

NEWSEUM

You Can't Say That in School?!

Class Summary: Students discover how the five freedoms guaranteed by the First Amendment apply in everyday life and in school. When are there limits and why? The landmark Supreme Court case of *Tinker v. Des Moines* (1969) serves as a basis to discuss how public school officials must balance students' rights to free expression with the need to provide a safe learning environment. Students then discuss and debate other real-life court cases.

Pre-visit Lesson Plans

1. My Five Freedoms

- Students become familiar with the First Amendment's five freedoms. They use a handout to facilitate brainstorming about the role of these rights in their own lives, both now and in the future, and discuss their relative worth and impact. If desired, they also create digital or physical posters to showcase each of the five freedoms.
 - Note: This lesson includes a sheet with basic information about the First Amendment and the five freedoms.
- Preparation: 20 minutes
- Active classroom time: 30 minutes

2. Allowed or Not?

- Students use a series of scenarios to begin considering how far the First Amendment's protections extend. They discuss why some limits on the five freedoms may be necessary and begin thinking about how disagreements over these freedoms play out.
- Preparation: 20 minutes
- Active classroom time: 25 minutes

Post-visit Lesson Plans

1. Talk Back

- Students use their newly acquired First Amendment knowledge to weigh in on a current First Amendment issue or controversy via multimedia response pieces. Their responses include an analysis of the issue, their own response and their reasoning.
- Preparation: 10 minutes
- Active classroom time: 30 minutes
- Homework: 60 minutes

2. Balancing Rights: The Case of *Lee v. Weisman* (1992)

- Students analyze a 1992 Supreme Court case about religion in public schools, drawing on their First Amendment knowledge to support their own conclusions about how the court should have ruled. If desired, they may also engage in a class debate, presenting arguments on both sides of the case before voting on a final ruling.
- Preparation: 30 minutes
- Active classroom time: 40 minutes

NEWSEUM **You Can't Say That in School?!**

Pre-visit Lesson Plan 1: My Five Freedoms

Students become familiar with the First Amendment's five freedoms. They use a handout to facilitate brainstorming about the role of these rights in their own lives, both now and in the future, and discuss their relative worth and impact. If desired, they also create posters to showcase each of the five freedoms.

Objective	Students will be able to define the five freedoms of the First Amendment and provide examples of how they exercise these freedoms in their own lives.
Prepare 20 mins	<p>Gather</p> <ul style="list-style-type: none"> • Copies of the "First Amendment Basics" information sheet (one per student) • Copies of the "My Five Freedoms" handout (one per student or one per group, as desired) • For optional extension: <ul style="list-style-type: none"> • Five poster boards or similar • Magazines (including weekly news magazines) and newspapers to cut out images/text • Markers, glue and any other desired poster-making materials <p>Review</p> <ul style="list-style-type: none"> • The "First Amendment Basics" information sheet
Do 20 mins	Distribute the "First Amendment Basics" info sheet and give students time to read it. As a group, talk through the five freedoms, asking students to define each freedom in their own words. Distribute the "My Five Freedoms" handout and have students brainstorm ways in which they have used and could use each of the five freedoms. (Students may work individually then pair/share or work in groups.)
Discuss 10 mins	<ul style="list-style-type: none"> • How do you use the five freedoms already? How do you see yourself using them in the future? • How would your life be different if these rights were not protected? • Which of the freedoms do you think is the most important, and why? Which is the most exciting? The most useful to you? Used most often? • Which of these freedoms do you think causes the most controversy/debate and why? • If you had to eliminate one of these freedoms, which would you pick, and why?
Optional Extension 45 mins (in class or as homework)	Divide students into five groups, and assign each group one freedom. Have students work individually or as a group to create digital or physical posters that show how their assigned freedom may be exercised. Poster may include words, drawings, images from magazines, newspaper clippings, video links, etc. Display and discuss finished posters.

NEWSEUM **You Can't Say That in School?!**

First Amendment Basics

*Congress shall make no law respecting an establishment of **religion** or prohibiting the free exercise thereof; or abridging the freedom of **speech**, or of the **press**; or the right of the people peaceably to **assemble**, and to **petition** the government for a redress of grievances.*

The First Amendment is:

- Part of the Bill of Rights (the first 10 amendments to the U.S. Constitution).
- More than 200 years old. (It was ratified — made part of the Constitution — in 1791.)
- Our nation's blueprint for freedom of expression and religious liberty.
- A statement of freedoms that apply to everyone legally on U.S. soil. (The Supreme Court has not ruled on whether the First Amendment also applies to those in the country illegally.)

