

Lesson 3

Freedom of Speech and the Press in Public Schools

Rationale

The purpose of this lesson is for students to explore two specific aspects of freedom of expression rights in public schools—freedom of speech and freedom of the press. Students will first learn about three landmark Supreme Court precedents regarding freedom of expression (*Tinker*, *Hazelwood*, and *Fraser*). They will then explore the myths and misinformation surrounding the issue of free speech and press by polling adults and peers on the subject. As a culminating project, students will study and present on major topics that relate to freedom of speech and press in school settings: speech, dress codes, Internet use, student publications, and censorship and banned books.

Objectives

- Students will explore two aspects of Freedom of Expression rights—freedom of speech and the press.
- Students will learn about key Supreme Court precedents—*Tinker*, *Hazelwood*, and *Fraser*.
- Students will explore major topics related to free speech and freedom of the press.

Age Range

Grades 9–12

Time

3 or 4 class periods

Requirements

Handouts and Resources:

- [First Amendment: Freedom of Speech and Press](#)
- [Landmark Cases on Freedom of Expression](#) (one for each student)
- [Public Survey of Student Rights and the First Amendment](#) (one for each student)
- [Poster Guide for Censorship and Banned Books](#) (one for each student per small group)
- [Poster Guide for Dress Codes](#) (one for each student per small group)
- [Poster Guide for Free Speech](#) (one for each student per small group)
- [Poster Guide for Internet Use](#) (one for each student per small group)
- [Poster Guide for Student Publications](#) (one for each student per small group)

Other Material:

- Computer with Internet access, pencils and pens, poster paper
- (Optional) Computer with Internet access and LCD projector or smart board

Advanced Preparation

- Reproduce handouts as directed above.
- Either write the text from the handout *First Amendment: Freedom of Speech and Press* on the board or prepare as a PowerPoint slide to be projected.
- Copy the *Poster Guide for Censorship and Banned Books*, *Poster Guide for Free Speech*, *Poster Guide for Dress Codes*, *Poster Guide for Internet Use* and *Poster Guide for Student Publications* handouts, enough for members of each small group to have a copy.
- Review the Poster Guide handouts and determine timeline, research and content parameters. Write up and post the following suggested rubric, which can be used to assess the students' poster project:

Key Words

Abridge
Caricature
Censor
Landmark
Lewd
Mascot
Obscene/Obscenity
Offensive
Precedent
Profanity
Protest
Vulgar

- Fully answers poster guide questions (20 points)
- Relevant and current content examples (20 points)
- Team members equally share and contribute (15 points)
- Creativity and visual representation (20 points)
- Uses multiple sources and documents usage (10 points)
- Professional presentation of information to class (15 points)

Techniques and Skills

analyzing material, critical thinking, interpreting art, large-group discussion, presenting, small-group work

Procedures

Part I

1. Display the text from [First Amendment: Freedom of Speech and Press](#) by either writing it on the board or projecting it on a screen, and highlight the phrase “...or abridging the freedom of speech, or of the press ...” Remind students that the freedoms of speech, press, assembly and petition collectively are referred to as freedom of expression. Share that the focus of this lesson will be on freedom of speech and the press.
2. Share that speech can be defined as spoken words as well as nonverbal forms of communication, such as written speech. Ask students to brainstorm examples of conduits of speech (e.g., books, essays, poems, items of clothing, Internet postings, music, TV shows, commercials and PSAs). Write their ideas on the board.
3. Distribute the [Landmark Cases on Freedom of Expression](#) handout to each student. Have them silently read and underline/highlight the salient points for each case. When students are done, ask for three volunteers to summarize the cases for the class, one student per case.
4. After reviewing the three cases, check for comprehension by posing the following questions:
 - If a student wears a piece of clothing with the Confederate flag on it, which of the three standards would the Supreme Court apply? (*Tinker*, because the speech is student-initiated, not school-sponsored, and it isn’t lewd).
 - If a principal wants to change the “Johnny Reb” school mascot—a caricature of a Confederate soldier than many people find to be racist—to one less offensive to some members of the community, which standard would the Court apply? (*Hazelwood*, because a school mascot is a form of school-sponsored speech).
 - If a student wears buttons to protest the adoption of a school uniform policy while at school, which standard would apply? (*Tinker*, because the wearing of protest logos is the kind of speech protected by the First Amendment).
 - If a student wears buttons to protest the adoption of a school uniform policy while at school, and the buttons have lewd language on them, which standard would apply then? (*Fraser*, because the buttons have vulgar language).
5. Share that this last scenario highlights the idea that speech is not absolute and that there are certain restrictions, particularly for young people in public schools. Share that the American Civil Liberties Union (ACLU) has summarized the limitations on free speech for students in public schools. According to the ACLU, students have the right to express their opinions, but they cannot do so in a way that:
 - Substantially and materially interferes with school activities;
 - threatens immediate harm to the welfare of the school or community;
 - encourages unlawful activity; or
 - interferes with another individual’s rights.

