

The US Constitution: The Bill of Rights

by Tim Bailey

UNIT OVERVIEW

This unit is part of the Gilder Lehrman Institute’s Teaching Literacy through History resources, designed to align to the Common Core State Standards. These units were developed to enable students to understand, summarize, and analyze original texts of historical significance. Through a step-by-step process, students will acquire the skills to analyze and assess primary and secondary source material.

Over the course of four lessons the students will engage in deep analysis of the text of the Bill of Rights, the first ten amendments to the US Constitution, and of two US Supreme Court cases related to Bill of Rights issues. To demonstrate their understanding of the texts, they will restate the Constitutional amendments in their own words and compose analytical essays that build on the US Supreme Court decisions.

UNIT OBJECTIVES

Students will be able to

- Understand the purpose of each amendment in the Bill of Rights.
- Assess the original intent and subsequent interpretation of the text.
- Restate the original text in their own words.
- Share, explain, and defend their restatements of the original text.
- Draw conclusions based on evidence in the documents.
- Understand the decision-making process of the Supreme Court.
- Read, analyze, discuss, and write an explanation of a Supreme Court case.
- Write an analytical essay based on evidence in the documents.

ESSENTIAL QUESTION

“To what extent does the Bill of Rights impact our daily lives?”

NUMBER OF CLASS PERIODS: 4

GRADE LEVEL(S): 10–12

COMMON CORE STATE STANDARDS

CCSS.ELA-Literacy. RH.11-12.1: Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

CCSS.ELA-Literacy. RH.11-12.9: Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.

CCSS.ELA-Literacy.WHST.11-12.1.a: Introduce precise, knowledgeable claim(s), establish the significance of the claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that logically sequences the claim(s), counterclaims, reasons, and evidence.

CCSS.ELA-Literacy.WHST.11-12.2.b: Develop the topic thoroughly by selecting the most significant and relevant facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience’s knowledge of the topic.

CCSS.ELA-Literacy.WHST.11-12.4: Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

CCSS.ELA-Literacy.SL.11-12.3: Evaluate a speaker’s point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

LESSON 1

OBJECTIVES

Students will be able to

- Understand the purpose of each amendment in the Bill of Rights.
- Restate the original text in their own words.
- Share, explain, and defend their restatements of the original text.

HISTORICAL BACKGROUND

On September 17, 1787, in the city of Philadelphia, 39 of the 55 delegates to the Constitutional Convention signed the newly negotiated United States Constitution. Many of those who did not sign refused to do so because the document did not include a “bill of rights” that would both secure basic civil rights for its citizens and define the limits of the federal government’s power. Much of the state ratification debates raged over this lack of a bill of rights. The solution became known as the Massachusetts Compromise; four states agreed to ratify the document if their recommendations for amendments would be sent to the Congress. Consequently, James Madison compiled seventeen amendments to present to the first Congress, and Congress passed twelve to send to the states for ratification. Ten of those were ratified and became our Bill of Rights in 1791. Over the years, the Supreme Court has taken responsibility for interpreting those amendments.

MATERIALS

- Teacher Resource: The Bill of Rights, Amendments 1–10. Source: The National Constitution Center, <http://constitutioncenter.org/constitution>
- Analyzing the Amendments: 1–5
- Overhead projector, Elmo projector, or similar device

PROCEDURE

Note: You may choose to have the students do the first two lessons individually, as partners, or in small groups of 3 or 4 students.

1. Discuss the information in the introduction.
2. Pass out “Analyzing the Amendments: 1–5.” “Share read” the first five amendments with the students. This is done by having the students follow along silently while you begin to read aloud, modeling prosody, inflection, and punctuation. Then ask the class to join in with the reading while you continue to read along with the students, still serving as the model for the class. This technique will support struggling readers as well as English language learners (ELL).
3. The task for the students is to be able to put the first five amendments into their own words. To model this learning activity, display the worksheet on an overhead or Elmo projector. Then, as a whole group, go through the process of paraphrasing the First Amendment. With the students, carefully re-read the amendment and analyze the text, breaking it into chunks as necessary. You will then restate the sections of the amendment so that the amendment as a whole makes sense to the class. For instance, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” could be restated as “The government can’t start religions or stop people from practicing their own.” Write the restatement in the box next to the original text.
4. Ask the students to continue with the rest of the amendments on the sheet. As they complete the amendments, you can share out some of the best results to keep the students on the right track and to acknowledge them for their critical thinking skills.
5. Depending on the class, you may choose to move forward to Lesson 2 immediately or partner this lesson with a selection of video clips that show the impact of the first five amendments. The following Gilder Lehrman videos may be helpful:
 - Madison’s Influence on the US Constitution, Jack Rakove (<https://www.gilderlehrman.org/multimedia#3277>)
 - Teaching the Constitution, Larry Kramer (<https://www.gilderlehrman.org/multimedia#3370>)
 - Defining the Constitution, Larry Kramer (<https://www.gilderlehrman.org/multimedia#3371>)

