

Addressing Constitutional Law Issues at the Schoolhouse Gates

Constitutional Law Center

University of South Carolina School of Law

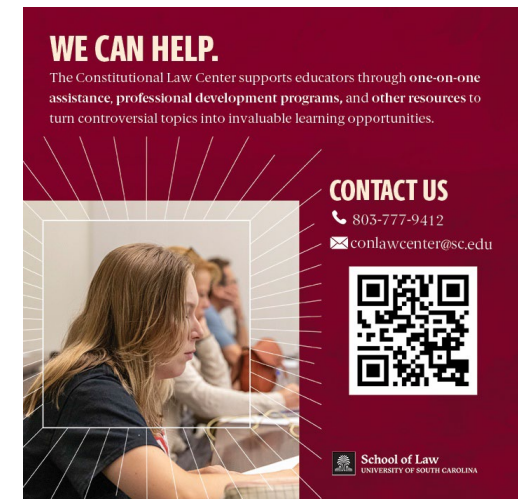


Introductions

- Derek Black
 - Director of the Constitutional Law Center
 - Professor of Law at University of South Carolina
 - Ernest F. Hollings Chair in Constitutional Law
- Taylor Callahan
 - Assistant Director of the Constitutional Law Center

Constitutional Law Center

- Our Mission
- Services We Provide



Constitutional Issues

- Why do school board members need to know about constitutional issues?
 - Student and personnel matters
 - Proactive vs. reactive
 - Avoid litigation

Due Process

- What is due process?
 - 14th Amendment:
 - No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; **nor shall any State deprive any person of life, liberty, or property, without due process of law;** nor deny to any person within its jurisdiction the equal protection of the laws.
- Who is entitled to due process?
 - Students
 - Personnel



Due Process

- How to provide due process to students?
 - *Goss v. Lopez*, 419 U.S. 565 (1975)
 - *Wood v. Strickland*, 420 U.S. 308 (1975)



Due Process

- How to provide due process to personnel?
 - Contract levels
 - Induction
 - Annual
 - Continuing



Search and Seizure

- 4th Amendment:
 - “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”
- How does the 4th amendment apply in the school setting?
 - Students
 - Personnel



Search and Seizure

- How is unlawful search and seizure of students avoided in the school setting?
 - *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)
 - *Safford Unified Sch. Dist. #1 V. Redding*, 557 U.S. 364 (2009)
- How is unlawful search and seizure of personnel avoided in the school setting?
 - *O'Connor v. Ortega*, 480 U.S. 709 (1987)
 - *City of Ontario v. Quon*, 560 U.S. 746 (2010)



Free Speech

- 1st Amendment
 - 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.
- Who is entitled to free speech in the school setting?
 - Students
 - Personnel



Free Speech

- How to avoid censorship of student speech?
 - *Tinker v. Des Moines Indep. Cnty. Sch. Dist.*, 393 U.S. 503 (1969)
 - *Bethel Sch. Dist. No. 403 v. Fraser*, 475 U.S. 657 (1986)
 - *Hazelwood v. Kuhlmeier*, 484 U.S. 260 (1988)
 - *Morse v. Frederick*, 551 U.S. 393 (2007)
 - *Mahanoy Area School Dist. v. B.L.*, 594 U.S. _ (2021).

