

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

THE **2018** STATE OF THE
FIRST AMENDMENT

THE STATE OF THE FIRST AMENDMENT: 2018

A Project Sponsored by the Freedom Forum Institute

The Freedom Forum Institute, a programming and education partner of the Newseum, has supported an annual survey investigating American attitudes toward the First Amendment since 1997. This report details the findings of the 21st iteration of the survey. Although certain questions remain unchanged to capture trends over time, much of the survey explores attitudes about recent news relevant to the First Amendment.

The first section of the report provides an overview of the methodology used to conduct the State of the First Amendment (SOFA) survey. The next section explores some of the key findings and the potential implications for the First Amendment. The final section presents the survey results for this iteration and previous results, where appropriate.

Fors Marsh Group (FMG) conducted the SOFA survey in partnership with the Freedom Forum Institute. Based in Arlington, VA, FMG is a research consultancy and certified B Corporation, specializing in measuring, understanding and influencing public policy and citizen behavior. FMG conducted a general public survey of attitudes about the First Amendment, including developing the methodology, creating the survey questionnaire, and collecting and analyzing the data. The questionnaire was administered in May–June 2018 to a nationwide sample of 1,009 American adults by telephone. Portions of the survey were developed by FMG researchers at Fors Marsh Group in conjunction with Ms. Lata Nott, Executive Director of the Freedom Forum’s First Amendment Center, and Mr. Gene Policinski, President and Chief Operating Officer of the Freedom Forum Institute.

SURVEY METHODOLOGY

The survey was conducted as a dual-frame bilingual telephone survey. The final sample included 1,009 adult respondents. The margin of error (MOE) was 3.7% at the 95% confidence level with a design effect of 1.4.

The sample was designed to represent the U.S. adult population (including Hawaii and Alaska). This was a single-stage, random-digit-dialing (RDD) sample of landline telephone households, and randomly generated cell phone numbers. Sample telephone numbers are computer generated and loaded into on-line sample files accessed directly by the computer-assisted telephone interviewing (CATI) system. The interviewers were carefully trained and monitored using stringent quality control procedures.

The sample was weighted to provide nationally representative and projectable estimates of the adult population 18 years of age and older. The weighting process took into account the disproportionate probabilities of household and respondent selection due to the number of separate telephone landlines and cellphones answered by respondents and their households, as well as the probability associated with the random selection of an individual household member. The sample was then poststratified and balanced by key demographics such as age, race, sex, region, and education. The sample was also weighted to reflect the distribution of phone usage in the general population, meaning the proportion of those who are cell phone only, landline only, and mixed users.

KEY FINDINGS

Introduction

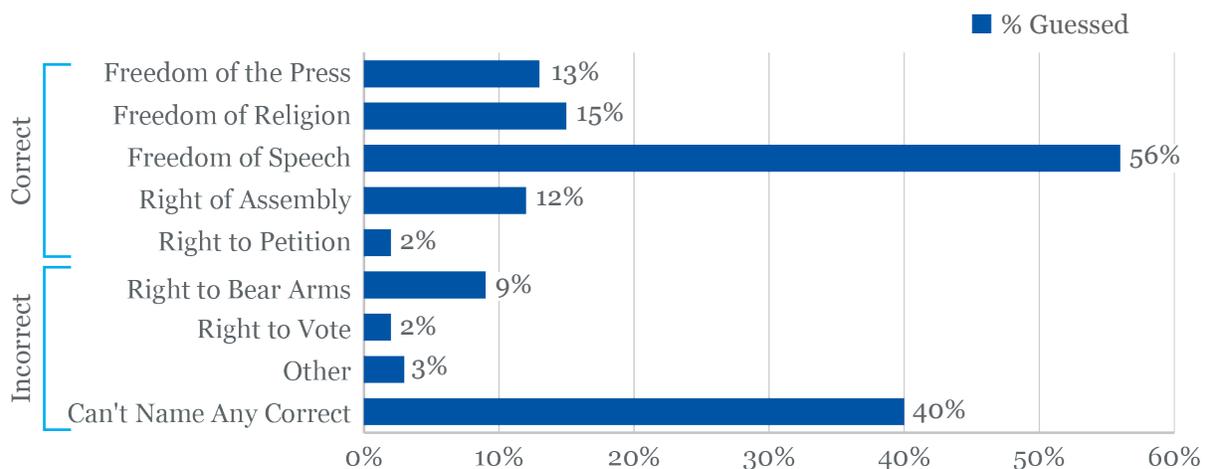
This iteration of the SOFA survey collected data on Americans' familiarity with and attitudes toward the First Amendment. The sample was a nationally representative group of U.S. adults at the end of May 2018. Of the 1,009 total respondents, 49% identified as male and 51% as female. The average age of the respondents was 48 and ranged from 18 to 99. Nearly two-thirds of the respondents were White, non-Hispanic (63%), with 11% Black, non-Hispanic, and 16% Hispanic participants. Sixty-eight percent attained less than a four-year college degree, and nearly one-third of respondents (32%) attained a four-year college degree or higher. Respondents had varying political views, with 22% self-identifying as Republicans, 31% as Democrats, and 40% as independents.

Familiarity with the First Amendment

The respondents were first asked whether they could name any of the five freedoms guaranteed by the First Amendment. The First Amendment states: "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."

