Lesson Title: Essential Court Cases for Journalism Students: Hazelwood v. Kuhlmeier

Common Core Standards:
1. Demonstrate the core values and principles of U.S. democracy as set forth in documents such as the Declaration of Independence, the Constitution, the Bill of Rights and court decisions.
   • Analyze relevant court decisions as precedents.
   • Practice these key ideas by collaborating on decisions through a student-led democratic process.

Supplies needed: Hazelwood pdf

Time of lesson: 50 minutes (2 Days)

Description of Lesson:
Introduce the court case, Hazelwood v. Kuhlmeier

Key Terms: prior review, censorship, First Amendment


This decision enabled administrators to prevent publication of material when their censorship was "reasonably related to legitimate pedagogical concerns."

The Court, however, left that phrase undefined, saying only a court should act to protect student expression when the censorship has "no valid educational purpose."

Not everyone agreed this ruling was sound.

"My students' ability to publish controversial material is now in every respect dependent on my attitudes, my thoughts and my willingness to be vulnerable in front of my superintendent, my board of education and my community," Franklin McCallie, former principal at Kirkwood (Mo.) High School, wrote.

"Before the ruling there was a spontaneity, even a tension which was healthy and democratic and educational and growth-producing. We have lost that under the new rules."

It is important to note Hazelwood does not say administrators must censor; it only says under certain conditions they may.

Lesson Plan:
1. Lead a class discussion. Ask the students have they ever been censored? What are some topics that have been censored? (Music, books, tv, but ask for specific examples) Why were they censored?

2. Read Hazelwood pdf and/or watch Youtube clip: http://www.youtube.com/watch?v=Mt6ivkSWr7c

3. Continue Discussion with these questions. Possible answers included to help guide the discussion.

- **What is prior review?** Prior review takes place when an official reviews material before it is published or broadcast.

- **What is censorship?** Censorship is an examination and removal of expression, both words and images, to suppress what is considered morally, politically or otherwise objectionable. It is rooted in an ancient Roman practice. The censor was one of two officials who were responsible for taking public census and supervising public behavior and morals.

- **What conditions have to exist for a principal to exercise censorship of the student press according to the Hazelwood decision?** The Court said schools, public or private, could censor any forms of expression deemed “ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences,” or any expression that advocates “conduct otherwise inconsistent with the shared values of the civilized social order.”

- **Does the Hazelwood ruling apply to all public schools? What factors does the court use to determine whether the student newspaper has been opened by the school as a public forum?** No. The Hazelwood ruling does not apply to publications that have been opened as “public forums for student expression.” According to the Student Press Law Center “A student publication is a public forum for student expression when school officials have given student editors the authority to make their own content decisions. A school can do that either through an official policy or by allowing a publication to operate with editorial independence. ... School officials are only allowed to censor forum publications when they can show the publication will cause a ‘material and substantial disruption’ of school activities.” In addition, some states (currently Arkansas, California, Colorado, Iowa, Kansas and Massachusetts) have passed laws that give students much stronger free expression protection than Hazelwood.

- **How did the Supreme Court reconcile its seemingly contradictory holdings in the Hazelwood and Tinker cases?** In both decisions, the Supreme Court supported the mission of schools to educate in a safe environment. While students have First Amendment rights, these rights may be limited in the school setting. Under the Tinker standard, school officials could only limit student free expression when they could demonstrate that the expression in question would cause a material and substantial disruption of school activities or an invasion of the rights of others. According to the Student Press Law Center, “In
essence, the majority opinion of the Supreme Court said that the rights of public school students are not necessarily the same as those of adults in other settings. The student newspaper at Hazelwood East High School, it said, was not a ‘forum for public expression’ by students, and thus the censored students were not entitled to broad First Amendment protection. Therefore, the Court held that the school was not required to follow the standard established in Tinker v. Des Moines Independent Community School District. “In the Hazelwood decision, the Court said that a different test would apply to censorship by school officials of student expression in a school-sponsored activity such as a student newspaper that was not a public forum for student expression. When a school’s decision to censor is ‘reasonably related to legitimate pedagogical concerns,’ it will be permissible. In other words, if a school can present a reasonable educational justification for its censorship, that censorship will be allowed.” In his sharp dissent, Justice Brennan said that he found the newspaper at Hazelwood East to be a “forum established to give students an opportunity to express their views....” He said that the Court should have applied the Tinker standard. Brennan said that the censorship at Hazelwood East “aptly illustrates how readily school officials (and courts) can camouflage viewpoint discrimination as the ‘mere’ protection of students from sensitive topics.”

