



# ASBURY PARK PROMISED LAND

THE LIFE AND MUSIC OF  
**BRUCE**  
**SPRINGSTEEN**

*DEBATE IT!*

## OVERVIEW

The First Amendment's protection of freedom of speech was intended to protect citizens against government censorship. Citizens are free to express their views, even (and especially) if their views are critical of the government. The First Amendment protects citizens who express their personal and political views in songs, and content-based restrictions on speech are unconstitutional. But can the FCC punish broadcast networks if a musician uses explicit language? Does it matter how the language is explicit—violently explicit? Sexually explicit? Politically explicit? In this activity, students will apply what they know about the First Amendment by considering two scenarios and debating the constitutionality of certain government actions.

## RELATED ACTIVITIES

- **Sing for Your Rights!**  
Learn about how the Constitution and Bill of Rights protect the rights of musicians.
- **Music and Historical Narrative**  
Explore how music has shaped Americans' understanding of their history.
- **Born in the U.S.A.: Music as Political Protest**  
Analyze Springsteen's use of irony and metaphor in this song that is more complex than it might first appear.

## TEACHER NOTES

### LEARNING GOALS

Students will understand:

- The First Amendment protects against government censorship of speech.
- The First Amendment ensures that citizens can express—as well as be exposed to—a wide range of opinions and views.
- The use of potentially offensive, indecent, or sexually explicit language on publicly-held airwaves or in public settings has challenged understandings of the First Amendment.

### EXTENSIONS

- A. Have students research Supreme Court cases that deal with issues that are similar to—though not exactly the same as—the ones in the scenario. For example, the 2008 case of [Fox v. FCC](#) dealt with the First Amendment implications of fining television networks for broadcasting fleeting expletives; the 2011 case of [Brown v. Entertainment Merchants Association](#) struck down a California law banning the sale of violent video games to minors. How, if at all, do these cases apply to the scenarios in this lesson?
- B. What limitations of students' freedom of expression occur while in school? Do these rights change when online? Use the National Constitution Center's lesson plan on Cyber Speech and the First Amendment at [constitutioncenter.org/Files/Exchange\\_SocialNetwork\\_2.pdf](https://constitutioncenter.org/Files/Exchange_SocialNetwork_2.pdf) to investigate these questions.
- C. Have students choose one of the roles and write an essay detailing their response to the scenario including the constitutional protections related to the role and the scenario.

## DEBATE IT!

### DIRECTIONS

- A. Copy Scenario A or Scenario B and distribute or write it on the board. Ask students to think about how they might personally respond to this scenario.

#### SCENARIO A

A famous musician has a hit song that is rising to the top of the charts. She has been asked to perform that song during a half-time show of a nationally televised football game. The song includes explicit lyrics. It's assured that people of all ages will be viewing the live broadcast.

#### SCENARIO B

A local music store decides that all music with explicit lyrics will be kept behind the counter and children under the age of 18 will need a parent/guardian present in order to purchase the music. A member of Congress from the area really likes the idea and decides to write a bill requiring all stores in the nation to sell music with explicit lyrics to only persons of ages 18 or older.

- B. Break the class into groups of three or four and have students discuss the scenario. Each group should determine what responses it would have to the situation.
- C. Distribute a role-card corresponding to the scenario to each group. Ask each group to now consider the scenario from the perspective in their role card, using the “Questions to Consider” to guide their thinking. Allow several minutes for discussion.
- D. Give each group five minutes to report to the entire class its members’ views on the scenario from the perspective of their roles using the questions to consider below. Repeat this process until each group has been able to report and answer questions posed by other groups.

*Variation:* Arrange desks in a circle and ask for a volunteer from each group to take one seat, so that each of the six roles is represented. Have students discuss the scenario while staying “in character.”

- E. Point out that key distinctions should be made in each of the scenarios depending on whether government or private actors are limiting speech. Make sure students understand that the First Amendment serves only to limit actions of government. How, if at all, would the scenario be different if the performance were scheduled for cable TV, which is subscription-only and delivered not over public airwaves but via privately-owned transmission lines?

## WRAP UP

- A. Ask students if the scenario would be different if the song lyrics contained an explicit lyric that was also an expressly political message. Explain to students that in the 1971 Supreme Court case *Cohen v. California*, Justice Harlan wrote that “one man’s vulgarity is another’s lyric” when striking down California’s attempt to bar the wearing of a jacket with the words “F--- the draft” (the jacket used the actual expletive) written on them. The Court’s ruling was based in part on the political nature of the speech. Responding in dissent, however, Justice Blackmun argued that the First Amendment should not apply. He wrote, “Cohen’s absurd and immature antic, in my view, was mainly conduct, and little speech.” How, if at all, would this case apply to this scenario?
- B. Ask students how they think the Supreme Court’s decision to rule unconstitutional a ban on the sale of violent video games, in *Brown v. Entertainment Merchants Association* (2011) affects the issue of restricting the selling of music with explicit lyrics to minors. In the majority opinion Justice Scalia wrote,

*“Like the protected books, plays, and movies that preceded them, video games communicate ideas—and even social messages—through many familiar literary devices (such as characters, dialogue, plot, and music) and through features distinctive to the medium (such as the player’s interaction with the virtual world). That suffices to confer First Amendment protection.”*

Whereas in dissent Justice Breyer responded,

*“The First Amendment does not disable government from helping parents make such a choice here—a choice not to have their children buy extremely violent, interactive games.”*

Visit Cornell University’s Law School website at [www.law.cornell.edu/supct/html/08-1448.ZS.html](http://www.law.cornell.edu/supct/html/08-1448.ZS.html) to read more about *Brown v. Entertainment Merchants Association*.