Without any prompting, freedom of speech (56%) was the most commonly recalled right guaranteed by the First Amendment. The next was freedom of religion (15%), freedom of the press (13%), and right of assembly (12%), with right to petition being the least likely to be recalled (2%). A similar number (2%) mistakenly guessed the right to vote. The right to bear arms (9%) was the most common mistaken response.

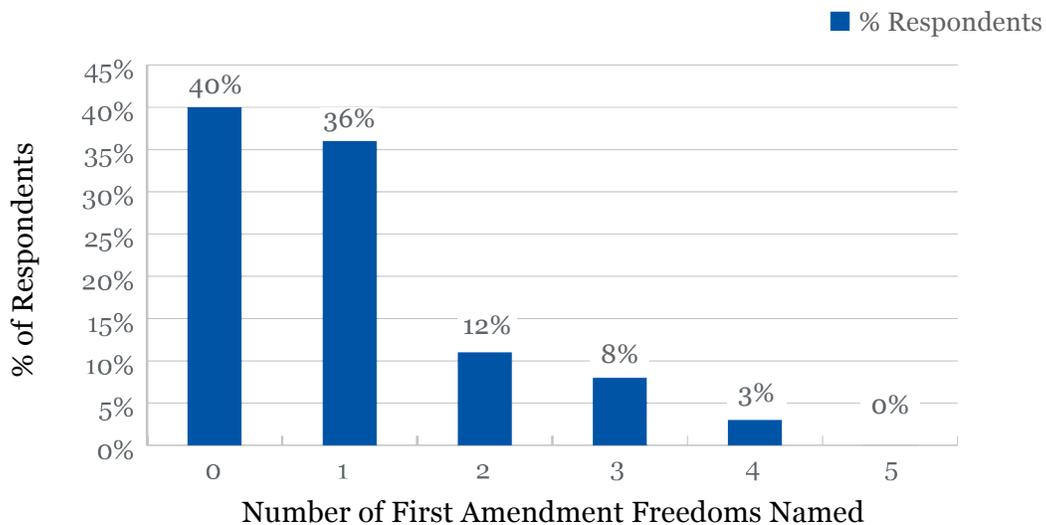
First Amendment Freedoms Recalled



About one-third of respondents (36%) could name one freedom, but only 3% could name four of the five freedoms. Only one respondent could name all five correctly. Two-fifths of respondents could not recall any (40%).

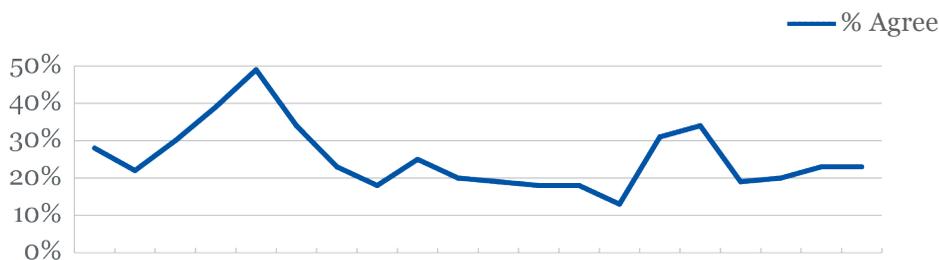
There were also statistically significant demographic differences among those who could recall certain freedoms. For example, younger people (age 18–34) were more likely than older respondents to recall freedom of religion and the press. More educated, higher income respondents were more likely to recall freedom of speech, and more educated respondents were able to name more freedoms overall. Surprisingly, those with a religious identity were slightly less likely to be able to name freedom of religion (13%) than those who were not religious (17%).

Number of Freedoms Recalled



Since 1999, the Freedom Forum Institute has assessed whether Americans believe that the First Amendment goes too far in the rights it guarantees. Results from 2018 are fairly consistent with last year’s. One in four (23%) *agreed* that the First Amendment does go too far in the rights it guarantees, the same percentage as 2017. However, most respondents (74%) disagree that it goes too far. Fewer respondents were undecided than in 2017.

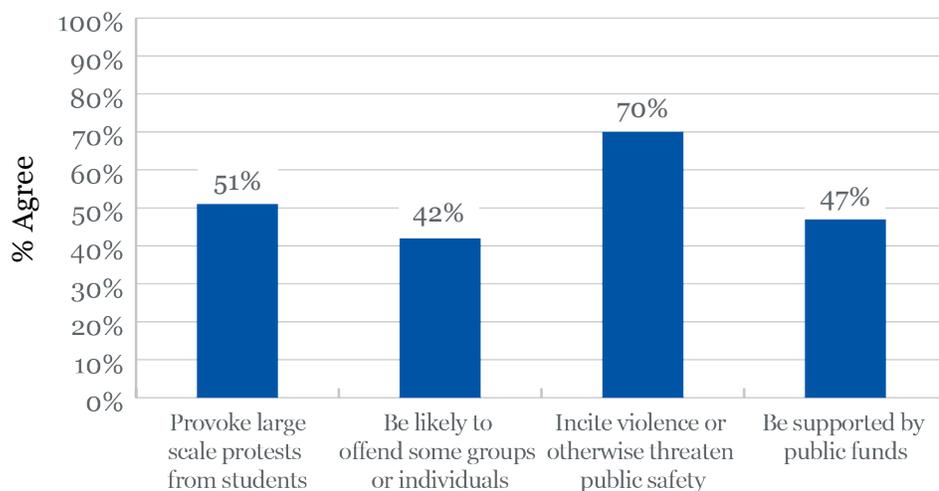
First Amendment Goes Too Far



Controversial Campus Speakers and Freedom of Speech

In addition to gauging respondents' overall reaction to the First Amendment, the survey asked participants about their opinions on particular applications of the First Amendment. A series of questions about controversial campus speakers and the potential consequences from their remarks elicited interesting variation in responses. Respondents were given the following prompt: "Public universities should be able to retract invitations to controversial speakers if their remarks would ..." with several different example scenarios.

