

Hazelwood School District v. Kuhlmeier (1988)

Argued: October 13, 1987

Decided: January 13, 1988

Background and Facts

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 basic rights that lies at the heart of the American political system. It helps people to share information, ideas, and decisions. It also helps people communicate with the government. 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 and places where people can speak. For example, a town can require people to obtain a permit to hold a protest, or can limit the hours during which loudspeakers may be used. However, the government cannot usually limit or punish speech based on what is being said.

There are some special places where the rules about free speech are different, such as prisons, schools, and the military. The U.S. Supreme Court has ruled that public schools can limit speech more than the government can outside of school. However, students do keep some free speech rights. In *Tinker v. Des Moines* (1969), the Supreme Court decided that if a public school wants to ban a particular form of expression, it must show that the speech would greatly interfere with the discipline or operation of the school or with other students' rights. In *Bethel v. Fraser* (1986), the Supreme Court ruled that students do not have the same First Amendment rights as adults and school officials may ban the use of indecent or offensive language. In general, student speech can be limited when it disrupts the learning environment, undermines the school's "basic educational mission," or interferes with rights of others.

The freedom of press protects people from government censorship of newspapers, magazines, books, radio, television, and film. This means that the government cannot try to censor certain content before it is published unless it would cause certain, serious harm. It would also need to show that preventing the content from being released would stop the harm from being caused.

Places outside of schools, where First Amendment rights are most protected, are called "public forums." In public forums such as publications, streets, sidewalks, and public parks, people of all ages are free to share ideas and participate in most acts of expression without government interference.

In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, produced the final version of their school paper, *Spectrum*. As usual, they turned in the paper to their adviser. The adviser handed the paper to the principal, Robert Reynolds, to review 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 was concerned that others would be able to find out the identities of the pregnant teens. He was also concerned that mentions of sex and birth control would be inappropriate. In the second article (about divorce), Reynolds was concerned about negative comments from one student about her father because he was not given the opportunity to give his side of the story.

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. He published the remainder of the paper. Reynolds informed his superiors in the school system of this action. They supported his decision.

The journalism students felt that this censorship from the school officials violated their First Amendment rights to a free press.

Issue

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

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 the precedent of *Bethel v. Fraser*, the school may limit student speech if it does not meet the school's 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. It is submitted to the adviser and principal for approval. The purpose of the newspaper is educational, not to report the news.
- Students, parents, and members of the public might reasonably believe that the school newspaper speaks for the school. If the school could be thought of 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*. In that case, the students were making individual, political statements. No one could assume that the school approved that message. Here, the school name is printed right on the newspaper.

Arguments for Kuhlmeier (Respondent)

- Under the precedent in *Tinker v. Des Moines*, schools may only ban student speech if it would greatly interfere with discipline, operations, or other students' rights. The newspaper stories in this case would do neither.
- The articles that were removed weren't obscene or **defamatory**. They did not disrupt the school's learning environment.
- School newspapers can be both part of the curriculum and a public forum. School newspapers are produced by the students and meant to express student viewpoints. They can be shared outside the school. A principal should, therefore, have less power to interfere with the publication of the newspaper, even if it offends them.
- Students know best when schools are mismanaged or ineffective. Student newspapers are the best way to voice student complaints about policies or learning conditions. This type of speech should be protected because it is at the core of American democracy. School officials should not be able to suppress student criticisms.
- The principal's actions were too broad because he also deleted articles to which he didn't object. 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 complete control to censor any student speech that was even slightly controversial.

Decision

The Supreme Court ruled against the students in a 5-3 decision. Justice White wrote the majority opinion.

The Court concluded that the First Amendment allows school officials to use reasonable authority over the content of school-sponsored publications.

The justices in the majority first considered whether school-sponsored student newspapers are public forums. If they were public forums, school officials would not be allowed to limit the content of the newspaper. The justices said that 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. Instead, it was published as part of a journalism class. Therefore, its main purpose was to be educational, and the newspaper was not considered a public forum.

The Court emphasized that the First Amendment rights of students in public schools are not necessarily equal to those of adults outside of schools. The Court decided that the issues in this case differ from those in *Tinker v. Des Moines*. That case was about students' personal expression that happened to occur in school. This case, however, is about school officials' control over school-sponsored publications or activities that might be seen as being **endorsed** by the school. *Tinker*

asked whether schools must allow certain student speech. This case questioned whether schools must endorse student speech.

The Supreme Court concluded that the First Amendment does not force schools to endorse student speech in their school-sponsored publications. School officials have control over these publications so that students learn appropriate lessons and readers are not exposed to inappropriate content. They can also try to make sure that the views expressed are not wrongly credited to the school. Therefore, as long as the school officials' actions are related to valid concerns about the school learning environment, they do not offend the First Amendment.

Impact

The decision in *Hazelwood v. Kuhlmeier* remains the precedent for cases involving student press. Public school administrators may exercise reasonable editorial control over school publications. This has been extended to online publications as school newspapers and yearbooks have increasingly moved to online platforms. In addition, it is one of the four Supreme Court cases that spell out the First Amendment rights that public students have. In 2007, 19 years after *Hazelwood v. Kuhlmeier*, the Court applied this precedent in *Morse v. Frederick* when it decided that a student could be disciplined for unfurling a banner stating “Bong Hits 4 Jesus” during a school-sanctioned activity because it could be viewed as advocating illegal drug use.

Glossary

- **Censorship**: the banning of expression from being heard, read, or seen.
- **Defamatory**: damaging the reputation of a person or group.
- **Endorse**: show public support or approval for.
- **Free press**: the right of the media to report news without being controlled or punished by the government.
- **Precedent**: a court decision on a legal question that guides future cases with similar questions.
- **Public forum**: a public place like a publication, street, sidewalk, or public park where a person can share ideas and express themselves freely.

Additional information about *Hazelwood v. Kuhlmeier*, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.