

Running Head: Reflections on the First Amendment; Students Rights

HIS 301

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24/25

Reflections on the First Amendment

Grading: the paper will be graded in the following areas applying the definitions listed

Ideas (11 poss.)	Organization (7)	Fluency (4)	Conventions (3)	Total
<i>11</i>	<i>6.5</i>	<i>4</i>	<i>2.5</i>	<i>24</i>

Ideas =

Connections, assessments, evaluations and your own descriptions.
The content is comprehensive, accurate, and /or persuasive.
Numerous examples from the news and one's own life are related to the topic
A clear thesis statement is made.
A position is taken and its arguments are refuted.
The paper links theory to relevant examples.
Major points are stated clearly and are supported by specific details, examples, or analysis.

Fluency =

Ease to read
Citations are integrated to the paragraph structure.
Paper is interesting to read.
The thesis is clear throughout the paper.

Organization =

The paper develops a central theme or idea, directed toward the appropriate audience.
The introduction provides sufficient background on the topic and previews major points.
The conclusion is logical, flows from the body of the paper, and reviews the major points.
Transitions between sentences, paragraphs, and sections aid in maintaining the flow of thought.
The tone is appropriate to the content and assignment.

Conventions/Mechanics =

Citations of original works within the body of the paper follow APA guidelines where appropriate.
The paper is laid out with effective use of headings, font styles, and white space.
Rules of grammar, usage, and punctuation are followed.
Sentences are complete, clear, concise, and varied.
Spelling is correct.

Reflections on the First Amendment; Students Rights

“Congress shall make no law respecting an establishment of religion, or prohibiting, the free exercise thereof; or 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,” (Wilson, 1992). Knowing the first amendment, to what degree do students have First Amendment rights at school? I will be discussing four major cases that tie into student rights in school and if the students had their rights violated. *Tinker v. Des Moines, Hazelwood School District v. Kuhlmeier, Dean v. Utica Community Schools, and Bethel School District v. Fraser* all played significant roles in the rights we cherish today. Student Speech, Student Press, and Student Assembly are all critical aspects of student life. While students, as well as all, have the right to express oneself in the demeanor in which one pleases, school rules and regulations also are suppose to be followed. The degree of student’s rights shows a fine line between constitutional rights and those that govern our school districts; allowing the First Amendment to oversee what students are saying, writing, and doing prove to show that school rules in most cases should not override the First Amendment.

Tinker v. Des Moines Independent Community School District in 1969 was a case that was very significant regarding the constitutional rights of students. Students in this district were suspended for wearing black armbands to protest the Vietnam War, (Cornell University Law School). While the students were wearing these armbands they were not disruptive, causing no scenes on campus, broke no laws and were solely expressing their first amendment right of free speech. “...the wearing of armbands in the circumstances of this case was entirely divorced from actually or potentially disruptive conduct by those participating in it. It was closely akin to "pure speech" which, we have repeatedly held, is entitled to comprehensive protection under the

First Amendment,” (Cornell University Law School). This case has been upheld for more than 50 years and a “Tinker Test” is still used today to determine if student rights are being violated in schools. Today we find ourselves still facing this freedom of expression through activities in school now. *Great local example* I will be using Nogales High School (NHS) as an example of how expression is condensed to limited terms in how students can express themselves. I feel that expression through class shirts or even uniforms of the different athletic teams on campus are being limited to what the school administration deems presentable. *Good issues how are they First Amendment related?* Following the general rules of the school I feel that the kids at NHS should be able to express themselves to prove a point and should be recognized for trying to do something good rather than being shut down. *Good state First Amendment specifically* Referencing NHS and looking back to the case Tinker filed, as long as kids are behaving and not causing disruptions in class or otherwise, our First Amendment rights should be allowed to take place in school. *excellent* “The District Court concluded that the action of the school authorities was reasonable because it was based upon their fear of a disturbance from the wearing of the armbands. But, in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression. Any departure from absolute regimentation may cause trouble. Any variation from the majority's opinion may inspire fear. Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk, and our history says that it is this sort of hazardous freedom -- this kind of openness -- that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious, society,” (*cite as Tinker v, Des Moines, 1968* – *beter to cite the case directly* Cornell University Law School). While students still need

guidance and certainly rules to follow our First Amendment rights must be protected in schools to a degree that no one is hurt or otherwise disruptive from learning educational material. This form of expression leads me to the freedom of press.

Student newspapers are an excellent source of information for students written by students.

There are two cases that really structure this First Amendment right. I will focus on how the two cases are similar although having different scenarios. First, *Hazelwood School District v.*

Kuhlmeier; in this case the teacher running the school newspaper took pages to his principal for approval. Upon preparing to print his paper, the teacher ignored the principal's advice to remove two articles that he felt would be controversial for some students, (Herbeck, 2005). The articles

were about pregnancy and divorce and the effects on students. The court found that the school rules were violated and no first amendment rights were violated. "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," (Herbeck, 2005). I disagree. I feel that if students have a more clear understanding of the real issues that affect kids today we may better understand how and why they act as they do. Even though this case showed that this paper was not following policy or practice but following expression, many students could have benefited from having facts or personal experiences to follow. "The school newspaper here cannot be characterized as a forum for public expression. School facilities may be deemed to be public forums [261] only if school authorities have by policy or by practice opened the facilities for indiscriminate use by the general public, or by some segment of the public, such as student organizations," (Herbeck, 2005). The next case, *Dean v. Utica*

