FINAL EXAMINATION LAW 315 MAY 12, 2003

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INSTRUCTIONS

- 1. To preserve anonymity, your written answers and pledge are to be identified by only your exam number.
- 2. The questions and answers may not be removed from the rooms prescribed for the taking of the examination.
- 3. You have 3 hours to complete this exam. There are three essay questions; the first is valued at 45 points, the second 30 points, and the third 25 points. Suggested times are included for each essay question. THIS EXAM IS OPEN-BOOK. Provided; a student is permitted to use only her textbook together with the notes and outline she herself has generated. Commercial outlines and publications (other than the text) are not allowed. Nor is a student allowed to use another student's notes, outlines, or text. "Sharing" materials during the exam is not allowed.
- 4. If you choose to write your answers by hand, please write legibly in **ink** on the **front side** of each blue-book page. (If you accidentally write on the back side of a page, do not rewrite your answer. Simply continue. No deductions will be made for incidental procedural errors.)
 - If you choose to type your answer using word processing equipment (like a laptop computer), please double-space the text of your answers, save your answers in a single file on a disk, and write the name of the file on the outside of the disk. Please make sure that there are no other files on the disk. You are free to use non-secure software to type your answer, such as the Word and WordPerfect programs, or you may use the secure software provided by the College. Please identify your software so that your answer can be printed.
- When you have completed the exam, sign your exam number to the pledge at the end. Make sure your exam number is on your blue books. Place the exam questions, your blue books, and your disk (if you have one) in the envelope provided and seal it. Do NOT write your exam number on the envelope.

 Deposit the envelope in the box in the front of the class room and leave the room. All exams will be collected at the conclusion of 3 hours.

Question One 45 points

(Suggested time: 80 minutes)

Assume that the year is 2003. Congress has passed, with the President's signature, the following piece of legislation, known as the "Media Protection Act" (MPA):

- Section 1. No person shall cause indecent material to be published on any broadcast frequencies regulated by the Federal Communications Commission (FCC), on any cable television channel (whether or not subject to federal regulation), on any Satellite television or radio channel, or on the Internet.
- Section 2. "Indecent material" includes any depiction, description or display that is harmful to minors.
- Section 3. "Minor" means any person, not emancipated, under the age of 18.
- Section 4. Any person who violates this statute shall be guilty of a misdemeanor and subject to one year imprisonment and/or a \$10,000 fine.

Joe Porno, a successful advertising executive, has recently begun a new ad campaign for a perfume called "Brutal." The ad uses computer-generated images to portray a young boy, well-under the age of 18, having sex with a young girl, also well-under the age of 18. Although digitally stored, the images were constructed in large part using live models, both of whom were under 18 at the time of the modeling session. Because Porno's ad does not depict the actual sex act, but only implies sexual intercourse, Porno is heard to comment, "I am fully protected by the First Amendment."

Porno runs the ad on broadcast television, cable television, and Satellite television, and also posts it on the Internet. He is criminally charged under the statute with four separate counts of violating the statute, one for each medium. Identify and explain Porno's constitutional arguments and defenses, as well as the legal problems he will encounter.

Question Two 30 points (Suggested time: 55 minutes)

Assume that the year is 2003. The State of Secular has created a fund – the "actualization fund" – to encourage its citizens to "speak and learn in ways that help one achieve self-actualization." According to the implementing statute, this fund is designed to provide individual actualization grants of up to \$5000 each year "to be used by citizens for secular teaching and educational purposes." Students and educators (teachers) qualify for the "actualization grants," but only if they agree to use the money for secular activities. The application process is, according to the enabling statute, "selective and competitive," so that "not everyone will qualify." "Only those whose secular ideas impress the fund's Board of Directors will receive grants."

Susan Preacher teaches "Saturday School" classes at her local church. Her instruction is Biblical, with a focus on the Old Testament. She has applied for an actualization grant, which she intends to use to purchase Bibles for her class. In her application, she states that "bot self-actualization and my religion require that I teach the Bible." Her application is denied in a short letter from the chair of the fund's Board of Directors: "For obvious reasons, we cannot fund religion."

Identify and discuss the constitutional issues that are raised in this hypothetical.

Question Three 25 points (Suggested time: 45 minutes)

Assume the year is 2003. Local School District has passed new regulations designed to address growing tensions on public primary- and secondary-school campuses in the District. Part 1 of the new regulations provides that "no speech, conduct or displays critical of the federal government's foreign policies shall be allowed on any primary- or secondary-school's premises during school hours – which begin at 6 AM and extend through 5 PM, Monday through Saturday – without prior approval of the school's Principal." Part 2 states that "school premises include not only the physical location of the school, but also all publicly-owned property within 1000 feet of the school."

Sally Student, a sixteen-year-old pacifist, wears a black dress and veil to an extracurricular chess club meeting beginning at 4:30 PM on a Monday inside her public secondaryschool. Although classes let out at 3 PM, the Principal confronts her in the hallway and screams, "What the hell do you think you're doing." Student answers, "I'm mourning the death of American soldiers in Iraq." After concluding that she has criticized a foreign policy of the federal government, the Principal has Student suspended under Part 1 of the new regulations.

At about the same time Student is confronted in the school hallway, Julie Six-Pack, a twenty-five-year-old former marine, is seen on the public sidewalk outside the school carrying a sign that states, "TURN IRAQ INTO A PARKING LOT". The Vice-Principal rushes out to her and yells, "What the hell do you think you're doing." Following Six-Pack's response, "None of your fucking business," the Vice-Principal has Six-Pack arrested for criticizing the federal government's foreign policy within 1000 feet of a school, and also for disturbing the peace under the State Criminal Code.

Identify and discuss the constitutional issues that are raised.

I pledg	e that I have neither given nor
receive	d unauthorized assistance on this
Exam.	No.