

## ***Hazelwood v. Kuhlmeier (1988)***

" . . . educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns."

—Justice White,  
speaking for the majority

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#### **Additional Resources (online only)**

[The ACLU's Ask Sybil Liberty about Your Right to Free Expression](#)

[The SPLC's Complete Guide to the Supreme Court Decision](#)

[The Kansas Bar Foundation: Law Wise Newsletter Featuring Students' Freedom of Expression under the First Amendment](#)

[The Freedom Forum's Analysis of Hazelwood's Impact on the Student Press](#)

[The SPLC's First Amendment Rights Diagram](#)

[The NSPA's Trends in High School Media](#)

[The SPLC's Cyberlaw and the Student Media](#)

## About landmarkcases.org

This site was developed to provide teachers with a full range of resources and activities to support the teaching of landmark Supreme Court cases, helping students explore the key issues of each case. The "Resources" section features basic building blocks such as background summaries and excerpts of opinions that can be used in multiple ways. The "Activities" section contains a range of short activities and in-depth lessons that can be completed with students. While these activities are online, many of them can be adapted for use in a one-computer classroom or a classroom with no computer.

Depending upon the amount of time you have to teach the case, you may want to use one or more of the "Resources" or "Activities" in conjunction with one or more of the general teaching strategies. These general teaching strategies include moot court activities, political cartoon analysis, continuum exercises, and Web site evaluation.

If you have time constraints, look at the Teaching Recommendations on page 3.

Feel free to experiment with these materials!

## Teaching Recommendations Based on Your Time

If you have one day . . .

- As a warm-up, have students complete the activity titled "You Decide: Were Students' Rights Violated?" Since students don't have the necessary background, ask them to complete ONLY the column labeled Yes/No.
- Read the "Background" as a class. Have students complete the summary questions. Discuss their answers.
- Have students read the key excerpts from the majority opinion and answer the accompanying questions.
- At this point, students should be ready to return to the activity "You Decide . . ." Have students complete the remaining questions and correct earlier misconceptions. For homework, assign the activity titled "What Would You Do?"

If you have two days . . .

- Complete all activities for the first day.
- On the second day, begin class with a discussion of the homework.
- Next, have students complete the activity titled "Evaluating Web sites."
- For homework, as a long-term assignment, have students begin the activity titled "Create Your Own Political Cartoon."

If you have three days . . .

- Complete all activities for the first and second days.
- On the second day, begin class with a discussion of the homework.
- Next, have students complete the activity, "Evaluating Web sites."
- On the third day, have students complete the activity titled "Should the State Enact Anti-Hazelwood Legislation?"
- For homework, have students complete the section of that activity called "For Extension." One option is to create a political cartoon. Students who choose that option should follow the guidelines outlined in "Create Your Own Political Cartoon."

If you have four days . . .

- Complete all activities for the first day.
- On the second day, begin class with a discussion of the homework.
- Next, have students complete the activity titled "Evaluating Web sites."

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- On the third day, have students complete the activity titled "Should the State Enact Anti-Hazelwood Legislation?"

(Note: Students should not complete the section of that activity labeled "For Extension.")

- On the fourth day, complete the activity titled "Real World Case Study: Censorship of a Student-Produced Television Show."
- Introduce the activity titled "Create Your Own Political Cartoon." Have students finish the activity outside of class as a long-term assignment.

*(Note to teachers: There are a number of Web sites listed in the Resources section. Experiment by developing your own activities that go along with these sites.)*

## Background Summary and Questions • • •

In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, generated the final edition of their school paper, the *Spectrum*. As was customary, they submitted the paper to their advisor, Howard Emerson, who was new to the job. He followed the procedures of the recently departed previous advisor, giving the principal, Robert Reynolds, the opportunity to review the paper prior to publication.

