

= Hazelwood School District v. Kuhlmeier =

Hazelwood School District et al. v. Kuhlmeier et al. , 484 U.S. 260 ( 1988 ) was a landmark decision by the Supreme Court of the United States that held that public school curricular student newspapers that have not been established as forums for student expression are subject to a lower level of First Amendment protection than independent student expression or newspapers established ( by policy or practice ) as forums for student expression .

The case concerned the censorship of two articles in The Spectrum , the student newspaper of Hazelwood East High School in St. Louis County , Missouri , in 1983 . When the school principal removed an article concerning divorce and another concerning teen pregnancy , the student journalists sued , claiming their First Amendment rights were violated . A lower court sided with the students before the decision was later overturned by the U.S. Court of Appeals for the Eighth Circuit .

In a 5 @-@ 3 decision rendered in 1988 , the Supreme Court overturned the circuit court decision with a majority opinion , determining that school administrators could exercise prior restraint of school @-@ sponsored expression , such as newspapers and assembly speeches , if the censorship is " reasonably related to legitimate pedagogical concerns . " In this , school @-@ sponsored newspapers are considered limited public forums of expression .

The case and the earlier Tinker v. Des Moines Independent Community School District are considered landmark decisions for defining the right to expression for students in public schools . While subsequent courts have varied significantly on when the Hazelwood decision applies , the case remains a strong precedent in the regulation of student speech . The New Voices bill of 2016 ( to date passed by 18 states ) is neglecting the Hazelwood decision , and returning to the Tinker precedent .

= = Background = =

= = = Facts of the case = = =

The case concerned The Spectrum , a student newspaper which was published as part of a journalism class at Hazelwood East High School in the Hazelwood School District in St. Louis County , Missouri . The Spectrum was written and edited as part of the Journalism II class at the public school , published roughly every three weeks during the 1982 ? 1983 school year . About 4 @,@ 500 copies of the paper were distributed to students and community members during the year . The cost of printing the paper as well as supplies , textbooks , and a portion of the academic advisor 's salary were furnished by the district 's Board of Education , supplemented by newspaper sales . For that school year , the board supplied \$ 4 @,@ 668 in printing costs , and the newspaper generated \$ 94 @,@ 325 in revenue .

On May 10 , 1983 , Howard Emerson , the adviser to the journalism class , submitted page proofs of the May 13 issue of the newspaper to principal Robert Eugene Reynolds for approval , a practice which was customary at the time . Reynolds objected to two of the stories scheduled to run . One was a story concerning teen pregnancy , containing interviews with three students who had been pregnant . The story contained false names to keep the girls ' identities a secret , but Reynolds was concerned the pregnant students would still be identifiable from the text . Reynolds was also concerned the references to sexual activity and birth control were inappropriate for younger students at school . The second story concerned divorce and featured an interview with a student whose parents were divorced , in which she complained her father " wasn 't spending enough time with my mom , my sister , and I ... was always out of town on business or out late playing cards with the guys ... always argued about everything . " Reynolds , unaware that the name of the girl would also be changed , was concerned that her family should have been given an opportunity to respond within the story , or to consent to its publication .

Reynolds did not believe there was time to make the appropriate changes to the newspaper , and

also that any delay in publication would mean the newspaper would not be published before the end of the school year . After consulting with his supervisors , Reynolds opted to publish a four @-@ page newspaper instead of a six @-@ page one , omitting the pages containing the two stories . Cutting two pages removed a total of seven articles from the paper . Reynolds did not tell the students about the decision , and they did not find out about it until the paper was delivered to the school .

In response , editor Cathy Kuhlmeier and reporters Leslie Smart and Leanne Tippett filed suit in January 1984 with the aid of the American Civil Liberties Union . Kuhlmeier later said the idea for the pieces came from old issues of The Spectrum and she had been looking to update them .

= = = Legal precedent = = =

Until the 1960s , administrative review of student publications was considered routine both at the high school and and collegiate level . Students and faculty advisers also had few alternatives . However , with the rise of the counterculture of the 1960s , student publications began to explore social issues with greater fervor , focusing on issues such as the Vietnam War , the civil rights movement , sexual orientation , and other issues considered sensitive at the time .