LESSON 2

OBJECTIVES

Students will be able to

- Understand the purpose of each amendment in the Bill of Rights.
- Restate the original text in their own words.
- Share, explain, and defend their restatements of the original text.

MATERIALS

- Teacher Resource: The Bill of Rights, Amendments 1–10
- Analyzing the Amendments: 6–10

PROCEDURE

1. Review both the information in the introduction from the last lesson and the procedure from that lesson. Again, you can choose to have the students work independently, as partners, or in small groups.
2. Pass out “Analyzing the Amendments: 6–10”. Share read the amendments as described in Lesson 1. Depending on the abilities of your students, you may analyze and restate the Sixth Amendment with the students as you did the First Amendment or you may have them work on their own or in groups.
3. As students complete the amendments, you may share out some of the best results to keep the students on the right track and to acknowledge them for their critical thinking skills.
4. Depending on the class, you may choose to move forward with Lesson 3 or to partner this lesson with a selection of video clips that show the impact of these amendments in the Bill of Rights. The following Gilder Lehrman videos may be helpful:
 - *Brown v. Board of Education* and Its Effect on Civil Rights, Larry Kramer (<https://www.gilderlehrman.org/multimedia#3405>)
 - Arguing Cases in the Supreme Court, Jeff Fisher (<https://www.gilderlehrman.org/multimedia#3396>)
 - What are the legacies of the Civil Rights Movement, Jacquelyn Dowd Hall (<https://www.gilderlehrman.org/multimedia#13062>)

LESSON 3

OBJECTIVES

Students will be able to

- Understand the decision-making process of the Supreme Court.
- Read, analyze, discuss, and write an explanation of a Supreme Court case.
- Write an analytical essay based on evidence in the documents.

HISTORICAL BACKGROUND

America’s military involvement in Vietnam peaked during the 1960s. Many citizens supported the United States’ attempts to bolster the government of South Vietnam against a Communist insurgency as well as an invasion by the forces of North Vietnam. American military deployment rapidly approached more than 500,000 troops. As the war dragged on, and as news media reported horrendous American casualties and frequent setbacks as well as the devastation brought to the people of both South and North Vietnam, a strong anti-war coalition developed in the United States. Many citizens expressed their

concerns and open opposition to the war effort. They took part in protest marches and demonstrations and published anti-war materials. Some wore the internationally recognized anti-war symbol. It was in this atmosphere that the *Tinker* case reached the Supreme Court.

MATERIALS

- Teacher Resource: The Bill of Rights, Amendments 1–10
- Supreme Court Case #1 Handout A. Source: FindLaw, <http://laws.findlaw.com/us/393/503.html>
- Supreme Court Case #1 Handout B
- Supreme Court Case #1 Handout C
- Writing Exercise: Supreme Court Case #1: *Tinker v. Des Moines Independent School District*

PROCEDURE

1. Discuss the information in the Historical Background. Do not offer additional information.
2. Put the students into pairs or into small groups of 3 to 4 students.
3. Pass out Supreme Court Case #1 Handout A.
4. You can share read the text with the students as in the last two lessons or the students can read it individually.
5. Pose the question “Were the petitioner’s constitutional rights violated by the school district?”
6. Pass out the Supreme Court Case #1 *Tinker v. Des Moines Independent School District* writing exercise. They will use the top section to write their answer to the first question.
7. Let the groups discuss their various views on the constitutional issues raised by this case.
8. Pass out Supreme Court Case #1 Handouts B and C.
9. The students will read both the majority and minority opinions for this case and discuss these opinions with their partner or group.
10. Introduce the analytical essay assignment on the bottom of the writing exercise: After reading both the majority and minority opinions, which do you agree with? Write a short analytical essay that addresses your own view of these two opinions. In the essay make certain to include at least three pieces of evidence directly from the text that support your choice and at least three examples taken from the text that undermine the opposing argument.
11. You may choose to have students work together on this or, if you are looking for a more individualized assessment, they can work by themselves.

