

# Speak to learn; learn to speak

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Free speech is a constitutional right ratified by the First Amendment. All citizens are entitled to the freedoms of religion, speech, press, assembly, and petition, rights the government cannot infringe upon.

Students have the right to free speech in schools under the Tinker Standard, but are limited and constrained by “ the special characteristics of a school environment”. Students do not have unlimited rights because they are still considered minors in the process of growing and learning socially acceptable behavior. The government represented by the school authorities, has broader power when it acts as an educator. They are able to censor lewd and vulgar speech under the Fraser Standard and regulate school-sponsored activities under the Hazelwood Standard with a “ forum analysis.” The reason for such limitations and extension of power is to pursue the main mission of “ educating children in a safe environment.

” These restrictions are put in place to encourage learning and teach students to be proper citizens who will be integrated into society. In the 1969 case Tinker vs Des Moines Independent Community School District, some students in Iowa decided to wear black armbands to protest the Vietnam War. The Supreme Court ruled in favor of the students over the school administration. The court established the Tinker Standard which states that students are entitled to their rights of free speech as long as it doesn't: a.) disrupt the school environment, or b.

) violate the rights of others. The court stated that students do not “ shed their constitutional rights at the schoolhouse gate.” They do not become secondary citizens who are stripped of their fundamental rights. However, as

minors and children, they are handled with care and thus do not possess the same level of constitutional rights as adults. Students are entitled to protection of constitutional rights, but like other citizens are not authorized to abuse such privileges with impunity. Justice Oliver Wendell Holmes insightfully said, “ the most stringent protection of free speech would not protect a man falsely shouting fire in a theatre and causing a panic.

” Some types of speech do not receive protection. The First Amendment does not protect obscenity, true threats, criminal solicitation, defamation, and such. Similarly at school, students are restricted by the Fraser Standard which excludes “ explicitly lewd, vulgar, obscene, or offensive language” from protection. In 1986, the Supreme Court ruled in *Bethel School District vs. Fraser*, that school officials did not violate student’s rights by suspending him for giving a vulgar and lewd speech before the student body.

The court wrote that “ the freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against society’s countervailing interests in teaching students the boundaries of socially acceptable behavior.” This standard shows that teachers have to do what is reasonable to teach children proper social behavior. For the same reason that adults are not allowed to create panics in public areas, students are not allowed to offend others or spew lewd comments in school because it would disrupt the school environment. Parents and school authorities might try to use such logic to smother students with stringent rules in order to maintain order. Nevertheless, they should make decisions based on legitimate pedagogical concerns and not on their own subjective reasonings or opinions.

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Guiles v. Marineau is an example of proper judicial discernment concerning students' limited rights. A student wore a political T-shirt in school that was deemed inappropriate by a parent and various school authorities. However, after careful observation, the court ruled that the student was entitled to his protection under the Tinker Standard. The Tinker Standard works in a very broad manner and is usually taken into consideration unless it and the other two standards are in conjunction. The ruling explained that the Fraser Standard was not valid because the school's judgment was subjective and speculative.

The student's T-shirt did not constitute " explicitly lewd, obscene, vulgar, or offensive language." Furthermore, the student did not disrupt the school environment nor blatantly offend anyone prior to the parent's concern. The case shows that certain political, religious, or bigoted speech may cause discomfort to others but can not be considered objectively " offensive or inappropriate". Another set of court cases makes the fine distinction between private speech and school-sponsored speech (government speech in public schools). In Kountze Independent School District vs. Matthews, cheerleaders in Texas decided to change their aggressive banners to feature peaceful religious speech.

The school administration took action to censor their speech in vain. The court ruled that students who act as individuals while playing sports or cheerleading do not become agents of the state because they are engaging in private speech and activity. The cheerleader group in Kountze was formed by the students and wore uniforms paid for by the students. On the other hand, in Santa Fe, a court ruled that school-sponsored prayers during <https://assignbuster.com/speak-to-learn-learn-to-speak/>

football games were prohibited. The reason given was that school policy which incorporates the majority counts as explicit government speech, which is prohibited from endorsing religion.

The “forum analysis” is another method of discernment and lists three types of forums: an open forum, a limited forum, and a closed forum. An open forum is a public place, like a park, that is traditionally used as a place of free public discourse. A limited forum is generally a public area, like the common area in a school; it is not open to anyone, but has been made available in limited ways and at limited times for certain speech. A closed forum is a private space, not used for an exchange of ideas. The place’s purpose would be lost if free speech were allowed, such as school plays, or curricular-related activities.

In the 1986 case *Hazelwood vs. Kuhlmeier*, a school principal censored stories about teen pregnancy and divorce because he believed they were inappropriate for a school newspaper. The matter went to the Supreme Court and the Court ruled with the school administration. It stated that any event supervised by faculty members or designed to teach students is a school event. Schools have the power to maintain their neutrality in publications and censor material as long as they have legitimate pedagogical concerns. The *Hazelwood Standard* states that students are protected within the First Amendment concept of a public forum but otherwise the school has some control over content decisions and anything associated with the school that is school-sponsored or has its imprimatur.

The school newspaper is a limited forum. If the school had given students free reign over a public domain, they would have created a public forum. Therefore, with the advent of this decision, fatal for free speech activists, school officials are now allowed to censor school activities in “ any reasonable manner.” They have the power, as mature adults, to limit student speech under certain conditions. Nonetheless, school authorities must work diligently and carefully not to let their own subjective opinions influence their decisions. They have to allow students to express themselves and grow as writers and speakers, but also learn to respect their audiences to adhere to the main goal of education.

In 1943, long before the Tinker Standard, the West Virginia school board passed a law requiring students to salute the flag and recite the Pledge of Allegiance. In *West Virginia State Board of Education vs. Barnette*, the court determined that students had the right not to be coerced into doing something that disagreed with their religious beliefs. “ Educating the young for citizenship is reason for scrupulous protection of constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.” Teaching students their rights of free speech and to protect these rights is important for them to be prepared to enter our democratic society as mature citizens. Walt Whitman wrote about the Indispensable Opposition, i.

e. debate, and explained that at the very core of a democracy is the process of public debate in order to arrive at a higher, refined truth. Students need to be exposed to a wide variety of opinions and perspectives. Students are the

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future leaders who will take care of and contribute to our society. They need to be aware that there are different opinions and perspectives on debatable matters such as religion, politics, and beliefs.

They have to be open to hear these differing opinions and find their own voice within a sea of democratic voices. By listening to different voices, they can improve their own ideals. Students' free speech in schools is still prevalent. Students are allowed to speak their minds, write what they think, and express what they believe. Young students especially, are still minors in the process of growing and learning as they engage with the world around them.

The main mission of schools is to teach children so that they can become productive and cognizant individuals who will contribute to and improve society by being active citizens. Part of the mission is to teach students democracy and integrate them into the liberal republic of which they are part of. It would be hypocritical for the schools to only teach the First Amendment but not follow through with its implications. That is why the Tinker, Fraser, and Hazelwood Standards are enforced. Students' free speech is limited to strike a balance between maintaining a safe and orderly school environment and maintaining students' entitlement to free speech in order to achieve the main goal of education.

As one federal court said “ Learning is more important in the classroom than free speech.”