In 1969 , the U.S. Supreme Court upheld that freedom of expression of students is protected under the First Amendment in *Tinker v. Des Moines Independent Community School District* ( 393 U.S. 503 ) . Following that precedent , at least 125 other court cases in courts across the country were decided in favor of student expression and against administrative censorship . Whenever an instance of censorship involved action from a government employee such as a school principal or a college dean , the courts held that First Amendment constitutional safeguards apply . Under this precedent , courts recognized student newspapers as public forums where student expression could only be restricted if they could prove substantial disruption of school activities was imminent . School administrators had been opposed to this interpretation . Two additional cases in following years , *Healy v. James* ( 408 U.S. 169 ) in 1972 and *Papish v. University of Missouri Curators* ( 410 U.S. 670 ) in 1973 , expanded the First Amendment rights of students on college campuses , but did not strongly define the status of student newspapers as a forum .

By the 1980s , however , with the end of the student protest era , school administrators sought to reassert their authority . The first case in the new trend , *Bethel School District v. Fraser* ( 478 U.S. 675 ) in 1986 , involved the discipline of a high school student for delivering a speech containing sexual innuendos , even though they were not obscene or disruptive in a legal sense . Overturning lower courts in the case , the Supreme Court clarified that the ruling of the *Tinker* case did not apply because the penalties imposed by the school were unrelated to a political viewpoint .

= = = Lower court decisions = = =

The case was introduced in the U.S. District Court for the Eastern District of Missouri . The students sought a declaration that their First Amendment and Fourteenth Amendment rights had been violated by undue actions of a public official , as well as injunctive relief and monetary damages . After a bench trial , the district court denied the injunction and monetary damages . The court reached its decision in May 1985 , in which the district court held that school officials may restrain student speech in activities that " are an integral part of the school 's educational function , " as long as the decision has " a substantial and reasonable basis . " The court held that no violation of First Amendment rights had occurred .

The U.S. Court of Appeals for the Eighth Circuit reversed the decision in January 1986 . The court held that , at the outset , The Spectrum was not only a part of the school program , but also a public forum . The newspaper was " intended to be and operated as a conduit for student viewpoint . " As a public forum , the court ruled , The Spectrum could not be censored unless " necessary to avoid material and substantial interference with school work or discipline ... or the rights of others . "

The U.S. Supreme Court granted certiorari in January 1987 , and the case was argued on October 13 , 1987 . On January 13 , 1988 , the court handed down its decision .

= = Supreme Court ruling = =

In a 5 @-@ 3 ruling , the Supreme Court overturned the decision of the circuit court . Its majority opinion set a precedent that school @-@ sponsored activities , including student newspapers and drama productions are not normally protected from administrative censorship by the First Amendment .

= = = Majority opinion = = =

The majority of the justices held that the principal was entitled to censor the articles . The majority opinion , penned by Associate Justice Byron White , stated officials never intended the school paper to be a public forum as were underground publications in cases past . White went on to say educators do not infringe on First Amendment rights when exercising control over student speech in school @-@ sponsored activities " so long as their actions are reasonably related to legitimate pedagogical concerns . " The court established that the student publication could be regulated by school officials , and that they " reserved the forum for its intended purpose , as a supervised learning experience for journalism students . "

A school need not tolerate student speech that is inconsistent with its basic educational mission , even though the government could not . ... ( Judicial action to protect students ' rights is justified ) only when the decision to censor a school @-@ sponsored publication , theatrical production or other vehicle of student expression has no valid educational purpose .

