

The New Life of the First Amendment

There are forty-five words protecting the freedoms of religion, speech, press, assembly, and petition in the U.S. To quote the Constitution, “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”¹ The instruction is, initially simple: put the natural rights of citizens above and far beyond the powers of the federal government.

In 1969, the Supreme Court ruled on *Tinker v. Des Moines* that non-disruptive, passive, symbolic speech (i.e. nonverbal, nonwritten forms of communication such as flag burning or wearing arm bands)² cannot be censored just because it makes others uncomfortable. The court ultimately stated that free expression of public-school students can only be restricted if it threatens a material and substantial disruption of the educational process or invades the rights of others.³

The First Amendment applies to governmental action and violations. On paper, the First Amendment is clear and concise; in practice, it is an amendment that is violated every single day.⁴

¹ Constitution Annotated. n.d. “Overview of the Religion Clauses | Constitution Annotated | Congress.Gov | Library of Congress.” Constitution.Congress.Gov. Accessed September 9, 2026. https://constitution.congress.gov/browse/essay/amdt1-2-1/ALDE_00013267/.

² Kahn, Ronald. 2023. “Symbolic Speech.” The Free Speech Center, August 3. <https://firstamendment.mtsu.edu/article/symbolic-speech/>.

³ Baldani Law Group. 2019. “First Amendment Right Violations.” November 13. <https://baldanilaw.com/first-amendment/>.

⁴ Ww.Chandralaw.Com. n.d. “What Is a Violation of My First Amendment Rights? | Chandra Law Firm | 216-578-1700 | Cleveland, Ohio | Chandra Law Firm | 216-578-1700 | Cleveland, Ohio | the Chandra Law Firm, LLC | Cleveland, Ohio.” Accessed September 9, 2026. <https://www.chandralaw.com/faqs/what-is-a-violation-of-my-first-amendment-rights>.

In 2023 during Joe Biden's presidency, the case *Missouri v. Biden* was argued. The U.S. court of appeals for the 5th Circuit established that federal officials under the President's charge unconstitutionally 'coerced' or 'encouraged' online censorship in relation to suppressing content about COVID-19 and elections.⁵ Similarly in 2025 a different administration in the federal government weaponized their overwhelming power to suppress speech and punish political adversaries: including filing a set of executive orders that effectively punished elite law firms for representing political adversaries and obligating firms to deliver nearly \$940 million in pro bono services to causes favored by the administration.⁶⁷

More recently, the federal government has punished legal immigrants who have spoken out on behalf of Palestine by denying that they had the same First Amendment rights as U.S citizens.⁸ Federal judges in multiple districts have ruled that the government's targeted enforcement violates constitutional protections: a Massachusetts ruling found the administration used deportation threats to silence noncitizen academics and students and treated the policy of arresting, detaining, and deporting noncitizen students and faculty members for their pro-Palestinian advocacy,⁹ as an unlawful effort to filter speech, Californian courts and other courts have struck down or limited enforcement of deportation provisions as inconsistent with the First

⁵Justice.Gov. 2026. "Justice Department Settles Lawsuits Challenging Biden Administration's Alleged Social Media Coercion and Deplatforming." March 25. <https://www.justice.gov/opa/pr/justice-department-settles-lawsuits-challenging-biden-administrations-alleged-social-media>.

⁶Sullum, Jacob. 2025. "Federal Judge Lists 8 Ways Trump Violated the Constitution by Punishing a Law Firm." Reason.Com, May 28. <https://reason.com/2025/05/28/a-federal-judge-lists-8-ways-that-trump-violated-the-constitution-by-punishing-a-disfavored-law-firm/>.

⁷ Justia Law. 2023. "State of Missouri V. Biden, No. 23-30445 (5Th Cir. 2023)." October 3. <https://law.justia.com/cases/federal/appellate-courts/ca5/23-30445/23-30445-2023-10-03.html>.

⁸Johnson, Alice. 2025. "Trump's Assault on the First Amendment." Ibanet.Org. <https://www.ibanet.org/Trumps-assault-on-the-First-Amendment>.

⁹ Landmark, In. 2015. "In Landmark Ruling, Federal Court Says Trump Administration Violated First Amendment by Arresting, Attempting to Deport Foreign Citizens for Pro-Palestinian Advocacy." Knight First Amendment Institute. <https://knightcolumbia.org/content/in-landmark-ruling-federal-court-says-trump-administration-violated-first-amendment-by-deporting-foreign-citizens-for-pro-palestinian-advocacy>.

Amendment and vagueness principles.¹⁰¹¹ The response to these Pro-Palestine protests were not limited to noncitizens, the administration also targeted citizen scholars and students, often threatening funding, employer retaliation, and deep investigations.¹²

The United States federal government, the branches within, and the people it reports to have been in constant conversation about how the first amendment should be interpreted or how it is being abused. The examples are endless and the effects are obtrusive. The first amendment, while concise, is broken consistently by the system that enacted it. The First Amendment only protects if those that are meant to protect it are willing to do so, so how can a government that enforces the first amendment protect from itself?

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¹⁰ “Trump Cannot Deport Students for Criticizing Israel, Federal Judge Rules.” 2026. CBS News. August 29, 2026. <https://www.cbsnews.com/news/trump-cannot-deport-students-for-criticizing-israel-federal-judge-rules/>.

¹¹ Montague, Zach. 2025. “Judge Rules Trump Unlawfully Targeted Noncitizens Over Pro-Palestinian Speech.” *The New York Times*, September 30, 2025. <https://www.nytimes.com/2025/09/30/us/politics/student-speech-palestinians-ruling.html>.

¹² Waheed, Manar. 2018. “The Latest Attack on Free Speech in the Israel-Palestine Debate | ACLU.” American Civil Liberties Union, June 4. <https://www.aclu.org/news/free-speech/latest-attack-free-speech-israel-palestine-debate>.