

Hazelwood v. Kuhlmeier (1988): Key Excerpts from the Majority Opinion *The case was decided 5 to 3.*

We have nonetheless recognized that the First Amendment rights of students in the public schools "are not automatically coextensive with the rights of adults in other settings" . . . and must be "applied in light of the special characteristics of the school environment" . . . A school need not tolerate student speech that is inconsistent with its "basic educational mission." . . . even though the government could not censor similar speech outside the school.

We deal first with the question whether *Spectrum* may appropriately be characterized as a forum for public expression. The public schools do not possess all of the attributes of streets, parks, and other traditional public forums that "time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions." . . . Hence, school facilities may be deemed to be public forums only if school authorities have "by policy or by practice" opened those facilities "for indiscriminate use by the general public," . . . If the facilities have instead been reserved for other intended purposes, "communicative or otherwise," then no public forum has been created, and school officials may impose reasonable restrictions on the speech of students, teachers, and other members of the school community.

The question whether the First Amendment requires a school to tolerate particular student speech—the question that we addressed in *Tinker*—is different from the question whether the First Amendment requires a school affirmatively to promote particular student speech. The former question addresses educators' ability to silence a student's personal expression that happens to occur on the school premises. The latter question concerns educators' authority over school-sponsored publications, theatrical productions, and other expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school. These activities may fairly be characterized as part of the school curriculum, whether or not they occur in a traditional classroom setting, so long as they are supervised by faculty members and designed to impart particular knowledge or skills to student participants and audiences.

Educators are entitled to exercise greater control over this second form of student expression to assure that participants learn whatever lessons the activity is designed to teach, that readers or listeners are not exposed to material that may be inappropriate for their level of maturity, and that the views of the individual speaker are not erroneously attributed to the school. Hence, a school may in its capacity as publisher of a school newspaper or producer of a school play "disassociate itself," . . . not only from speech that would "substantially interfere with [its] work . . . or impinge upon the rights of other students," . . . but also from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences. A school must be able to set high standards for the student speech that is disseminated under its auspices—standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the "real" world—and may refuse to disseminate student speech that does not meet those standards. In addition, a school must be able to take into account the emotional maturity of the intended audience in determining whether to disseminate student speech on potentially sensitive topics, which might range from the existence of Santa Claus in an elementary school setting to the particulars of teenage sexual activity in a high school setting. A school must also retain the authority to refuse to sponsor student speech that might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with "the shared values of a civilized social order," *Fraser, supra*, at 683, or to associate the school with any position other than neutrality on matters of political controversy. . . .

Accordingly, we conclude that the standard articulated in *Tinker* for determining when a school may punish student expression need not also be the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. Instead, we hold that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.

. . . It is only when the decision to censor a school-sponsored publication, theatrical production, or other vehicle of student expression has no valid educational purpose that the First Amendment is so "directly and sharply implicate[d]," *ibid.*, as to require judicial intervention to protect students' constitutional rights. . . .

We also conclude that Principal Reynolds acted reasonably in requiring the deletion from the May 13 issue of *Spectrum* of the pregnancy article, the divorce article, and the remaining articles that were to appear on the same pages of the newspaper.

The judgment of the Court of Appeals for the Eighth Circuit is therefore reversed.

QUESTIONS TO CONSIDER

1. According to the opinion, do students have the same rights as adults in the "real world?"
2. Is the *Spectrum* a "public forum?" Why is this an important distinction to make?
3. What distinction does the Court make between the cases of *Tinker v. Des Moines* and *Hazelwood v. Kuhlmeier*?
4. Explain, in your own words, why the Court believes educators should be able to exercise greater control over school-sponsored publications, theatrical productions, and other expressive activities than over student expression that happens to occur on the school premises.
5. What does the Court mean by "legitimate pedagogical concerns?"
6. In your opinion, should a school be able to refuse to sponsor student speech that "might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with 'the shared values of a civilized social order,' . . . or to associate the school with any position other than neutrality on matters of political controversy?" Should a school be able to refuse to allow students to independently express such opinions? Why or why not?
7. React to this statement: "A school must be able to set high standards for the student speech that is disseminated under its auspices - standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the 'real' world—and may refuse to disseminate student speech that does not meet those standards." Should standards in schools be different from standards in the "real world?" Why or why not?