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# How Free Is the **STUDENT PRESS?**

A Supreme Court ruling  
35 years ago limited the  
rights of student journalists

BY SHAY MAUNZ





**Cathy Kuhlmeier** and other students sued their school district in Missouri.



**Taking it to court:** Leslie Smart (left) and Lee Ann Tippett outside the U.S. District Court for the Eastern District of Missouri



**Tammy Hawkins**, an editor, with an issue of *The Spectrum*, 1988

The editors of *The Spectrum*, the school-sponsored newspaper at Hazelwood East High School in St. Louis County, Missouri, were excited. For some years, the paper had mainly published puff pieces about student accolades and school dances, but for the May 1983 edition, the staff decided to push the envelope with some hard-hitting articles. One profiled pregnant students at the school. Another featured an interview with a student about her parents' divorce.

When stacks of the newspapers finally arrived from the printer, however, the budding student journalists recoiled in shock. Those articles no longer appeared anywhere in the issue. The principal and a journalism instructor had censored them, deeming the stories inappropriate for high school students.

"We were freaked out," says Cathy Kuhlmeier, now 57. At age 17 in 1983, she was the layout editor for *The Spectrum*. "We worked very hard on

these articles, and there was a lot of good information in them."

Kuhlmeier and other students working on the paper believed the school's censorship of the articles violated their First Amendment right to freedom of speech. With the help of the American Civil Liberties Union (A.C.L.U.), Kuhlmeier and fellow students Leslie Smart and Lee Ann Tippett sued their school district.

The case—*Hazelwood School District v. Kuhlmeier*—made it all the way to the Supreme Court, where in 1988 the Court ultimately ruled against the students. The case had a huge impact on student journalists and the rights that all students have to express themselves, with consequences still felt in U.S. high schools today.

"It fundamentally changed everything," says Mike Hiestand, senior legal counsel

at the Student Press Law Center. "I don't think that's an overstatement."

### An Educational Tool?

In *Hazelwood v. Kuhlmeier*, the students' lawyers cited a Supreme Court decision from two decades earlier: *Tinker v. Des Moines Independent Community School District*. In that landmark case, five high school students were suspended for wearing black armbands to school to protest the Vietnam War (see "*Student Free Speech*," p. 21).

The students sued their district, and in 1969, the Supreme Court ruled in favor of the teens, famously concluding that students don't "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." The case granted students the right to voice their opinions in school, as long as their

## The First Amendment

**Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances.**

ILLUSTRATION BY ZOHAR LAZAR; ©BOB SACHA (CATHY KUHLMEIER, SMART & TIPPETT); JAMES A. FINLEY/AP IMAGES (HAWKINS)

speech is lawful and doesn't disrupt normal school activities. Legal experts often refer to this as the Tinker standard.

At first, that standard was understood to apply to all students, including student journalists. In fact, in her high school journalism class, Kuhlmeier even learned about the Tinker standard.

"Little did I know what that was going to mean to me," she says.

In court, the Hazelwood School District argued that the Tinker standard didn't apply to the articles in *The Spectrum* because the school newspaper was an educational tool, not an outlet for free expression. The District argued that because school officials control school curriculum, they should be able to control the content of the school newspaper.

A brief filed on behalf of the students noted that, at the time, more than 75 percent of high school newspapers were produced as part of journalism classes. In an age before social media, it also said that such publications were "the only

**Mary Beth Tinker**  
(left) and her brother John hold armbands protesting the Vietnam War.



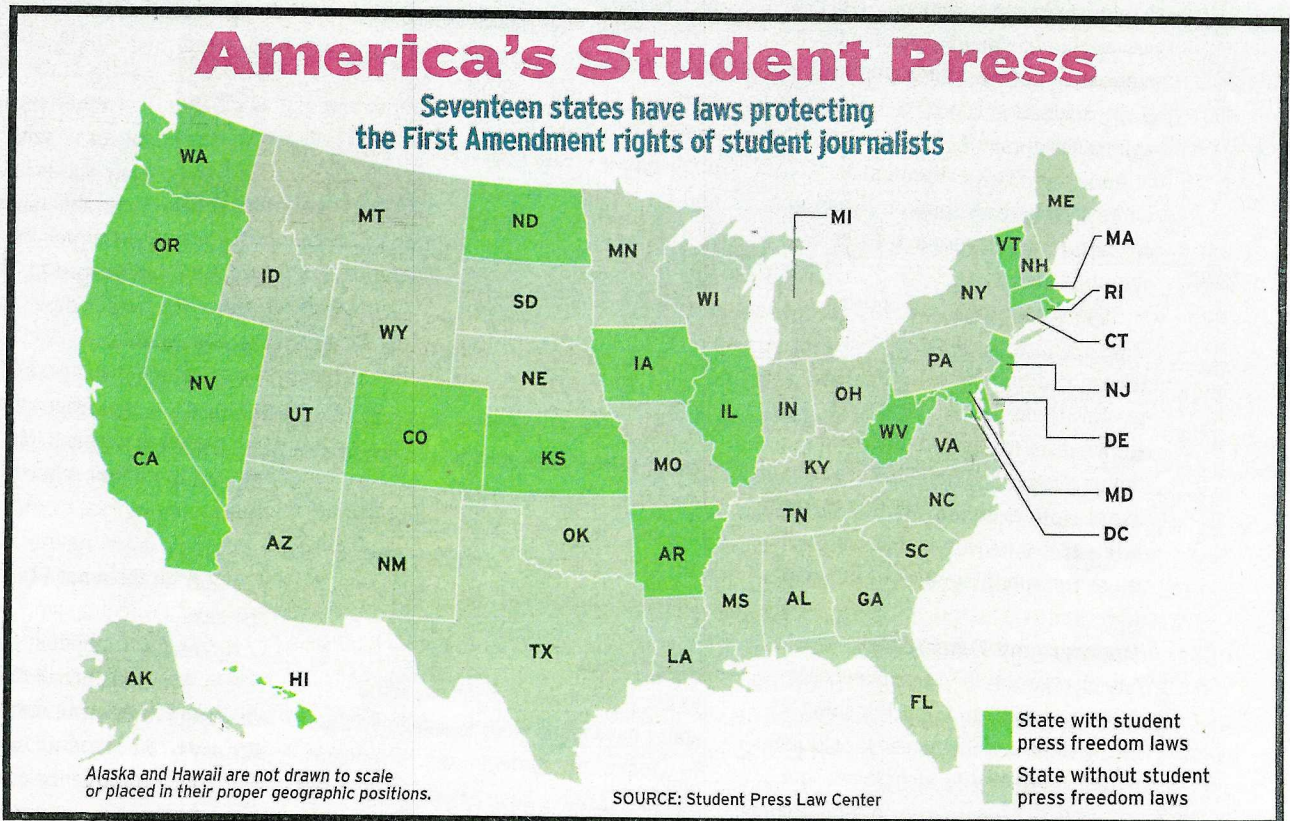
**Before social media, students had few outlets for expression.**