The decision overrode the precedent set in the Tinker case . The 1969 decision had permitted censorship of student speech only if it violated the rights of other students or if it threatened to cause a campus disruption . The majority opinion held that this case was different . The justices said the school administrators are not required to tolerate speech that is contrary to the school 's academic mission . The majority opinion continued :

and that requires a school to tolerate particular student speech ? the question 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 students ' 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 .

which protect student journalists , instead stating that , in absence of other rules barring administrative censorship , the First Amendment does not protect student publications . By 2010 seven states ? Arkansas , California , Colorado , Iowa , Kansas , Massachusetts and Oregon had such laws on their books , and another 13 states were considering them . In a footnote , the court also clarified that it did not see that the ruling necessarily applied at the collegiate level .

= = = Dissenting opinion = = =

Associate Justice William J. Brennan , Jr. wrote a dissenting opinion , in which he was joined by Associate Justices Thurgood Marshall and Harry Blackmun , who often took liberal positions on First Amendment issues . In his opinion , Brennan expressed concern about the message the majority opinion would send students .

The young men and women of Hazelwood East expected a civics lesson , but not the one the Court teaches them today ... Such unthinking contempt for individual rights is intolerable from any state official . It is particularly insidious from ( a school principal ) to whom the public entrusts the task of inculcating in its youth an appreciation for the cherished democratic liberties that our constitution guarantees .

= = Legacy = =

The case established the standard school personnel must meet before limiting students' freedom of expression in secondary schools. As representatives of the state, school administrators can censor, restrain or publish school @-@ sponsored student expression if it interferes with the requirements of school discipline, interferes with students' rights, interferes with academic propriety, generates health or welfare concerns, or is deemed obscene or vulgar. This extends to theatrical productions, public speeches in an assembly environment, and publications produced as part of curricular activity, such as a student newspaper. The majority termed these reasons "legitimate pedagogical concerns."

The standard does not, however, apply to personal communication or non @-@ school @-@ sponsored communication, off @-@ campus publications and non @-@ school @-@ sponsored speech, unless it interferes with school discipline or the rights of others. The case establishes student newspapers as "limited public forums." This means schools may exercise prior restraint as to "style and content" of a student paper so long as their action is "not unreasonable", where there previously had to be compelling evidence to warrant censorship. Separate cases also established what constituted school activities, such as in @-@ class parties and art created by students at the behest of teachers.

Web @-@ based student publications not subsidized by the school have been one student response to the ruling. Some individual states have also responded with laws designating student newspapers as public forums and offering them greater First Amendment protection. Experts from the Student Press Law Center have contended that the case has meant fewer lawsuits regarding student censorship make it to court.

= = = Subsequent jurisprudence = = =

While the Supreme Court indicated the Hazelwood did not necessarily apply at the collegiate level, some federal appeals courts have held that it applied at college newspapers while other appeals courts have not. Courts have also been split on viewpoint @-@ based expression in schools, such as religion. A variety of cases have appeared citing the Hazelwood case, citing whether or not a school should have the ability to regulate student dress or speech that certain ethnic groups might find offensive. In other cases though, courts have used the Tinker decision to support student speech if it isn't found to be disruptive or offensive.

A 1989 case, *Alabama Student Party v. Student Government Assn.* ( 867 F.2d 1344 ), held that campus newspapers that are part of a curriculum might not enjoy first amendment protection. A notable 2005 U.S. Court of Appeals for the Seventh Circuit court decision, *Hosty v. Carter* ( 412 U.S. 731 ), held that Hazelwood also applied to subsidized student media at the college level. That ruling, though controversial, found there was "no sharp difference between high school and college newspapers," noting that some are financially subsidized or produced by journalism classes. Students' rights to speech were further explored in the 2007 decision *Morse v. Frederick* ( 551 U.S. 393 ) which found the First Amendment did not protect student speech that could be "reasonably viewed as promoting drug use."

A 2001 case in the U.S. Court of Appeals for the Sixth Circuit, *Kincaid v. Gibson* ( 236 F. 3d 342 ), ruled that Hazelwood did not apply at the college level in that instance. The court found in that case that a student publication could not be censored if the censorship is not viewpoint @-@ neutral. The subsequent case *Dean v. Utica* dealt specifically with what defines a "legitimate pedagogical concern" as used in the Hazelwood case. That case found a school had censored speech wantonly.