When Reynolds reviewed the paper, he found two articles that concerned him. The first article addressed the issue of teen pregnancy, including comments from pregnant students at the school. Although names were not given, Reynolds thought there were enough details in the article to make it easy for other students to determine the identities of the pregnant teens. He was concerned about the privacy of those students. The second article was about divorce and, like the first article, this one included personal articles. In this article, Reynolds was not concerned so much about the students, but, rather, about what they said about their families. For instance, one student whose parents were divorced made negative comments about her father, claiming that her father was always out with the guys, that he didn't spend enough time with his family, and that the father and mother were always arguing. Reynolds was troubled by the fact that the father had not been given a chance to defend himself by responding to his daughter's comments. He also noticed that the article mentioned sex and birth control. He did not think that students in ninth grade should be reading about sex and birth control.

Reynolds wanted the students to make changes in their articles, but he was afraid that if they took the time to do so, they would miss the deadline for publishing the *Spectrum*. He did not want that to happen, especially because it was the last issue of the year and there would not be another chance to publish the paper. He felt like he had to make a quick decision, so he told Emerson to delete the two pages with the questionable articles and publish the remainder of the paper. He informed his superiors in the school system of this decision; they supported him wholeheartedly.

The students had invested a great deal of time and energy in producing the paper and felt that they had followed proper journalism procedures. If they had been approached about the problems, they may have been able to resolve them. They were upset to find out instead that two pages, which included a number of non-offensive articles, had been deleted. They felt that this censorship was a direct violation of their First Amendment rights, so they took their case to the U.S. District Court for the Eastern District of Missouri. This court did not agree with the students; the judges said that school officials might impose limits on students' speech in activities that are "an integral part of the school's educational function" as long as their decision "has a substantial and reasonable basis". In other words, the court felt that if the school has a good reason to do so, it could place limits on curricular activities, such as the publication of the school newspaper.

Unhappy with the outcome, the students appealed their case to the Court of Appeals for the Eighth Circuit. This court reversed the decision of the lower court, saying that the students' First Amendment rights were violated. In the opinion, the court conceded that the newspaper was indeed a part of the school curriculum but noted that it was also a "public forum". As a public forum, the newspaper was "intended to be and operated as a conduit for student viewpoint". Because the paper was a forum for student discussion, the principal or other officials could censor it only when "necessary to avoid material and substantial interference with school work or discipline . . . or the rights of others".

The school appealed the decision of the Court of Appeals and the Supreme Court of the United States agreed to hear the case. In determining whether or not students' rights were violated, it would consider whether or not the student newspaper was a public forum and whether the First Amendment "requires a school affirmatively to promote particular student speech".

## Background Summary and Questions • • •

### Questions to Consider:

1. Why did the newspaper advisor give the paper to Principal Reynolds for review? Was this standard procedure?
2. What concerns did Principal Reynolds have regarding the two articles? Were these legitimate concerns? Do you think the principal had any options other than deleting entire pages from the student paper?
3. What rights did the students believe had been violated? What is the relevant wording of the First Amendment?
4. Were there steps the students could have taken other than filing a lawsuit?
5. Should a principal be able to censor student newspapers? If so, under what conditions?
6. Should a principal or other school authority be able to silence other forms of student speech? If so, under what conditions? How does speech by an individual student differ from speech by the school newspaper?

## Background Summary and Questions • •

In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, created the final edition of the school paper, the *Spectrum*. Before publishing the paper, they submitted it to their advisor, Howard Emerson, so he could review it. Emerson was new to the job, so he followed the procedures of the previous advisor. Those guidelines required him to give Principal Robert Reynolds, the opportunity to review the paper before it was published.

When Principal Reynolds reviewed the paper, he found two articles that concerned him. The first dealt with the issue of teen pregnancy. It included comments from pregnant students at the school. To protect their privacy, names were not given. However, when Reynolds read the article, he realized that the details in the article would make it easy for other students to identify the pregnant teens. The second article addressed the issue of divorce. Like the first article, this one included personal articles. One student, whose parents were divorced, made negative comments about her father. She said that her father was always out with the guys and that her father didn't spend enough time with the family. Principal Reynolds was troubled by the fact that the father had not been given a chance to defend himself by responding to his daughter's comments. He also noticed that the article mentioned sex and birth control. He did not think that students in ninth grade should be reading about sex and birth control.

Reynolds wanted the journalism students to modify the articles. However, it was almost the end of the school year. If they took the time to revise, they would miss the deadline for publishing the newspaper. If that happened, the other students might never get to read the paper. He felt like he had to act quickly, so he told Emerson to delete the two pages with the offending articles and publish the rest of the *Spectrum*. He told his supervisors about this decision and they agreed with him.

