

# ***★ 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?” And 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
- Court systems (federal, state and Supreme) 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
- Obscenity, hate speech, speech codes, Son of Sam laws
- Censorship, licensing, taxation and, more broadly, prior restraints
- Blackstone, Oliver Wendell Holmes and common law in America
- Incorporating the First Amendment through the 14<sup>th</sup> 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
- Arguments for freedom of expression protections
- Arguments for the suspension of these freedoms during times of war
- Arguments for the suspension 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

## **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/nonpublic forum, incorporation, plaintiff, 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, ‘rule of law’, *voir dire*, change of venue, change of venire.

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:**

- a. Trial of John Peter Zenger (1735)
- b. *Marbury v. Madison* (1803)
- c. The Alien & Sedition Acts of 1798
- d. *Barron v. Baltimore* (1833)
- e. The Espionage Act of 1917 and Sedition Act of 1918
- f. Smith Act of 1940
- g. *Debs v. U.S.* (1917)
- h. *Schenck v. U.S.* (1919)
- i. *Abrams v. U.S.* (1919)
- j. *Gilbert v. Minn.* (1921)
- k. *Gitlow v. NY* (1925)
- l. *Whitney v. California* (1927)
- m. *Near v. Minn.* (1931)
- n. *Stromberg v. California* (1931)
- o. *Grosjean v. American Press* (1936)
- p. *Dennis v. U.S.* (1951)
- q. *Yates v. U.S.* (1957)
- r. *Brandenburg v. Ohio* (1969)
- s. *U.S. v. O'Brien* (1967)
- t. *Times v. U.S.* (and *Washington Post v. U.S.*) (1971)
- u. *International Society for Krishna Consciousness v. Lee* (1992)
- v. *Citizens United v. FEC* (2010)
- w. *Pleasant Grove City (UT) v. Summum* (2009)
- x. *Garcetti v. Ceballos* (2006)
- y. *Tinker v. Des Moines* (1969)
- z. *Hazelwood v. Kuhlmeier* (1988)
- aa. *Morse v. Frederick* (2007)
- bb. *Barber v. Dearborn (Mich.) P.S.* (2003)
- cc. *Lowry v. Watson Chapel S.D.* (2006)
- dd. *Buessink v. Woodland S.D.* (1998)
- ee. *Flaherty v. Keystone Oaks School* (2002)
- ff. *J.S. v. Bethlehem Area S.D.* (2002)
- gg. *Layshock v. Hermitage School District (Pa.)* (2011)
- hh. *Dickey v. Alabama State Board of Education* (1967)
- ii. *Papish v. Board of Curators of the University of Missouri* (1973)
- jj. *Kincaid v. Gibson* (2001)
- kk. *Hosty v. Carter* (2005)
- ll. *Christian Legal Society v. Martinez* (2010)
- mm. *Stanley v. McGrath* (1983)
- nn. *Joyner v. Whiting* (1973)
- oo. *Thonen v. Jenkins* (1973)
- pp. *Shanley v. Northeast Independent School District* (1972)
- qq. *Times v. Sullivan* (1964)
- rr. *Chaplinsky v. New Hampshire* (1942)

ss. *Terminiello v. Chicago* (1949)  
tt. *Cohen v. California* (1971)  
uu. *Miller v. California* (1973)  
vv. *FCC v. Pacifica* (1978)  
ww. *Reno v. ACLU* (1997)  
xx. *RAV v. St. Paul* (1992)  
yy. *Virginia v. Black* (2003)  
zz. *Elonis v. U.S.* (2015)

**V. Format of the exam**

- LOTS of Multiple choice
- Some true/false
- Short essay questions in which you apply precedent/case law

**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 may or may 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 my 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. The brevity also means that those who KNOW the answers will be rewarded for their certainty. Those who lose time guessing or scrambling will, therefore, pay a price. I wish you all successes!*