

Supreme Court Decisions

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Sites

These are very good.

<http://www.nd.edu/~rbarger/www7/rights.html>

<http://www.firstamendmentschools.org>

These may provide additional or up to date information.

<https://www.aclu.org/know-your-rights>

<https://freechild.org/youth-and-student-rights-in-schools/>

Supreme Court Decisions

[Source: Case descriptions from <http://www.uscourts.gov/>]

Hazelwood School District v. Kuhlmeier(1988)

Administrators may edit the content of school newspapers.

The principal of Hazelwood East High School edited two articles in the school paper *The Spectrum* that he deemed inappropriate. The student authors argued that this violated their First Amendment right to freedom of speech. The Supreme Court disagreed, stating that administrators can edit materials that reflect school values.

Lee v. Weisman (1992)

Nathan Bishop Middle School had a tradition of inviting a member of the local clergy in to offer a prayer for graduation. After a rabbi was invited, the father of one of the students sued arguing that this practice was a violation of the establishment clause of the 1st Amendment. The school district appealed to the U.S. Supreme Court, arguing that the prayer was nonsectarian and was doubly voluntary, as Deborah was free not to stand for the prayer and because participation in the ceremony itself was not required. Justice Kennedy (5-4) also noted that the nonsectarian nature of the prayer was no defense, as the Establishment Clause forbade coerced prayers in public schools, not just those representing a specific religious tradition. Addressing the State's contention that attendance at the graduation exercises was voluntary, Kennedy remarked that "To say a teenage student has a real choice not to attend her high school graduation is formalistic in the extreme. True, Deborah could elect not to attend commencement without renouncing her diploma; but we shall not allow the case to turn on this point. Everyone knows that, in our society and in our culture, high school graduation is one of life's most significant occasions.

Santa Fe Independent School District v. Doe(2000)

Students may not use a school's loudspeaker system to offer student-led, student-initiated prayer.

Before football games, members of the student body of a Texas high school elected one of their classmates to address the players and spectators. These addresses were conducted over the school's loudspeakers and usually involved a prayer. Attendance at these events was voluntary. Three students sued the school arguing that the prayers violated the Establishment Clause of the First Amendment. A majority of the Court rejected the school's argument that since the prayer was student initiated and student led, as opposed to officially sponsored by the school, it did not violate the First

Amendment. The Court held that this action did constitute school-sponsored prayer because the loudspeakers that the students used for their invocations were owned by the school.

New Jersey v. T.L.O. (1985)

Students have a reduced expectation of privacy in school.

A teacher accused T.L.O. of smoking in the bathroom. When she denied the allegation, the principal searched her purse and found cigarettes and marijuana paraphernalia. A family court declared T.L.O. a delinquent. The Supreme Court ruled that her rights were not violated since students have reduced expectations of privacy in school

Board of Education, Island Trees, Union Free School District #26 v. PICO(1982)

Books may not be removed from school libraries simply because they may be offensive.

Against the wishes of several students, including Francis Pico, the Island Trees Union Free School District decided to remove certain books from school libraries that it deemed to be offensive. The Supreme Court ruled that books cannot be removed from school libraries simply because administrators disagreed with their content

Tinker v. Des Moines(1969)

Students do not leave their rights at the schoolhouse door.

To protest the Vietnam war, Mary Beth Tinker and her brother wore black armbands to school. Fearing a disruption, the administration prohibited wearing such armbands. The Tinkers were removed from school when they failed to comply, but the Supreme Court ruled that their actions were protected by the First Amendment.

West Virginia State Board of Education v. Barnette (1943)

Board of Education on January 9, 1942, adopted a resolution containing recitals taken largely from the Court's [Gobitis](#) opinion and ordering that the salute to the flag become 'a regular part of the program of activities in the public schools,' that all teachers and pupils 'shall be required to participate in the salute honoring the Nation represented by the Flag; provided, however, that refusal to salute the Flag be regarded as an Act of insubordination, and shall be dealt with accordingly.' In a 6-to-3 decision, the Court overruled its decision in [Minersville School District v. Gobitis](#) and held that compelling public schoolchildren to salute the flag was unconstitutional.