- **Under what circumstances may student speech in a school-sponsored, non-public forum be limited according to the Hazelwood decision?** School officials are allowed to censor student speech, including a student publication that is curricular and not a public forum, when they can demonstrate that their censorship is “reasonably related to legitimate pedagogical [educational] concerns.” If censorship serves no valid educational purpose, it is prohibited. In *Hazelwood v. Kuhlmeier: A Complete Guide*, the Student Press Law Center states: The Court gave several examples in its decision of what might be censorable: material that is “ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.” Potentially sensitive topics, such as “the existence of Santa Claus in an elementary school setting,” “the particulars of teenage sexual activity in a high school setting,” “speech that might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the ‘shared values of a civilized social order,’” may also be censored. In addition, the Court said school officials can censor material that would “associate the school with anything other than neutrality on matters of political controversy.” These examples, frightening in their breadth and vagueness, suggest that school officials might be allowed to censor a great number of things simply because they disapprove of them. In fact, the Court said schools can demand of their student publications standards “higher than those demanded by some newspaper publishers ... in the ‘real’ world.” However, a federal appellate court decision has indicated that...
this standard still imposes significant limitations on school officials’ rights. School officials must be able to show that their censorship is “viewpoint neutral,” that is, that they did not censor simply because they disagreed with a particular view students were expressing.

- **What forms of student expression, other than school-sponsored student newspapers, could be censored under the Hazelwood standard?** Although the Supreme Court decision applied to a student newspaper, all student news and information media — yearbooks, literary magazines, radio and television programs — have been affected. Drama and music productions have also been included under the scrutiny allowed by *Hazelwood*.

- **Are school officials required to censor student expression under the Hazelwood ruling?** No. *Hazelwood School District v. Kuhlmeier*, the 1988 U.S. Supreme Court decision, gave public high school officials greater authority to censor some school-sponsored student publications if they chose to do so.

- **What is the difference between editorial decision making and self censorship?** When editorial decision making takes place, students are fully responsible for the media’s content. The publication’s editorial board meets to discuss what its community needs to know, should know and wants to know. Self-censorship is based in fear of reprisals from people who can influence the course of students’ academic careers. While self-censorship is impossible to measure, there are experts who believe it is more prevalent since the *Hazelwood* decision. Paul McMasters of the First Amendment Center says students — particularly those on newspapers that are cleared by school administrators before publication — try to avoid conflicts and steer clear of potentially sensitive or controversial issues that might not meet with the principal’s approval. “The student who opposes censorship now is the unique one, not the other way around,” McMasters says. “Sometimes the biggest proponents of censorship are fellow students harassing the student journalists. [These students] haven’t been taught in their classrooms the benefits and the absolutely necessity of a free and open debate and dialogue in our society.”

- **If you were a high school principal, would your relationship with the school’s newspaper be based in the Tinker standard or the Hazelwood guidelines?** Answers will vary. High school principals who want to control the student press tend to cite *Hazelwood* as a justification for prior review or restricting the subjects students can address in their school publications. Michael Hiestand, attorney for the Student Press Law Center, puts it, “Administrators who are bent on censoring the paper can use *Hazelwood* for that purpose. Those who want to give press rights to students can certainly choose to read *Hazelwood* guidelines that way.”

*Much of this file is excerpted from “From Tinker to Hazelwood: Landmark Supreme Court decisions and how schools deal with them” originally appeared as chapter 7 in “Death By Cheeseburger: High School Journalism in the 1990s and Beyond.” Reprinted by permission, The Freedom Forum.*
4. Class Activity or Homework: To encourage deeper consideration of the issues, pose the following questions to the class (these may also be used as writing prompts or extension-activity questions):

- If you were an administrator in a similar position to those in the Hazelwood case, how would you rule on the issues? Would you side with the students and allow for open expression? Or would you be more restrictive in order to satisfy the demands of certain parents, students and teachers?
- What could be the consequences, both positive and negative, of allowing unfettered (uncensored) student expression on school grounds? Who could get hurt and/or who could benefit?

**DAY 2**

Assign the class to research and analyze other recent instances of censorship of student expression by consulting the SPLC archives or other sources.

The research may be done in teams or individually, and the following questions may be used to guide the process.

**Evaluation/Assessment:** Answers may be written in essay form or presented orally or using multimedia resources:

- In your research, how often is the First Amendment quoted or referenced? When referenced, how is it used? To defend individual liberties? To clarify arguments? To show the limits of expression? Comparatively, how credible are the arguments for each side? In other words, how convincingly do the administrators make their case to censor student publications, and how convincingly do the students and/or teachers defend themselves?
- Based on your research, how much of an impact do you think Hazelwood has had on student expression nationwide? Is it truly relevant? Do you think it has impacted your own school? Should it be overturned in the courts? Should it be upheld?
- Again, what could be the consequences, both positive and negative, of allowing unfettered (uncensored) student expression on school grounds? In what ways have you experienced the consequences yourself?