Religion: The First Amendment protects the right to freely exercise any religious faith, or no religious faith. You can believe whatever you want to believe and practice your religion openly without fear of persecution.

The First Amendment also prohibits the government from establishing an official religion. That is why, for example, public school teachers are not allowed to lead their students in prayer. The Supreme Court has ruled that public school teachers leading prayers could make it appear that the government favors one religion over another.

These protections are often referred to as the Establishment Clause of the First Amendment.

Speech: The First Amendment protects the right to express your beliefs and ideas through words — written or spoken — and through symbolic speech. Symbolic speech uses images, actions or other non-verbal methods to communicate an idea. The First Amendment protects the right to express even unpopular or controversial ideas.

Press: The First Amendment protects the right to publish information in print, on television or on the Internet. For the most part, the news media are free to publish any information or opinion they desire. The government cannot force them to publish something against their will or punish them for publishing truthful information.

Assembly: The First Amendment protects individuals' freedom to gather together peacefully in groups. Working together, groups can have a much greater impact than an individual working alone.

Petition: The First Amendment protects the right to ask government at any level — local, state or federal — to change a policy, right a wrong or correct a problem. Individuals can petition the government using any legal, nonviolent method of communicating their concerns, from traditional signed petitions to phone calls to Twitter.

First Amendment Basics, cont.

If we didn't have the First Amendment ...

- Religious minorities could be persecuted.
- The government could establish a national religion.
- Individuals could be punished for expressing unpopular ideas.
- Protesters could be silenced.
- The press could be banned from criticizing government.
- Citizens could be prevented from gathering together to work for or against social change.

Sources for more information on the First Amendment:

First Amendment Schools — The Five Freedoms FAQs and Key Court Cases

- Student- and school-centered overview of the five freedoms
- <http://www.firstamendmentschools.org/freedoms/speech.aspx>

The First Amendment Center

- Scholarly overviews of the five freedoms, information about/analysis of current events that relate to the First Amendment
- <http://www.firstamendmentcenter.org/>

SCOTUSblog — First Amendment Cases

- In-depth summaries and analysis of recent and current First Amendment cases before the Supreme Court
- <http://www.scotusblog.com/?s=First+Amendment&searchsubmit=Blog>

Oyez — First Amendment Cases

- Summaries and decisions from historical and current First Amendment cases before the Supreme Court
- http://www.oyez.org/issues/first_amendment

NEWSEUM

You Can't Say That in School?!

My Five Freedoms

Name/Class _____ Date _____

How are the five freedoms important in your life? Use the boxes below to brainstorm ways in which you have already used each freedom and ways in which you could use these freedoms in the future. Try to come up with at least three ideas for each box.

Freedom	How I've used this freedom in the past:	How I could use this freedom in the future:
Religion		
Speech		
Press		
Assembly		
Petition		

NEWSEUM **You Can't Say That in School?!**

Pre-visit Lesson Plan 2: Allowed or Not?

Students use a series of scenarios to begin considering how far the First Amendment's protections extend. They discuss why some limits on the five freedoms may be necessary and begin thinking about how disagreements over these freedoms play out.

Objective	Students will be able to discuss possible limits on First Amendment freedoms and why these limits may be necessary.
Prepare 20 mins	<p>Gather</p> <ul style="list-style-type: none"> • Copies of the “Allowed or Not?” scenario sheet, 1 per student • Desired poster-making materials <p>Review</p> <ul style="list-style-type: none"> • The “Allowed or Not?” teacher background sheet
Do 10 mins	Break students into small groups. Distribute the “Allowed or Not?” scenario sheet and ask them to read each scenario and circle yes or no. They should attempt to agree as a group on one answer per scenario.
Discuss 15 mins	<ul style="list-style-type: none"> • How do you reach a decision for each scenario? Did you think about whether the action was illegal? (Do you know?) Whether it was annoying to others? Whether it would produce a positive or negative outcome? • Was it hard to come to an agreement as a group for each scenario? Why or why not? • In the world beyond the classroom, how do you think the authorities — police officers or judges in court — decide whether an action should be allowed or not? • What if I told you that all of these actions are indeed protected by the First Amendment? Would that surprise you? Why or why not? • In the world beyond our classroom, do you think everyone always agrees about whether actions like this should be allowed? Why happens when people disagree? • The First Amendment freedoms are broad, but they are not unlimited. Where would you draw the line between what should be protected and what shouldn't? (Cue students that they will learn more about First Amendment limits during their upcoming visit to the Newseum.)