LESSON 4

OBJECTIVES

Students will be able to

- Read, analyze, and discuss the background of a US Supreme Court case.
- Examine and explain the constitutional issues in a US Supreme Court case.
- Compare the decisions of the Supreme Court in two cases, linking issues related to Bill of Rights.

- Write an analytical essay comparing two US Supreme Court cases.

HISTORICAL BACKGROUND

Public school students in a journalism class who were responsible for a school newspaper decided to publish two articles that were deemed controversial by the school principal. One article dealt with teen pregnancy and the other dealt with divorce. The articles had been submitted to the teacher in charge of the newspaper, and the students expected that constitutional guarantees would apply to their attempt to express their views in the school newspaper. When the articles were struck from the newspaper, questions arose regarding whether the constitutional rights of students and other guarantees in the Bill of Rights had been violated by the actions of the school administration.

MATERIALS

- Supreme Court Case #2 Handout D. Source: FindLaw, <http://laws.findlaw.com/us/484/260.html>
- Supreme Court Case #2 Handout E
- Writing Exercise: Supreme Court Case #2: *Hazelwood School District v. Kuhlmeier*
- Materials from previous lesson:
 - Supreme Court Case #1 Handouts A–C
 - Writing Exercise: Supreme Court Case #1: *Tinker v. Des Moines Independent School District*

PROCEDURE

1. Give the students a brief overview of the Historical Background.
2. Put the students into the pairs or small groups from the previous lesson.
3. Pass out Supreme Court Case #2 Handout D.
4. You can share read with the students as in the first two lessons or the students can read it individually.
5. Pose the question, “Did the school’s principal violate the students’ constitutional rights?”
6. Pass out the Supreme Court Case #2 *Hazelwood School District v. Kuhlmeier* writing exercise. They will use the top section to write their answer to the first question.
7. Let the groups share their various views on the constitutional issues raised by this case.
8. Pass out Supreme Court Case #2 Handout E.
9. The students will read the decision in this case and discuss this decision with their partner or group.
10. Introduce the analytical essay assignment on the bottom of the writing exercise: Write a short analytical essay that compares this case with the *Tinker v. Des Moines* case. In what ways are they the same and in what ways are they different? How did these similarities and differences affect the Supreme Court’s decisions? In the essay make certain to include textual evidence taken directly from the documents that support your argument.
11. You may choose to have students work together on this or, if you are looking for a more individualized assessment, they can work by themselves.

HANDOUTS FOR THE BILL OF RIGHTS UNIT

Teacher Resource: The Bill of Rights (complete)

Amendment I:

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.

Amendment II:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III:

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Amendment VIII:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Analyzing the Amendments: 1-5

<p>Amendment 1</p> <p>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.</p>	<p>In your own words</p>
<p>Amendment 2</p> <p>A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.</p>	<p>In your own words</p>
<p>Amendment 3</p> <p>No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.</p>	<p>In your own words</p>

<p>Amendment 4</p> <p>The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.</p>	<p>In your own words</p>
<p>Amendment 5</p> <p>No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.</p>	<p>In your own words</p>

Analyzing the Amendments: 6-10

<p>Amendment 6</p> <p>In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.</p>	<p>In your own words</p>
<p>Amendment 7</p> <p>In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.</p>	<p>In your own words</p>
<p>Amendment 8</p> <p>Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.</p>	<p>In your own words</p>

<p>Amendment 9</p> <p>The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.</p>	<p>In your own words</p>
<p>Amendment 10</p> <p>The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.</p>	<p>In your own words</p>

Supreme Court Case #1 Handout A

Tinker v. Des Moines Independent Community School District No. 21

SUPREME COURT OF THE UNITED STATES

393 U.S. 503

Argued November 12, 1968

Decided February 24, 1969

Petitioner John F. Tinker, 15 years old, and petitioner Christopher Eckhardt, 16 years old, attended high schools in Des Moines, Iowa. Petitioner Mary Beth Tinker, John's sister, was a 13-year-old student in junior high school.