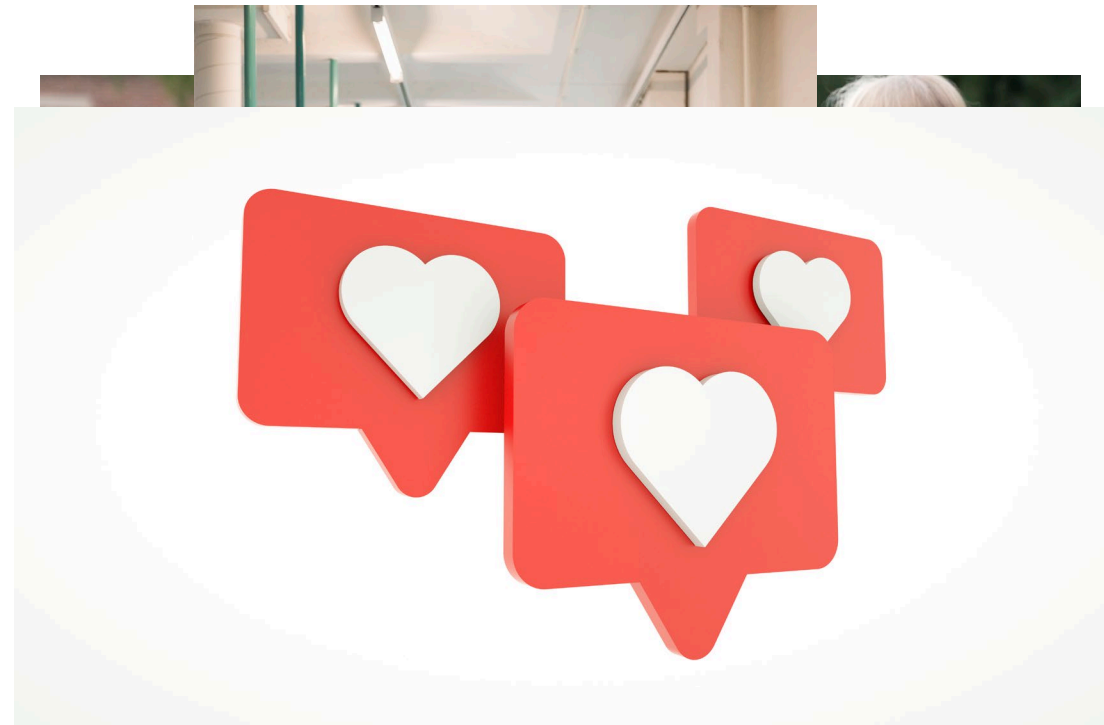
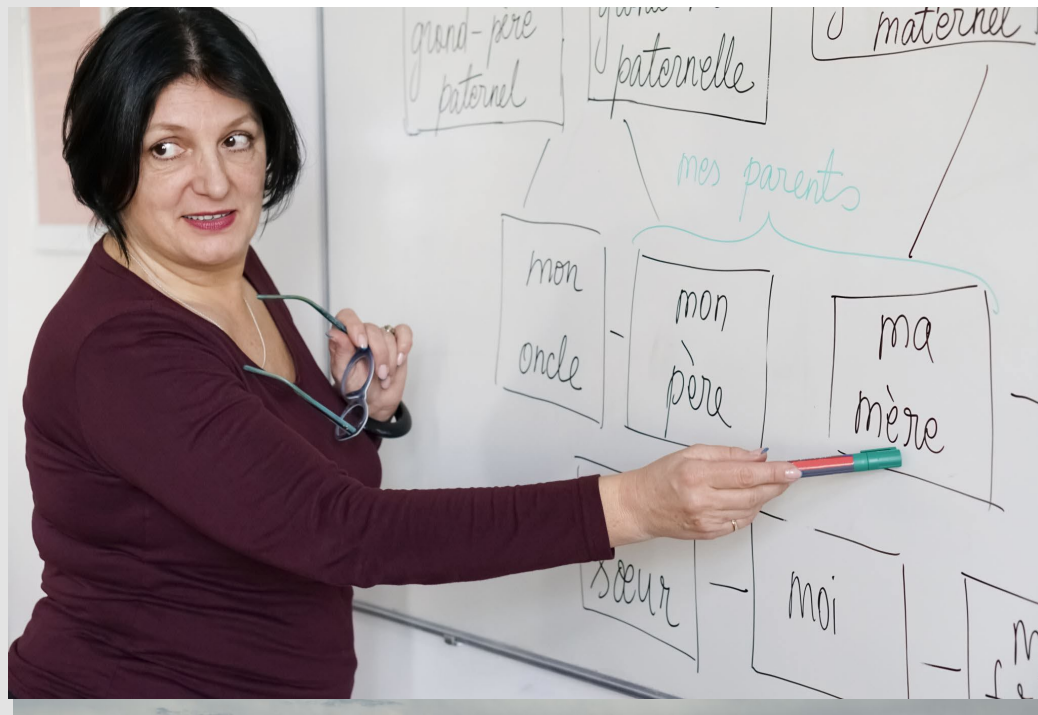


Free Speech

- How to avoid censorship of personnel speech?
 - *Pickering v. Board of Education*, 391 U.S. 563 (1968)
 - *Garcetti v. Ceballos*, 547 U.S. 410 (2006)
 - *Liverman v. City of Petersburg*, 844 F.3d 400 (4th Cir. 2016)
 - *Grutzmacher v. Howard Cnty.*, 851 F.3d 332 (4th Cir. 2017)



How can these constitutional issues arise in schools?



Questions?

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