

Commercial Speech and Government Speech

Terms:

Central Hudson Test

Pickering Test

Assigned Cases:

Bates v. State Bar of Arizona; *Central Hudson v. Public Service Comm.*; *Rumsfeld v. Forum for Academic and Institutional Rights*; *Hazelwood School District v. Kuhlmeier*; *Utah Licensed Beverage Association v. Leavitt*; *Morse v. Frederick*; *Epperson v. AR*

Questions for Reading Assigned Cases:

Bates v. State Bar of Arizona and *Utah Licensed Beverage Assoc. v. Leavitt* both concern products or services that are legal but are often morally disapproved of. How much of the regulation in question in each case is about the commercial aspects of the regulated business, and how much is an attempt to regulate the choices of potential customers? Once a business is legal, how much should its advertising be regulated?

Hazelwood School District v. Kuhlmeier and *Morse v. Frederick* both involve speech in high schools. Should minors have full free speech rights? If they should, do those also apply in the institutional setting of a public school? Should public school teachers be required to toe an ideological line, as in *Epperson v. Arkansas*?

Rumsfeld v. Forum for Academic and Institutional Rights and *Epperson v. Arkansas* both involve questions of government speech, in very different contexts. Should accepting government funding speech change the free speech or associational rights of organizations? Is the government “censoring” speech when it prohibits those who willing accept governmental employment from speaking their mind in their official capacity?

Additional Cases:

Pickering v. Board of Education, 391 U.S. 563 (1968). A school board fired a teacher for writing a letter to the editor in a local newspaper criticizing the board's policies. The Supreme Court founding that Pickering’s termination violated his 1st Amendment rights and that “the teacher's interest as a citizen in making public comment must be balanced against the State's interest in promoting the efficiency of its employees' public services.” Public employee speech may be protected so long as it addressed “matters of public concern” rather than strictly internal matters of school operation.