The students had worked hard on the paper and felt that they had followed proper journalism procedures. If they had been approached about the problems, they may have been able to correct them. They were upset to find out instead that two pages, which included a number of nonoffensive articles, had been deleted. They felt that their First Amendment rights had been violated. They took the case to the U.S. District Court for the Eastern District of Missouri.

The Court did not agree with the students. In the ruling, the judges said that school officials may impose limits on students' speech in activities that are "an integral part of the school's educational function" as long as their decision "has a substantial and reasonable basis". In other words, the Court felt that if the school has a good reason to do so, it can place limits on curricular activities, such as the publication of the school newspaper.

Unhappy with the outcome, the students appealed their case to the Court of Appeals for the Eighth Circuit Court. This court reversed the decision of the lower court, saying that the students' First Amendment rights were violated. In the opinion, the Court explained that the newspaper was part of the school curriculum but was also a "public forum". As a public forum, the newspaper was "intended to be and operated as a conduit for student viewpoint". Because the paper was a forum for student discussion, the principal or other officials could censor it only when "necessary to avoid material and substantial interference with school work or discipline . . . or the rights of others".

The school appealed the decision of the Court of Appeals and the Supreme Court of the United States agreed to hear the case. In determining whether or not students' rights were violated, it would consider whether or not the student newspaper was a public forum and whether the First Amendment "requires a school affirmatively to promote particular student speech".

## Background Summary and Questions • •

### Questions to Consider:

1. Why did the newspaper advisor give the paper to Principal Reynolds for review? Was that standard procedure?
2. What concerns did Principal Reynolds have regarding the two articles? Were these legitimate concerns? Were there other ways that the principal could have handled the situation?
3. Do you think Principal Reynolds was justified in deleting the two pages of the paper? Should a principal be able to censor student newspapers? If so, under what conditions?
4. What rights did the students believe had been violated?
5. Were there any steps the students could have taken other than filing a lawsuit?
6. Should a principal or other school authority be able to silence other forms of student speech? If so, under what conditions? How does speech by an individual student differ from speech by the school newspaper?

## Background Summary and Questions •

### Vocabulary

#### **removed (to remove)**

Define:

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Use in a sentence:

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#### **violated (to violate)**

Define:

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Use in a sentence:

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#### **appealed (to appeal)**

Define:

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Use in a sentence:

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#### **reverse**

Define:

---

Use in a sentence:

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#### **interfered, interference (to interfere)**

Define:

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Use in a sentence:

**editor**

Define:

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Use in a sentence:

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The journalism class at Hazelwood East High School wrote articles and put them together for the school paper. They gave the newspaper to their teacher, Howard Emerson. Mr. Emerson showed the newspaper to the principal. He asked the principal if it was okay to make copies and hand them out to students at the school.

Principal Reynolds did not like what he read. First, there was an article about pregnant students. It described the students, but it did not give their names. Principal Reynolds was afraid that students would be able to figure out who the pregnant students were. He also noticed that the article mentioned sex and birth control. He did not think that students in ninth grade should be reading about sex and birth control.

There was another article that Principal Reynolds did not like. This one talked about divorce. In it, one student said things about her father. For example, she said that her father went out too much. She also said that her father didn't spend enough time with his family. The father did not get a chance to tell his side of the story. Principal Reynolds thought this was unfair.

Principal Reynolds thought the paper needed to be changed. But it was almost the end of the school year. He was afraid that it would take the class a long time to change it. If it took too long, the school year would be over and the other students would not get the paper. So he told Mr. Emerson to remove the pages that had the articles about pregnancy and divorce. He said to make copies of the rest of the paper.

The students were very angry. They had spent a lot of time writing the articles. They could have fixed them if Principal Reynolds had given them a chance. Instead, he deleted two pages that also contained other articles. They felt that this was a violation of their First Amendment rights. They went to the U.S. District Court. The court did not agree with them. It said that school officials may limit students' speech in the school newspaper if their decision has "a substantial and reasonable basis." In other words, if he has a good reason, it is okay for a principal to limit students' speech.

