

Students' First Amendment Rights in School

Constitution Day 2013

Goal: In this three-part lesson, students will examine the tension between free expression in schools and limits on free speech.

PART ONE: Examining federal precedent regarding student speech rights

1. Objectives: a) Students will examine and interpret federal court cases pertaining to student speech rights in schools. b) Students will compare and contrast federal court cases with community views as provided by op-ed pieces in local papers. c) Students will analyze and discuss the reason and relevance underlying court precedents, legislation, school policies and community views regarding student speech rights.
2. Standards:
 - a. CCSS.RH.10 – Read and comprehend history/social studies texts in grades 11-CCR text complexity band independently and proficiently.
 - b. CCSS.RH.9 – Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.
 - c. CCSS.RH.6 – Evaluate authors' differing points of view on the same historical event or issue by assessing the authors' claims, reasoning, and evidence
 - d. CCSS.RH.1 – Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.
3. Resources: Six packets; two copies of three different thematic approaches to exploring speech rights. 1) Speech rights and student dress 2) Speech rights and bullying prevention 3) Assembly rights and school policy
4. Procedure:
 - a. Bellwork: How is your typical school day different from your typical Saturday? Think about what you do, who you are with, rules you have to follow, etc....
 - b. Take a stand: Ask students to think about where they stand as to whether students in school should enjoy the same speech liberties as citizens in the public world. They should stand along the room in a spectrum divided by four different extremes: Students' rights should be limited significantly in schools; Students' rights should be limited in schools in many cases; Students' speech rights should not be limited too much in schools, and only in certain cases; Students' speech rights should NEVER be limited in schools."
 - c. Jigsaw: Cases/op-eds about speech...summarizing/paraphrasing, evaluating/critiquing reasoning, etc... SCourt Cases: Tinker v. Des Moines, Frederick v. Morse, Bethel v. Fraser. Readings: Op-Eds, amicus briefs, global not just national?, Case law in contrast/comparison with op-eds. Resource : Concord Monitor ; hate speech and bullying law; dress codes and free speech (public decency laws); expression/Tinker; communicating a message through dress v. public decency.
5. Assessment:
 - a. Homework: Read school policies to do with dress, speech, conduct, bullying prevention etc. What questions arise for you? Are these policies supported by court precedents and current law, or do they work in contradiction to court precedents and current law?

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PART TWO: Examining school policy
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1. Objectives: a) Students will examine, interpret & analyze school policies to do with student speech rights. b) Students will compare and contrast school policies to court precedent, and community views c) Students will synthesize arguments as to whether and how much students' speech liberties can or should be limited by school bodies.
2. Standards:
 - a. CCSS.RH.9 – Integrate information from diverse sources, both primary and secondary, into a coherent understanding of an idea or event, noting discrepancies among sources.
 - b. CCSS.RH.6 – Evaluate authors' differing points of view on the same historical event or issue by assessing the authors' claims, reasoning, and evidence
 - c. CCSS.RH.2 – Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.
 - d. CCSS.RH.1 – Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.
3. Resources: Resources may include school policies for dress (dress codes), behavior while assembling, statements on bullying prevention or hate speech, and religious observances.
4. Procedure:
 - a. Bellwork: How do school policies limit and/or enable students' speech rights?
 - b. Think/Pair/Share (Venn Diagram): Compare and contrast limits and entitlements of national free speech rights on the one hand and school policies on the other. How do you explain these differences and similarities?
 - c. Discussion: As a large group, analyze differences and similarities between national policy & court precedents on the one hand, and school policy and precedents on the other. Questions may include:
 - i. What are the different motivations behind national and school policies? (A: Purpose in school is to teach content, skills, values; maintain order. Meanwhile, motivations behind free speech rules in public context are historically situated (e.g. Revolutionary roots, etc).
 - ii. Why would rules be different in school than they are in public or at home? (A: Liberty v. Order - balancing the exercise of freedom with countervailing interests in safety, education, etc...)
 - iii. Is this just? Is this Constitutional?
 - iv. What other countervailing laws protect the school environment?
 - v. Where are these laws enacting (state reserved rights? Tenth Amendment issues? In loco parentis?)
5. Assessment:
 - a. Homework: Take a stand with regard to one of these topics (dress codes, political speech, gatherings, etc.) Devise a plan for a project to convey your stance.