Colleges Should Be Able to Retract Invitations to Controversial Speakers Whose Remarks Would...



When respondents were asked in which circumstances it is appropriate to retract invitations to controversial speakers at public universities, a majority agreed that a speaker whose remarks would incite violence or threaten public safety should have an invitation retracted (70%), with 18–34 year olds most likely to believe they should have the invitation retracted in this case (80%) and displaying statistically significant differences from other age groups.

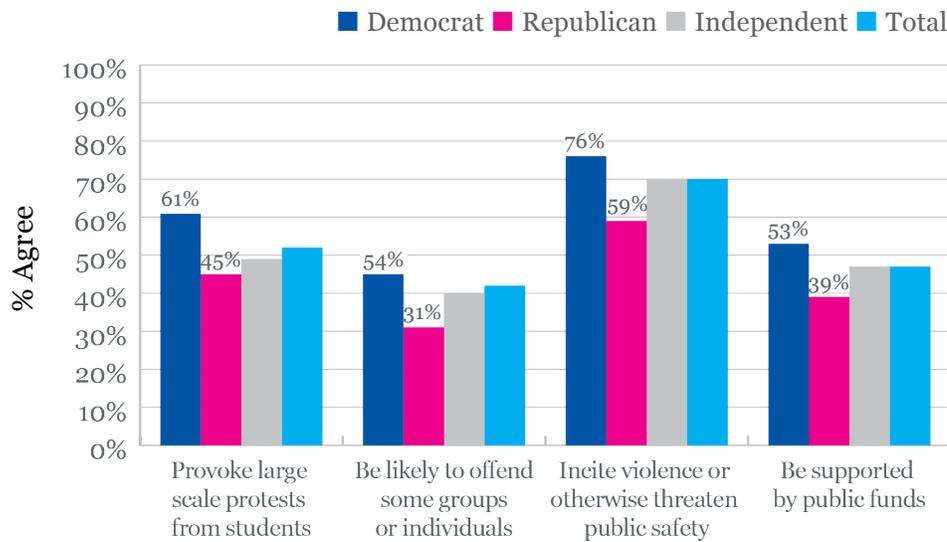
Half of respondents said they feel that the invitation should be able to be retracted if the speaker's remarks would provoke large-scale protests from students (51%). There were statistically significant gender and racial differences, with females (57%) more likely than males (45%) to agree if it would provoke large-scale protests. Two-thirds of the respondents who identified as Black (66%) agreed that they should be able to retract invitations in these circumstances—20 percentage points more than respondents who identified as White (46%).

Respondents were also asked about speakers who received public funding. Nearly half (47%) agreed that the university should be able to retract an invitation if it would be supported by public funds.

Respondents were the least likely to support the university's ability to retract the invitation if the speaker would be likely to offend groups or individuals (42%). There were interesting regional differences in the percentage of agreement, with the South (47%) significantly more likely to agree with this statement than the Northeast (35%) or West (37%).

There was also variation by political ideology. Across all the example scenarios, Democrats were more likely than Republicans to agree that the college or university should have the authority to retract the invitation to the speaker. The difference between the parties was smallest when asking about speakers who would be supported by public funds (a difference of 14 percentage points) and largest when asking about speakers who would be likely to offend some groups or individuals (a difference of 23 percentage points).

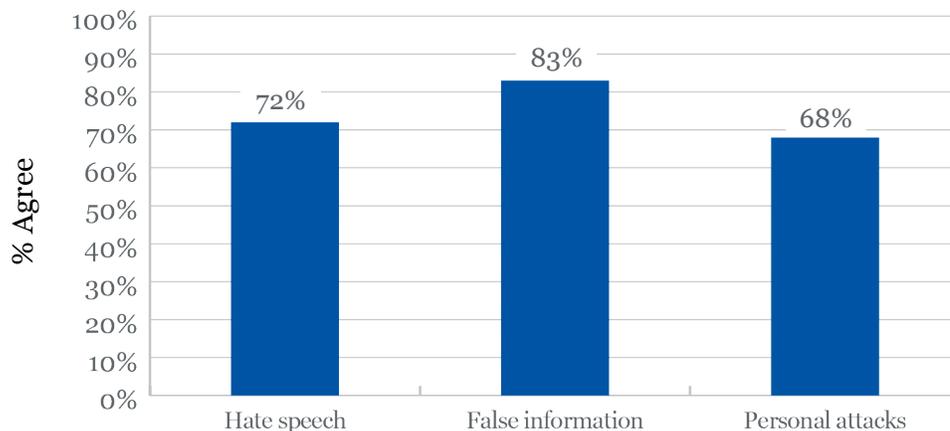
Colleges Should Be Able to Retract Invitations to Speakers Whose Remarks Would...