NOTE: See www.aclupa.org/files/7313/8080/7050/SRH_10-2-13.pdf for more information.

Part II

1. Inform students that they will be completing an assignment that requires them to survey their peers and adults on the topic of student freedom of speech and the press.
2. Distribute the [Public Survey of Student Rights and the First Amendment](#) handout to each student. Instruct students that they are to seek simple “yes” or “no” responses, but if people offer passionate and interesting comments, those should be noted as well. Instruct students to tally the responses on the sheet provided and to bring them back to class the following day. If there is time during this class period, have students begin to survey each other so that they can obtain a comfort level with the process.
3. When students return to class with their completed surveys, divide them into groups of four and ask them to tally the results and come up with a group total. Then have each group join with another group, and ask them to add their totals together. Continue coupling groups until the entire class becomes one group. Ask for student volunteers to calculate the percentage of respondents who answered “yes” and “no.” Ask students what they think the numbers tell them about public perception regarding students’ rights.
4. Inform students that they will further explore the freedoms of speech and the press by working in small groups to create posters on the following topics: speech, dress codes, students and the Internet, student publications and censorship and banned books. Explain that each group will be assigned one of these themes, and the group will decide on a specific focus. Provide additional information about the project (e.g., timeline, requirements and grading rubric). Explain that when the group creates its poster, it must include answers to the following four questions:
 - What is the main topic or concern addressed in the poster?
 - How has this issue come up in the “real world”? (Describe an actual case or example).
 - How has the Court ruled on this issue?
 - What is the significance for students today?

Tell students that the posters will be displayed in the classroom or hallways, and encourage them to be creative.
5. Divide the students into poster teams (no more than four to each group). Give each member of a group one of the following handouts so that each group has a different handout (more than one group may have the same handout if there are more than four groups):
 - [Poster Guide for Censorship and Banned Books](#)
 - [Poster Guide for Dress Codes](#)
 - [Poster Guide for Free Speech](#)
 - [Poster Guide for Internet Use](#)
 - [Poster Guide for Student Publications](#)

Use the remaining class time to move around the room and guide students in selecting their focus areas and dividing responsibilities.
6. When the projects are completed, ask each group to present its poster to the class. Allow for a brief question-and-answer session after each group presentation.
7. As a culminating activity, have students refer back to their survey results from the *Public Survey of Student Rights and the First Amendment* handout, and compare and contrast them with the content on the posters. Process this part of the lesson using some of the following questions:
 - a. How does the information on the posters confirm or not confirm the results from the surveys?
 - b. How do the posters deepen our understanding of the survey?
 - c. How are the posters and the survey results alike or not alike?

Extension Activities

- Ask students to reflect on Norman Rockwell's *Freedom of Speech*, one of this country's most famous works of art dealing with the First Amendment (see www.nrm.org/wordpress/wp-content/uploads/2013/08/Freedom_of_Worship_5_6_meta.jpg). *Freedom of Speech* is from the "Four Freedoms" series published in *The Saturday Evening Post* in 1943. Rockwell wanted to express the concept of the "Four Freedoms" as outlined in President Franklin Delano Roosevelt's speech to the U. S. Congress in January 1941. Ask students to respond to the following questions:
 - Notice that the man standing is not wearing a suit and a tie like the two men sitting on either side of him. What do you think a suit and tie might represent?
 - Why do you think the artist painted the man standing in more casual clothing?
 - If you were to write a caption for this piece of art after learning about freedom of speech and the press, what would it say?
- Engage students in a discussion about the concept of "political correctness" (often abbreviated and referred to as PC) using the text and cartoons in the [Political Correctness Cartoons](#) handout.

First Amendment: Freedom of Speech and Press

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 peaceably to assemble, and to petition the government for a redress of grievances.