The students appealed the decision. The Court of Appeals reversed the decision of the U.S. District Court. This court said that the school paper was a "public forum," or place where students could express their views. The judges said that the school could not censor the paper except "to avoid . . . substantial interference with school work or discipline . . . or the rights of others". They did not think that the articles about pregnancy would have interfered with schoolwork. They thought the articles should have been printed.

The school appealed the decision of the Court of Appeals. The Supreme Court of the United States thought that this was an important case. It dealt with the rights of students. It agreed to hear arguments from both sides.

## **Background Summary and Questions •**

### **Questions to Consider:**

1. In the article about the pregnant students, what was Principal Reynolds worried about?
2. What did Principal Reynolds say was wrong with the article about divorce?
3. What did Principal Reynolds do to fix the problem? Did he have any other choices?
4. What rights did the students say had been violated?
5. Do you think a principal should be allowed to limit what is said in a school newspaper? Why or why not?

## Diagram of How the Case Moved Through the Court System

### Supreme Court of the United States

The Court reverses the decision of the Court of Appeals, saying that the students' First Amendment rights were not violated. The newspaper is not a public forum and "educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns."

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### U.S. Court of Appeals for the Eighth Circuit

The students appeal the decision of the lower court. The appeals court reverses the decision of the lower court, saying that students' First Amendment rights were violated. The newspaper is a "public forum," so school officials can censor its contents only when "necessary to avoid material and substantial interference with school work or discipline . . . or the rights of others." There is no evidence that such a disruption would have occurred.

*Kuhlmeier v. Hazelwood School District* (1986)



### U.S. District Court, Eastern District of Missouri

Students seek relief, claiming that their First Amendment rights were violated when Principal Reynolds deleted two pages from their newspaper prior to its publication. They ask for an injunction and monetary relief. The court denies it, saying that the students' rights were not violated. The court clarifies by saying when activities are "an integral part of the school's educational function," which the production of the newspaper is, officials may impose restraints on students' speech as long as their decision has a "substantial and reasonable basis."

*Kuhlmeier v. Hazelwood School District* (1985)

## Key Excerpts from the Majority Opinion

**The case was decided 5 to 3.  
Justice White delivered the opinion of the Court.**

We have nonetheless recognized that the First Amendment rights of students in the public schools "are not automatically coextensive with the rights of adults in other settings" . . . and must be "applied in light of the special characteristics of the school environment" . . . A school need not tolerate student speech that is inconsistent with its "basic educational mission." . . . even though the government could not censor similar speech outside the school.

We deal first with the question whether Spectrum may appropriately be characterized as a forum for public expression. The public schools do not possess all of the attributes of streets, parks, and other traditional public forums that "time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." . . . Hence, school facilities may be deemed to be public forums only if school authorities have "by policy or by practice" opened those facilities "for indiscriminate use by the general public," . . . If the facilities have instead been reserved for other intended purposes, "communicative or otherwise," then no public forum has been created, and school officials may impose reasonable restrictions on the speech of students, teachers, and other members of the school community.

The question whether the First Amendment requires a school to tolerate particular student speech—the question that we addressed in *Tinker*—is different from the question whether the First Amendment requires a school affirmatively to promote particular student speech. The former question addresses educators' ability to silence a student's personal expression that happens to occur on the school premises. The latter question concerns educators' authority over school-sponsored publications, theatrical productions, and other expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school. These activities may fairly be characterized as part of the school curriculum, whether or not they occur in a traditional classroom setting, so long as they are supervised by faculty members and designed to impart particular knowledge or skills to student participants and audiences.

Educators are entitled to exercise greater control over this second form of student expression to assure that participants learn whatever lessons the activity is designed to teach, that readers or listeners are not exposed to material that may be inappropriate for their level of maturity, and that the views of the individual speaker are not erroneously attributed to the school. Hence, a school may in its capacity as publisher of a school newspaper or producer of a school play "disassociate itself," . . . not only from speech that would "substantially interfere with [its] work . . . or impinge upon the rights of other students," . . . but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences. A school must be able to set high standards for the student speech that is disseminated under its auspices—standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the "real" world—and may refuse to disseminate student speech that does not meet those standards. In addition, a school must be able to take into account the emotional maturity of the intended audience in determining whether to disseminate student speech on potentially sensitive topics, which might range from the existence of Santa Claus in an elementary school setting to the particulars of teenage sexual activity in a high school setting. A school must also retain the authority to refuse to sponsor student speech that might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with "the shared values of a civilized social order," *Fraser, supra*, at 683, or to associate the school with any position other than neutrality on matters of political controversy. . . .