Social Media and the First Amendment

Recently, social media and its impact on the First Amendment guarantee of freedom of speech has been widely discussed. Survey respondents were asked whether they “agree or disagree with the following statements. Social media companies should remove...” with examples of different types of posts. Respondents were asked about hate speech, false information, and personal attacks.

Social Media Companies Should Remove ...

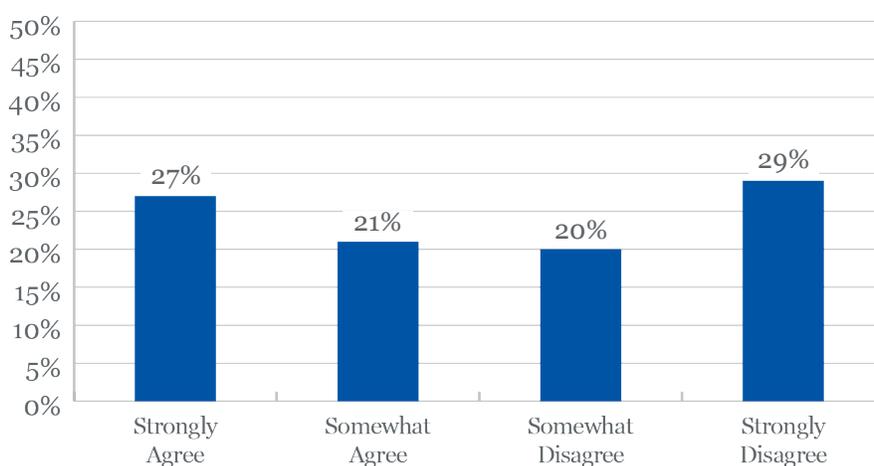


A majority of respondents agreed that social media companies should remove all of these types of posts. However, it is interesting to note that false information rises above the other two types of content. Eighty-three percent of respondents agreed that social media companies should remove false information, which was 11 percentage points more than those who agreed that hate speech should be removed.

Respondents with a high school education or less (87%) were significantly more likely than those with a college education (77%) to agree that false information should be removed, but there were no statistically significant differences among income groups. The difference in levels of agreement based on level of education is possibly due to those with less education relying more heavily on social media as a sole source of news, and thus having greater concern with its validity. Finally, 92% of those who identified as Black agreed with the statement versus 82% of those who identified as White.

Seventy-two percent agreed that social media companies should remove hate speech. Females were more likely (77%) than males (66%) to agree with this statement. Sixty-eight percent agreed that social media companies should remove personal attacks from their websites. There were significant age differences, with those over the age of 55 being more likely to agree than those under 55.

Government Should Require Social Media Sites to Monitor and Remove Objectionable Content

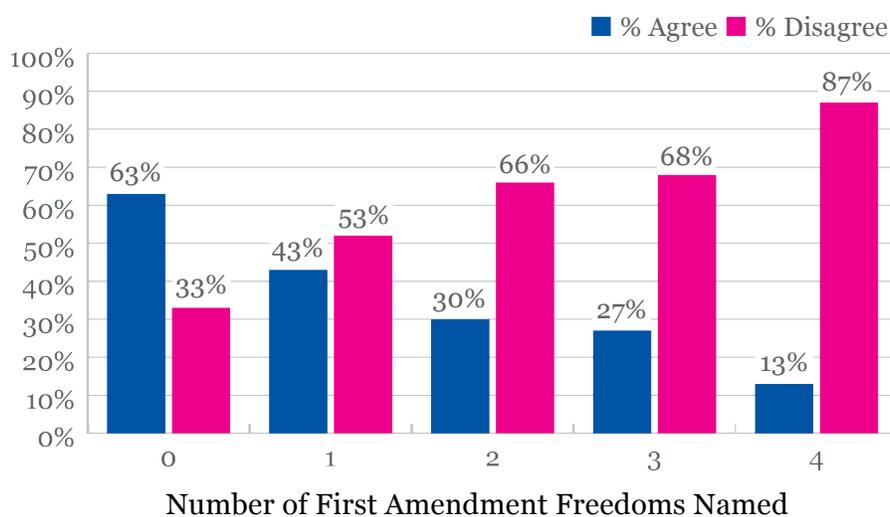


Participants were approximately evenly split on whether it should be a government requirement for social media companies to monitor and remove objectionable content from their sites. There was an inverse relationship with income, with those making under \$25,000 being the most likely to agree (60%). Those making under \$50,000 were statistically significantly more likely than those who made over \$50,000 to agree that the government should play a role in requiring social media companies to monitor content. This question also fell predictably along party lines: Democrats were more likely to agree (54%) that the government should play a role than Republicans (47%).

Respondents were much more likely to agree that social media companies should remove certain types of posts than that government should require social media companies to monitor and remove objectionable content. Nearly 30% fewer respondents agreed that the government should require social media sites to regulate their content (47% vs. 68–83% who agreed that social media companies should remove the posts). Americans are more likely to view social media regulation as a responsibility of the social media companies themselves, rather than the government.

