

# 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.<sup>1</sup> 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.<sup>2</sup>

In addition to rekindling passionate discussions about the practice of censoring school newspapers,<sup>3</sup> 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,<sup>4</sup> that it ignored the value of a vibrant student press, and that it will result in a repressive school environment.<sup>5</sup>

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 public school students are "persons" who do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.<sup>6</sup> State-operated schools, the Court said, may

not be enclaves of totalitarianism. 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.<sup>7</sup> 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-

**The Hazelwood decision has moved the argument about student rights of freedom of expression from the courthouse to the statehouse.**

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.<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup> This statute allows student journalists to cover controversial issues and promotes their understanding of their rights and responsibilities.<sup>11</sup>

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.<sup>12</sup>

### 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.<sup>13</sup> These districts believe that their new policies give more responsibility to students and result in more mature students.<sup>14</sup>

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 signif-

icant 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.<sup>15</sup> 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.<sup>16</sup> 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."<sup>17</sup>

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,"<sup>18</sup> rather than restriction. Katha Hurt, cosponsor of the Kansas legislation, argues that

**Freedom of the press, if it means anything at all, means the privilege to criticize and oppose.**

"schools that dictate behavior destroy the opportunity for students to think critically, act responsibly, and react sensitively. 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."<sup>19</sup> She joins many other educators, parents, students, and legislators in believing that efforts to restore First Amendment rights to high school students are consistent with the Constitutional protection against the suppression of ideas.

"The public school conveys to our young the information and tools required 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."<sup>20</sup> In other words, a major purpose of American education is to help students become socially responsible adults. Only a free student press can make a significant contribution to this noble goal. □

<sup>19</sup>*Hazelwood School District v. Kuhlmeier*, (1988), 484 U.S. 260, 108 S.Ct. 562,

98 L.Ed.2d 592 (43 Ed.Law 515).

<sup>20</sup>*Id.* at 276.

<sup>1</sup>K. B. Avery and R. J. Simpson, (Winter 1987), "The Constitution and Student Publications: A Comprehensive Approach," *Journal of Law and Education* 16, 1: 1-16.

<sup>4</sup>M. Goodman, "Iowa Legislature Rejects Supreme Court Decision, Upholds Free Expression Rights of Students," undated press release issued by the Student Press Law Center.

<sup>5</sup>Statement in Response to the Supreme Court's Decision in *Hazelwood v. Kuhlmeier*, (January 16, 1988), issued by the Association for Education in Journalism and Mass Communication, Secondary Education Division.

<sup>6</sup>*Tinker v. Des Moines Independent Community School District*, (1969), 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731.

<sup>7</sup>*Id.* at 511.

<sup>8</sup>A Bill to enact sections 3305.01 and 3005.02 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.

<sup>9</sup>"High Court's Student Censorship Ruling Prompts State Action," (September 1988), State Legislature, 10.

<sup>10</sup>"Iowa Rattles Hazelwood," Student Press Law Center Report, (Fall 1989), X, 3: 4.

<sup>11</sup>*Id.* at 4.

<sup>12</sup>*Board of Education Island Trees Union Free School District No. 26 v. Pico*, 457 U.S. at 880, 102 S.Ct. at p. 2814 (plurality opinion, J. Blackmun, concurring).

<sup>13</sup>Baltimore County, Md., Dade County, Fla., and Clear Creek County, Colo., (Spring 1988), "Free Press Commitment Reaffirmed," *Student Press Law Center Report*: 11.

<sup>14</sup>Dade County Superintendent Joseph A. Fernandez, quoted in: (Spring 1988), "Free Press Commitment Reaffirmed," *Student Press Law Center Report*: 11.

<sup>15</sup>See *Supra* note 7.

<sup>16</sup>See *Supra* note 3 at pp. 4-5.

<sup>17</sup>Statement adopted at the 1988 National Convention, Society of Professional Journalists.

<sup>18</sup>Resolution in support of the student press. (August 1989), National Federation of Press Women, "Press Woman Agenda," p. 8.

<sup>19</sup>Conversation between Kansas State Representative Katha Hurt and the author on October 22, 1989.

<sup>20</sup>See *Supra* note 1, Justice W. J. Brennan (dissenting).

**Robert J. Shoop** is Professor of Educational Administration, Kansas State University, Manhattan, KS 66506.

J. MICHAEL AYTES

## 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 Olson, 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 possibilities 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-

Copyright © 1990 by the Association for Supervision and Curriculum Development. All rights reserved.