

# EXPLORING FREE SPEECH IN AN INFORMATION-OVERLOADED WORLD

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## Learning from the courts what *Freedom of Speech* is:

Not to speak (specifically, the right not to salute the flag).

*West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943).

Of students to wear black armbands to school to protest a war (“Students do not shed their constitutional rights at the schoolhouse gate.”).

*Tinker v. Des Moines*, 393 U.S. 503 (1969).

To use certain offensive words and phrases to convey political messages.

*Cohen v. California*, 403 U.S. 15 (1971).

To contribute money (under certain circumstances) to political campaigns.

*Buckley v. Valeo*, 424 U.S. 1 (1976).

To advertise commercial products and professional services (with some restrictions).

*Virginia Board of Pharmacy v. Virginia Consumer Council*, 425 U.S. 748 (1976); *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

To engage in symbolic speech, (e.g., burning the flag in protest).

*Texas v. Johnson*, 491 U.S. 397 (1989); *United States v. Eichman*, 496 U.S. 310 (1990).

## Learning from the courts what *Freedom of Speech* isn't:

To incite actions that would harm others (e.g., “[S]hout[ing] ‘fire’ in a crowded theater.”).

*Schenck v. United States*, 249 U.S. 47 (1919).

To make or distribute obscene materials.

*Roth v. United States*, 354 U.S. 476 (1957).

To burn draft cards as an anti-war protest.

*United States v. O'Brien*, 391 U.S. 367 (1968).

To permit students to print school newspaper articles (objected by administration).

*Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988).

Students - make an obscene speech at a school-sponsored event.

*Bethel School District #43 v. Fraser*, 478 U.S. 675 (1986).

Students - advocate illegal drug use at school-sponsored event.

*Morse v. Frederick*, 551 U.S. 393 (2007).

## What context and challenges confront us in libraries?

- ✓ Library neutrality?
- ✓ Discourse, democracy, meeting rooms, and programing?
- ✓ Fake news vs. free speech (free press)?

**BREAKOUT THOUGHTS: What are you confronting of these in your library?**

## NEXT STEPS? READINGS? COLLABORATIONS? ACTION?

# INSTITUTIONAL NEUTRALITY ISN'T REALITY

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<https://americanlibrariesmagazine.org/2018/05/01/institutional-neutrality-isnt-reality>

# ARE LIBRARIES NEUTRAL?

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Highlights from the Midwinter President's Program

<https://americanlibrariesmagazine.org/2018/06/01/are-libraries-neutral/>

- ✓ Bats, R. (2016). Libraries after Charlie: From neutrality to action. *Library Trends* 65(2), 128-142.
- ✓ Buschman, J. (2018). The Politics of academic libraries: Fake news, neutrality and ALA. *The Journal of Academic Librarianship*, 444(3), 430-431.