

ASNE LESSON PLAN FORMAT

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City, State: Sedona, Ariz.

Title: Learning the limitations and rights under the First Amendment and knowing the limitations and benefits under copyright laws.

I. Overview and Rationale: As a high school journalist, when does your passion to report a story conflict with your moral obligation not to hurt or harm. The first part of this lesson will teach students practical ethical and honest reporting while protecting their rights to freedoms under the First Amendment.

<http://www.freedomforum.org/packages/first/Curricula/EducationforFreedom/FirstPrinciples.htm>

The second part of the lesson will allow students to research the copyright v. plagiarism differences and research copyright laws. www.copyright.gov

II. Goals for Understanding

- What is the objective of free speech
- The First Amendment five freedoms and details
- Best defenses
- Is it news – is it opinion
- Open public forum – open for everyone/anyone to comment
- Limited public forum – speech by a particular group of people or in a particular place
- Copyright v. Plagiarism
- Protection of original works and use of original works
- Work whose copyright has expired (falls in public domain)

III. Essential Questions

- Tinker v. Des Moines Independent Community School District (1969)
The Student Arm Band Case – outcome, results
- Hazelwood School District v. Kuhlmeier (1988)
- Kincaid v. Gibson (1994)
- Dean v. Utica Community Schools (2004)
- Hosty v. Carter (2005)
The post-Hazelwood case public high school student media
- What can be copyrighted?
 - Requirement 1: Originality (Yellow Pages can because of the design of the ads)
 - Requirement 2: Minimal Creativity (White Pages cannot be copyrighted)
 - Requirement 3: Fixation – something that actually point to, something that exists

IV. Critical Engagement Questions

- Standard of free speech
- Restrictions of free speech
- By policy or practice – procedures
- Duration of copyright law
- Who owns a copyright
- Common fair use examples

- Proper procedures for citing sources

V. Overview and Timeline: Adviser will choose groups, design rubrics and assign deadlines for each demonstration.

Activity 1 Group Work (Four 90-minute classes):

- Students will research the following cases and will be assigned to report to the class on one.
 - Tinker v. Des Moines Independent Community School District (1969)
http://www.splc.org/knowyourrights/law_library.asp?id=2
The Student Arm Band Case – outcome, results
 - Hazelwood School District v. Kuhlmeier (1988)
http://www.splc.org/knowyourrights/law_library.asp?id=1
 - Kincaid v. Gibson (1994)
 - Dean v. Utica Community Schools (2004)
http://www.splc.org/knowyourrights/law_library.asp?id=49
The post-Hazelwood case public high school student media
 - Hosty v. Carter (2005)
- Students will memorize the first 45 words of the First Amendment.
- Students will review the Sedona Red Rock High School Media Editorial and Ethics Policy to ensure all areas of the document meets the press freedoms of the Student Press Law Center.

Activity 2 Group Work (Four 90-minute classes):

- Students will research copyright laws, present a PowerPoint of a minimum of 15 slides (all with photos/graphics) and secure information as to how to copyright the high school's publication works.
- Students will research <http://www.copyright.gov/circs/> and use documentation from at least five (5) of the PDF Information Circulars and Factsheets listed.
- Students will create a mock agreement of a copyright agreement for the district's website and for the Sedona Red Rock High School Media Editorial and Ethics Policy.
- Students will secure the cost and forms to initiate the process.

VI. Assessment

Students will use class time to:

- Discuss their First Amendment Rights and the five freedoms.
- Report on one of the cases in a group presentation, worksheet and assessment lesson plan with staff members. Groups will design worksheets and testing handouts for their presentation times.
- Review the existing Sedona Red Rock High School Media Editorial and Ethics Policy and suggest modifications, deletions and additions to the staff.
- Discuss plagiarism and copyright laws.
- Start the process to copyright the high school publications.

References:

<http://www.freedomforum.org>

<http://www.splc.org>

www.copyright.gov

www.yearbooklaw.com

Group Participants:

Questions for Discussion

1. What is prior review?
2. What is censorship?
3. What conditions had to exist for a principal to exercise censorship of the student press according to the *Hazelwood* decision?
4. 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?
5. How did the Supreme Court reconcile its seemingly contradictory holdings in the *Hazelwood* and *Tinker* cases?
6. Under what circumstances may student speech in a school-sponsored, non-public forum be limited according to the *Hazelwood* decision?

Points for Discussion ANSWERS

1. **What is prior review?**

Prior review takes place when an official reviews material before it is published or broadcast.

2. **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.

3. **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.”

4. **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*.

5. **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.”

6. **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.

7. **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*.

8. **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.

9. **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.”

10. **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.”

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<http://www.freedomforum.org/packages/first/Curricula/EducationforFreedom/supportpages/L08-CaseSummaryHazelwood.htm>