## ROLE CARDS FOR SCENARIO A

### SCENARIO A

A famous musician has a hit song that is rising to the top of the charts. She has been asked to perform that song during a half-time show of a nationally televised football game. The song includes explicit lyrics. It's assured that people of all ages will be viewing the live broadcast.

1

You are the musician who is going to perform one of your songs on national broadcast television. You are excited because performing on national TV during prime time will broaden your exposure to a wider audience, and your fans will enjoy the show. The song you want to sing is your most popular, but it does have sexually explicit lyrics. You may be willing to edit the song somewhat, but you do not want to misrepresent your music. You believe that you have the right to express yourself. The TV network originally agreed that you could perform this song, but now you are concerned that it will ask you to perform another song or replace you completely.

#### QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against the performance?
2. What impact does the performance have on future broadcasts?
3. What, exactly, is the problem here? What are some possible solutions?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

2

You work for the Federal Communications Commission (FCC). You help to regulate the material that airs on TV and radio throughout the country. You have been assigned to investigate complaints that have been coming in about explicit and controversial words being used during prime time hours.

#### QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against the performance?
2. What impact does the performance have on future broadcasts?
3. What balances can be struck in this situation?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

3

You are a parent with two children, 10 and 8. You love watching football as a family, but you are worried about the message being sent by a musician who uses sexually explicit lyrics. You believe that since the broadcast is on national television, the lyrics should be censored or another more family-friendly performer should be booked. You don't want your children exposed to these types of lyrics.

**QUESTIONS TO CONSIDER:**

1. What constitutional arguments can be made for or against the performance?
2. What impact does the performance have on future broadcasts?
3. What, exactly, is the problem here? What are some possible solutions?
4. Since you don't like the lyrics, should you just change the channel? Or do you have a "right" to view the football game without fear of offense?
5. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

4

You are a fan of the musician, and you've heard the network is considering requiring that "clean" lyrics be substituted for the explicit ones for the performance. You believe that censoring the musician would be an infringement of freedom of speech. You and a group of your friends decide to protest in front of the sponsors of the football game broadcast and urge others to boycott their products.

**QUESTIONS TO CONSIDER:**

1. What constitutional arguments can be made for or against the performance?
2. What impact does the performance have on future broadcasts?
3. What effect might a protest and boycott of advertisers have on the network's decision? Explain.
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

# 5

You are the head of the television network that booked the musician and signed the contract. You revere the First Amendment and believe that it gives your network the right to express itself however it sees fit. You also want the musician to perform his or her most popular song because it will boost your ratings, but you do not want to anger a segment of your viewers. You also don't want to be hit with a fine from the FCC.

## **QUESTIONS TO CONSIDER:**

1. What constitutional arguments can be made for or against the performance?
2. What impact does the performance have on future broadcasts?
3. What, exactly, is the problem here? What are some possible solutions?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

## ROLE CARDS FOR SCENARIO B

### SCENARIO B

A local music store decides that all music with explicit lyrics will be kept behind the counter and children under the age of 18 will need a parent/guardian present in order to purchase the music. A member of Congress from the area really likes the idea and decides to write a bill requiring all stores in the nation to only sell music with explicit lyrics to persons of ages 18 or older.

1

You are a musician who makes part of your living from music sales. You want people of all ages to be able to buy your music, come to your concerts, and become your fans.

#### QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against the music store's policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

2

You are the president of a music company. Your biggest customers are 13-20 year olds and much of your income comes from music sales. You are concerned that sales will go down if the bill is passed.

#### QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against the music store's policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?



3

You are a parent who monitors the music your children purchase. You think it's a good idea to have the explicit music kept behind the counter so that children can't access it without their parents' permission. Though you are an involved parent, the reality is that you can't always be with your child. You appreciate stores that don't make it easy for kids to buy adult-oriented things without their parents' knowledge.

**QUESTIONS TO CONSIDER:**

1. What constitutional arguments can be made for or against the music store's policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

4

You are 17 years old and your greatest passion is music. You like many different artists and genres. You have heard about a new album with a great guitarist that you would like to check out. When you go to the store, you learn that the CD is considered explicit. Since you drove yourself to the store, your parents aren't with you and cannot give their permission to allow you to purchase the music. You tell the clerk you will just go to another store. When you get to the next store, they tell you the same thing.

**QUESTIONS TO CONSIDER:**

1. What constitutional arguments can be made for or against the music store's policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

# 5

You own the store that decided to keep explicit music behind the counter and only sell to people over 18. You believe it is wrong to give minor children access to that kind of content, and you decided to put this policy in place. Your employees will know that the music is explicit because you will stock it behind the counter, and they must check ID to allow a purchase. In these ways, your company will minimize the risks of selling explicit music to underage people.

## QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against your policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role cause you to appreciate benefits of the First Amendment that otherwise you might not have noticed?

# 6

You are the member of Congress who wrote a bill that would keep store owners from selling explicit music to people who are under the age of 18. You believe that the bill will help business owners by making clear rules about who can buy explicit music and requiring proof of age. You also believe that the bill will help keep explicit music out of the hands of young children who do not have their parents' permission to have it.

## QUESTIONS TO CONSIDER:

1. What constitutional arguments can be made for or against the music store's policy?
2. What constitutional arguments can be made for or against a national law such as the one being considered in the scenario?
3. What impact, if any, could a national law requiring all music with explicit lyrics be kept behind the counter have on other forms of media like movies, books, etc.?
4. Did your assigned role impact your own response to this scenario?  
Did it change the way you thought or your perspective on the situation?  
Why or why not?