NEWSEUM

You Can't Say That in School?!

Allowed or Not?

Name/Class _____ Date _____

Read each of the following scenarios. If you think the action described is allowed, circle yes. If you think the action described is not allowed, circle no.

1. A student refuses to participate in the Pledge of Allegiance with the rest of his class. He says it is against his religion. He stays quietly in his seat while the rest of the class recites the pledge.

Is this allowed? YES NO

2. A group of college students who oppose U.S. involvement in foreign wars gather in a public park and burn an American flag as a symbol of their protest.

Is this allowed? YES NO

3. A newspaper receives top secret documents that show that the government has been lying about its involvement in an ongoing war. The newspaper publishes the documents to reveal the truth to the public.

Is this allowed? YES NO

4. A group of white supremacists (people who believe descendants of white Europeans are superior to other people) gather in Washington, D.C., and march to the U.S. Capitol. They have a permit for their event and march calmly while chanting and carrying signs that harshly criticize other races.

Is this allowed? YES NO

5. A group of people with cancer, including several teenagers, believe that marijuana could help ease their suffering. They organize a petition to gather signatures from voters who believe that the state should pass a law allowing doctors to prescribe marijuana to their patients as a form of medical treatment.

Is this allowed? YES NO

NEWSEUM

You Can't Say That in School?!

Allowed or Not? Teacher Background Sheet

Scenario Explanations

All of the scenarios describe actions protected by the First Amendment. See below for specific explanations.

1. A student refuses to participate in the Pledge of Allegiance with the rest of his class. He says it is against his religion. He stays quietly in his seat while the rest of the class recites the pledge. (primarily freedom of religion)

Explanation: The First Amendment protects the free exercise of religion, and schools or other public institutions must (within reason) respect individuals' beliefs and cannot do things that make it appear that they have endorsed a single religion. The 1939 Supreme Court case of *Minersville School District v. Gobitas* ruled that students cannot be compelled to recite the Pledge of Allegiance. Students who don't participate do not need to give an explanation, but religious beliefs are often cited. Students who do not participate cannot disrupt the rest of the class who choose to participate.

2. A group of college students who oppose U.S. involvement in foreign wars gather in a public park and burn an American flag as a symbol of their protest. (primarily freedom of speech)

Explanation: Although many people find it distasteful, burning an American flag is protected by the First Amendment. Burning a flag is an example of symbolic speech (speech that gets its message across without using words). Because of the First Amendment's protections, the only way to make flag burning illegal would be to pass a constitutional amendment, something that has been proposed and attempted at various points in history, but has never succeeded.

3. A newspaper receives top secret documents that show that the government has been lying about its involvement in an ongoing war. The newspaper publishes the documents to reveal the truth to the public. (primarily freedom of the press)

Explanation: Barring an immediate threat to national security, the First Amendment protects the right of the press to publish information that is critical of, or embarrassing for, the government. The 1970 Supreme Court case of *New York Times v. United States*, popularly known as the Pentagon Papers case, ruled that since publication of secret papers about the Vietnam War would not cause an inevitable, direct and immediate event that could endanger Americans at home or abroad, the First Amendment protected their publication.

NEWSEUM

You Can't Say That in School?!

Allowed or Not? Teacher Background Sheet

Scenario Explanations, cont.

4. A group of white supremacists (people who believe descendants of white Europeans are superior to other people) gather in Washington, D.C., and march to the U.S. Capitol. They have a permit for their event and march calmly while chanting and carrying signs that harshly criticize other races. (primarily freedom of assembly and assembly)

Explanation: Provided they are peaceful and have obtained the necessary permits to ensure public safety, all types of groups/organizations are allowed to gather in public for whatever cause/purpose they choose. Multiple white supremacist marches have taken place in Washington, including a famous gathering of 40,000 Ku Klux Klan members in 1925. More recently, in 2012 a group of 14 white supremacists belonging to the Aryan Nation marched near the U.S. to protest violence against white farmers in South Africa. Over 150 counter-protesters met them with anti-Nazi and pro-racial equality messages.