Landmark Cases on Freedom of Expression

The freedoms of speech, press, assembly and petition are often referred to as the freedom of expression. There are three landmark precedents that the Supreme Court draws upon when deciding free expression cases that involve students in public schools.

Tinker v. Des Moines Independent Community School District, 1969

In December 1965, Iowa high school students John Tinker and Christopher Eckhardt and junior high student Mary Beth Tinker (John's sister) planned to wear black armbands until New Year's Day to protest the U. S. involvement in Vietnam. School officials heard rumor of the plan and quickly enacted a no-armband policy, though there was no other policy in place prohibiting students from wearing other symbols. Despite the new policy, the students wore their armbands to school as planned. When school officials asked the students to remove the armbands, they refused and were suspended until they were willing to return to school without wearing them. The students decided to stay home until their planned protest was over on New Year's Day, and their parents challenged the school in U. S. District Court.

The case went all the way to the Supreme Court, which ruled in favor of the students. In one of the most often quoted statements on student freedom of expression rights, the Court wrote: "[Students] do not shed their constitutional rights to freedom of speech and expression at the schoolhouse gate." The Court said school officials had no evidence that wearing armbands would disrupt school and that "apprehension of disturbance is not enough to overcome the right of freedom of expression."

This is known as the *Tinker* standard. Simply stated it means that school officials cannot silence student expression just because they dislike it. School officials must be able to reasonably demonstrate that the student expression will lead to substantial disturbance at school or an invasion of the rights of others.

Bethel School District v. Fraser, 1986

In 1983, Mathew Fraser, a senior at Bethel High School in Bethel, Washington, spoke at a 600-student school assembly to nominate a classmate for student government. His speech was filled with sexual references and innuendos, but it contained no obscenities. While Fraser's candidate was overwhelmingly elected, Fraser was suspended from school for three days and removed from the list of students who were eligible to make graduation remarks. (Fraser was second in his class at that time.) His parents disagreed with the school's disciplinary action, and challenged the school in court.

The case went all the way to the Supreme Court, which ruled in favor of the school. It decided that school officials could punish Fraser for giving a speech before the student body that contained lewd language and numerous sexual references. Even though Fraser argued in court that his speech warranted as much protection as wearing armbands in the *Tinker* case, the Court disagreed, saying that "the freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against society's countervailing interest in teaching students the boundaries of socially appropriate behavior." The Court went on to say that it is an appropriate function of schooling to prohibit the use of vulgar and offensive terms in public discourse.

The bottom line: The *Tinker* message was political. The *Fraser* message was just vulgar.

Hazelwood School District v. Kuhlmeier, 1988

In 1983 in St. Louis County, Missouri, a school principal reviewed the proofs (draft version) of the school newspaper, called *The Spectrum*, and was troubled by two articles written by students. He considered the first article, on teenage pregnancy, to be too controversial for some younger students because the article discussed sexual activities and birth control. The second article, about the impact of divorce on a student, included a student's complaint about her father's conduct, and the principal felt that there was not an opportunity for the parent to respond or give his consent to the article. The principal decided to remove the articles from the newspaper. The student journalists disagreed with the principal and challenged his decision to censor their work in court.

The case went all the way to the Supreme Court, which ruled for the school, saying, “Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities as long as their actions are reasonably related to legitimate pedagogical concerns.” Because it was a school-sponsored newspaper, the principal had the right to keep certain articles out of the paper, as long as he showed a good reason. The Court felt that shielding students from “inappropriate” material was a good reason.

Student speech is divided into these three important categories.

- Vulgar, lewd, obscene, and plainly offensive speech (*Fraser* standard)
- School-sponsored speech (*Hazelwood* standard)
- All other student speech (*Tinker* standard)

The American Civil Liberties Union has summarized the limitations on students’ right to free speech in public schools. According to the ACLU, students have the right to express their opinions, but they cannot do it in a way that:

- Substantially and materially interferes with school activities;
- threatens immediate harm to the welfare of the school or community;
- encourages unlawful activity; or
- interferes with another individual’s rights.

Public Survey of Student Rights and the First Amendment

Name: _____ Date: _____

Instructions: Ask the following questions of at least five peers and five adults. Seek only “yes” or “no” responses, but use the backside of this paper to take notes on strong opinions offered. In the “Yes” column, write in the total number of yeses received for students and adults and record the total no’s received in the “No” column.