Engel v. Vitale (1962)

School initiated-prayer in the public school system violates the First Amendment

In the New York school system, each day began with a nondenominational prayer acknowledging dependence upon God. This action was challenged in Court as an unconstitutional state establishment of religion in violation of the First Amendment.

The Supreme Court agreed, stating that the government could not sponsor such religious activities

Goss v. Lopez(1975) Columbus, Ohio

Students are entitled to certain due process rights.

Nine students at an Ohio public school received 10-day suspensions for disruptive behavior without due process protections. The Supreme Court ruled for the students, saying that once the state provides an education for all of its citizens, it cannot deprive them of it without ensuring due process protections

Board of Education of Independent School District #92 of Pottawatomie County v. Earls(2002)

Random drug tests of students involved in extracurricular activities do not violate the Fourth Amendment.

In *Veronia School District v. Acton (1995)*, the Supreme Court held that random drug tests of student athletes do not violate the Fourth Amendment's prohibition of unreasonable searches and seizures. Some schools then began to require drug tests of all students in extracurricular activities. The Supreme Court in *Earls* upheld this practice.

Frederick v Morse

On January 24, 2002, students and staff were permitted to leave classes at Juneau-Douglas High School to watch the Olympic torch pass by.^[3] Frederick, who was deliberately late for school that day, joined some friends on the sidewalk across from the high school, off of school grounds. Frederick and his friends waited for the television cameras so they could unfurl a banner reading "BONG HiTS 4 JESUS". Frederick was quoted as saying he'd first seen the phrase on a snowboard sticker.^[4] When they displayed the banner, then-principal Deborah Morse ran across the street and seized it.

Morse initially suspended Joseph Frederick for five days for violating the school district's anti-drug policy, but later increased the suspension to ten days. Frederick administratively appealed his suspension to the superintendent, who denied his appeal but limited it to the time Frederick had already spent out of school prior to his appeal to the superintendent (eight days). \

Chief Justice Roberts, writing for the majority, concluded that the school officials did not violate the First Amendment by confiscating the pro-drug banner and suspending the student responsible for it. The opinion first concluded that Frederick's "Bong Hits" banner was displayed during a school-supervised event, making this a "school speech" case rather than a normal case of speech on a public street.^[4] The opinion then concluded that although the banner's message was "cryptic," it was

undeniably a "reference to illegal drugs" and the principal reasonably concluded that it "advocated the use of illegal drugs."⁴

District or Appeals Court Decisions

Boroff v. Van Wert City Board of Education

On August 29, 1997, Boroff, then a senior at Van Wert High School, went to school wearing a "Marilyn Manson" T-shirt. The front of the T-shirt depicted a three-faced Jesus, accompanied by the words "See No Truth. Hear No Truth. Speak No Truth." On the back of the shirt, the word "BELIEVE" was spelled out in capital letters, with the letters "LIE" highlighted. Marilyn Manson's name (although not his picture) was displayed prominently on the front of the shirt. On September 4, 1997, which was the next school day, Boroff wore another Marilyn Manson T-shirt to school. Boroff and his mother met that day with Froelich, Principal William Clifton, and Superintendent John Basinger. Basinger told the Boroffs that students would not be permitted to wear Marilyn Manson T-shirts on school grounds. Undaunted, Boroff wore different Marilyn Manson T-shirts on each of the next three school days, September 5, 8, and 9, 1997. The shirts featured pictures of Marilyn Manson, whose appearance can fairly be described as ghoulish and creepy. Each day, Boroff was told that he would not be permitted to attend school while wearing the T-shirts. district court, following a hearing on September 16, 1997, denied both.