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PART THREE: Analyzing school policies in the context of national precedent

1. Objectives: a) Students will create a thesis to summarize his or her position on their chosen topic b) Students will work groups to create plans of action to convey their positions to the public c) Students will choose a presentation format and create a presentation to convey their positions to the public d) Students will evaluate their work and the work of their peers within the group against the standards for the project outlined by the class.
2. Standards:
 - a. CCSS.WHST.2 – Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization and analysis of content.
 - b. CCSS.WHST.7 – Conduct short as well as more sustained research projects, based on focused questions, demonstrating understanding of the subject under investigation
 - c. CCSS.WHST.10 – Write routinely over extended time frames (time for research, reflection, and revision) and short time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.
3. Resources: See attached
4. Procedure:
 - a. Recap discussions: Have students review salient points from previous discussion
 - b. Scaffold project work: Review the goal of the lesson series including the objectives for each section. Note how the assessment will be graded with reference to students' mastery of those objectives. Rubric will clarify performance levels for each objective to be met in project. Introduce different project possibilities. Provide examples as to how work can be divided. Set clear expectations in terms of work quality. Scaffold the assignment so students get a sense of how much time they should invest in this project, and how far along they should be at each checkpoint.
 - c. Time for Group work: Allow ample time for students to work in groups on their chosen topic.
 - d. Time for Group presentations: Allow ample time for students to present work.
5. Assessment: The culmination of this three-part lesson should be the student "taking a stand" on a speech issue. Examples of projects to be assessed include:
 - a. Position paper - Write school board/administration/local gov't to argue for/against certain policy. Submit to editor of school paper or town/local paper.
 - b. Petition - school board/school council for change in policy. Introduce referendum on ballot.
 - c. Present perspectives during public concerns segment of government meetings
 - d. iMovie/Explain Everything Documentary – The historical perspective and/or civic imperative of a particular policy. What perspectives might be at play, arguments on both sides for expanding/narrowing scope of the First Amendment in schools?
 - e. Write a district policy **for what student speech** should be allowed/prohibited, and justify the policy using knowledge of the Constitution, court decisions, and interests involved. Send policy recommendations to the school board, district admin, etc...
 - f. Enact and capture/present a role play around the issue wherein students take on the role of students, parents, community members, political leaders at the local, state, and national level to debate an issue.
 - g. Look at other countries' approaches.

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RESOURCES

Supreme Court Cases

Tinker v. Des Moines (1969)

[Full text opinion @ Cornell Legal Information Institute](#)

[Case summary @ Oyez.org](#)

[Teaching material at Landmark Cases of the US Supreme Court](#)

Bethel v. Fraser (1986)

[Full text opinion @ Cornell Legal Information Institute](#)

[Case summary @ Oyez.org](#)

Hazelwood v. Kuhlmeier (1988)

[Full text opinion @ Cornell Legal Information Institute](#)

[Case summary @ Oyez.org](#)

[Case Summary @ USCourts](#)

Frederick v. Morse (2007)

[Full text opinion @ Cornell Legal Information Institute](#)

[Case summary @ Oyez.org](#)

[Case Summary @ USCourts](#)

Articles, Op-Eds, School Policies, etc...

[Op-Ed: Clarence Thomas is Right](#)

[The "Bong Hits 4 Jesus" Student Speech Case: With Kenneth Starr Seeking High Court Review Of The Ninth Circuit Decision, Is Someone Blowing Smoke?](#)

[Article: Federal Judge Upholds School District's ban on 'Boobies' Bracelets](#)

[Article: Third Circuit sides with Pa. students in 'I \(heart\) boobies!' free speech case](#)

[Op-Ed: Protect high school students' rights to free speech](#)

[Op-Ed: Free-speech rights at Washington County high school turn into negative lesson about censorship: Editorial column](#)

[Op-Ed: Dress code infringes upon First Amendment freedoms](#)

[Op-Ed: Dress code laws infringe upon personal freedoms](#)

[Prevent bullying and protect free speech \(ACLU of Virginia\)](#)

[Freedom of speech trumps concerns over cyberbullying](#)

[Schools strictly enforce dress codes? @ debate.org](#)

[When anti-gay bullying and free speech collide](#)

[Article: Students protest social media policy at Lodi district meeting](#)

[Letter from Student Press Law Center and the ACLU to Lodi School District](#)

[Article: Lodi School District modifies its policy on students using social networks](#)

[Lodi School District Social Networking Guidelines](#)