outlet teen-agers have for making their opinions, ideas, and concerns known to their peers around the world."

In 1985, a federal district judge agreed with the school district, ruling that *The Spectrum* wasn't entitled to First Amendment protections because it was part of a high school journalism course. But the students appealed the decision, and later that year, the Court of Appeals sided with them. The school board then appealed to the Supreme Court.

The Supreme Court heard the *Hazelwood* case in 1987 and handed down its decision in January 1988: The Court ruled 5-3 in favor of the school board. With the decision, the justices put a limit on the types of speech that are protected in a school setting. The high court didn't overrule the Tinker decision from 19 years earlier, but it said that the Tinker standard applies only to "student-initiated" speech and not "school-sponsored speech."

In his majority opinion, Justice Byron R. White also concluded that the



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# Student Free Speech

Four key Supreme Court cases that have defined freedom of speech in schools

## **Tinker v. Des Moines** (1969)

After students are suspended for wearing black armbands protesting the Vietnam War, they sue. The Court rules in favor of the students.

## **Bethel School District v. Fraser** (1986)

A student is suspended for using lewd language in a speech at school. The justices side with the district, ruling that a school can't ban speech because of a viewpoint it expresses, but it can prohibit vulgar and offensive speech.

## **Morse v. Frederick** (2007)

A student is suspended after displaying a banner reading "Bong Hits 4 Jesus" at a school-sponsored event. The Court rules that schools may restrict student speech that promotes illegal drug use.

## **Mahanoy Area School District v. B.L.** (2021)

When a J.V. cheerleader doesn't make the varsity cheerleading squad, she posts an expletive message on Snapchat. The Court rules that schools can't punish students for things they say off-campus.



**Brandi Levy** was suspended from cheerleading at her Pennsylvania school over a Snapchat post.

First Amendment rights of students in public schools "are not automatically coextensive with the rights of adults in other settings."

Because the school funded *The Spectrum* for use as part of the journalism course, students' First Amendment rights didn't apply to what they wrote in the newspaper. The ruling also applies to other forms of student expression, such as yearbooks, school plays, graduation speeches, and creative writing assignments.

Justice William J. Brennan Jr. wrote a dissenting opinion, expressing concern for the message the decision sent to students.

"The young men and women of Hazelwood East expected a civics lesson, but not the one the Court teaches them today," he wrote. He went on to say that educators "must accommodate some student expression, even if it offends them or offers views or values that contradict those the school wishes to inculcate."

## **Underground Newspapers**

The decision in the *Hazelwood* case had an immediate impact, leading many other schools to censor student newspapers. The Student Press Law Center has for decades run a hotline for

calls from student journalists who have legal questions regarding censorship and other issues. In the years before the *Hazelwood* decision, Hiestand says, the hotline received about 500 calls a year. Ten years after the decision, the hotline was receiving about 2,500 calls a year.

"It was a big blow to many student media programs," says Hiestand.

As a result, the decades since *Hazelwood* have seen an explosion of underground student newspapers: publications created by and for students but not associated with a school.

Of course, today's teens don't have to publish a newspaper to share a viewpoint or report the news; they can simply post to social media. Experts say that's not always a good thing.

"The unfortunate thing is, when you push students outside of a school journalism program, you're also pushing them away from journalism educators who can teach how to write a standard news story," Hiestand says.

## **New Voices**

In the years since *Hazelwood*, some states have taken steps to safeguard the freedom of the student press. Seventeen state legislatures have passed rules, called

New Voices laws, to protect student journalists, and a handful of other states have active campaigns for such laws (see map, p. 20).

This means the legal landscape for student journalists varies greatly from state to state. In his role at the Student Press Law Center, Hiestand often speaks with students looking for legal advice after being censored. The first question

he asks is: Where are you calling from?

"If they're calling from one of 17 states that have New Voices laws, I'm going to be able to give them

good news. They're probably going to be protected from censorship," he says. "If they're not in one of those states, they're probably out of luck."

Reflecting on the case 35 years later, Kuhlmeier is still frustrated with the way things played out. But she's glad she and her fellow student journalists went to court.

"I don't regret having the courage to stand up for what I believed in," she says.

Kuhlmeier's advice for today's teens? "Don't be afraid to stand up and challenge things, but don't self-censor," she says. "By standing up and speaking out, you can influence change." •

**'It was a big blow to many student media programs.'**