Canady v. Bossier Parish School Board

In the 1998-1999 school year, a Louisiana parish school board decided to implement a mandatory school uniform policy. The school board believed the uniform policy would improve the educational process by reducing disciplinary problems. Several parents of students challenged the new dress code on First Amendment grounds. The school presented evidence that, since the adoption of the uniform policy, academic performance increased and discipline problems declined. In a 3-0 decision, a Fifth Circuit panel held that adjusting the school's dress code by adopting a uniform policy is a constitutional means for school officials to improve the educational process if it is not directed at censoring the expressive content of student clothing.

Cole v. Oroville Union School District

Ferrin Cole and Chris Niemeyer, students at Oroville High School, were selected to give the invocation and valedictorian graduation speeches, respectively. The district had a policy of reviewing the speeches. During this review process, the school informed the students that their messages were too sectarian and proselytizing and had to be modified. When the students refused, they were denied the opportunity to speak at graduation. The students sued, seeking damages for denial of their First Amendment right of free speech. In a 3-0 decision, a Ninth Circuit panel ruled that a graduation ceremony is not an open speech forum but a government ceremony, and as such, the

school has a responsibility to avoid Establishment Clause violations during its graduation ceremony.

Karr v. Schmidt (1972)

A male high school student with long hair sued the principal of a Texas high school after he was denied enrollment because his hair length violated the school's "good grooming" policy. This policy prohibited any male student's hair from hanging over his ears or collar, or from obstructing his vision. By a narrow 8-7 margin, the Fifth Circuit held that a student does not have a constitutional right to wear his hairstyle however he sees fit. Observing that "the most frequently asserted basis for a constitutional right to wear long hair lies in the First Amendment," the appeals court majority stated: "For some, no doubt, the wearing of long hair is intended to convey a discrete message to the world. But, for many, the wearing of long hair is simply a matter of personal taste or the result of peer group influence."

West v. Derby Unified School District No. 260 (2000)

A middle school student drew a picture of the Confederate flag in his math class. School officials learned of the drawing and suspended the student for violating its racial harassment and intimidation policy. That policy provided that "students shall not at school, on school property or at school activities wear or have in their possession any written material . . . that is racially divisive or creates ill-will or hatred." The student sued, claiming that the school officials violated his First Amendment rights. The school district, based upon past incidents of racial tension and violence, had good reason to adopt a racial harassment and intimidation policy. School officials could reasonably believe that a student's display of the Confederate flag would cause substantial disruption of school activities or invade the rights of others. "The policy expressly prohibits any student from possessing in his own handwriting a depiction of the Confederate flag."

Oleson v. Board of Education of School Dist. No. 228

In another case, a high school student brought a lawsuit challenging the constitutionality of a school board policy prohibiting male students from wearing earrings. The school, which had enacted the ban as part of an effort to curb the presence and influence of gangs on campus, provided substantial evidence of gang presence and activity -- and the resulting violence -- in its schools. Ultimately the court upheld the district's dress code policy, concluding that the board's concern for the safety and well-being of its students and the curtailment of gang activities was rational and did not violate the First Amendment

Broussard v. School Board of the City of Norfolk

A middle school student brought suit after he was suspended for a day for wearing a t-shirt that read "Drugs Suck!" District court ruled his one day suspension did not violate his first or 14th amendment rights.

Bivens v Albuquerque Public Schools

A student brought suit after he was suspended for wearing sagging pants. District court agreed with the school saying that suspension did not violate 1st amendment. The student argued that his wearing of the sagging pants conveyed the particular message of African American heritage in the hip-hop fashion and lifestyle. The court rejected the student's First Amendment claim, finding that a reasonable observer would not find a particularized message in his conduct. "Sagging is not necessarily associated with a single racial or cultural group, and sagging is seen by some merely as a fashion trend followed by many adolescents all over the United States," the judge wrote

Jeglin v San Jacinto Unified School District

Student was suspended for wearing professional or college sports team clothing to school that had been banned due to it being associated with gang affiliation. School was able to show the connection with teams and gang affiliation. District Court found for the school however, it would be difficult for a school to ban them if no gang problems existed. It also did not apply to middle and elementary since no gang activity was found there.