For the survey items regarding campus speakers, social media regulation of content, and government requirements for social media sites, respondents who were able to name more First Amendment freedoms were less likely to agree with the statements, each of which refers to scenarios that place limits on First Amendment freedoms. We can conclude that those who are more familiar with the specific content of the First Amendment are less likely to agree with statements that present hypothetical restrictions. For example, the table below indicates the number of freedoms a respondent could name and the percentage that agreed that the government should require social media sites to monitor and remove objectionable content. Eighty-seven percent of those who were familiar with four of the five First Amendment freedoms *disagreed* that the government should require social media sites to monitor and remove objectionable content. This inverse relationship also held true when a variety of different demographic characteristics were held constant.

Government Should Require Social Media Sites to Monitor and Remove Objectionable Content



Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission

Respondents were also asked about a recent Supreme Court case regarding the refusal of a Colorado baker to create a wedding cake for a same-sex couple. The 2018 SOFA survey was created and the data collected before the final June 4th Supreme Court decision. As such, the following question was posed as a hypothetical to respondents: How much do you agree or disagree that the bakery is legally obligated to create a wedding cake for a same-sex couple?

This question was framed in two different ways, and respondents were randomly assigned one of the two framing conditions. Half of the respondents received the following introduction to the question, which highlighted freedom of speech: “In Colorado, the Masterpiece Cakeshop refused to create a wedding cake for a same-sex couple. The resulting Supreme Court case has raised questions regarding the First Amendment protection of *freedom of speech*.”

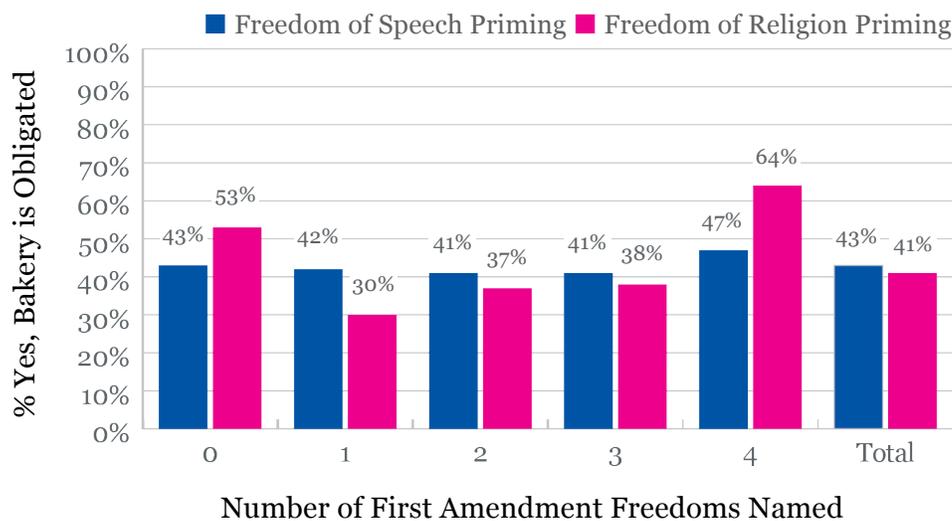
The other half of the respondents received the following introduction to the question: “In Colorado, the Masterpiece Cakeshop refused to create a wedding cake for a same-sex couple. The resulting Supreme Court case has raised questions regarding the First Amendment protection of *free exercise of religion*.” We hypothesized that the results would vary based on which First Amendment freedom was named in the question, which we refer to as “priming.”

Overall, approximately 42% of respondents agreed that the bakery was legally obligated to create a wedding cake for a same-sex couple. Forty-three percent agreed that the bakery is legally obligated to create a wedding cake for a same-sex couple when primed about freedom of speech (52% disagree), versus 41% when primed about freedom of religion (57% disagree).

However, when the results are broken out based on the respondents' knowledge of the First Amendment, the findings are more nuanced. We hypothesized that those who were more familiar with the First Amendment would respond to the priming by disagreeing that the bakery should be obligated to make the cake. This held true, with the percentage of agreement declining as knowledge of the First Amendment increased. However, those who could name four of the five freedoms were more likely to agree that the baker is obligated to bake the cake.

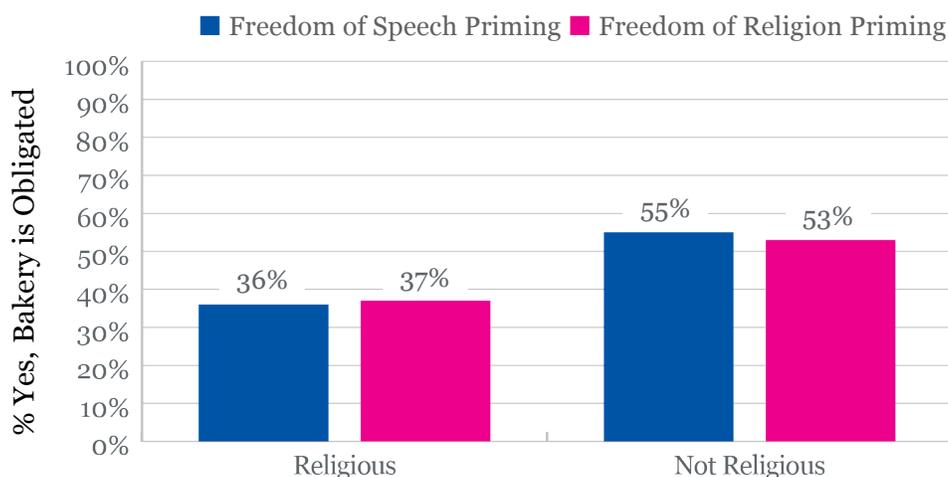
Those who could name four of the five First Amendment freedoms were more likely to agree that the baker must bake the cake when primed about freedom of religion than when primed about freedom of speech. This finding suggests that when these high-awareness respondents connected the baker's refusal to bake the cake to the idea of his religious convictions, they were less inclined to believe that the baker's choice was protected by the First Amendment. Although the sample size is too small to draw statistically significant conclusions, these results may indicate that among these respondents, the baker's freedom of speech may be a more compelling principle than freedom of religion.

