an example of incorporation.*

The Bill of Rights is incorporated when rights are applied to the states (usually) through the Due Process Clause of the Fourteenth Amendment. That means state or local laws restricting expression violate a citizen's First Amendment right to speak, as protected against state infringement by the Fourteenth Amendment. The press clause was incorporated into the Fourteenth Amendment when a Minnesota law was struck down in Near v. Minnesota.

8) Net Neutrality: *What is net neutrality?*

New neutrality is a set of rules enacted by the FCC under the Obama Administration—and rescinded under the Trump Administration—requiring broadband companies, like utilities, to serve all content providers equally, not blocking, slowing or speeding transmission of favored or disfavored content providers.

9) Deepfake: *What is a deepfake?*

Algorithms have made it possible to synthesize fictitious video, images, voice, and text. For example, photos of imaginary faces can be fabricated by computers, and faces can be swapped from one body to another, creating "deepfakes" and threats to both reputation and privacy. Journalists should develop strategies to assess whether content was produced by such a media-synthesis algorithm.

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10) Content moderation: *What is the Facebook Oversight Board?*

Its members, from around the world, select content cases for review—with the power to uphold or reverse Facebook's content decisions in light of the company's stated values and policies. The board's actions are binding, meaning Facebook must implement them, unless doing so would violate the law. The board is also empowered to make recommendations regarding Facebook content policy. As the Facebook community grew to more than 2 billion people, it became increasingly clear to the company that it shouldn't be making so many decisions about speech and online safety on its own.

IV. Essays

1) *Billy Bob, 28, proclaims on the "I Hate Everyone" web page that he plans to make bombs. "I'm tired of the media splattering garbage all over the place, and I'm not going to take it no more." Bob says. "If the elite media don't stop ruinating the country, we have to do something drastic." Police arrest Bob for expressing fighting words. True? Define fighting words and explain whether the speech fits the definition. Support your conclusion with a comparison to at least one Supreme Court fighting words case.*

Billy Bob's statements on the "I Hate Everyone" web page may be aggressive and hostile, but they do not constitute fighting words. For speech to be considered fighting words, it must motivate someone to respond with violence based on the very utterance of the words. Fighting words are used in face-to-face confrontations; they are a slap that contribute nothing to public discourse. Disseminated broadly over the Internet, Bob's words were not addressed to any individual; the "media elite" is a broad term designating no one. This case is similar to Cohen v. California in which the Supreme Court ruled that a man did not express fighting words when he wore a jacket in a courthouse proclaiming "Fuck the Draft." People who disagreed with the statement could look away, the Court said. In both cases, the speech was not targeted at anyone specifically, and its intent was not to incite violence, but to express an opinion.

2) *Bob Editor, editor of the Palisades High School newspaper, says on the paper's website that a school math teacher named Mr. Whiz is a "loser" who ought to be "got rid of in any way possible." Principal Book suspends Editor from school for two days for his "offensive" posting which the principal characterizes as a "true threat." The website is run by the school as part of a "New Media Class" taught by Lawrence Lenient, an English teacher. Principal Book calls his policy a reasonable regulation of a nonpublic forum. But the ACLU claims that Principal Book violated Editor's First Amendment rights by censoring political speech on a public forum. Citing Supreme Court cases, explain whether the online newspaper is (l) a public forum and whether Principal Book can punish Editor for (2) "offensive" speech that Book says is a (3) "true threat."*

Principal Book is probably within constitutional bounds punishing Editor for "offensive" speech on a non-public forum, but the language was hardly a "true threat."

1) Book can impose reasonable regulations on a non-public forum. In the Hazelwood case, the Supreme Court ruled that high school administrators do not violate the First Amendment if they

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impose reasonable regulations on school-sponsored speech; school sponsored speech does not take place in a public forum. As in Hazelwood, the speech occurred in a class taught by regular faculty, not in a venue dedicated as a limited public forum.

2) Just as the principal in Hazelwood could constitutionally delete two articles from a classroom newspaper, Principal Book might punish Editor for his "offensive" expression. The Court said in Hazelwood that a school does not have to be associated with speech that it does not wish to be associated with.

3) Editor's post, however, is not a true threat, which the Supreme Court has defined as an attempt to intimidate by intentionally creating a pervasive fear in victims that they are a target of violence. Burning a cross could be a true threat, as in Virginia v. Black, if conducted with the intent to intimidate. The Ninth Circuit recognized a true threat in Internet "wanted posters" that named abortion doctors, highlighting dead ones. Doctors testified to a pervasive fear in the context of abortion doctors being murdered. Editor has named no targets and expressed no intent to intimidate by creating a pervasive fear of physical harm in any individual or identifiable group. Editor issued general venom and discontent that would be less threatening than Charles Evers's coercion of blacks to boycott white businesses in NAACP v. Claiborne Hardware. Evers did not create a true threat, the Court said, even though he said during racially tense times that blacks' necks would be broken if blacks traded with white businesses. Editor's vague remarks are even less coercive.

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