In December 1965, a group of adults and students in Des Moines held a meeting at the Eckhardt home. The group determined to publicize their objections to the hostilities in Vietnam and their support for a truce by wearing black armbands during the holiday season and by fasting on December 16 and New Year's Eve. Petitioners and their parents had previously engaged in similar activities, and they decided to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. On December 14, 1965, they met and adopted a policy that any student wearing an armband to school would be asked to remove it, and if he refused he would be suspended until he returned without the armband. Petitioners were aware of the regulation that the school authorities adopted.

On December 16, Mary Beth and Christopher wore black armbands to their schools. John Tinker wore his armband the next day. They were all sent home and suspended from school until they would come back without their armbands. They did not return to school until after the planned period for wearing armbands had expired--that is, until after New Year's Day.

This complaint was filed in the United States District Court by petitioners, through their fathers, under §1983 of Title 42 of the United States Code. It prayed for an injunction restraining the respondent school officials and the respondent members of the board of directors of the school district from disciplining the petitioners, and it sought nominal damages.

Supreme Court Case #1 Handout B

Tinker v. Des Moines Independent Community School District No. 21

SUPREME COURT OF THE UNITED STATES

393 U.S. 503

Argued November 12, 1968

Decided February 24, 1969

(Majority Opinion)

The District Court recognized that the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the Free Speech Clause of the First Amendment . . . 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 . . . First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years . . . That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.

Our problem lies in the area where students in the exercise of First Amendment rights collide with the rules of the school authorities . . . The school officials banned and sought to punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is here no evidence whatever of petitioners’ interference, actual or nascent, with the schools’ work or of collision with the rights of other students to be secure and to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the schools or the rights of other students . . . In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are “persons” under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views . . . A student’s rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without “materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school” and without colliding with the rights of others . . . Under our Constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle but not in fact. Freedom of expression would not truly exist if the

right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution says that Congress (and the States) may not abridge the right to free speech. This provision means what it says.

As we have discussed, the record does not demonstrate any facts which might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities, and no disturbances or disorders on the school premises in fact occurred. These petitioners merely went about their ordained rounds in school. Their deviation consisted only in wearing on their sleeve a band of black cloth, not more than two inches wide. They wore it to exhibit their disapproval of the Vietnam hostilities and their advocacy of a truce, to make their views known, and, by their example, to influence others to adopt them. They neither interrupted school activities nor sought to intrude in the school affairs or the lives of others. They caused discussion outside of the classrooms, but no interference with work and no disorder. In the circumstances, our Constitution does not permit officials of the State to deny their form of expression.

Supreme Court Case #1 Handout C

Tinker v. Des Moines Independent Community School District No. 21

SUPREME COURT OF THE UNITED STATES

393 U.S. 503

Argued November 12, 1968

Decided February 24, 1969

(Minority Opinion)

The Court's holding in this case ushers in what I deem to be an entirely new era in which the power to control pupils by the elected "officials of state supported public schools . . ." in the United States is in ultimate effect transferred to the Supreme Court . . . whether students and teachers may use the schools at their whim as a platform for the exercise of free speech--"symbolic" or "pure"--and whether the courts will allocate to themselves the function of deciding how the pupils' school day will be spent . . . I have never believed that any person has a right to give speeches or engage in demonstrations where he pleases and when he pleases. This Court has already rejected such a notion. In *Cox v. Louisiana*, 379 U.S. 536, 554 (1965), for example, the Court clearly stated that the rights of free speech and assembly "do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time."

. . . detailed testimony by some of them shows their armbands caused comments, warnings by other students, the poking of fun at them, and a warning by an older football player that other, nonprotesting students had better let them alone. There is also evidence that a teacher of mathematics had his lesson period practically "wrecked" chiefly by disputes with Mary Beth Tinker, who wore her armband for her "demonstration." Even a casual reading of the record shows that this armband did divert students' minds from their regular lessons, and that talk, comments, etc., made John Tinker "self-conscious" in attending school with his armband. While the absence of obscene remarks or boisterous and loud disorder perhaps justifies the Court's statement that the few armband students did not actually "disrupt" the classwork, I think the record overwhelmingly shows that the armbands did exactly what the elected school officials and principals foresaw they would, that is, took the students' minds off their classwork and diverted them to thoughts about the highly emotional subject of the Vietnam war. And I repeat that if the time has come when pupils of state-supported schools, kindergartens, grammar schools, or high schools, can defy and flout orders of school officials to keep their minds on their own schoolwork, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary . . . The truth is that a teacher of kindergarten, grammar school, or high school pupils no more carries into a school with him a complete right to freedom of speech and expression than an anti-Catholic or anti-Semite carries with him a complete freedom of speech and religion into a Catholic church or Jewish synagogue. Nor does a person carry with him into the United States Senate or House, or into the Supreme Court, or any other court, a complete constitutional right to go into those places contrary to their rules and speak his mind on any subject he pleases. It is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases.