5. A group of people with cancer, including several teenagers, believe that marijuana could help ease their suffering. They organize a petition to gather signatures from voters who believe that the state should pass a law allowing doctors to prescribe marijuana to their patients as a form of medical treatment. (primarily freedom of petition)

Explanation: The First Amendment freedom to petition the government protects the right to complain about existing laws or policies and ask for change. It does not guarantee that those changes will be made. There is no age requirement for petitioning, but if, for example, a group is seeking to get a topic put onto the ballot on Election Day, the people who sign their petition generally must be eligible, registered voters. The issue of medical marijuana is the subject of current debate in many states, with groups petitioning for and against its legalization in many ways, including direct appeals to elected officials, general petitions, petitions to put the issue on the ballot on Election Day, rallies, etc.

More About First Amendment Limits:

Religion: In very specific circumstances, the government does have the right to step in and limit the way you act upon your religious beliefs, such as when the practice of your religion could endanger a child.

Speech: Speech can be limited when it causes harm, such as endangering people or putting national security at risk. And minors (people under 18) may have more limited freedom of speech than adults. For example, indecent speech that is sexual or vulgar in nature but does not cross the line into being obscene is protected for adults, but not necessarily for minors.

NEWSEUM

You Can't Say That in School?!

Allowed or Not? Teacher Background Sheet

More About First Amendment Limits, cont.:

Press: In rare cases, if the government can prove that information will harm national security if made public, the courts may block publication of that information at the government's request. And although the press is free to print almost anything without facing criminal penalties, members of the press can still face civil liabilities. This means that a news organization that knowingly publishes damaging false information about a person, called libel, can be sued.

Assembly: The government can place some reasonable restrictions on when and where groups gather in order to protect the safety and well-being of those assembling and the general public, such as requiring a permit for a parade on a public street.

Petition: Individuals cannot use physical force or threats to try to coerce government action, and the First Amendment does not guarantee that the government will act in response to individuals' petitioning.

NEWSEUM **You Can't Say That in School?!**

Post-visit Lesson Plan 1: Talk Back

Students use their newly acquired First Amendment knowledge to weigh in on a current First Amendment issue or controversy via multimedia response pieces. Their responses include an analysis of the issue, their evaluation of it and their reasoning.

Objective	Students will be able to apply what they've learned about the First Amendment and limits on the five freedoms to compose a response to a current First Amendment issue.
Prepare 20 mins	<p>Gather</p> <ul style="list-style-type: none"> Copies of the "Talk Back" handout, 1 per student <p>Review</p> <ul style="list-style-type: none"> Refreshers: "First Amendment Basics" handout and "Allowed or Not?" teacher background sheet
Do 10 mins in class; 60 mins homework	Distribute the "Talk Back" handout and go over the assignment. Explain that students will be researching a current First Amendment news story. The story may cover an ongoing controversy or a court case. (Alternatively, you may preselect one or several stories for the class to read and analyze.) Then they will use the medium of their choice — an op-ed essay, a video blog, a multimedia poster, etc. — to express their opinion on whether the action presented in the story is protected or not. They will share their final products with the class and discuss their processes and conclusions.
Discuss 20 mins or more	<p>Note: Discussion will require extended time if you wish all students to share their response pieces. For classes with limited time, you may choose a few volunteers or representative examples, or break into small groups to share/discuss.</p> <ul style="list-style-type: none"> Why did you think this story was interesting? Do you think the action presented in this story is protected by the First Amendment? Why or why not? Was it difficult to make up your mind about this action/issue? Why or why not? How did the idea of balancing rights come into play as you weighed this issue? If this issue went to court (or is going to court), how do you think the court will rule? Will its ruling be the same as or different from your conclusion? Why?

Talk Back

Name/Class _____ Date _____

It's time to share your ideas about the First Amendment. How far should the five freedoms extend? What shouldn't they protect?

