

**Miami-Dade County Public Schools  
Department of Secondary English Language Arts**

**DISTRICT WRITING PRE-TEST  
ASSESSMENT**

**8<sup>TH</sup> GRADE  
ARGUMENTATIVE PROMPT**

**NAME:** \_\_\_\_\_

**TEACHER:** \_\_\_\_\_ **PER:** \_\_\_\_\_

## Source 1: Why Is Freedom of Speech an Important Right? When, if Ever, Can It Be Limited?

Associated Press, By Michael Gonchar Sept. 12, 2018

- 1 One of the founding principles of the United States that Americans cherish is the right to freedom of speech. Protected in the First Amendment to the Constitution, freedom of speech grants all Americans the liberty to criticize the government and speak their minds without fear of being censored or persecuted.
- 2 Even though the concept of freedom of speech on its face seems quite simple, in reality there are complex lines that can be drawn around what kinds of speech are protected and in what setting.
- 3 The Supreme Court declared in the case *Schenck v. United States* in 1919 that individuals are not entitled to speech that presents a “clear and present danger” to society. For example, a person cannot falsely yell “fire” in a crowded theater because that speech doesn’t contribute to the range of ideas being discussed in society, yet the risk of someone getting injured is high. On the other hand, in *Brandenburg v. Ohio* in 1969, the court declared that even inflammatory speech, such as racist language by a leader of the Ku Klux Klan, should generally be protected unless it is likely to cause imminent violence.
- 4 While the text and principle of the First Amendment have stayed the same, the court’s interpretation has indeed changed over time. Judges, lawmakers and scholars continue to struggle with balancing strong speech protections with the necessity of maintaining a peaceful society.
- 5 What do you think? Why is the freedom of speech an important right? Why might it be important to protect even unpopular or hurtful speech? And yet, when might the government draw reasonable limits on speech, and why?
- 6 Before answering this question, read the full text of the amendment. What does it say about speech?  
*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.*

## Source 2: Freedom of Speech, What It Is and What It Isn’t

*Law for Seniors*

- 7 Most Americans know the First Amendment to the U.S. Constitution grants us freedom of speech. It states: “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, . . .” They believed that in a free society, people must be permitted to criticize government and lobby for change. But how far do free speech protections go? What are the limits of free speech, and who has the authority to restrict speech?

- 8 While freedom of speech is one of our fundamental rights, there are limitations. What is and what isn’t protected speech has been the subject of countless lawsuits over the years. As a rule, limitations on free speech prevent speech that is harmful to others, threatening, or generally disgusting and abusive.

### **Obscenity is Not Protected by the First Amendment.**

- 9 The issue here is defining what is and isn’t obscene<sup>1</sup>. Back in the 19th century, U.S. courts held that blasphemy<sup>2</sup> was obscene speech and not protected by the First Amendment. Those rulings have since been overturned, and people now have a Constitutional right to blaspheme as much as they want. Cursing or swearing is not what the courts consider obscenity. In 1973, the United States Supreme Court, in *Miller v. California*, created a three-part test for a legal definition of obscenity.

(a) whether the “average person applying contemporary community standards” would find that the work, taken as a whole, appeals to the prurient<sup>3</sup> interest; (b) whether the work depicts or describes in a clearly offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

### **Lying, in Many Circumstances, is Not Protected Speech.**

- 10 Lying under oath is perjury, a criminal offense. It is not protected speech under the First Amendment. Martha Stewart is an example most people remember. She went to prison for lying about her stock trading during a federal investigation.
- 11 On the other hand, politicians and other public figures have considerable leeway in bending the truth to suit their own interests. You may not like it, but it is protected speech under the law.

### **Fighting Words, Threats, and Inciting Violence Will Not Be Protected.**

- 12 The “fighting words” doctrine was first described in *Chaplinsky v. New Hampshire* (1942) where the Supreme Court upheld a state law prohibiting one person from insulting or defaming another on a public street. The purpose behind the statute was to preserve the public peace by preventing street brawls<sup>4</sup>
- 13 In *Cohen v. California* (1971) the Court further clarified its position on threatening or violent speech. The Cohen Court held that a t-shirt containing an expletive<sup>5</sup> was protected by the First Amendment because it was not directed at any one person and could not reasonably be expected to lead to a breach of the peace.
- 14 It is this same doctrine that prohibits overt threats of bodily harm, swatting, or yelling fire in a crowded theater. Falsely yelling fire in a crowded building and swatting<sup>6</sup> are pranks that can lead to people being injured or killed. There was a news story about a young man’s swatting prank leading to an innocent person’s death. The young man called 911 and falsely reported a hostage situation. A SWAT team was dispatched and killed an innocent man who had no idea what was going on.

### **Schools May Limit a Student’s Free Speech Rights.**

- 15 Schools have the right to ban cursing, to censor school newspapers, and to monitor books and publications brought on campus. While some states have passed laws limiting a school's control over student free speech rights, the school's obligation to protect students and maintain an orderly environment still trumps the right of free speech in the school setting.

### Examples of Speech that is Protected by the First Amendment.

- 16 You have the right, through your actions, to refrain from speech. We are not talking about your Fifth Amendment right to remain silent. We are talking about the types of actions people use as protest. For example: you don't have to salute the flag; you have the right to take a knee during the National Anthem. You have the right to use offensive words and phrases to communicate a political message. Students have the right to wear black armbands at school to protest a war. People have the right to engage in symbolic speech like burning the flag in protest. You have the right to advertise your professional or commercial services. All these rights have been established through litigation<sup>7</sup> and decisions by the United States Supreme Court.
- 17 Free speech and a free press are essential to our democracy. In the words of Evelyn Beatrice Hall as she paraphrased Voltaire: "I disapprove of what you say, but I will defend to the death your right to say it."

