

Applying Precedents Activity

Comparison case: *Hazelwood School District v. Kuhlmeier* (1988)

Precedent case: *Tinker v. Des Moines* (1969)

What you need to know before you begin: When the Supreme Court decides a case, it clarifies the law and serves as guidance for how future cases should be decided. Before the Supreme Court makes a decision, it always looks to precedents—past Supreme Court decisions about the same topic—to help make the decision. A principle called *stare decisis* (literally “let the decision stand”) requires that the precedent be followed. If the case being decided is legally identical to a past decision, then the precedent is considered binding and the Supreme Court must decide the matter the same way. However, cases that make it to the Supreme Court are typically not completely identical to past cases, and justices must consider the similarities and differences when deciding a case.

The process of comparing past decisions to new cases is called applying precedent. Lawyers often argue for their side by showing how previous decisions would support the Supreme Court deciding in their favor. This might mean showing how a previous decision that supports their side is analogous (similar) to the case at hand. It can also involve showing that a previous decision that does not support their side is distinguishable (different) from the case they are arguing.

How it’s done: In this exercise, you will analyze a precedent and compare it to *Hazelwood School District v. Kuhlmeier*. You have been provided with information about two cases: **1)** the facts, issue, and constitutional provisions/precedents of the comparison case (*Hazelwood School District v. Kuhlmeier*) and **2)** a brief summary of the precedent case (*Tinker v. Des Moines*), which can be found within the *Hazelwood School District v. Kuhlmeier* case materials.

After reading about the cases, you will look for evidence that *Hazelwood School District v. Kuhlmeier* is **analogous** (similar) to the precedent case (*Tinker v. Des Moines*) and evidence that the cases are **distinguished** (different) from each other. After considering the precedent, you must decide whether the precedent is analogous enough to command the same outcome in the comparison case, or whether the comparison case is different enough to distinguish itself from the precedents.

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1. Using factual and legal similarities, show how *Hazelwood School District v. Kuhlmeier* is **analogous** (similar) to the precedent case *Tinker v. Des Moines*:

2. Show how *Hazelwood School District v. Kuhlmeier* is **distinguished** (different) from the precedent case (*Tinker v. Des Moines*) by pointing out factual and legal differences:

3. We found that *Hazelwood School District v. Kuhlmeier* is _____ (analogous to or **distinguished from**) the precedent case *Tinker v. Des Moines* because (choose the most convincing similarities or differences from questions 1 and 2):

4. Based on the application of the precedent, how should *Hazelwood School District v. Kuhlmeier* be decided?

_____ Decision for Hazelwood School District

_____ Decision for Kuhlmeier

Comparison Case: *Hazelwood School District v. Kuhlmeier (1988)*

Argued: October 13, 1987

Decided: January 13, 1988

Background

The First Amendment protects the right to free speech and free press. This means that people have the right to express themselves without interference or punishment from the government. This freedom is one of the fundamental rights at the heart of the U.S. political system. It helps people obtain information, share ideas, make decisions, and communicate those decisions to the government and each other. The First Amendment applies to all levels of government—federal, state, and local. It protects expression of popular and unpopular, even offensive, ideas.

The freedom of speech is not absolute, however. The government can generally limit the time, place, and manner of speech. (For example, a town can require people to obtain a permit to hold a protest march, limit the hours during which loudspeakers may be used, or impose some restrictions on signs). With few exceptions, however, the government cannot limit or punish speech based on what is being said.

The freedom of press protects from government censorship of media (e.g., newspapers, magazines, books, radio, television, and film). This means that the government cannot attempt to censor publications before they are published unless they would 1) cause certain, serious harm and 2) that harm could only be stopped by preventing the publication from being published.

There are some special places where the rules about free speech are different, including prisons, schools, and the military. The U.S. Supreme Court has ruled that public schools (which are run by the government) can limit speech more than the government can outside of school. Places outside of schools, where First Amendment rights are traditionally exercised, are called “public forums.” Students do have some free speech rights in schools, but student speech can also be limited when it disrupts the learning environment or interferes with rights of others.

Facts

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, *Spectrum*. As was customary, they submitted the paper to their adviser, who gave the principal, Robert Reynolds, the opportunity to review the paper before publication.

