A Free Student Press Fosters Responsibility

Social responsibility takes practice. Ensuring student journalists' freedom of expression will help prepare them to become capable citizens.

When Robert E. Reynolds, principal of Hazelwood East High School, decided to protect the privacy of a teenage mother and a divorced father by deleting two stories from the Hazelwood Spectrum, he set in motion a chain of events that has caused our society once again to consider the limits of high school students' freedom of expression. Subsequently, on January 13, 1988, the U.S. Supreme Court ruled that the First Amendment does not prevent educators from exercising editorial control over the style and content of student speech in school-sponsored newspapers. The Court found that high school papers published by students in journalism classes do not qualify as "public forums." Therefore, school officials retain the right to impose reasonable restrictions on student speech in school papers.

In addition to rekindling passionate discussions about the practice of censoring school newspapers, this decision has reopened the issues of when and how students become responsible adults. Many school officials, who have the duty to formulate and implement curricular policy, applauded this decision as a long-awaited affirmation of their right to edit school newspapers. They welcomed its directions regarding what restrictions can be placed upon content and upon time, place, and manner of distribution. On the other hand, the decision was deplored by every major national organization of journalism educators, including the high school teachers who work with student newspapers every day. These groups believe that this decision was a mistake, that it ignored the value of a vibrant student press, and that it will result in a repressive school environment.

It has only been 21 years since the Supreme Court was asked, in Tinker, to define the parameters of student freedom of expression. Then, the Court responded by declaring that students in school as well as out of school 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. Although the Court recognized students' free speech rights, however, it also noted that these rights were subject to limitations when it ruled that school officials could regulate student activities if student conduct would "materially and substantially" disrupt the work and discipline of the school.

From the Courthouse to the Statehouse

The Hazelwood decision has moved the argument about student rights of freedom of expression from the courthouse to the statehouse, where legislators are debating whether or not Hazelwood has unduly infringed upon the rights enunciated in Tinker. Specifically, they are attempting to define the circumstances that would allow school authorities to limit students' freedom of expression.

For example, on September 12, 1989, a bill was introduced in the Ohio General Assembly that provides students enrolled in the public schools with the right to exercise freedom of speech, press, and assembly. They may "distribute printed materials or petitions; wear buttons, badges, and other insignia; present or perform in theat-
rical and musical productions; publish articles of the students' choice and express student opinion in school-sponsored publications or on school bulletin boards." This legislation, if passed, guarantees this protection whether or not the publications or expression are supported financially by the school or by use of school facilities or are produced in conjunction with a class. 8

With the introduction of this legislation, Ohio joined the growing list of states that are considering legislation to restore students' rights that some believe were eroded by the Hazelwood decision. Florida, Hawaii, Illinois, Kansas, Maryland, Nevada, Oregon, Rhode Island, Wisconsin, and Wyoming. These proposed statutes are aimed at encouraging journalism students to explore a variety of subjects and develop their powers of creative expression. 9

Iowa is the forerunner in drafting legislation that responded specifically to the 1988 landmark decision. On May 11, 1989, Governor Branstad signed legislation that recognizes student press rights and puts editorial power back in the hands of the students. 10 This statute allows student journalists to cover controversial issues and promotes their understanding of their rights and responsibilities. 11

The amount of state legislative activity reflects the concern that if the Hazelwood decision is unchallenged, school administrators will censor legitimate student freedom of expression. Proponents of state legislation believe that they are attempting to strike a balance between the schools' inculcative function and the First Amendment's bar on the prescription of orthodoxy. 12

On the Local Scene
As a result of the Hazelwood decision, local school boards are reevaluating their commitment to the value of a free student press. A number of school systems have adopted specific district policies that have established student newspapers as public forums. 13 These districts believe that their new policies give more responsibility to students and result in more mature students. 14

The freedom of expression issue has generated extensive discussion among legal scholars and legislators, as well as touched an emotional chord in many parents, students, educators, and legislators. The intensity of the controversy demonstrates alarming distrust between supporters and critics of the Hazelwood decision. Even more disturbing is the degree to which this distrust has generated a rift between some administrators and students. Some administrators seem to believe that students are children who need guidance in making appropriate decisions about what can be written. For them, the school paper is primarily a learning tool rather than a vehicle for the expression of student opinion. They believe that the First Amendment rights of students in the public schools are not necessarily the same as the rights of adults and that a school does not need to tolerate student speech that is inconsistent with its basic educational mission. Many who support the Hazelwood decision believe that infringement upon student rights is warranted by the school's need for a good public image and protection from political controversy.

On the other side, many student and professional journalists fear that the Hazelwood decision will encourage school administrators to censor editorials critical of the school board or school administrators on the grounds that the articles undercut the educational objectives of the school. They believe that the school should be a marketplace of ideas that school authorities should be able to limit students' First Amendment rights only when there is reason to believe that distribution of the material would cause significant emotional harm to a student, when substantial interference with the rights of other students would result, or when disruption to the order and decorum of the school would occur.

The Freedom to Criticize and Oppose
In 1969, the Tinker decision put school officials on notice that they do not possess absolute authority over their students and challenged them to have a greater faith in the democratic process. 15 In 1988, the Hazelwood decision made it clear that the current Supreme Court has more faith that school officials will protect students' rights than in students' ability to act responsibly. By ruling that "school newspapers are nonpublic forums and are thus subject to reasonable-based censorship by school officials," the court has placed the interests of school authorities over students' First Amendment rights.

