

Constitution Day 2015 Lesson Plan

Freedom of the press in North Dakota schools

In 1952, Congress directed every public school to set aside time on Sept. 17 – Constitution Day – to teach young people about constitutional values and principles, to marking the signing of the U.S. Constitution on September 17, 1787.

On the following pages, you will find readings, discussion questions and activities suggested for classroom use on Constitution Day 2015 to commemorate the enactment of a landmark student-rights law, the John Wall New Voices of North Dakota Act (HB 1471), which unanimously passed the North Dakota Legislature in 2015 and was signed into law by Gov. Jack Dalrymple.

Below, you will find two documents: (1) a teachers' edition lesson plan with background for presenters and (2) a shortened 2-page version suitable for use as a classroom handout. This lesson was prepared with assistance from the Student Press Law Center, which maintains a library of online quizzes, PowerPoint lessons and other free resources to assist you in teaching the First Amendment at www.splc.org.

More background about Constitution Day is available on the U.S. Department of Education's Constitution Day website:
<http://www2.ed.gov/policy/fund/guid/constitutionday.html>

North Dakota Constitution Day 2015 lesson plan
TEACHER NOTES VERSION
North Dakota's New Voices Act
and freedom of the student press

Part 1: North Dakota's press freedom law

Read the John Wall New Voices Act as it was passed by the North Dakota legislature and signed by Governor Dalrymple in 2015.

<http://www.splc.org/article/2015/08/north-dakota-john-wall-new-voices-act>

Discussion questions:

1. If there is Internet access in the classroom, do some research online and find out: Who is John Wall? Why was the bill named after him?
2. Who is protected by the bill? What types of speech are, and are not, legal for a school to censor?
3. What is the value of giving students freedom of the press? How could students benefit? How could others, besides the journalists, also benefit?
4. What concerns might an administrator have about giving students freedom of the press? How would the authors of the New Voices Act answer those concerns?
5. What protections/laws are already in place for all journalists, student and non-student?

Resources for teacher background

- *Students may be curious about the name of the statute. John Wall was a well-liked member of the North Dakota state legislature and also a long-serving high school journalism teacher. He died in July 2014. The bill was named in his honor to recognize his role in educating so many of North Dakota's future journalists.*
- *The New Voices Act protects students in public K-12 schools and colleges. It does not protect those attending private institutions (nor does the First Amendment, which limits the authority only of government agencies and employees).*
- *North Dakota is one of a growing number of states that, through laws enacted by the legislature or regulations passed by a state Board of Education, has given student journalists a heightened level of press freedom. The Student Press Law Center has a map of these other states, with links to each of the laws and regulations, online at <http://www.splc.org/page/stop-hazelwood> . Students may enjoy seeing how North Dakota compares to other states.*

Part 2: The Supreme Court and student rights

Read the U.S. Courts' official summary of the Supreme Court's 1988 decision in *Hazelwood School District v. Kuhlmeier*, a case involving school censorship of a student-produced newspaper at a high school in suburban St. Louis.

<http://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-hazelwood-v-kuhlmeier>

Discussion questions:

1. Note how the Supreme Court in the *Hazelwood* case emphasized that the student newspaper, *Spectrum*, was sponsored by the school and produced as part of an official school activity, which means that the school has a high level of control over what is published. What are some other examples of ways that students express themselves as part of official school-sponsored activities? Should the *Hazelwood* ruling apply to those other activities as well? What are some examples of student speech that is **not** sponsored by the school and produced as part of a school activity? Should the *Hazelwood* decision apply to those types of speech as well?
2. The *Hazelwood* case took place in 1988 when there was no World Wide Web, no Google, no social media and no smartphones. How does recent technology change a school's ability to stop a news story from being distributed? Should a school have the same ability to stop students from distributing a news story over Facebook that it has over a student newspaper like the Hazelwood East *Spectrum*? Why or why not?

Resources for teacher background

- *The Hazelwood case has been applied to student speech outside of the newsroom. Examples include yearbooks, plays, musical performances and graduation speeches. But the Hazelwood case does not apply to students' individual speech that is not school-sponsored, and the school has much less authority over that speech. Examples include messages on students' clothing, "underground" publications that students produce and pay for, and off-campus blogs.*
- *After reading the New Voices Act and then learning about Hazelwood, students may be confused by how a legislature could pass a state law that seems inconsistent with a U.S. Supreme Court ruling. The explanation helps illuminate an important point about the way the Constitution works: When the Supreme Court decides that the Constitution protects citizens against certain actions by the government, that decision sets the minimum level of rights that citizens must receive. But a state is always free to give citizens more than the minimum. An analogy may be helpful in getting the point across. The Supreme Court has said that it's legal for a school to make student athletes submit to drug tests. But that doesn't mean schools are required to test their athletes for drugs. Schools can voluntarily give students more rights than the Constitution requires. So can states.*
- *Note that the Hazelwood ruling decreased, but did not entirely remove, students' First Amendment protections. A school still must demonstrate a reasonable educational basis for censorship to be legal. A school official could not, for example, rewrite students' work to promote a political candidate of his personal preference, since that decision would lack a reasonable educational basis.*
- *As a historical note, the edition of *Spectrum* censored by Hazelwood East Principal Robert Reynolds was distributed in May 1983. The Supreme Court ruling, finding that the deleted articles were unprotected by the First Amendment, was issued in January 1988, nearly five years later. This historical point reinforces the practical difficulty for any citizen, especially a student who is operating under unique time constraints, in using the federal courts to challenge a government decision.*

Part 3: Censorship in the student media

Read Hannah Dellinger's news story about a recent controversy in Fauquier County, Virginia, where a principal prevented a student editor from publishing an article about a drug fad ("dabbing") in Fauquier High School's student newspaper, *The Falconer*.

http://www.fauquier.com/news/article/falconer_censored_for_dabbing_story/

Discussion questions:

1. Why would the staff of *The Falconer* have wanted to write about this subject? Why would a journalist consider this drug fad to be worthy of news coverage?
2. Why would the administration of the school be uncomfortable with students writing about this subject? What fears might the school administration have?
3. Should students have the legal right to publish this story in *The Falconer* whether the principal objects to it or not? Are there other options or compromises that might have been tried?
4. The students' story ended up being distributed online to the entire community by professional news media that covered the censorship story. What does that outcome say about the school's ability to stop a news story from being read?

Activity (optional, time-dependent):

1. Break into three groups, "lawyers" representing the students, "lawyers" representing the school, and "judges." Imagine that *The Falconer's* news story was submitted today at a public high school in North Dakota where the John Wall New Voices Act applies. Would a North Dakota school be able to stop a student editor like SaraRose Martin from publishing the "dabbing" story? Each side should make its best arguments for why the story is or is not protected by the New Voices Act. Then the "judges" should discuss the case and explain which side should win and why.

Resources for teacher background

- *"Dabbing" is recognized as an especially dangerous method of administering THC, the active ingredient that gives marijuana its "high" effect. This discussion is a chance to reinforce to students the danger of experimenting with drugs in this way, which has resulted in numerous hospitalizations.*
- *Note that the censorship controversy over SaraRose Martin's story resulted in the article actually being distributed to a much larger audience beyond school walls (the full text of the story is embedded in the Fauquier Times news article). This outcome highlights the way in which the ease of Internet publishing has made it impractical, if not impossible, to stop students from delivering news as Hazelwood East High School's principal was able to do in 1983.*

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