

★ MEDIA LAW ★ STUDY ★ GUIDE

I. Tips for success

- Form a study group.
- Make an index cards for each of the key cases, summarizing their facts, dates, parties and significance.
- Use the textbook as a foundation and lecture notes for special emphases and for content not in the book but that the professor believes is important.
- Use the hyperlinked Powerpoint presentations to supplement your textbook reading and the lecture notes.
- Email or ask **specific** questions, which exclude overly broad questions such as, “What’s libel?” But don’t wait until the night before the exam to ask.

II. Concepts and Themes

- Sources of U.S. law
- History of the First Amendment and, more broadly, the Bill of Rights
- Court systems and how they fit together
- Evolution (or, more accurately, devolution) of seditious libel in the U.S.
- Time, place and manner restrictions and statutes, and content neutrality, including strict scrutiny
- Censorship, licensing, taxation and, more broadly, prior restraints
- Blackstone, Oliver Wendell Holmes and common law in America
- Incorporating the First Amendment through the Fourteenth Amendment to apply to state laws
- Jurisprudential philosophies about how to interpret and apply the F.A.
- Kinds or types of legal codes or systems of law in other countries
- Speech as conduct (action), conduct as speech, symbolic speech
- Philosophical arguments for freedom of expression protections
- Arguments for the suspension of these freedoms during times of war
- Arguments for the limiting of these freedoms in public school settings, including colleges and universities, and the limits of the First Amendment in educational settings, including off-campus, online expression
- Obscenity, offensive speech, hate speech, speech codes, ‘Son of Sam’ laws, whistle-blower speech and protections

III. Identify and place into context the following terms

*(note: This list is my best attempt to catalog what we’ve covered and, therefore, what might appear on the exam, but it should not be considered all-inclusive. Consider it **nearly** all-inclusive):*

seditious libel, precedent, judicial review, common law, prior restraint, ‘clear and present danger’ test (and later variations and permutations of incitement tests), summary judgment, appeals courts, statutory law, *stare decisis*, *writ of certiorari*, public forum/non-public forum, incorporation, plaintiff, defendant, due process, concurring opinion, dissenting opinion, *per curiam* opinion, torts (civil wrongs), jurisdiction, forum shopping, amicus brief, to “remand” a case, ad hoc balancing, preferred position balancing, absolutism, utilitarianism, strict

scrutiny, Bad Tendency Test, 'fighting words' doctrine, 'true threat,' incitement, 'rule of law', voir dire, change of venue, change of venire, government speech, commercial speech, whistleblower speech, Comstock Act, Hicklin rule, prurient interest, community standards (for obscenity), sexting, revenge porn

Be sure to review the vocabulary words in your textbook presented in bold and in the chapter margins.

IV. Explain the significance of the following statutes and cases:

- *Marbury v. Madison* (1803)
- The Alien & Sedition Acts of 1798
- *Barron v. Baltimore* (1833)
- The Espionage Act of 1917 and Sedition Act of 1918
- Smith Act of 1940
- *Debs v. U.S.* (1917)
- *Schenck v. U.S.* (1919)
- *Abrams v. U.S.* (1919)
- *Gilbert v. Minn.* (1921)
- *Gitlow v. NY* (1925)
- *Whitney v. California* (1927)
- *Near v. Minn.* (1931)
- *Stromberg v. California* (1931)
- *Grosjean v. American Press* (1936)
- *Dennis v. U.S.* (1951)
- *Yates v. U.S.* (1957)
- *Brandenburg v. Ohio* (1969)
- *U.S. v. O'Brien* (1967)
- *Times v. U.S.* (and *Washington Post v. U.S.*) (1971)
- *Citizens United v. FEC* (2010)
- *Pleasant Grove City (UT) v. Summum* (2009)
- *Tinker v. Des Moines* (1969)
- *Hazelwood v. Kuhlmeier* (1988)
- *Morse v. Frederick* (2007)
- *Barber v. Dearborn (Mich.) P.S.* (2003)
- *Lowry v. Watson Chapel S.D.* (2006)
- *Buessink v. Woodland S.D.* (1998)
- *Flaherty v. Keystone Oaks School* (2002)
- *J.S. v. Bethlehem Area S.D.* (2002)
- *Layshock v. Hermitage School District (Pa.)* (2011)
- *Dickey v. Alabama State Board of Education* (1967)
- *Papish v. Board of Curators of the University of Missouri* (1973)
- *Kincaid v. Gibson* (2001)
- *Hosty v. Carter* (2005)
- *Christian Legal Society v. Martinez* (2010)
- *Chaplinsky v. New Hampshire* (1942)
- *Terminiello v. Chicago* (1949)
- *Cohen v. California* (1971)

- *RAV v. St. Paul* (1992)
- *Virginia v. Black* (2003)
- *Elonis v. U.S.* (2015)
- *Regina v. Hicklin* (1868)
- *Roth v. United States* (1957)
- *New York v. Ferber* (1982)
- *United States v. One Book Called "Ulysses"* (1933)
- *Miller v. California* (1973)
- *Pope v. Illinois* (1987)
- *Stanley v. Georgia* (1969)
- *FCC v. Pacifica* (1978)
- *Reno v. ACLU* (1997)
- *FCC v. Fox* (2009)
- Various whistle-blower protection statutes (generally)

**V. Format of the exam
(as recommended by the ad hoc committee on midterms)**

- Multiple choice
- Matching
- Short answer questions

Note: *Case names will be provided, but not their significance.*

Another note: *Keep in mind that study guide isn't a student "right." It's an aid that a professor might or might not provide to facilitate learning and studying, but it's not meant to help students strategize for better grades. This document, therefore, is not a contract. It is an honest attempt to help you prepare, to do well, and to know the law. It is possible that something absent from this guide might slip onto the exam; if it does, it is unintentional. It is not the professor's intention to "trick" or ambush you.*

Finally, in a 50-minute test format, inevitably things you studied will not appear on the exam. It's unfortunate, but not unfair. Such brevity also means that those who KNOW the answers will be rewarded for their certainty by saving them precious time. I wish you all success!