

# UNDERSTANDING THE IMPORTANCE OF FREE SPEECH

The First Amendment, adopted in 1791 as part of the Bill of Rights, protects speech, press, religion, assembly, and petition. Its core promise is that government may not punish people simply for expressing ideas. That protection matters most when speech is unpopular or offensive; otherwise, it would offer little real freedom.

The Supreme Court has shaped what this means in practice. In *Schenck v. United States* (1919), the Court permitted punishment of speech that posed a clear and present danger, a test that once allowed broader limits. Half a century later, *Brandenburg v. Ohio* (1969) set today's standard: advocacy remains protected unless it is intended to incite imminent lawless action and likely to produce it. This narrow rule is why strong, even harsh, political advocacy is usually protected.

The Court has repeatedly affirmed that government cannot suppress expression just because it offends. In *Texas v. Johnson* (1989), burning the American flag as political protest was protected expression. In *Snyder v. Phelps* (2011), offensive picketing on public issues, conducted lawfully in a public place, was protected. And in *Matal v. Tam* (2017), the Court struck down a federal ban on disparaging trademarks because it discriminated against viewpoints.

Free speech safeguards public oversight of government. In *New York Times v. United States* (1971), the Court rejected prior restraint on publishing the Pentagon Papers because the government failed to meet its heavy burden to justify censorship. In schools, students retain speech rights: *Tinker v. Des Moines* (1969) held that student expression is protected unless it materially and substantially disrupts school operations or infringes the rights of others.

There are limited categories of unprotected speech—true threats, incitement under *Brandenburg*, defamation, and obscenity—and government may enforce content-neutral time, place, and manner rules. But outside those narrow areas, the First Amendment requires tolerance for expression we dislike. Protecting the rights of others to speak, even when we strongly disagree, is how we preserve our own freedom to speak tomorrow. Free speech means free speech, and that commitment is essential to a healthy, self-correcting democracy.

