

# Constitutional Law II

Professor Marc Stickgold

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## INSTRUCTIONS:

1. You have **three (3) hours** to complete this exam.
2. This is a **closed book** exam. No materials may be used during this exam.
3. There are **2 parts** to this exam:

**PART I:** 16 multiple choice questions. The total number of points allocated to PART I is **32**. Be certain to read each question fully and carefully. Often one word may make a difference. There is one best answer for each question. You must choose among the answers provided. The fact that there may be an additional unlisted answer which you like better must be ignored. **(60 minutes)**

**PART II:** Two essay questions counting for **68** points total( one for 40 points, one for 28 points). **(120 minutes)**

Allocate your time accordingly. Think about the questions before you begin to write. If something is unclear to you, state your assumptions clearly and then proceed.

4. For the Multiple Choice, darken in the letter corresponding to the correct answer on the ParScore answer sheet. If you change your answer, please be sure your erasures are complete. The exam will be scored by a machine and any ambiguities will be counted as a wrong answer.
5. Please use **PEN** for the Essay Questions. Write on only ONE SIDE OF EACH PAGE if you are writing your answer in a Blue Book. DOUBLE SPACE your work, whether written or typed.
6. Write your exam number on your exam envelope, at the top of this exam question packet, your Par Score sheet, and any blue books or typed essays. **Do not use your name, student ID number or Social Security Number on any exam materials.**

**STAY COOL! YOU'LL DO FINE! RELAX!**

## **FACT SITUATION FOR THREE ESSAY QUESTIONS**

In the small farming community of San Isabella, in the Central Valley of California, the school district is made up of mainly Caucasian students (about 80%), but there is a minority of Hispanic students (about 20%), many of whom speak Spanish as their primary language. In the last few months, a new "fashion" fad has hit the high school. Some Hispanic boys have been wearing a single earring in one ear. This is unusual for this community, which is fairly traditional. School officials suggested to the boys that the earring should not be worn. The School District is also known for one of the best bilingual education programs in the state. Substantial resources have been put into the program. A few weeks ago it was noticed that about 80% of the Hispanic boys were now wearing an earring.

A few Caucasian boys also started wearing an earring.

The school district then adopted the following regulation:

Rule 10: Students are not to wear earrings or similar jewelry not consistent with community standards, or that could pose a health or safety hazard to either the student wearing the item or the other students in their presence.

After giving boys one week to comply, disciplinary actions were brought against a number of boys for wearing these earrings. Included were ten Hispanic students and one white student. These students had affirmatively refused to stop wearing the earring.

There is a strong community reaction to these events. Various groups begin to pass out leaflets on the school grounds, and some people begin picketing. At some times there are two or three groups of people representing different viewpoints in front of the school. Things escalate. One group, which designates itself as "Protect Our Nation," supports the school's action in suspending the students, but feels that the whole matter can be blamed on the extensive Spanish-English bilingual program. They feel this program spends resources better directed elsewhere, and that it encourages rebellion and separatism in the Hispanic students.

To show their displeasure, they plan a "Burn In" for after school one day. The group gathers on the fenced athletic field behind the school (having duly notified the media) and starts a fire in a large metal garbage can. The Leader then announces that it is "Bilingualism that has created this Mess," and begins throwing Spanish language books into the fire. His speech says that his group is burning a bunch of Spanish language books to demonstrate the need to drastically revise the school's program and "protect our nation" from separatism. His speech is peppered with phrases derogatory to the Hispanic

students. The burned books were purchased by the members of the Protect Our Nation group.

One of the Hispanic students, observing this behavior and hearing Leader's speech, becomes so incensed and insulted that he runs over and punches the Leader of the "Protect Our Nation" group. The police finally arrive and arrest the Leader of the "Protect Our Nation" group.

With regard to both parts of the question below, if there are any critical facts or pieces of information you feel you need, state them clearly and proceed.

PART I (40 points) The Hispanic boys who were suspended for wearing an earring bring suit challenging the constitutionality of Rule 10. The evidence introduced in the case was conflicting about "community standards" regarding the wearing of jewelry. It would be fair to say that the community's majority view strongly supported the school district in stating it was quite provocative in this community for boys, not girls, to wear earrings, but that this view was much less widely held in the Hispanic community.

The school district argued that this rule (1) promotes discipline by discouraging rebellion against local community standards; (2) helps prevent the development of gangs; and (3) promotes safety, particularly with regard to boys since they are more inclined to rough play and less familiar with the care and use of earrings than girls.

*Assume the Supreme Court has refused to consider school dress and grooming code provisions to in any way violate students' First Amendment rights.*

Discuss the constitutional issues in this lawsuit.

PART II (28 points) Leader is charged under a section of the state Freedom of Speech Act that makes illegal:

to burn, mutilate or destroy books in any public place

if the behavior will incite others to, or is intended to, provoke violence.

Discuss the constitutional issues raised by the prosecution of the Leader of "Protect Our Nation" under this statute.

END OF EXAM