

# QUESTIONS & ANSWERS: The First Amendment

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## Third Edition

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MATTHEW  BENDER

# DEDICATIONS

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To Ben and Kate, with love, RLW

To Stephen, WDA



# ABOUT THE AUTHORS

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Professor Weaver has taught the First Amendment, and other constitutional law courses, for more than 20 years. In addition, he has authored or co-authored dozens of books and articles including numerous First Amendment and Constitutional Law texts. *See* D. LIVELY, P. HADDON, D. ROBERTS, R. WEAVER & W. ARAIZA, *CONSTITUTIONAL LAW: CASES, HISTORY AND DIALOGUES* (2nd ed., Lexis Nexis 1999); D. LIVELY, D. ROBERTS & R. WEAVER, *THE FIRST AMENDMENT ANTHOLOGY* (Lexis Nexis 1996); R. WEAVER & A. HELLMAN, *THE FIRST AMENDMENT: CASES, MATERIALS AND PROBLEMS* (Lexis Nexis 2002); R. WEAVER & D. LIVELY, *UNDERSTANDING THE FIRST AMENDMENT* (2004).

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Professor Araiza is the author of numerous articles on constitutional and administrative law, and has co-authored *CONSTITUTIONAL LAW: CASES, HISTORY AND DIALOGUES* (3rd ed., Lexis Nexis 2006) (with P. Haddon, D. Roberts and M. I. Medina) and *FIRST AMENDMENT LAW: FREEDOM OF EXPRESSION AND FREEDOM OF RELIGION* (2nd ed., Lexis Nexis 2010) (with A. Hellman and T. Baker).





# PREFACE

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The First Amendment to the United States Constitution contains some of the most important provisions in the Constitution. Perhaps the most important provision is its sweeping language protecting freedom of speech and of the press. But the First Amendment also contains the religion clauses, which prevent government from “establishing” a religion and guarantee all citizens the right to freely exercise their religion.

Although the First Amendment applies by its term only to Congress (it states that “Congress shall make no law. . . .”), it has been broadly interpreted to apply to all three branches of the federal government. In addition, it has been incorporated into the Fourteenth Amendment to the United States Constitution and applied to the states.

The purpose of this book is to test your understanding of First Amendment law, and to assist you in preparing for a First Amendment or Constitutional Law examination. This book is not intended to provide a comprehensive explanation of First Amendment concepts, but as a supplement to class materials.

This book examines the major First Amendment subjects and concludes with a comprehensive Final Exam. In the speech section of the book, we focus on such topics as hate speech, advocacy of illegal action, commercial speech, campaign finance, defamation, obscenity, public forum doctrine, and symbolic speech. In the religion section, we focus on free exercise, as well as on government support for religion, school prayer, crèche displays, evolution, the Ten Commandments, and a host of other issues.

As you utilize these Questions, remember that there may not be a single correct answer, but there might be a “best answer.” In other words, you might be asked to make informed judgments based on your knowledge of First Amendment law and your wisdom.

Professor Russell L. Weaver  
Louisville, KY  
Professor William D. Araiza  
Brooklyn, NY  
May, 2010



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