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1 **obscene** – disgusting to the senses

2 **blasphemy** – the act of insulting

3 **prurient** – indecent

4 **brawls** – fights

5 **expletive** – curse/swear word

6 **swatting** – a criminal harassment tactic of deceiving an emergency service

7 **litigation** - lawsuit

## Source 3: It is Right for the Government to Restrict Freedom of Speech

Published by James Taylor January 4, 2018 USA Today

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- 18 The concept of freedom of speech has been problematic for a long time now. There are people who believe that the freedom of speech should be restricted to some extent while others think that this is not appropriate. The constitution has given everyone the right to express themselves and offer their opinions on varied issues. This should be done without any form of interference. But to what extent is this freedom deemed feasible<sup>1</sup>?
- 19 It is appropriate for the government to impede freedom of speech on some occasions due to a variety of reasons. To begin with, "speech acts can be closely related to the execution of physical acts. This is to mean that most people tend to react in undesirable ways based on what they hear, read and watch" (Rudanko 116). Actions such as hate speech are likely to amount to war crimes in the long-run. This is the same case with political boldness which would result in revolt where people rebel based on the information that they have been fed.

The shootings that have been experienced in the United States in the past might be a result of inflammatory language that is being used in the society.

- 20 Everyone is entitled to the freedom of speech by the constitution of the country. However, the way that this freedom is used sometimes might be questionable. There are people who go to the extreme on this issue. To others, it is an opportunity to gain at the expense of others. Restricting freedom of speech might be seen as a way of diminishing the aspect of democracy. But this is not always true. There are times when the restrictions would be in the best interest of the country. This is because it prevents the distribution of undesired information at certain periods.

1 **feasible** – possible

## Source 4: Limiting free speech isn't the answer

*By Jeffrey Miron, Cambridge, Massachusetts (CNN)*

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- 21 In the aftermath of the January 8 massacre in Arizona, in which alleged shooter Jared Loughner killed six people and wounded 13, politicians and pundits<sup>1</sup> have blamed inflammatory language or symbols used by certain political groups, for Loughner's acts.
- 22 Conservative groups have countered by pointing to inflammatory language used by liberal groups, but some liberal commentary is nevertheless calling for government policies to limit or regulate speech. Rep. Robert Brady, D-Pennsylvania, for example, wants to make it a federal crime to use language or symbols that could be perceived as threatening or inciting violence against federal officials or members of Congress.
- 23 Consider Brady's suggestion that federal law limits inflammatory speech. No one knows whether political speech from Tea Partiers<sup>2</sup> or others played any role in Loughner's actions, but that is not the point. It is possible, perhaps likely, that the occasional lunatic, psychopath or other misguided soul does commit violence in part because of inflammatory rhetoric<sup>3</sup> from politicians or talk-show hosts.
- 24 The argument for free speech, however, does not assume free speech has no negatives, much less that free speech is always "civil." The argument for free speech holds simply that the harms from government restrictions on speech are worse than the harms from free speech itself. If government can determine what constitutes acceptable speech, it will use that power to restrict speech in inappropriate ways.
- 25 Opponents of the civil rights movement, for example, could readily have argued that inflammatory speech by some civil rights leaders posed a violent threat, especially since a few civil rights advocates, like the Black Panthers, presented themselves as well-armed, and indeed committed (a few) acts of violence. Civil rights opponents could then have used real or alleged connections between violent and nonviolent groups to restrict speech by all civil rights advocates.

- 26 Virtually every major cause receives support from individuals or groups who use inflammatory rhetoric and even commit violent acts. The reality is that every movement, sensible or nutty, has a range of followers, and some go too far. Government must pursue and punish those who commit violent acts, but empowering government to restrict speech, as opposed to violence itself, gives authorities latitude to target almost any cause.
- 27 If government decides who gets to provide opposing views, and to what degree, the scope for inappropriate influence is huge. Only by staying totally uninvolved, and allowing all speech, can government avoid both favoring the status-quo<sup>4</sup>, "mainstream" views and squelching<sup>3</sup> minority, fringe or unpopular views.
- 28 Free speech does mean, of course, that politicians have the right to call for misguided restrictions on speech. Let's just hope the rest of us have the good sense to ignore them.

1 **pundit** - an expert in a particular subject or field who is frequently called on to give opinions about it to the public.

2 **Tea Partiers** – someone who belongs to a US political movement that emerged from a series of conservative protests against the federal government.

3 **rhetoric**- language designed to have a persuasive or impressive effect on its audience.

4 **status-quo** - the existing state of affairs, especially regarding social or political issues.

## Writing Prompt

Write an editorial for your school's newspaper arguing whether or not it is sometimes right for the government to restrict freedom of speech. Your essay must be based on ideas and information that can be found in the passage set.

Manage your time carefully so that you can

- read the passages;
- plan your response;
- write your response; and
- revise and edit your response.

Be sure to

- include a claim;
- address counterclaims;
- use evidence from multiple sources; and
- avoid overly relying on one source.

Your response should be in the form of a multi-paragraph essay. Write your response in the space provided.