

Question I (40 points) (Defense of America)

type of speech-M-fully protected pol sp(even hate sp), govt argues unprotected category(2) _____
place of speech-M argues traditional public forum-public park; no evid w/o permit------(2) _____
Advocacy of Lawlessness-on face-is it vague, overbd-missing 2nd prong of Brandenburg(3) _____
Govt-statute tracks Brandenburg unprotected category & such be so interpreted------(1) _____
as applied-M argues-if gov't can't....-conditional; more attacks must occur-nonspecific--(2) _____
M-proud of those who took arms-not advocacy of action; urge action- but unspecific----(2) _____
DA argues adv of imm lawless action; likely to cause in light of aud and past events------(3) _____
Fighting Wds statute-def-face-to-face-epithet-directed at individual-cause violence------(2) _____
M-not Fight'g Wds-not face-to-face-directed at indiv-no violence-elements not satisfied(4) _____
DA-is FW-face-to-face-directed at indiv-likely to cause violence-elements satisfied------(4) _____
disorderly conduct stat-vague,overbroad, too much discretion, but ok on face in Cantwell(3) _____
Feiner incitement-test-inflammatory sp, threatening audience, police unable to control---(2) _____
M-not Feiner-no threats against speaker; aud not hostile, police could control------(3) _____
DA-Feiner-inflammat'y speech-hostile aud-boos, scuffle, reas belief police can't control(4) _____
miscellaneous _____(3) _____

Question II (50 points) (Street Closing Ordinance and human nude flag)

prior restraint permit scheme------(1) _____
on its face-narrow clear standards or overbroad, vague, too much discretion?------(5) _____
are there sufficient procedural safeguards under Freedman?------(3) _____
as applied-B(3) correctly applied?-any evidence of disruption-early am, no threats etc---(3) _____
B(4)-any evidence of health threat or just speculation------(3) _____
symbolic sp-Spence-intent to convey-artistic expression, patriotic message, not specific-(4) _____
likely to be understood-flag design obvious-literal-flag as symbol for people of nation---(4) _____
obscene or lower value speech-but political message and artistic value, etc.------(5) _____
O'Brien test & app to facts-power, imp. purpose, narrowly tailored, unrelated to exp-----(6) _____
TPM-place restraint-content neutral, imp purpose, narrowly tailored, ample alts------(6) _____
place-trad pub forum or designated (permit) (TPM); or street as nonforum & reasonable(4) _____
nonforum-reasonable and not viewpoint based------(3) _____
miscellaneous _____(3) _____

Question III (30 points) (Gay and Lesbian Awareness bulletin board)

speech-political speech, but teachers have limited first amendment rights------(2) _____
pub forum-not trad'l, not Kennedy phys chars so would have to be limited designated---(3) _____
limited to teachers & by subject matter & not w/in subj or is it viewpt limit & invalid---(3) _____
designated-factors-intent, practice, nature of property, compatibility------(2) _____
evidence of school's purpose in setting up board and making it available to the teachers(2) _____
nature of property and compatibility with speech------(2) _____
actual practice-teachers post w/o approval, no written standards; principal can remove--(2) _____
first incident of material being removed------(2) _____
principal has unbridled discretion to remove-not prior restraint, evidence of nonforum?-(2) _____
if a forum-reasonable TPM-but not content neutral (based on viewpt) so fails------(2) _____
if not forum-must be reasonable and viewpoint neutral, but removed because of viewpt-(2) _____
viewpt-strict scrutiny-compelling int (curricular goals, captives), least restrictive alt-----(4) _____
miscellaneous _____(2) _____