

## First Amendment in School: Free Speech or Controlled Classrooms?

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Ensuing debates over the provisions of the Constitution's First Amendment have shaped the concerns of both primitive and current political issues nationwide. A common inquiry that arises subsequent to such arguments often questions the extent to which First Amendment freedoms are protected in public schools around the country. In other words, what precautions have been collectively taken by schools nationwide to accurately foster the approbation of the liberties of religion, speech, and assembly (among others) established by the First Amendment? Modern data collection, research among many school districts, and historically important landmark cases by the Supreme Court have shown the lack of constitutional awareness in American schools. Such an issue implies that henceforth in latter day educational politics, ensuring that those freedoms guaranteed via the First Amendment for all in the nation are guaranteed for students as well is of imperative importance.

Highly renowned among key contributors to the exhibited need for First Amendment recognition in schools was the Supreme Court's ruling in the landmark case *Tinker v. Des Moines* (1969). The case was brought about by students attending public schools in the Des Moines Independent Community School District (in Des Moines, Iowa), after many of them decided to participate in joint protest against the Vietnam War. They attended school as a collective group wearing black armbands in an action of silent protest, and carried it out in a peaceful manner. Despite this undisruptive action, they were threatened with suspension by school authority. This potential suspension was suggested by the principal of one of the district's schools to which students decided to peacefully protest with their attire, who claimed that the armbands "disrupted the learning environment."

From a local standpoint, the U.S. District Court for the Southern District of Iowa championed the principal's assertion, proclaiming that the protest attire could possibly disrupt education. However, the decision was brought to light as a violation of the First Amendment's promised freedom of free speech by disconcerted parents who sued the school after learning of their children's suspensions. This collective uproar among unsettled parents who felt that the District Court had demonstrated unconstitutionality leveraged the case when it was brought to the U.S. Supreme Court.

In an eminent 7-2 decision, the Supreme Court's majority ruled that students nor teachers "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This verdict would come to be a widely recognized influence upon the mindsets of students and educational administrators alike, upholding the significance and resilience of the First Amendment's provisions as they were located in public learning institutions, where they were previously overlooked. In other words, the Supreme Court readily took a stance against the U.S. District Court for the Southern District of Iowa's ruling, alternately advocating for a claim that posed schools (nor school officials) could effectively prohibit speech on a suspicion or premonition that it would disturb the learning environment.

Despite the Supreme Court's ruling in the nationally prominent *Tinker v. Des Moines* decision, the case ultimately provided a simple precedent for the foundation of student liberties and rights on school grounds. Following the final ruling of the case in 1969, a shared comprehension that student speech could be restricted, only if it "substantially disrupts" the learning environment was asserted. However, unaddressed nuances within this precedent—such as the quantification of "disruptive" behavior in students — only perpetuated the ongoing struggle for students in different schools nationwide. Essentially, the line between secured

expression/speech that was granted via the law, and expression/speech that should be regulated via schools remained unclear, causing more occurrences that appended to the debate regarding students' guaranteed rights from the first amendment.

The mass ambivalence amongst American school districts and students over their specific liberties gave way to another debate in 1988, a case which came to be known as *Hazelwood School District v. Kuhlmeier*. Yielding almost the opposite effect of *Tinker v. Des Moines*, this case implied that schools could exercise greater control over student expression, specifically in school-sponsored activities like journalism/newspapers. The case, instigated when Hazelwood East High School's (in Missouri) principal censored two articles in a student newspaper, featuring topics students had selected as a part of their journalism class. To elucidate, one of the articles elaborated on divorce and its impact on students, while the other discussed the issue of teen pregnancy. The principal, Robert Reynolds, removed the articles on the grounds that such topics shouldn't be published and then published within the school, as they were inappropriate for younger students.

In this case, the Supreme Court ruled in favor of the school official's assertion, upholding that the censorship of student speech in school-sponsored activities (such as the aforementioned newspaper articles) did not violate the provisions of the First Amendment in the Constitution. In full, if it was assured that the censorship was reasonably related to legitimate pedagogical issues, the act couldn't be deemed unconstitutional. This ruling contributed chiefly to the idea that schools could exercise control over, or regulate students' freedom of expression/speech as long as it was in correlation with school-sponsored activity, and not part of a public forum.