Is the Bakery Obligated to Create a Wedding Cake for a Same-Sex Couple?



Respondents who identified as religious were less likely than non-religious people to agree that the baker is obligated to make the cake for the same-sex couple. Somewhat surprisingly, the freedom of speech versus religion priming did not make a difference for religious respondents.

Is the Bakery Obligated to Create a Wedding Cake for a Same-Sex Couple?



There were some notable demographic differences between the two versions of the question. With the freedom of speech priming, the Northeast was much more likely than other regions to agree that the baker is obligated to create the cake. Females were more likely to agree than males.

Response to Q6 – Freedom of Speech	Male	Female	White	Black	HS or Less	Some College	College Grad	<50	50+	Total Religious	Not Religious
Agree	35%	49%	38%	44%	44%	36%	46%	46%	39%	36%	55%
Disagree	61%	45%	57%	52%	51%	60%	46%	48%	56%	59%	39%

The version of the question using freedom of religion priming also showed age and regional differences in responses. Respondents 18–34 years of age were more likely to agree that the baker must create the cake than 55–64-year-olds, and females were more likely to agree than males. There were no significant regional differences. In both versions of the question, religiosity played a role in the responses. Those who were female, who identified as Black or African American, or who were not religious were more likely to agree than disagree that the baker is obligated to create the cake for the same-sex couple.

Response to Q7 – Freedom of Speech	Male	Female	White	Black	HS or Less	Some College	College Grad	<50	50+	Total Religious	Not Religious
Agree	32%	51%	36%	50%	42%	38%	42%	47%	35%	37%	53%
Disagree	67%	45%	62%	48%	56%	60%	57%	53%	61%	61%	46%

After the data were collected for the survey, the Supreme Court ruled that the baker was not obligated to create the cake. However, the ruling was based on a very narrow scope, which included only the direct circumstances of this one particular situation.

Polling Place Free Speech

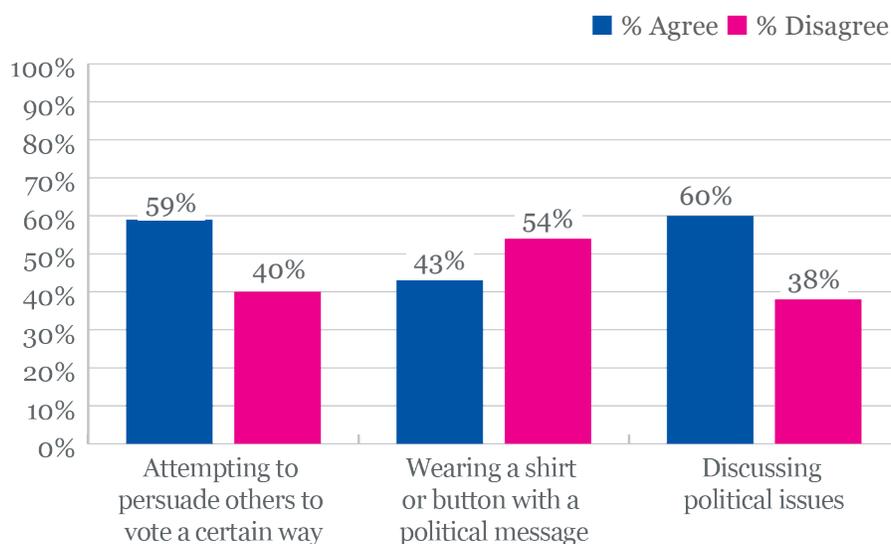
The survey also investigated the issue of free speech in polling places, where free speech has historically been limited. The question was posed to respondents: “Some places have limits on certain types of expression. For example, the Supreme Court ruled that political speech is prohibited within 100 feet of a polling place. Do you agree or disagree with this restriction?”

When framed broadly, three in four (75%) of respondents agreed that political speech should be prohibited within 100 feet of a polling place. There were significant income differences, with those making under \$25,000 being less likely to agree (62%) than those making above that income (80%).

However, when asked about specific examples of possible types of expression inside polling places, respondents were less broad in their agreement.

A majority of participants agreed that discussing political issues (60%) or attempting to persuade people to vote a certain way (59%) should be prohibited. More than two-fifths (43%) agreed that wearing a shirt or hat with a political message should be prohibited. These results indicate an interesting shift from broad acceptance of a restriction of speech, but a narrower view of which types of speech would be affected.

Should these Activities Be Prohibited Inside Polling Places?



There were no significant regional differences for any of the activities except for discussing political issues. For this activity, the North Central (63%) and South (61%) were more likely than the Northeast (51%) to consider this an activity that should be prohibited.