1. Find a news article about a current First Amendment issue/controversy or a First Amendment court case. Tips:
 - The First Amendment Center homepage features articles about recent First Amendment news stories and court cases: <http://www.firstamendmentcenter.org/>
 - *The New York Times* has an index of First Amendment-related stories: http://topics.nytimes.com/top/reference/timestopics/subjects/u/us_constitution/first_amendment/index.html (Many other news organizations have similar lists that can be found by using the search function on their homepages.)
 - SCOTUSblog covers Supreme Court cases: <http://www.scotusblog.com/> (Search "First Amendment" to find a list of related case pages.)
2. After reading your news story, answer the questions below on a separate piece of paper.
3. Create a response piece to the news story that clearly expresses your opinion on the issue or controversy. Do you think the First Amendment protects these actions?
 - Your response piece can take any form. Some ideas:
 - An opinion essay
 - A video blog
 - A multimedia poster
 - A photo essay
 - Your response piece should include all of your answers to the questions below.

First Amendment news story questions:

1. What action or issue is this story about?
2. Who is involved?
3. Where did it take place?
4. When did it take place?
5. Why is it newsworthy? (In other words, why is it the subject of a news story?)
6. Which of the five freedoms are involved in this action/issue?
7. Why is this action/issue controversial?
8. How does this news story make you feel? Why?
9. Do you think this action/issue is protected by the First Amendment? Why or why not? (Be sure to justify your answer. Use the cases or facts that you have learned about in your First Amendment studies to support your opinion, and/or conduct additional research to support your ideas.)

NEWSEUM **You Can't Say That in School?!**

Post-visit Lesson Plan 2: The Case of *Lee v. Weisman*

Students analyze a 1992 Supreme Court case about religion in public schools, drawing on their First Amendment knowledge to support their own conclusions about how the court should have ruled. If desired, they may also engage in a class debate, presenting arguments on both sides of the case before voting on a final ruling.

Objective	Students will be able to analyze the tensions between First Amendment protections using the specific facts of the Supreme Court case <i>Lee v. Weisman</i> (1992).
Prepare 30 mins	<p>Gather</p> <ul style="list-style-type: none"> Copies of the “Balancing Rights: The Case of <i>Lee v. Weisman</i>” handout, 1 per student <p>Review</p> <ul style="list-style-type: none"> “Balancing Rights: The Case of <i>Lee v. Weisman</i>” teacher background sheet If desired, additional case background for <i>Lee v. Weisman</i> on Oyez: http://www.oyez.org/cases/1990-1999/1991/1991_90_1014
Do 20 mins	Distribute the “Balancing Rights: The Case of <i>Lee v. Weisman</i> ” handout. Individually or in groups, have students read the summary of the case and answer the questions on the handout. Discuss their answers, then reveal and discuss the court’s decision. (See the accompanying teacher background sheet for more information.) Throughout the discussion, encourage students to cite cases or facts they have learned from their First Amendment studies.
Discuss 20 mins	<p>Before revealing the Supreme Court’s ruling:</p> <ul style="list-style-type: none"> What rights are you balancing in this case? How should the principal defend the practice of hosting a clergy member to lead a prayer? How should the student’s father argue against it? Should it matter that attendance wasn’t required to receive a diploma? Or that students’ weren’t required to kneel? Why? Would your answer change if the prayer were led by the principal? By a student? <p>After revealing the Supreme Court’s ruling:</p> <ul style="list-style-type: none"> How did the Supreme Court balance rights in this case? Do you agree or disagree with this ruling? Why? What is coercion? Why is the concept of coercion important to this case? What do you think should constitute coercion? Following this ruling, some public schools have chosen to have an additional graduation event where non-denominational and non-sectarian prayers led by local clergy are part of the program. What do you think about this practice? 1992 was over 20 years ago. Do you think the Supreme Court would rule the same way on this case today? Why or why not?

NEWSEUM

You Can't Say That in School?!

Post-visit Lesson Plan 2: The Case of *Lee v. Weisman*, cont.

Students analyze a 1992 Supreme Court case about religion in public schools, drawing on their First Amendment knowledge to support their own conclusions about how the court should have ruled. If desired, they may also engage in a class debate, presenting arguments on both sides of the case before voting on a final ruling.

