

Standard 12.5.1

- The Constitution is considered a “living” document.
- How has the Constitution changed over time.

Standard 12.5.1 Understand the changing interpretations of the Bill of Rights over time, including interpretations of the basic freedoms articulated in the First Amendment and the due process clause of the Fourteenth Amendment.

Limits on Freedom of Speech

Why can't we say what we want, when we want to?

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Limits on freedom of speech

- The right to freedom of speech is not absolute.
- The Supreme Court has ruled that the government sometimes may limit or ban libel, obscenity, fighting words, and words that present a clear and present danger of causing violence.
- The government also may regulate speech by limiting the time, place, or manner in which it is made.
 - Example: the government may require activists to obtain a permit before holding a large protest rally on a public street.

Limits on freedom of speech

- Schneck v. United States (1919)
 - The majority opinion was written by Oliver Wendell Holmes
 - Free speech can be punished only when there is “clear and present” danger that can lead to criminal acts.
 - Yelling “FIRE!” in a crowded theater is not protected free speech under the U.S. Constitution.

Limits on freedom of speech

- Hate Groups/Inflammatory Groups
 - example: KKK, American Nazi Party
 - Under the 1st amendment groups are allowed to parade, but only in peaceful marches.
 - Just because most Americans do not agree with what people say, they still have the right to say it.

Limits on freedom of speech

- Should groups like the KKK be able to spread their ideology? Why or why not?

14th Amendment

- What are the origins and the importance of the Due Process and Equal Protection clauses of the 14th amendment?
- What court cases have been argued on behalf of citizens regarding the 14th amendment?

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14th Amendment

- **Due Process Clause (5th Amendment)**
 - **Procedural Due Process**
 - **It affords individuals a right to a fair process**
 - **Indictments and trials where they can confront their accusers.**
 - **Substantive Due Process**
 - **Right to enjoy certain fundamental liberties without governmental interference.**

14th Amendment

- **Due Process Clause**

- The 5th amendment's due process clause only applied to the Federal government.

- In 1868 the adoption of the 14th amendment expanded the right of due process to include limits on the action of state governments.

- The due process clause requires government to use even-handed procedures, so that it is less likely to act in an arbitrary way.

14th Amendment

- **Equal Protection of the Law**

- The equal protection of the law clause limits the ability of states to discriminate against people based on their race, national origin, gender, or other status.

- This clause has been used to guarantee voting rights, school integration, the rights of women and minorities to equal employment and the rights of immigrants to attend public school.

14th Amendment

- **Case law that was argued before the Supreme Court**
 - **Civil Rights Cases (1883)**
 - **Plessy v. Ferguson (1896)**
 - **Brown v. Board of Education (1954)**
 - **Bakke v. Regents of University of California (1978)**