Despite the significance of the Supreme Court's ruling in *Tinker v. Des Moines*, school districts' ability to exert control over student expression was not entirely addressed nor limited to abide by the First Amendment's provisions. This vagueness was bolstered through *Hazelwood School District v. Kuhlmeier*'s Supreme Court decision, contributing to the obscurity surrounding students' daily lives in school. Schools nationwide were thus placed in a position built upon incertitude, as no school officials nor districts had any credible grounds to regulate or allow liberty in student speech/expression upon. Fundamentally, schools couldn't repress student expression or protest if it didn't rupture the learning environment (as established by *Tinker v. Des Moines*) — although they could censor, or control, school-sponsored activities like publications if it was “reasonably” in correspondence to “legitimate” academic concerns (made precedent by *Hazelwood School District v. Kuhlmeier*).

In the face of blurred margins regarding what was truly “reasonable”, “legitimate”, or “disruptive” in schools nationwide (an issue that was further strengthened by sectional values and differing political interests among states) — a new issue arose in 2007, called *Morse v. Frederick*. This case brought to the attention of many, an entirely different perspective on the freedom of speech granted via the First Amendment, and how it was fit to play out in schools. The case arose in 2002, when student Joseph Frederick was suspended from his school after displaying a banner that read “Bong Hits 4 Jesus” at a school-sponsored event (Olympic torch relay). His suspension was issued by the school principal, Deborah Morse, who claimed that the banner promoted illegal drug use, and thus felt it necessary to take disciplinary action.

The Supreme Court, in a 5-4 decision, agreed with Morse, proclaiming that dealing a suspension or disciplinary action towards possible promotion of illegal drug use was a legitimate

concern for school administrators. However, what came to be truly significant was the Supreme Court's assertion that the "guaranteed" and fundamental rights set forth in the First Amendment applied diversely in schools, as opposed to other facilities. In essence, the Court explained that the "special characteristics of the school environment" made stronger restrictions on free speech of students necessary, as compared to adults who were less likely to raise legitimate pedagogical concerns (such as promoting illegal drug use).

Overall, following the ruling in *Morse v. Frederick*, apprehension specifically regarding the discouragement of inarguably disruptive/dangerous behaviours (such as promotion of drug use among young individuals) was highlighted and addressed. Despite this decision, and the Supreme Court's akin verdict in *Hazelwood School District v. Kuhlmeier*, which also restricted student expression on the grounds of disruptive promotional behaviour which correlated to school-sponsored activities, the importance of student speech and expression (even when not in the form of protest) remained. By way of explanation, even while accounting for possible disruption of school policy or inappropriate propaganda, the pledged First Amendment liberties of individuals nationwide were required to remain applicable to students — fostering their integration into society, fair development, and a robust/free learning environment.

Harboring recognition of the significance of these freedoms for students, the Supreme Court's ruling in *Saxe v. State Board of Education* (2013) provided grounds upon which students could grow and express with appropriate, yet honest restrictions. To elaborate, a Pennsylvania school district possessed a policy prohibiting "any action, including words and behaviors" that may "disrupt the educational process" or "create a hostile environment" for students. Subsequently, when a student created a social media post featuring messages that were perceived as critical and disruptive by certain individuals (despite not being directed at the school), the case

was brought to court. The Supreme Court ultimately utilized a test gleaned from 1969's *Tinker v. Des Moines* to determine if the school's regulation of the student's post was permissible. The test's specific interests included what organization, or which individuals the post was directed at, whether the contents of it substantially disrupted/interfered with the rights of peers, and thus whether the school could reasonably conclude that the post could cause potential disruption.

Based upon the criteria, the Court found that the policy was overly restrictive of student speech, and established excessively broad directives that posed to irrationally infringe on the First Amendment liberties promised to students. A key takeaway asserted by the Supreme Court established that while schools could manage/regulate student speech, expression or promotion and protest (even if it was off-campus), but only if it was reasonably foreseeable to cause substantial disruption in the school environment. The Court additionally emphasized that any school regulations on student's free speech/expression should be attentively tailored and not overwhelmingly contravening with their liberties.

In full, a multitude of collective understandings accounting for the restrictions on students' First Amendment liberties (notably those of free speech and expression) have shown through on a national scale. Furthermore, despite the significant development of this comprehension of the scope of students' rights over the last few decades, distinct characterizations of reasonableness and rationality in school regulations of student expression remain ambiguous. As of now, the subsequent leading concern of learning institutions nationwide should be the ensuring of individual pledged liberties within the First Amendment. Beyond promising that the fundamental rights of students align justly with those of adults (such that they are properly armed for society after schooling), accurately fostering the protection of

the youth by carefully recognizing harmful expression and nationally familiarizing the public with the extent of “reasonable” and “disruptive” actions should be of top priority.

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