Optional Extension
20 mins homework;
45 mins in classroom

Organize a class debate about the case. **Before** revealing how the Supreme Court ruled on this case, divide the class into two; one side will argue that the Supreme Court should rule that the prayer is protected by the First Amendment; the other half will argue that the Supreme Court should rule that the prayer is not protected by the First Amendment. Break each half of the class into several small groups. Each group will present its strongest argument for or against First Amendment protection in the debate. Allow them class time to begin brainstorming arguments, or assign this as homework. In the following class period, alternate groups from each half of the class, presenting arguments for and against First Amendment protection. At the end of the debate, take a vote to see how the class would rule on the case. (You may wish to ask parents or other teachers to be a guest judge and jury.) Compare the result with the Supreme Court's ruling and discuss using the questions above.

Balancing Rights: The Case of *Lee v. Weisman*

Name/Class _____ Date _____

Read the information about the 1992 Supreme Court case *Lee v. Weisman*, then answer the questions below.

Facts of the case:

It was common for public schools in Rhode Island to invite local clergy members (leaders of religious groups) to participate in graduations ceremonies at the middle and high school level by leading a prayer. These clergy members received guidelines for leading non-denominational and non-sectarian prayers, meaning prayers that are not associated with a specific religious group. (Generally, non-denominational and non-sectarian prayers are directed to God or a higher being and do not mention specific religious figures such as Jesus Christ, Muhammad, etc.)

Attendance at school graduation ceremonies was not required in order for students to receive their diplomas, and those who attended the ceremony were not forced to stand or kneel during the prayers.

Nathan Bishop Middle School invited a local rabbi (leader of a Jewish congregation) to lead prayers at its graduation ceremony. The father of a student at the school sued, arguing that inviting the rabbi to lead prayers violated the First Amendment's Establishment Clause, which prohibits the government (including public institutions such as public schools) from establishing an official religion and from favoring religion over non-religion, or non-religion over religion.

The case eventually made it to the Supreme Court.

Issue:

Does the First Amendment allow public schools to invite clergy members to offer non-denominational and non-sectarian prayers at an official school graduation ceremony?

Questions:

1. Which First Amendment freedoms are at issue in this case?
2. If you were the principal, how would you defend inviting the rabbi to participate in the graduation ceremony?
3. If you were the student's father, how would you argue against allowing the rabbi to participate in the graduation ceremony?
4. If you were a Supreme Court justice, how would you rule on this case? Why?

NEWSEUM **You Can't Say That in School?!**

Balancing Rights: The Case of *Lee v. Weisman* Teacher Background

Text drawn from the First Amendment Center's First Amendment Schools website: <http://www.firstamendmentschools.org/freedoms/case.aspx?id=476>

Facts:

Rhode Island public schools frequently invited local clergy members to participate in graduation ceremonies at the middle and high school level. These clergy were provided with guidelines for non-denominational and non-sectarian prayers for invocations and benedictions. The father of a student at Nathan Bishop Middle School sued, claiming that inviting a rabbi to lead prayers at the middle school graduation was a violation of the Establishment Clause.

Issue:

"Whether including clerical members who offer prayers as part of the official school graduation ceremony is consistent with the Religion Clauses of the First Amendment ..."

Holding:

By a 5-4 vote, the court held that schools may not promote religious exercises either directly or through an invited guest at graduation ceremonies.

Reasoning:

The court found that the Establishment Clause forbids government from coercing people into participating in a religious activity. Forcing students to choose between attending a graduation ceremony containing religious elements with which they disagree or avoiding the offending practices by not attending their graduation ceremony was inherently coercive and unlawful. The court found that students who do attend are exposed to subtle coercion to appear as though they approve of or are participating in the prayer.

Majority:

"The principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause. It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which 'establishes a [state] religion or religious faith, or tends to do so.'" (Justice Anthony Kennedy)

Dissent:

"Thus, while I have no quarrel with the Court's general proposition that the Establishment Clause 'guarantees that government may not coerce anyone to support or participate in religion or its exercise,' I see no warrant for expanding the concept of coercion beyond acts backed by threat of penalty — a brand of coercion that, happily, is readily discernible to those of us who have made a career of reading the disciples of Blackstone rather than of Freud." (Justice Antonin Scalia)