1. Can schools prohibit students from wearing T-shirts, buttons or other articles of clothing that contain a political or religious message?		Yes	No
	Student Responses		
	Adult Responses		

2. Is profanity in school protected by the First Amendment?		Yes	No
	Student Responses		
	Adult Responses		

3. Can students distribute religious or political literature at school?		Yes	No
	Student Responses		
	Adult Responses		

4. Is a student’s choice of clothing protected by the First Amendment?		Yes	No
	Student Responses		
	Adult Responses		

5. Does the Supreme Court consider cyberspeech to be covered under the First Amendment?		Yes	No
	Student Responses		
	Adult Responses		

6. Are school officials allowed to censor a school-sponsored publication like the school newspaper or yearbook?		Yes	No
	Student Responses		
	Adult Responses		

Poster Guide for Censorship and Banned Books

Name: _____ Date: _____

Instructions: Your group has been assigned to explore censorship and banned books in public schools. There are many interesting aspects to this topic. Follow further instructions below for creating a poster on this theme.

Choose one question that interests your group the most.

1. Do students have the right to access books on any subject matter in school?
2. Do school officials have the right to remove books from a school or classroom library? If so, on what grounds may they do so?
3. What are the most frequently banned books? Why do you think they are banned?
4. Are any of the banned books in your own library? Why or why not?

After discussing and researching the issue selected, answer the following four questions:

1. What is the main topic or concern?
2. How has this issue come up in the “real world”? (Describe an actual case or example).
3. How has the Court ruled on this issue?
4. What is the significance for students today?

You will use the answer to the four questions above to design a poster to be displayed in your classroom or school. Be creative. Make it visually interesting so that it will grab your classmates’ attention.

Resources

American Booksellers Foundation for Free Expression (www.bookweb.org/abfe)

American Civil Liberties Union (www.aclu.org)

American Library Association Office of Intellectual Freedom (www.ala.org/bbooks/)

Bill of Rights Institute (www.billofrightsinstitute.org)

Center for First Amendment Rights (www.cfarfreedom.org)

First Amendment Center (www.firstamendmentcenter.org/)

Student Press Law Center (www.splc.org)

The Thomas Jefferson Center for the Protection of Free Expression (www.tjcenter.org)

Youth Free Expression Network (www.fepproject.org)

Poster Guide for Dress Codes

Name: _____ Date: _____

Instructions: Your group has been assigned to explore student dress codes in public schools. There are many interesting aspects to this topic. Follow further instructions below for creating a poster on this theme.

Choose one question that interests your group the most.

1. Is what you wear a form of expression and, thus, protected by the First Amendment?
2. What are the arguments for and against school uniforms?
3. What are the constitutional objections to mandatory dress codes and uniform policies?
4. Can schools constitutionally punish students for dyeing their hair unusual colors?
5. Can a student wear Confederate flag attire?
6. What should a school do if a student has a sincere religious objection to mandated uniforms?

After discussing and researching the issue selected, answer the following four questions:

1. What is the main topic or concern?
2. How has this issue come up in the “real world”? (Describe an actual case or example).
3. How has the Court ruled on this issue?
4. What is the significance for students today?

You will use the answer to the four questions above to design a poster to be displayed in your classroom or school. Be creative. Make it visually interesting so that it will grab your classmates’ attention.

Resources

American Civil Liberties Union (www.aclu.org)

Bill of Rights Institute (www.billofrightsinstitute.org)

Center for First Amendment Rights (www.cfarfreedom.org)

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Student Press Law Center (www.splc.org)

The Thomas Jefferson Center for the Protection of Free Expression (www.tjcenter.org)

Youth Free Expression Network (www.fepproject.org)

Poster Guide for Free Speech

Name: _____ Date: _____

Instructions: Your group has been assigned to explore student free speech in public schools. There are many interesting aspects to this topic. Follow further instructions below for creating a poster on this theme.

Choose one question that interests your group the most.

1. How did the Columbine school shootings in 1999 affect the restriction of student speech in the interest of school safety?
2. What is the relationship between Freedom of Expression and artistic expression (such as visual art, poetry, and music) in schools?
3. Do anti-bullying policies impact a school's enforcement of speech codes?
4. Can student speech become harassment when students repeatedly intimidate or threaten another student?

After discussing and researching the issue selected, answer the following four questions:

1. What is the main topic or concern?
2. How has this issue come up in the "real world"? (Describe an actual case or example).
3. How has the Court ruled on this issue?
4. What is the significance for students today?