Accordingly, we conclude that the standard articulated in *Tinker* for determining when a school may punish student expression need not also be the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. Instead, we hold that educators do not offend the First Amendment by exercising editorial control over the style and content of student

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speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.

. . . It is only when the decision to censor a school-sponsored publication, theatrical production, or other vehicle of student expression has no valid educational purpose that the First Amendment is so "directly and sharply implicate[d]," *ibid.*, as to require judicial intervention to protect students' constitutional rights. . .

We also conclude that Principal Reynolds acted reasonably in requiring the deletion from the May 13 issue of *Spectrum* of the pregnancy article, the divorce article, and the remaining articles that were to appear on the same pages of the newspaper.

The judgment of the Court of Appeals for the Eighth Circuit is therefore

*Reversed.*

## Key Excerpts from the Majority Opinion

### Questions to Consider:

1. According to the opinion, do students have the same rights as adults in the "real world"?
2. Is the *Spectrum* a "public forum"? Why is this an important distinction to make?
3. What distinction does the Court make between the cases of *Tinker v. Des Moines* and *Hazelwood v. Kuhlmeier*?
4. Explain, in your own words, why the Court believes educators should be able to exercise greater control over school-sponsored publications, theatrical productions, and other expressive activities than over student expression that happens to occur on the school premises.



## Key Excerpts from the Dissenting Opinion

**The case was decided 5 to 3.**

**Justice Brennan, with whom Justice Marshall and Justice Blackmun join, wrote the dissenting opinion.**

When the young men and women of Hazelwood East High School registered for Journalism II, they expected a civics lesson. Spectrum, the newspaper they were to publish, ". . . was a . . . forum established to give students an opportunity to express their views while gaining an appreciation of their rights and responsibilities under the First Amendment to the United States Constitution. . . .

"If mere incompatibility with the school's pedagogical message were a constitutionally sufficient justification for the suppression of student speech, school officials could censor each of the students or student organizations in the foregoing hypotheticals, converting our public schools into "enclaves of totalitarianism," . . . that "strangle the free mind at its source," . . . The First Amendment permits no such blanket censorship authority. While the "constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings," Fraser, *supra*, at 682, students in the public schools do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," Tinker, *supra*, at 506. Just as the public on the street corner must, in the interest of fostering "enlightened opinion," . . . tolerate speech that "tempt[s] [the listener] to throw [the speaker] off the street," . . . public educators must accommodate some student expression even if it offends them or offers views or values that contradict those the school wishes to inculcate.

In Tinker, this Court struck the balance. We held that official censorship of student expression—there the suspension of several students until they removed their armbands protesting the Vietnam war—is unconstitutional unless the speech "materially disrupts classwork or involves substantial disorder or invasion of the rights of others. . . ."

Official censorship of student speech on the ground that it addresses "potentially sensitive topics" is . . . impermissible. . . . The case before us aptly illustrates how readily school officials (and courts) can camouflage viewpoint discrimination as the "mere" protection of students from sensitive topics. . . .

. . . Such unthinking contempt for individual rights is intolerable from any state official. It is particularly insidious from one to whom the public entrusts the task of inculcating in its youth an appreciation for the cherished democratic liberties that our Constitution guarantees.

## Key Excerpts from the Dissenting Opinion

### Questions to Consider:

1. Justice Brennan says that the *Spectrum* was a "forum" for student expression. From what you read in the majority opinion, why is this an important distinction?
2. What does Justice Brennan fear will happen if schools are allowed to censor material that differs from their pedagogical message?
3. What did the *Tinker* decision say? What does Justice Brennan think of that decision? Do you agree or disagree with him? Why?

