

Preparation/Homework (for student & teacher)

Teacher:

1. This provides a brief overview of the 14th Amendment: <https://www.jackmillercenter.org/our-work/resources/fourteenth-amendment>; Prepare 5 slides: one with the full text of the 14th Amendment and one for each part: (1) Citizenship Clause; (2) Privileges and Immunities Clause; (3) Due Process Clause and (4) Equal Protection Clause. This Amendment is a crucial one for fundamental legal protections. Prepare 3 slides on constitutional levels of review for fundamental rights under the 14th Amendment. Prepare a slide that explains each level: strict (race/fundamental rights), intermediate (gender/sex), and rational basis (everyone else) (who is impacted by each level of review).
2. Read and review two cases for this week: *Brandenburg v. Ohio* and *Loving v. Virginia*. Prepare slides with key case law and holdings.
3. Prepare slide on legal research practices (emphasize this is a broad overview not in-depth). This overview can help: <https://guides.library.harvard.edu/law/researchstrategy>. Prepare slide on notes for answering law school essays.
4. Prepare law school essay sample question: option: explain the Court’s reasoning in *Loving*. What standard of review applies and why? What should the future implications of the *Loving* ruling be? Why?
5. Prepare slide on requirements of a legal memo - guide: <https://lawtutors.net/structure-of-an-objective-legal-memo/>

Student:

1. Read and brief *Brandenburg v. Ohio* and *Loving v. Virginia*. In *Brandenburg* make special note of what terms and holdings stand out. In *Loving*, focus on the fundamental interests and levels of review. Bring notes with issue, holding, reasoning, and key quotes for each case to class.
2. Complete sample essay question. Bring draft to class for review.

Lesson Objectives

1. Introduce initial strategies for legal research and importance of legal precedent in law.
2. Practice briefing Supreme Court cases with specific focus on levels of constitutional review under the Equal Protection Clause of the 14th Amendment.

Journal (beginning of class) &/or Discussion Prompt (prior to class)

1. According to *Brandenburg v. Ohio* the Court held: “Speech can only be prohibited if it meets two criteria: (1) It is intended to incite or produce imminent lawless action, and (2) it is likely to incite or produce such action.” What do you think of these rules? What are the implications of these rules when we think of terms like “hate speech”?
2. *Tinker*, *Brandenburg* and *Loving* were all decided in the late 1960s – what do those rulings tell you about the Court at that time? What about the country at that time? Do you think the Court typically reflects public opinion accurately? What are the societal implications of the time it takes a case to reach the Supreme Court?

Activity in Class/Discussion

1. **Presentation:** Cover holdings in both *Brandenburg* and *Loving*. When introducing *Brandenburg* be clear that this holding is what is required to limit speech (and the limits are strict). When introducing *Loving*, project slide with the 14th Amendment first and cover each of its component parts. Review levels of scrutiny and who is impacted by each.
2. **Small Group then Class Discussion:** have students list the benefits and consequences of liberal free speech protections. The Court has never defined nor prohibited “hate” speech, assuming the law remains the same: what can we do to enable those around us when we encounter hateful speech (e.g. preachers in the plaza on campus). Brainstorm options to educate others on how to exercise their freedom of expression rights on campus.
3. **Review** sample law school essay answer. Review goals and structure of a legal memorandum.

Connection to Course Objectives

1. Students extend experience in legal writing through sample law school essays and legal memorandum.
2. Students reflect on the implications of key Supreme Court case law on fundamental rights like free speech and race.
3. Students discuss and reflect on consequences of delay in legal cases involving fundamental rights.
4. Students learn genre conventions and expectations of legal research.

Reflections (draft notes below)