You will use the answer to the four questions above to design a poster to be displayed in your classroom or school. Be creative. Make it visually interesting so that it will grab your classmates' attention.

Resources

American Civil Liberties Union (www.aclu.org)

Bill of Rights Institute (www.billofrightsinstitute.org)

Center for First Amendment Rights (www.cfarfreedom.org)

First Amendment Center (www.firstamendmentcenter.org/)

Student Press Law Center (www.splc.org)

The Thomas Jefferson Center for the Protection of Free Expression (www.tjcenter.org)

Youth Free Expression Network (www.fepproject.org)

Poster Guide for Internet Use

Name: _____ Date: _____

Instructions: Your group has been assigned to explore student rights and Internet use in public schools. There are many interesting aspects to this topic. Follow further instructions below for creating a poster on this theme.

Choose one question that interests your group the most.

1. Are there any limits that can be placed on students' private Web sites?
2. At what point has a student's private Web site "crossed the line" so that schools have the right to intervene?
3. Do schools have the right to use filtering software on their computers? Why or why not?
4. What is the Children's Internet Protection Act (CIPA) and how does it affect computer use in public schools?
5. Do Internet filters raise any First Amendment issues? What are they?

After discussing and researching the issue selected, answer the following four questions:

1. What is the main topic or concern?
2. How has this issue come up in the "real world"? (Describe an actual case or example).
3. How has the Court ruled on this issue?
4. What is the significance for students today?

You will use the answer to the four questions above to design a poster to be displayed in your classroom or school. Be creative. Make it visually interesting so that it will grab your classmates' attention.

Resources

American Civil Liberties Union (www.aclu.org)

Bill of Rights Institute (www.billofrightsinstitute.org)

Center for First Amendment Rights (www.cfarfreedom.org)

First Amendment Center (www.firstamendmentcenter.org/)

The Radio Television Digital News Association (www.rtnda.org)

Student Press Law Center (www.splc.org)

The Thomas Jefferson Center for the Protection of Free Expression (www.tjcenter.org)

Youth Free Expression Network (www.fepproject.org)

Poster Guide for Student Publications

Name: _____ Date: _____

Instructions: Your group has been assigned to explore student freedom of speech and the press as it relates to school publications. There are many interesting aspects to this topic. Follow further instructions below for creating a poster on this theme.

Choose one question that interests your group the most.

1. Is it constitutional for school officials to censor the school newspaper or yearbook?
2. What is a “public forum” and why is it important to freedom of the press?
3. Since the Hazelwood ruling, how important is state law in determining the rights of student journalists?
4. Can a school censor an off-campus “underground” student publication?
5. Do school publications have to accept advertisements that some people find offensive?

After discussing and researching the issue selected, answer the following four questions:

1. What is the main topic or concern?
2. How has this issue come up in the “real world”? (Describe an actual case or example).
3. How has the Court ruled on this issue?
4. What is the significance for students today?

You will use the answer to the four questions above to design a poster to be displayed in your classroom or school. Be creative. Make it visually interesting so that it will grab your classmates’ attention.

Resources

American Civil Liberties Union (www.aclu.org)

American Society of Newspaper Editors School Journalism Project (<http://www.schooljournalism.org/>)

Bill of Rights Institute (www.billofrightsinstitute.org)

Center for First Amendment Rights (www.cfarfreedom.org)

First Amendment Center (www.firstamendmentcenter.org/)

The Radio Television Digital News Association (www.rtnda.org)

Student Press Law Center (www.splc.org)

The Thomas Jefferson Center for the Protection of Free Expression (www.tjcenter.org)

Youth Free Expression Network (www.fepproject.org)

Political Correctness Cartoons

According to the dictionary, **political correctness** means (1) “Of, relating to, or supporting broad social, political, and educational change, especially to redress historical injustices in matters such as race, class, gender, and sexual orientation; (2) Being or perceived as being over-concerned with such change, often to the exclusion of other matters.”

For example, the common English phrase “the right man for the job” is not considered politically correct because it implies that only a man will be considered for the given job, and that a woman who has comparable skill and ability will not be considered for the job simply because she is female.



Instructions: Look at the cartoon on the left by John Prichett and discuss with a classmate what you think the cartoonist is trying to say about the First Amendment.

Look at the next cartoon by Mike Lester and discuss with a classmate what you think the cartoonist is trying to say about politically correct speech.