When Reynolds reviewed the paper, he found two articles that concerned him. One article was about teen pregnancy and quoted pregnant students. Reynolds worried that others would be able to determine the identities of the pregnant teens and was concerned about mentions of sex and birth

control. In the second article, which was about divorce, he was concerned about negative comments from one student about her father.

Reynolds wanted the students to make changes in their articles, but he was afraid they would miss the deadline for publishing *Spectrum*. He decided to delete the two pages with the questionable articles (which also had other, non-offensive articles) and publish the remainder of the paper. He informed his superiors in the school system of this decision; they supported him wholeheartedly.

The journalism students felt that this censorship from the school authorities violated their First Amendment rights to a free press. The students sued the school district in federal court, and the U.S. District Court for the Eastern District of Missouri ruled against them. The students appealed their case to the U.S. 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. The school appealed that decision, and the Supreme Court of the United States agreed to hear the case.

Issue

Is a student newspaper a public forum? Did Principal Reynolds' removal of portions of the Hazelwood East High School student newspaper violate students' First Amendment rights?

Precedents

– ***Tinker v. Des Moines (1969)***

Students wore black armbands to school to protest the Vietnam War and were suspended for doing so. The Supreme Court ruled that the school's actions violated the students' First Amendment rights. They said that students do not "...shed their constitutional rights to freedom of speech or expression at the schoolhouse gate...." The Court decided that if a school wants to prohibit a particular form of expression, it must show that the speech would substantially interfere with the discipline or operation of the school or interfere with other students' rights.

– ***Bethel v. Fraser (1986)***

At a school assembly, a student made a speech that included sexual innuendo and references. He was suspended for giving the lewd speech. The Supreme Court ruled that his First Amendment rights were not violated. The Court emphasized that students do not have the same First Amendment rights as adults. It explained that school officials may prohibit the use of lewd, indecent, or plainly offensive language, even if it is not obscene. Schools have an interest in preventing speech that is inconsistent with their "basic educational mission" and "teaching students the boundaries of socially inappropriate behavior." In addition, school officials should be able to maintain order during a school-sponsored educational program.

Arguments for Hazelwood (Petitioner)

- The First Amendment rights of students in public schools are not necessarily equal to those of adults outside of schools.
- Under *Bethel v. Fraser*, the school may limit student speech if it is inconsistent with the school’s basic educational mission. That mission includes protecting vulnerable students and limiting student exposure to material that is inappropriate for their level of maturity.
- The Hazelwood East High School newspaper is not a public forum—it is a school-sponsored activity. The students produce the newspaper as part of a journalism class during the school day, and it is routinely submitted to the adviser and principal for approval. The purpose of the newspaper is educational, not to report the news.
- As a class that students take for credit, the newspaper is part of the school curriculum. The school must have control over its curriculum. This control enables the school to ensure that students learn what the class is designed to teach.
- Students, parents, and members of the public might reasonably believe that the school newspaper speaks for the school. If the school could be perceived as endorsing the message in the newspaper, then the school should have the power to limit that message when it could be harmful.
- The speech in this case is different from the speech in *Tinker*—there, the students were making individual, political statements. No one could assume that the school endorsed that message. Here, the school name is printed right on the newspaper.

Arguments for Kuhlmeier (Respondent)

- Under *Tinker v. Des Moines*, schools may only prohibit student speech if it would substantially interfere with discipline or operations or interfere with other students’ rights. The newspaper stories in this case would do neither.
- The articles that were removed were not obscene or defamatory. They were not disruptive to the school’s ability to maintain discipline.
- School newspapers can be both part of the curriculum and a public forum. School newspapers are operated by the students and intended to convey student viewpoints. They can be distributed outside the school. A principal should, therefore, have limited power to interfere with the publication of the newspaper, even if it offends them.
- Students are in the best position to know when schools are mismanaged or ineffective. Student newspapers are the best way to broadcast student complaints about policies or learning conditions. This type of speech should be protected because it is at the core of American democracy. Administrators should not be able to suppress student criticisms.
- The principal’s actions were too broad because he also deleted articles to which he had no objection. The school could have addressed the principal’s concerns in other ways.
- Allowing a school to censor any speech that conflicts with its educational message is too broad. That would give schools blanket authority to censor any student speech that was remotely controversial.