Community Schools was a marker case for the United States. Katy Dean wrote a piece for her school paper the "Arrow" expressing how the Diesel fuel in the school buses was a contributing factor to a man diagnosed with lung cancer. Like the case against Kuhlmeier, the principal of this school in Michigan also requested that the story be cut from the paper. Dean fought for a year and finally filed a suit against the district, (*Dean v. Utica*, 2004). The court found that Dean's article was valid and the school censored it for their own interests. "On October 12, 2004, Judge Arthur Tarnow determined that the *Arrow* was an example of a limited public forum after reviewing the degree of control school officials exercised over the paper, which ultimately separated this case from the decision expressed in *Hazelwood*. A limited public forum--in this context, a public forum created for use by student editors--can reasonably be regulated in terms of time, place, and manner of expression, but not on the substance of that expression. *What was the "substance" that should not be regulated? -- The truth stated in the article* Tarnow also examined Dean's article and determined that there was not a "significant disparity in quality between Dean's article in the *Arrow* and the similar articles in 'professional newspapers.'" In addition to these two factors, the judge decided that the school had censored the article in its own interest, by preventing the expression of its viewpoint, and then claiming it was "inaccurate." (Dean v. Utica, 2004). This case was compared to *Hazelwood v. Kuhlmeier* and the same judge agreed that the circumstances limited the first amendment rights of the school newspapers. I personally have never written for a paper, however, knowing that I have my First Amendment right makes me feel that if I ever needed to publically stand or contribute to something that would be in public view I would be protected. *Excellent reflection* I feel that students learn a great deal through trial and error and by producing articles or opinions in school papers allows for discussions and examples that can only be reached through research. These cases have

shown that censorship will not be prohibited and even though the case against Kuhlmeier showed simply disobedience the articles were only trying to help students understand issues that occur every day.

Good transitions

Freedom of press is as important as Freedom of Speech. The following case shows how a student used his freedom of speech in a negative way. *Bethel School District v. Fraser* is an example of using the First Amendment rather than living by it. In this case Matthew Fraser gave a speech at a school assembly using sexual innuendo. He was nominating a fellow classmate for student office and thought that using obscene language and suggestion would encourage the student body to vote for him. “Approximately 600 high school students, many of whom were 14-year-olds, attended the assembly. Students were required to attend the assembly or to report to the study hall. The assembly was part of a school-sponsored educational program in self-government. Students who elected not to attend the assembly were required to report to study hall. During the entire speech, Fraser referred to his candidate in terms of an elaborate, graphic, and explicit sexual metaphor,” (Law.UMKC). The school in Bethel School District had strict rules that prohibited against “Conduct which materially and substantially interferes with the educational process is prohibited, including the use of obscene, profane language or gestures.” (Law.UMKC). Because the school had specific rules against this the student was prosecuted. However, the First Amendment protects us and covers freedom of speech. “Respondent alleged a violation of his First Amendment right to freedom of speech and sought both injunctive relief and monetary damages under 42 U. S. C. § 1983. The District Court held that the school's sanctions violated respondent's right to freedom of speech under the First Amendment to the United States Constitution, that the school's disruptive-conduct rule is unconstitutionally vague

and overbroad, and that the removal of respondent's name from the graduation speaker's list violated the Due Process Clause of the Fourteenth Amendment because the disciplinary rule makes no mention of such removal as a possible sanction. The District Court awarded respondent \$ 278 in damages, \$ 12,750 in litigation costs and attorney's fees, and enjoined the School District from preventing respondent from speaking at the commencement ceremonies. Respondent, who had been elected graduation speaker by a write-in vote of his classmates, delivered a speech at the commencement ceremonies on June 8, 1983,” (Law.UMKC). This statement proves that following our First Amendment rights will provide true protection. Even though I do not agree with how Fraser used his freedom of speech, it goes to show that our Amendments will protect us all. *Good connections of cases* This case also ties in to the case with Tinker, who we know is used to measure how other school cases are approached. Freedom of speech is an important characteristic for students and learning to voice their opinions and feelings towards current events or simply a community event. My experience with Freedom of Speech is important because it has taught me to think about what I say and truly voice what I think is correct. Something I learned while I was on high school. Our constitutional rights are something our forefathers obviously thought would be beneficial to us today; they offer us protection so that we can live how we want. “These fundamental values of "habits and manners of civility" essential to a democratic society must, of course, include tolerance of divergent political and religious views, even when the views expressed may be unpopular. But these "fundamental values" must also take into account consideration of the sensibilities of others, and, in the case of a school, the sensibilities of fellow students. The undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate

behavior. Even the most heated political discourse in a democratic society requires consideration for the personal sensibilities of the other participants and audiences,” (Law.UMKC).

So, to what degree do students have first amendment rights at school? The answer is simple. We have constitutional protection that allows us to have the freedom of speech, press and assembly to go about our daily activities in school. “Our Constitution is a living reality, not parchment preserved under glass,” (Herbeck, 2005), we have to be able to portray a life that allows us to learn and experience through trial and error. As a student myself, being able to speak freely, and write freely, and wear a purple ribbon for example to demonstrate Domestic Violence Awareness is my constitutional right. I am living through the constitution and students everywhere also have this right and it is being proven time and time again in court rooms around the country. Schools are simply a stepping stone to living our constitutional rights in the “real” world, making it a better place for all.

Wow, this is a well written paper. I especially like the local focus and personal reflections

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