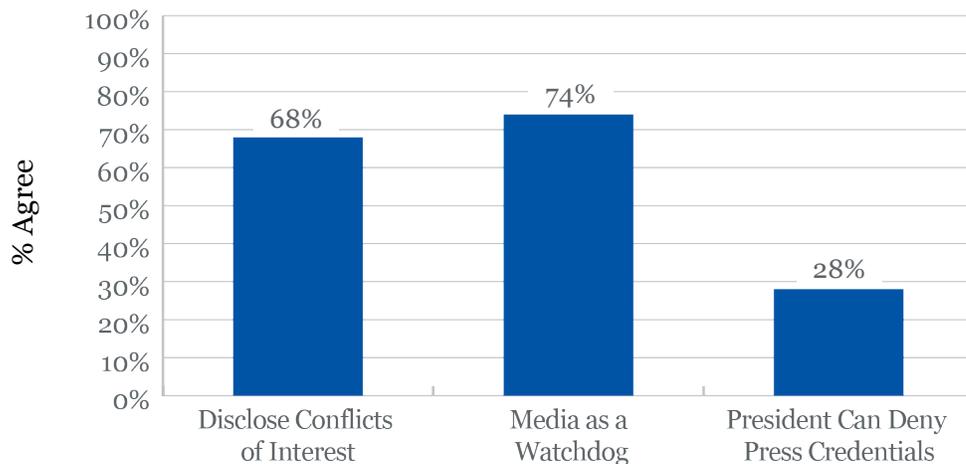
Attempting to persuade others to vote a certain way was an activity that elicited interesting differences in responses among participants with differing education levels. Those with some college education (62%) or a college degree (66%) were more likely than those with a high school education (53%) to agree that attempting to persuade others should be prohibited.

The First Amendment and Journalism

In the final segment of the survey, respondents were asked whether they agree or disagree with certain statements regarding the media. These statements included:

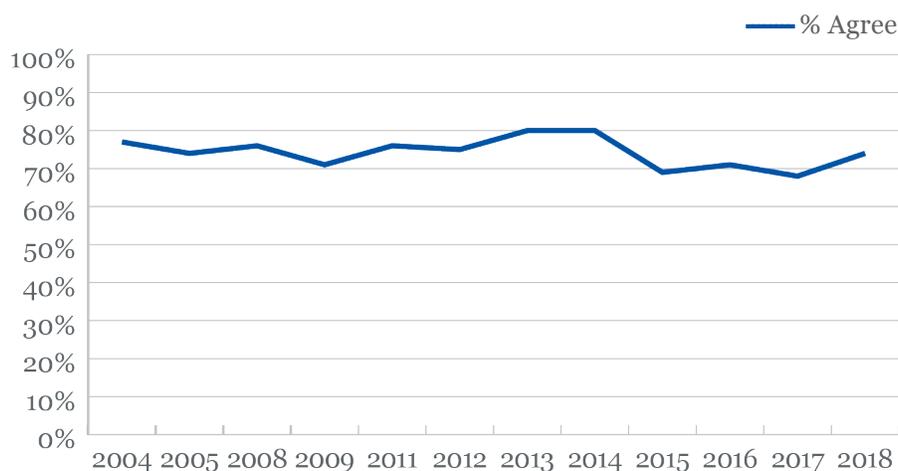
1. It is necessary for journalists to publicly disclose their potential conflicts of interest in order to be credible.
2. It is important for our democracy that the news media act as a watchdog on government.
3. The president should have the authority to deny press credentials to any news outlets he chooses.

Media Statements



In previous iterations of the SOFA survey, a high percentage of respondents agreed that it is important that the media act as a watchdog on the government. In 2018, most agreed it was important (74%), a slight uptick from 2017 (68%).

Important that Media Act as a Watchdog



Most also agreed that it is necessary for journalists to disclose conflicts of interest to be credible (68%). Less than one-third (28%) agreed that the president should have the authority to deny press credentials to any news outlets he chooses, with 70% disagreeing with that statement. More than half (54%) *strongly* disagreed that the president should have this authority.

The responses to these statements also exhibit interesting patterns when compared. When controlling for a variety of demographic characteristics, those who agreed that the media should act as a government watchdog also agreed that journalists should disclose their conflicts of interest.

Those who agreed that the media should act as a watchdog on the government were also slightly more likely to disagree that the president should be able to deny press credentials, although this relationship was not statistically significant. However, there were significant partisanship differences, with Democrats being much more likely to *disagree* that the president should have the authority to deny press credentials, and Republicans much more likely to *agree*.

SOFA 2018 TOPLINE RESULTS

1. As you may know, the First Amendment is part of the U.S. Constitution. Can you name any of the specific rights that are guaranteed by the First Amendment?

Response	2018	2016
Freedom of the Press	13%	11%
Freedom of Religion	15%	17%
Freedom of Speech	56%	54%
Right of Assembly	12%	12%
Right to Bear Arms	9%	N/A
Right to Petition	2%	N/A
Right to Privacy	0.23%	N/A
Right to Remain Silent	0.25%	N/A
Right to Vote	2%	N/A
Other (SPECIFY)	3%	N/A
Can't Name Any	40%	40%
Refused	0.97%	

2. The First Amendment became part of the U.S. Constitution more than 225 years ago. This is what it says:

“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.”

Based on your own feelings about the First Amendment, please tell me whether you agree or disagree with the following statement: The First Amendment goes too far in the rights it guarantees.

