

Students and their First Amendment Rights

The landmark U.S. Supreme Court case, *Tinker v. Des Moines* (1969), defined the First Amendment rights of students in U.S. public schools finding that students or teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” The ruling also recognized that an individual’s right of free speech should not “materially and substantially interfere” with the operation of the school.

Tinker’s applicability to student publications has since been tempered by subsequent decisions. One case upheld a school’s ability to censor student expression that is vulgar, lewd, or obscene. The other, *Hazelwood School District v. Kuhlmeier* (1988) hindered the fight for free press rights of student journalists.

Cathy Kuhlmeier was the editor of her high school newspaper, *The Spectrum*. The May 1983 edition included an article about teen pregnancy and another about divorce both with student interviews. In the teen pregnancy article, the students’ names were changed to protect their identity. In the divorce article, written permission to publish had been granted by those interviewed and their parents. Before publication the principal removed two pages that included the two articles that he found objectionable. In total, seven stories were eliminated and the students only found out about the change upon delivery of the printed editions.

In response, Cathy Kuhlmeier and two fellow reporters, with the help of the American Civil Liberties Union, filed suit against the school in January 1984 on the grounds that their First and Fourteenth Amendment rights had been violated.

In May 1985, the district court judge in a bench trial ruled that no violation of First Amendment rights had occurred, and held that school officials may restrict student speech in activities that “are an integral part of the school’s educational function” as long as the restriction has “a substantial and reasonable basis.”

On appeal in 1986, the U.S. Court of Appeals for the Eighth Circuit reversed the district court’s decision citing the school newspaper as a “public forum” and “a conduit for student viewpoint.”

Ultimately, the Supreme Court heard the case and overturned the circuit court with its 5-3 split decision that schools could censor student expression as long as their actions were “reasonably related to legitimate pedagogical (teaching) concerns” thus impacting student voice to this day.

In the newspaper or online, find examples of people exercising free speech in different ways. Then write a personal column, discussing the ways you and your peers exercise freedom of speech in your daily lives. A free press provides a platform to report important issues from many points of view. As a class, discuss your thoughts and opinions about potential censorship of student journalists.

***Next: Free Speech, Free Press and
the Future of Our Free Society***

***#BlackLivesMatter, #NeverAgain,
#CureHazelwood and the New Voices Movement***

This is one of six Newspaper In Education features created to educate and celebrate Law Day 2019. Developed by the NYNPA News Media Literacy/ NIE Program with a set of audio podcasts made available through funding from The New York Bar Foundation.