Unmarked Opinions Activity—Answer Key

Hazelwood School District v. Kuhlmeier (1988)

After reading the **background, facts, issue, constitutional amendment, Supreme Court precedents, and arguments,** read Opinion A and Opinion B below. Choose which opinion you agree with and think should be the majority (winning) opinion and circle "Majority." Choose which you disagree with and think should be the dissenting opinion and circle "Dissent." Explain the reasons for your choices. After you have made your decision, compare your answers to those of the Supreme Court by reading the case summary.

Opinion A

Principal Reynolds did not violate the students' First Amendment rights. The First Amendment allows school officials to exercise reasonable authority over the content of school-sponsored publications. School facilities are only considered to be public forums when those facilities are open for unlimited use by the general public. The school newspaper in this case was not open to the contribution by everyone in the community but was instead published as part of a journalism class. Therefore, its primary function was for educational purposes, and the newspaper did not constitute a public forum. The First Amendment does not force schools to endorse student speech in their school-sponsored publications. School officials have control over these publications in order to ensure that students learn appropriate lessons and readers are not exposed to inappropriate materials. They can also try to make sure that the views expressed are not erroneously attributed to the school. Therefore, as long as the school officials' editorial actions are related to legitimate concerns about the school learning environment, they do not offend the First Amendment.

Majority

Dissent

Opinion B

Principal Reynolds violated the students' First Amendment rights. Students' rights in public schools are not necessarily equal to free speech rights outside of school. However, students do retain some free speech in schools. There must be a balance struck between the free expression rights of students and the interests of school officials in maintaining order and discipline. School officials must refrain from interfering with student speech unless it causes a "material and substantial disruption." Public educators must accommodate some student expression even if it offends them or offers views or values that contradict those the school wishes to promote.

Majority

Dissent

After students complete the Unmarked Opinions Activity, consider sharing the complete case summary of *Hazelwood School District v. Kuhlmeier* or the decision summary and key excerpts from the majority opinion and dissenting opinion.

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?

Constitutional Amendment and Supreme Court Precedents

- **First Amendment to the U.S. Constitution**

  "Congress shall make no law… abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

- *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.