



# UC DAVIS

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## LAW REVIEW

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### Welcoming Remarks

*Dean Rex R. Perschbacher\**

Good morning everyone, and welcome to UC Davis School of Law and the Law Review's Symposium on "First Amendment Rights in America's Public Schools: From the Schoolhouse Gate to the Courthouse Steps."

As everyone here knows much better than your speaker, the Supreme Court has noted ever since *Tinker v. Des Moines Independent Community School District* that "students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." At the same time, school authorities charged with running the schools have responsibilities as well and can prohibit student speech that will "materially and substantially disrupt the work and discipline of the school." Therefore, "the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings."

Our first panel today will look at the latest of the cases in this area, *Morse v. Frederick*, which took the more troubling path (to me) of moving the truncated First Amendment rights of students with them back outside the schoolhouse gate. We have a very distinguished group

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\* Dean and Professor of Law, UC Davis School of Law. Remarks delivered at the UC Davis Law Review Symposium — "First Amendment Rights in America's Public Schools: From the Schoolhouse Gate to the Courthouse Steps" (March 7, 2008).

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of speakers today that originally included three law school deans or deans-elect. Unfortunately, Professor Erwin Chemerinsky of Duke University and soon-to-be dean of the new law school at UC Irvine, is ill and could not make it this morning. But I want to extend a special welcome to Dean Kenneth Starr of Pepperdine University and Professor Joan Howarth, Professor at the William S. Boyd School of Law at UNLV and incoming dean at Michigan State University School of Law. Our other, equally distinguished speakers include Professors Steven Green of Willamette University School of Law, Gia Lee of UCLA, Melissa Rogers from the Divinity School of Law at Wake Forest University, Steven Smith from the University of San Diego School of Law, and R. George Wright, Indiana University School of Law, Indianapolis. Joining them are five equally distinguished constitutional law scholars from our own faculty, Professors Vikram Amar, Alan Brownstein, Christopher Elmendorf, Margaret Johns, and Carlton Larson.

It gives me particular pleasure to introduce our next speaker, my colleague, Professor Alan Brownstein, a most accomplished and nationally-recognized First Amendment scholar. He played the central role in organizing this symposium, and you can see his mind at work here. Alan has been particularly adept at analyzing the complex doctrinal interplay between the religion clauses of the First Amendment, the most vexing balances between the Free Exercise and Establishment Clauses, and I notice, Alan, that this is a perfect conceptual area for you. Students' free speech is sharply curtailed in the public school setting; administrators have lots of leeway. But when it comes to religion, administrators are sharply limited in bringing religion into the school — establishment concerns — but students have been gaining greater free exercise rights. Our panels this morning and afternoon will look at these issues and many more.