




Regulating the Marketplace of Ideas

The Intersection of the First Amendment and Civility in Social Media



Cash
Prizes

A silver ribbon graphic with a scalloped edge and a bow at the bottom, containing the text "Cash Prizes".

Open to junior & senior high school
students in the Sixth Circuit

A background image featuring a bronze statue of Lady Justice, blindfolded and holding scales, standing over a smartphone. The smartphone screen displays social media icons for Instagram, Facebook, and Twitter. The text "Open to junior & senior high school students in the Sixth Circuit" is overlaid on a blue rounded rectangle.

(Michigan, Ohio, Kentucky, and Tennessee)

In addition to cash prizes, winners will be recognized at the Sixth Circuit Judicial Conference in Cleveland, Ohio in December. The conference draws some 500 judges and lawyers working in the federal courts of the Midwestern states. At the conference, the winning essays will be distributed and the winning videos shown. Students from public, private, parochial, and charter schools as well as home-schooled students of equivalent grade status may enter. Children of federal judges, chambers staff, and employees of federal court offices are ineligible to participate.

Contest Timeline

Contest Opens: Monday, August 23, 2021 at 9AM (ET)

Contest Closes: Sunday, October 10, 2021 at 11:59PM (ET)

Winners Notified: Early November 2021

Questions, comments, or concerns can be directed to Sixth Circuit Director of Education & Training, Mandy Shoemaker at mandy_shoemaker@ca6.uscourts.gov

2021 Sixth Circuit Civics Contest

The Preamble of the Constitution underscores our collective obligation to “ensure domestic tranquility” and “promote the general welfare.” Among the many rights preserved in the Constitution is the right to free speech in a variety of forms. Over the years, the courts have interpreted the legal protections offered by the First Amendment to allow for the free exchange of ideas and civil discourse. As Associate Justice Oliver Wendell Holmes said in his famous dissent, “the ultimate good desired is better reached by free trade in ideas” and “the best test of truth is the power of the thought to get itself accepted in the competition of the market.”¹



However, as then-Associate Justice William H. Rehnquist noted in 1973, “It is quite possible, at least in the philosophic sense, to believe thoroughly in the right of free speech, but to have a good deal of doubt about its usefulness.”²

One of the most important social issues of our time is how best to have a civil discourse in our democratic society. Polarization of opinions, bias, competing values, and the speed and access of the digital age have made it difficult in recent years. Social media has played a leading role in contributing to this difficulty; the percentage of U.S. adults utilizing at least one social media platform has increased dramatically from 5% to 72% between 2005 and 2019.³ With the rise in usage of social media, a nuanced discussion about the implications of the First Amendment's protection of speech in a digital setting has emerged. The past year has been illustrative of the ideological divides of our nation and a disturbing trend of diminishing civil conversation across differences.



“Regulating the Marketplace of Ideas”

Students are encouraged to discuss the theme with reference to the Constitution, and to consider relevant case law and events in American history. Consider the following questions:

Do the privileges granted to us by the Constitution implicate a corresponding responsibility to dutifully steward information posted online?

What should the role of the federal and state legislatures be in striking balance between allowing people to express their opinions while safe-guarding against bullying or harassment in cyberspace?

What about the role of the courts?

What are the appropriate consequences and remedies for uncivil behavior, even if it does not rise to the level of illegality?

How does audience, venue, content of speech, or any other factor play into your analysis?

When was the first time that the Supreme Court found that a law violated the First Amendment? Why did it take so long for the Court to do so?

¹*Abrams v. United States*, 250 U.S. 616, 630 (1919)

²Rehnquist, William H. (1973) "Civility and Freedom of Speech," *Indiana Law Journal*: Vol. 49 : Iss. 1 , Article 1. Available at: <https://www.repository.law.indiana.edu/ilj/vol49/iss1/1>

³"Social Media Fact Sheet." Pew Research Center, Washington, D.C. (June 12, 2019). Available at: <https://www.pewresearch.org/internet/fact-sheet/social-media/>

In preparing an essay or video, students should explain what role they believe each citizen and branch of government plays in working toward the “more perfect Union” described in the Constitution. Essays and videos must include analysis of at least three cases from the list below.

Students may submit an essay of between 500 and 1,000 words or a 3-5 minute video. A student may submit both an essay and video, but may submit only one essay and one video if choosing to produce both.

Submissions should be emailed as Microsoft Word documents to **mandy_shoemaker@ca6.uscourts.gov**. Video submissions should also be coordinated by emailing **mandy_shoemaker@ca6.uscourts.gov**.



Case Law

Near v. Minnesota, 283 U.S. 697 (1931)
United States v. O'Brien, 391 U.S. 367 (1968)
Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)
Tinker v. Des Moines, 393 U.S. 503 (1969)
Watts v. United States, 394 U.S. 705 (1969)
Brandenburg v. Ohio, 395 U.S. 444 (1969)
Cohen v. California, 403 U.S. 15 (1971)
Island Trees School District v. Pico, 457 U.S. 853 (1982)
Bethel School District v. Fraser, 478 U.S. 675 (1986)
Texas v. Johnson, 491 U.S. 397 (1989)
R.A.V. v. St. Paul, 505 U.S. 377 (1992)
Reno v. ACLU, 521 U.S. 844 (1997)
Elonis v. United States, 575 U.S. 723 (2015)
Packingham v. North Carolina, 582 U.S. ____ (2017)
Mahoney Area School District v. B.L., 594 U.S. ____ (2021)

The contest is sponsored by:
**The Sixth Circuit
Civics & Outreach Committee**