## You Decide: Were Students' Rights Violated?

### Directions

1. Read each situation. Use information from the excerpt of the majority opinion to help you complete the chart.
2. Answer the question: "Were students' rights violated?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Were students' rights violated?		Explanation
	YES	NO	
The school's TV station covers an article on the new policy that requires that students wear IDs. In the article, many of the students are critical of the policy. The advisor reviews the show and finds that there are many factual errors regarding the policy. He tells the students that if they want the article to air, they must revise it.			
The drama club wants to perform a play. Because it involves some sexually explicit scenes, they say they will perform it off-campus at a local recreation center. The principal says this is not allowed and they must select another play.			
A student works at home to create a Web site that contains comments that are critical of his teachers. The principal sends him to in-school suspension for two days and makes him write a letter of apology to each of his teachers.			
The student newspaper publishes an article about a shoplifting incident that occurred during a school-sponsored field trip. The school board censors the article, saying it makes the school system look bad.			

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<p>The art club plans a showcase night. One of the students has painted a picture of other students drinking alcohol at a school football game. The art teacher says this painting can not be displayed at the school's showcase night because it seems to advocate the use of alcohol.</p>			
<p>The newspaper staff writes an editorial in support of legalizing marijuana. Their advisor tells them that if they want it to be printed, they must present both sides of the issue.</p>			
<p>Students on the newspaper staff create an online version of the school's newspaper. In it, they provide advice on where to get birth control. The principal tells the staff to delete the article because its contents are not appropriate for the younger students in the school.</p>			
<p>The Student Government Association wants to hold a rally in support of abortion rights in the school's auditorium. Their advisor tells them they can not do this.</p>			

## What Would You Do?

Pretend you work on a high school newspaper and it is your job to decide whether to publish articles. Assume you live in a state that has not passed "anti-Hazelwood" legislation extending greater First Amendment protection to school newspapers than that afforded by *Hazelwood*. Below are brief descriptions of six articles you might receive. Your teacher will put you in groups and have each group discuss whether or not to publish the article, and why, and also whether you think the administration of your school would want to censor these articles. You should then be prepared to discuss your article with the rest of the class, and your reason for publishing or not publishing the article, keeping in mind the Supreme Court's decision in the *Hazelwood* case.

1. Following a drug arrest at your school, a student writes a first-person account of how his friend got arrested. In the article, he admits to some activities that are in violation of school rules and state law. He criticizes both the police and the security guards at your school. He does not want the article published anonymously.
2. Reporters from your paper write an article based on a commercial Web site on which students post their ratings of their teachers. The article includes sample comments on teachers in your school, both positive and negative. The negative comments include: "If you get this teacher, run for the parking lot," "Can't teach his way out of a paper bag," and "this teacher had an affair with another teacher (not named)." The teachers are named.
3. A reporter for your paper writes a long article about the problem of drug use in your school. She interviews several students about their use of marijuana but does not use their names or other personal details about the students that could help identify them. The article makes it clear that marijuana use is widespread in your school.
4. Reporters for your paper discover that the star quarterback for your football team does not live within the boundaries of the school. They write an article exposing this fact and, of course, naming the quarterback. The consequences of publishing this article will include forfeiting all the wins from your school's football season, which is just ending with a good shot at winning the state championship.
5. A teacher approaches a reporter for your paper with an article about cheating being tolerated in your school, but the teacher will not agree to have her name used in the article. She says she caught a student cheating on a final exam and gave the student a zero. This failing grade on the final exam resulted in the student, a senior, being ineligible to participate in the school musical, in which she was scheduled to be the lead. Her parents pressured the principal to overturn the grade and the principal did so. Publishing the article would, of course, reveal the identity of the student involved but not the teacher.
6. There are high-stakes standardized tests given in your school every May. In order to graduate, students must pass these tests. Students have told your reporters that other students obtained a copy of the test in advance from a teacher. The students involved agree to tell what happened if none of the names of any of the parties involved would appear in the article.