Of course students, like other people, cannot concentrate on lesser issues when black armbands are

being ostentatiously displayed in their presence to call attention to the wounded and dead of the war, some of the wounded and the dead being their friends and neighbors. It was, of course, to distract the attention of other students that some students insisted up to the very point of their own suspension from school that they were determined to sit in school with their symbolic armbands . . . The schools of this Nation have undoubtedly contributed to giving us tranquility and to making us a more law-abiding people. Uncontrolled and uncontrollable liberty is an enemy to domestic peace. We cannot close our eyes to the fact that some of the country's greatest problems are crimes committed by the youth, too many of school age. School discipline, like parental discipline, is an integral and important part of training our children to be good citizens--to be better citizens. Here a very small number of students have crisply and summarily refused to obey a school order designed to give pupils who want to learn the opportunity to do so.

It is no answer to say that the particular students here have not yet reached such high points in their demands to attend classes in order to exercise their political pressures. Turned loose with lawsuits for damages and injunctions against their teachers as they are here, it is nothing but wishful thinking to imagine that young, immature students will not soon believe it is their right to control the schools rather than the right of the States that collect the taxes to hire the teachers for the benefit of the pupils. This case, therefore, wholly without constitutional reasons in my judgment, subjects all the public schools in the country to the whims and caprices of their loudest-mouthed, but maybe not their brightest, students. I, for one, am not fully persuaded that school pupils are wise enough, even with this Court's expert help from Washington, to run the 23,390 public school systems in our 50 States.

Supreme Court Case #2 Handout D

Hazelwood School District v. Kuhlmeier

No. 86-836

SUPREME COURT OF THE UNITED STATES

484 U.S. 260

Argued October 13, 1987

Decided January 13, 1988

Syllabus

Respondents, former high school students who were staff members of the school's newspaper, filed suit in Federal District Court against petitioners, the school district and school officials, alleging that respondents' First Amendment rights were violated by the deletion from a certain issue of the paper of two pages that included an article describing school students' experiences with pregnancy and another article discussing the impact of divorce on students at the school. The newspaper was written and edited by a journalism class, as part of the school's curriculum. Pursuant to the school's practice, the teacher in charge of the paper submitted page proofs to the school's principal, who objected to the pregnancy story because the pregnant students, although not named, might be identified from the text, and because he believed that the article's references to sexual activity and birth control were inappropriate for some of the younger students. The principal objected to the divorce article because the page proofs he was furnished identified by name (deleted by the teacher from the final version) a student who complained of her father's conduct, and the principal believed that the student's parents should have been given an opportunity to respond to the remarks or to consent to their publication. Believing that there was no time to make necessary changes in the articles if the paper was to be issued before the end of the school year, the principal directed that the pages on which they appeared be withheld from publication even though other, unobjectionable articles were included on such pages.

The District Court held that no First Amendment violation had occurred. The Court of Appeals reversed.

Supreme Court Case #2 Handout E

Hazelwood School District v. Kuhlmeier

No. 86-836

SUPREME COURT OF THE UNITED STATES

484 U.S. 260

Argued October 13, 1987

Decided January 13, 1988

Held: Respondents' First Amendment rights were not violated.

(a) 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.

(b) The school newspaper here cannot be characterized as a forum for public expression. School facilities may be deemed to be public forums 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. If the facilities have instead been reserved for other intended purposes, communicative or otherwise, then no public forum has been created, and school officials may impose reasonable restrictions on the speech of students, teachers, and other members of the school community. The school officials in this case did not deviate from their policy that the newspaper's production was to be part of the educational curriculum and a regular classroom activity under the journalism teacher's control as to almost every aspect of publication. The officials did not evince any intent to open the paper's pages to indiscriminate use by its student reporters and editors, or by the student body generally. Accordingly, school officials were entitled to regulate the paper's contents in any reasonable manner.

(c) The standard for determining when a school may punish student expression that happens to occur on school premises is not the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, distinguished. Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.

(d) The school principal acted reasonably in this case in requiring the deletion of the pregnancy article, the divorce article, and the other articles that were to appear on the same pages of the newspaper.

