

## **Hazelwood v. Kuhlmeier/ Background ••—Answer Key**

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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 lies at the heart of the U.S. political system. It helps people to obtain information, share ideas, make decisions, and communicate those decisions to the government and each other. 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 march or limit the hours during which loudspeakers may be used.) With few exceptions, however, the government cannot limit or punish speech based on what is being said.

The freedom of press protects people from government censorship of newspapers, magazines, books, radio, television, and film. This means that the government cannot attempt to censor publications before they are published unless they would cause certain, serious harm and preventing the publication is the only way to stop that harm.

There are some special places where the rules about free speech are different, including prisons, schools, and the military. The U.S. Supreme Court has ruled that public schools (which are run by the government) can limit speech more than the government can outside of school. Places outside of schools, where First Amendment rights are traditionally exercised, are called “public forums.” Students do have some free speech rights in schools, but student speech can also be limited when it disrupts the learning environment or interferes with rights of others.

In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, created the final edition of the school paper, *Spectrum*. Before publishing the paper, they submitted it to their adviser, Howard Emerson, so he could review it. Emerson was new to the job, so he followed the procedures of the previous adviser. Those guidelines required him to give Principal Robert Reynolds the opportunity to review the paper before it was published.

When Principal Reynolds reviewed the paper, he found two articles that concerned him. The first dealt with the issue of teen pregnancy. It included comments from pregnant students at the school. To protect their privacy, names were not given. However, when Reynolds read the article, he realized that the details in the article would make it easy for other students to identify the pregnant teens. He also noticed that the article mentioned sex and birth control. He did not think that students in ninth grade should be reading about sex and birth control. The second article addressed the issue of divorce. Like the first article, this one included personal information. One student, whose parents were divorced, made negative comments about her

father. She said that her father was always out with the guys and that her father did not spend enough time with the family. Principal Reynolds was troubled by the fact that the father had not been given a chance to defend himself by responding to his daughter's comments.

Reynolds wanted the journalism students to modify the articles. However, it was almost the end of the school year. If the students took the time to revise, they would miss the deadline for publishing the newspaper. If that happened, the other students might never get to read the paper. He felt like he had to act quickly, so he told Emerson to delete the two pages with the offending articles and publish the rest of *Spectrum*. He told his supervisors about this decision and they agreed with him.

The students had worked hard on the paper and felt that they had followed proper journalism procedures. If they had been approached about the problems, they may have been able to correct them. They were upset to find out instead that two pages, which also included non-offensive articles, had been deleted. They felt that their First Amendment rights had been violated.

The students took the case to the U.S. District Court for the Eastern District of Missouri. The Court did not agree with the students. In the ruling, the judges said that school officials may impose limits on students' speech in activities that are "an integral part of the school's educational function" as long as their decision "has a substantial and reasonable basis." In other words, the Court felt that if the school has a good reason to do so, it can place limits on school activities, such as the publication of the school newspaper.

Unhappy with the outcome, the students appealed their case to the Court of Appeals for the Eighth Circuit. This court reversed the decision of the lower court, saying that the students' First Amendment rights were violated. In the opinion, the Court explained that the newspaper was part of the school curriculum but was also a "public forum." As a public forum, the newspaper was "intended to be and operated as a conduit for student viewpoint." Because the paper was a forum for student discussion, the principal or other officials could censor it only when "necessary to avoid material and substantial interference with school work or discipline ... or the rights of others."

The school appealed the decision of the Court of Appeals and the Supreme Court of the United States agreed to hear the case. In determining whether or not students' rights were violated, it would consider whether or not the student newspaper was a public forum and whether the First Amendment "requires a school affirmatively to promote particular student speech."

## Questions to Consider

1. Why did the newspaper adviser give the paper to Principal Reynolds for review? Was that standard procedure?

The newspaper advisor gave the paper to Principal Reynolds to review prior to publication because it was standard procedure.

2. What concerns did Principal Reynolds have regarding the two articles? Were these legitimate concerns? Were there other ways that the principal could have handled the situation?

Principal Reynolds was concerned that people would be able to identify the pregnant teens who were interviewed for one of the articles. He was also concerned that, in a separate article, a father who was criticized was not given the opportunity to respond to the accusations made against him in the article. Student reaction will vary as to whether these concerns were legitimate. Principal Reynolds could have had students revise the stories prior to publication, but that would most likely have delayed the paper's publication until after the end of the school year. If that were truly the case, the principal could have simply deleted those two stories.

3. Do you think Principal Reynolds was justified in deleting the two pages of the paper? Should a principal be able to censor student newspapers? If so, under what conditions?

Student answers will vary. Some will argue that a principal should not be able to censor student papers on the grounds that freedom of speech is absolute. Others will argue that there may be certain circumstances when it is necessary for a principal to censor the paper in order to protect the privacy, safety, or welfare of one or more students.

4. What rights did the students believe had been violated?

The students believed that their First Amendment rights to freedom of speech and press had been violated. The relevant wording is, "Congress shall make no law . . . abridging the freedom of speech, or of the press." [The 14th Amendment had been held to make the First Amendment applicable to States and their subdivisions, too.]

5. Should a principal or other school authority be able to silence other forms of student speech? If so, under what conditions? How does speech by an individual student differ from speech by the school newspaper?

Student answers will vary. Students who argue that a principal should be able to silence other forms of student speech might say that certain forms of speech can disrupt the educational process. The government can regulate the time, place, and manner of protests. Speech and expression can be forms of protest and should be regulated in the same manner. School officials should be allowed to regulate speech in an emergency situation, or when the speech would infringe upon an individual's rights to privacy or to have an orderly learning environment. Those who say no might argue that students do not shed their constitutional rights at the schoolhouse gate (*Tinker v. Des Moines*) and therefore, students should have the same rights to free speech and free press as adults do. The government cannot stop people from expressing their opinion, even if that opinion is unpopular, so the school should not be able to do so either. Speech by individual students differs from speech by a school

newspaper in that the former is not school-sponsored and cannot be mistaken as being endorsed by the school, unless it is a speech made at an official school function.