## Should the State Enact "Anti-Hazelwood" Legislation?

### Background

The decision in *Hazelwood v. Kuhlmeier* has made it much easier for principals and other school officials to censor student expression. In an effort to prevent this from happening, a number of states and localities have passed student free speech legislation. These laws limit the circumstances under which student publications can be censored and thus extend to student journalists greater protection than that which is afforded them under *Hazelwood*. States that have enacted these "anti-Hazelwood" laws include:

[Arkansas](http://www.splc.org/law_library.asp?id=5) (http://www.splc.org/law\_library.asp?id=5)

[California](http://www.splc.org/law_library.asp?id=13) (http://www.splc.org/law\_library.asp?id=13)

[Colorado](http://www.splc.org/law_library.asp?id=7) (http://www.splc.org/law\_library.asp?id=7)

[Iowa](http://www.splc.org/law_library.asp?id=8) (http://www.splc.org/law\_library.asp?id=8)

[Kansas](http://www.splc.org/law_library.asp?id=9) (http://www.splc.org/law\_library.asp?id=9)

[Massachusetts](http://www.splc.org/law_library.asp?id=10) (http://www.splc.org/law\_library.asp?id=10)

Other states have tried to pass legislation but have failed. Some failed because they could not get a majority in the legislature and in other cases because the executive vetoed them.

Some people wonder how states can pass laws that seem to challenge decisions of the federal courts. Mike Hiestand, of the Student Press Law Center, explains this apparent contradiction in the following words:

"*Hazelwood* was a First Amendment case. Think of the First Amendment as establishing a "floor" of federal protection from government censorship. No government official-federal, state or local-may ever act in a way nor may lawmakers ever pass a law or policy that provides individuals with less free speech protection than that required by the First Amendment. That's why a public high school principal can't institute a policy, for example, that allows her to halt publication of any material she simply disagrees with. The First Amendment—and specifically *Hazelwood*—requires more than that.

Nothing, however, prevents lawmakers from passing a law (or school board members from enacting a local district policy) that requires school and government officials to provide student journalists with more free speech protection. In other words, *Hazelwood* and the First Amendment establish the ground floor of censorship protection - but anyone - where they believe the First Amendment provides insufficient protection against government censorship - can raise the ceiling and establish a higher floor. And that is precisely what state lawmakers and school board officials have done in passing student free expression laws and policies. [1]"

In other words, a state can pass a law or a school district can implement a policy that expands students' First Amendment rights by limiting the circumstances under which principals or school officials can censor student publications. In essence, this would give students the same free speech rights they had before the *Hazelwood* decision was made. If, on the other hand, a state tried to pass a law which placed further restrictions on students' free expression (i.e., greater restrictions than those found in the *Hazelwood* case, it would be unconstitutional.

[1] Mike Hiestand. Student Press Law Center. "Understanding 'Anti-Hazelwood' Laws." [Online] 7 August 2001.

## Should the State Enact "Anti-Hazelwood" Legislation?

### Activity

Your state legislature has decided to consider the issue of adopting its own "Anti-Hazelwood" law. They have invited the public to an open forum to discuss this issue.

### Directions

1. Your teacher will assign you to one of the following groups:
  - Student journalists
  - Newspaper advisors
  - Concerned parents
  - Principals
  - Local school officials
2. Brainstorm the pros and cons of anti-Hazelwood legislation with your group.
3. Determine if your group is for or against the legislation.
4. Work with your group to prepare comments to be delivered at the forum. Be sure to include the following in your comments:
  - What is your position on the legislation?
  - What are your reasons?
  - What would you like to see included or omitted from the policy?
5. Present your findings to the "state legislature" that will be composed of students in the class. After hearing all of the arguments, they will debate and vote on the issue of anti-Hazelwood legislation.

## Should the State Enact "Anti-Hazelwood" Legislation?

### For Extension:

Now that you have explored this issue, you are ready to convince the state legislature to adopt your personal viewpoint. You may do this by appealing directly to the state legislature or by trying to convince other citizens to adopt your viewpoint.