Response	2018	2016
Agree	23%	28%
Disagree	74%	67%
(DO NOT READ) Don't know	2%	
(DO NOT READ) Refused	0.28%	

3. Please tell me if you: Strongly Agree, Somewhat Agree, Somewhat Disagree, or Strongly Disagree with the following statements:

Public universities should be able to retract invitations to controversial speakers if their remarks would (INSERT ITEM)...

- *Provoke large-scale protests from students*

Response	Frequency
Strongly Agree	24%
Somewhat Agree	27%
Somewhat Disagree	20%
Strongly Disagree	25%
(DO NOT READ) Don't know	4%
(DO NOT READ) Refused	0%

- *Be likely to offend some groups or individuals*

Response	Frequency
Strongly Agree	19%
Somewhat Agree	23%
Somewhat Disagree	22%
Strongly Disagree	33%
(DO NOT READ) Don't know	3%
(DO NOT READ) Refused	1%

- *Incite violence or otherwise threaten public safety*

Response	Frequency
Strongly Agree	51%
Somewhat Agree	19%
Somewhat Disagree	10%
Strongly Disagree	17%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	0%

- *Be supported by public funds*

Response	Frequency
Strongly Agree	19%
Somewhat Agree	28%
Somewhat Disagree	21%
Strongly Disagree	25%
(DO NOT READ) Don't know	6%
(DO NOT READ) Refused	1%

4. Now I'm going to read you a list of different types of posts on social media sites. Please, tell me if you agree or disagree with the following statements.

Social media companies should remove the following types of content.

- *Hate speech*

Response	Frequency
Strongly Agree	55%
Somewhat Agree	16%
Somewhat Disagree	12%
Strongly Disagree	14%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	1%

- *False information*

Response	Frequency
Strongly Agree	70%
Somewhat Agree	13%
Somewhat Disagree	7%
Strongly Disagree	8%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	0%

- *Personal attacks*

Response	Frequency
Strongly Agree	47%
Somewhat Agree	21%
Somewhat Disagree	15%
Strongly Disagree	13%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	1%

5. Please tell me whether you agree or disagree that the government should require social media sites to monitor and remove objectionable content.

Response	Frequency
Strongly Agree	27%
Somewhat Agree	21%
Somewhat Disagree	20%
Strongly Disagree	29%
(DO NOT READ) Don't know	3%
(DO NOT READ) Refused	1%

6. In Colorado, the Masterpiece Cakeshop refused to create a wedding cake for a same-sex couple. The resulting Supreme Court case has raised questions regarding the First Amendment protection of freedom of speech. How much do you agree or disagree that the bakery is legally obligated to create a wedding cake for a same-sex couple? [HALF SAMPLE A]

Response	Frequency
Strongly Agree	27%
Somewhat Agree	15%
Somewhat Disagree	13%
Strongly Disagree	39%
(DO NOT READ) Don't know	4%
(DO NOT READ) Refused	2%

7. In Colorado, the Masterpiece Cakeshop refused to create a wedding cake for a same-sex couple. The resulting Supreme Court case has raised questions regarding the First Amendment protection of free exercise of religion. How much do you agree or disagree that the bakery is legally obligated to create a wedding cake for a same-sex couple? [HALF SAMPLE B]

Response	Frequency
Strongly Agree	31%
Somewhat Agree	11%
Somewhat Disagree	16%
Strongly Disagree	41%
(DO NOT READ) Don't know	1%
(DO NOT READ) Refused	0%

8. Some places have limits on certain types of expression. For example, the Supreme Court ruled that political speech is prohibited within 100 feet of a polling place. Do you agree or disagree with this restriction?

Response	Frequency
Strongly Agree	49%
Somewhat Agree	25%
Somewhat Disagree	12%
Strongly Disagree	11%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	1%

9. Do you agree or disagree that the following activities should be prohibited inside polling places?

- a. Attempting to persuade others to vote a certain way

Response	Frequency
Strongly Agree	48%
Somewhat Agree	11%
Somewhat Disagree	10%
Strongly Disagree	29%
(DO NOT READ) Don't know	1%
(DO NOT READ) Refused	0%

- b. Wearing a shirt or button with a political message

Response	Frequency
Strongly Agree	27%
Somewhat Agree	16%
Somewhat Disagree	24%
Strongly Disagree	30%
(DO NOT READ) Don't know	3%
(DO NOT READ) Refused	1%

- c. Discussing political issues

Response	Frequency
Strongly Agree	41%
Somewhat Agree	19%
Somewhat Disagree	18%
Strongly Disagree	21%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	0%

10. Please tell me if you agree or disagree with the following statements:

- a. It is necessary for journalists to publicly disclose their potential conflicts of interest in order to be credible.

Response	Frequency
Strongly Agree	45%
Somewhat Agree	24%
Somewhat Disagree	14%
Strongly Disagree	14%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	1%

- b. It is important for our democracy that the news media act as a watchdog on government.

Response	2018	2017
Strongly Agree	50%	
Somewhat Agree	23%	68%
Somewhat Disagree	10%	
Strongly Disagree	14%	29%
(DO NOT READ) Don't know	1%	
(DO NOT READ) Refused	1%	

- c. The president should have the authority to deny press credentials to any news outlets he chooses.

Response	Frequency
Strongly Agree	16%
Somewhat Agree	12%
Somewhat Disagree	16%
Strongly Disagree	54%
(DO NOT READ) Don't know	2%
(DO NOT READ) Refused	0%