In my view, student journalists should have the same rights and responsibilities as any other journalists, and it is now up to the states to ensure that those freedoms are maintained. Adult journalists have limits placed on what they can write. There are prescribed punishments for copyright infringement and plagiarism, false advertising or advertising of illegal products, inflammatory literature ("fighting words" that incite to lawless action), obscenity, libel, invasion of privacy, fraud and trickery, illegal or wrongful threats, bribery, abuse of process; and illegal or wrongful conduct. 16 Any additional restriction on student expression "inhibits understanding of the Bill of Rights among America's youth, and adds to the general disregard for free speech guarantees in our democracy." 17

Freedom of the press, if it means anything at all, means the privilege to criticize and oppose, without which journalists become mere puppets of government officials. The majority of students who work on their school papers are bright, conscientious, and honorable. As they encounter the responsibilities of freedom, they "need assurances, encouragement, guidance and, at times, legal assistance." 18 rather than restriction. Katha Hurt, cosponsor of the Kansas legislation, argues that
schools that dictate behavior destroy
the opportunity for students to think
critically, act responsibly, and react sens
itively. Schools that stringently control
freedom of speech, therefore, not only
destroy present human rights, but also
threaten the existence and the proper
use of those rights in the future.19 She
joins many other educators, parents, stu
dents, and legislators in believing that
efforts to restore First Amendment
rights to high school students are con
sistent with the Constitutional protec
tion against the suppression of ideas.

"The public school conveys to our
young the information and tools re
quired not merely to survive in, but to
contribute to, civilized society. It also
inculcates in tomorrow's leaders the
fundamental values necessary to the
maintenance of a democratic political
system.20 In other words, a major
purpose of American education is to
help students become socially respon
sible adults. Only a free student press
can make a significant contribution to
this noble goal. □

1Hazelwood School District v. Kuhl-
meier, (1988), 484 U.S. 260, 108 S.Ct. 562,
98 L.Ed.2d 592 (43 Ed.Law 515).
2Id. at 276.
3K. B. Avery and R. J. Simpson, (Winter
1987), "The Constitution and Student Pub-
llications: A Comprehensive Approach," Jour
nal of Law and Education 16, 1: 1–16.
4M. Goodman, "Iowa Legislature Rejects
Supreme Court Decision, Upholds Free
Expression Rights of Students," undated
press release issued by the Student Press
Law Center.
5"Statement in Response to the Supreme
Court's Decision in Hazelwood v. Kuhl-
meier, (January 16, 1988), issued by the
Association for Education in Journalism
and Mass Communication, Secondary Educa-
tion Division.
6"Tinker v. Des Moines Independent
Community School District, (1969), 393
U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731.
7Id. at 511.
8A Bill to enact sections 330501 and
300502 of the Revised Code to guarantee the
freedoms of speech, assembly, and press to
public school students. Introduced to the
118th General Assembly of Ohio, Regular
Session 1989–1990 No number assigned.
9"High Court's Student Censorship Rul-
ing Prompts State Action," (September
1988), State Legislation, 10.
10"Iowa Rattles Hazelwood," Student Press
11Id. at 4.
12Board of Education Island Trees
Union School District No. 26 v. Pico,
457 U.S. at 880, 102 S.Ct. at p. 2814 (plu
rality opinion, J. Blackmun, concurring).
13Baltimore County, Md., Dade County,
Fla., and Clear Creek County, Colo.,
(Spring 1988), "Free Press Commitment
Reaffirmed," Student Press Law Center Re-
port 11.
14Dade County Superintendent Joseph
A. Fernandez, quoted in: (Spring 1988),
"Free Press Commitment Reaffirmed," Stu-
dent Press Law Center Report 11.
15See supra note 7.
16See supra note 3 at pp. 4–5
17Statement adopted at the 1988 Na
tional Convention, Society of Professional
Journalists.
18Resolution in support of the student
press. (August 1989), National Federation
of Press Women, "Press Woman Agenda,"
p. 8.
19Conversation between Kansas State
Representative Katha Hurt and the author
on October 22, 1989.
20See supra note 1 Justice W. J. Brennan
dissenting).

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Response to Robert Shoop:
But School Newspapers Are
Part of the Curriculum

Why should student journalists possess a broader
scope of rights than their adult counterparts?

"Olson, I have to admit that
this is a pretty good piece
of reporting," Perry White,
editor-in-chief of the Daily Planet,
laid the sheaf of papers on his desk, clasping
his hands behind his head. Jimmy Ol-
son, cub reporter, sat nervously in front
of White's great desk.

"I don't know where the idea came
from," White continued, "but a piece
about the troubled children of unwed
professional women, especially with
the human interest angle of contrasting
interviews with the mothers and
children, is appealing. There are pos
sibilities here for a series of articles."

Jimmy Olson relaxed a little. Maybe
he had finally hit on something his
boss liked. His satisfaction, however,
was short-lived.

"But—Great Caesar's ghost, Olson!" shouted the editor, punctuating his
remark by slapping his desk. "Did you
have to include the publisher's daugh-

J. MICHAEL AYTES
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