1. Create an outline. Identify your position and list arguments that support that viewpoint.
2. Choose from the list below:
  - Write a letter to your state legislature.
  - Write a newspaper editorial.
  - Create a political cartoon.
  - Write a speech to be delivered to an audience. On a separate sheet of paper, write a paragraph in which you describe the target audience and the speech techniques used.
  - Create a brochure or print advertisement. Your brochure should contain visuals and text. On a separate sheet of paper, write a paragraph in which you explain the message, the target audience, and the propaganda techniques used.
  - Create a storyboard for a television commercial. On a separate sheet of paper, write a paragraph in which you explain the message, the target audience, the propaganda techniques, and the video and audio techniques used.
  - Create your own product. Be sure to have your teacher approve this before you begin.
3. Use the information from your outline to help you create the product you have selected. In your product, clearly state and support your position.

### Additional Resources

State Student Free Expression Laws & Regulations ([http://www.splc.org/law\\_library.asp](http://www.splc.org/law_library.asp))

Anti-Hazelwood Legislation Continues to Face Uphill Battle  
([http://www.splc.org/newsflash\\_archives.asp?id=100&year=1999](http://www.splc.org/newsflash_archives.asp?id=100&year=1999))

## Evaluating Web sites

### Directions:

Follow the procedures for [Evaluating Web sites](http://www.landmarkcases.org/eval_web.html), available online at [http://www.landmarkcases.org/eval\\_web.html](http://www.landmarkcases.org/eval_web.html)

Evaluate the Web sites listed in the chart below.

	<b>Authority</b>	<b>Accuracy</b>	<b>Objectivity</b>	<b>Currency</b>	<b>Coverage</b>	<b>Total</b>
<i>Hazelwood School District v. Kuhlmeier:</i> A Complete Guide to the Supreme Court Decision <a href="http://www.splc.org/legalresearch.asp?id=4">http://www.splc.org/legalresearch.asp?id=4</a>						
The Kansas Bar Foundation: Law Wise Newsletter <a href="http://www.kscourts.org/lawwise/novwise.htm">http://www.kscourts.org/lawwise/novwise.htm</a>						
Ask Sybil Liberty						
Civil Liberties Free Speech: Basics <a href="http://civilliberty.about.com/cs/freespeechbasics/">http://civilliberty.about.com/cs/freespeechbasics/</a>						

## **Real World Case Study: Censorship of a Student-Produced Television Show**

### **Introduction**

Should the policy that applies to a school's print media also apply to its broadcast media? Why or why not?

### **Directions:**

1. Read the article "[Student Press Protests Policy](http://www.splc.org/report_detail.asp?id=198&edition=9)." (available online at [http://www.splc.org/report\\_detail.asp?id=198&edition=9](http://www.splc.org/report_detail.asp?id=198&edition=9))
2. Identify the following:
  - a. Facts of the case
  
  
  - b. Issue(s)
  
  
  - c. Arguments on both sides
3. Look at the decision in the *Hazelwood* Majority Opinion.
4. If you were the students at Montgomery Blair High School, which arguments would you advance when presenting your case to the Board of Education? Why?
5. If you were the officials at the education channel, which arguments would you advance when presenting your case to the Board of Education? Why?
6. Read the articles [Commission Works on Electronic Media Policy](http://www.splc.org/newsflash.asp?id=38&year=1997) (at <http://www.splc.org/newsflash.asp?id=38&year=1997>) and [Television Policy Finally Adopted at Blair High School](http://www.splc.org/report_detail.asp?id=370&edition=8) ([http://www.splc.org/report\\_detail.asp?id=370&edition=8](http://www.splc.org/report_detail.asp?id=370&edition=8)). What was the county's final decision? Evaluate that decision.
7. What impact will the decision have on future programming in Montgomery County?

## **Real World Case Study: Censorship of a Student-Produced Television Show**

### **After Effects**

- The school's principal, Phillip F. Gainous, was given [The first annual Courage in Student Journalism Award by the Newseum](http://www.freedomforum.org/templates/document.asp?documentID=6424) for his role in supporting students' First Amendment rights. (<http://www.freedomforum.org/templates/document.asp?documentID=6424>)

### **Application**

Read the article [Story on Gay Teen Life Sparks Controversy](http://www.splc.org/report_detail.asp?id=84&edition=12) (available at [http://www.splc.org/report\\_detail.asp?id=84&edition=12](http://www.splc.org/report_detail.asp?id=84&edition=12))

1. If you were the students, how would you make your case to the existing board?

2. If you were on the board, what guidelines would you recommend?