

Shift in the Supreme Court

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The shift in state Supreme Courts on free speech in schools and manifestations on zero tolerance policies will be discussed. Reflecting on previous state Supreme Court decisions, the test for whether or not censorship of a student by his school was reasonable was by checking to see if his free speech conflicted with the school's educational curriculum and interests. According to various state Supreme Court cases regarding matters of school censorship, the test for checking whether or not a school's action was reasonable seems to have become a lot more random in recent years. Basically, the most recent Supreme Court cases related to freedom of speech effect school officials' ability to police speech, and these changes affect zero tolerance policies.

These similar Court cases recently have advocated the ideals of zero tolerance policies rather than relying on previous tests which helped protect a student's first amendment rights to free speech. Zero tolerance policies that aim to keep schools safe are actually ineffective and have negative consequences that disproportionately target youth of color. Predictions for the future regarding this matter in relation to zero tolerance policies as well as possible solutions to the controversial issue will be discussed. Overall, the courts ignore the problems created by zero tolerance and have established somewhat mindless standards for censorship and zero tolerance policies.

The Supreme Court established in *Hazelwood School District et al. v. Kuhlmeier et al.*, 480 U.S. 260 (1988) the standard for constitutionality of restrictions on school sponsored speech. The language and examples used in *Hazelwood v. Kuhlmeier* indicate that the Court intends the standard to allow educators to censor student school-sponsored speech contrary to First Amendment rights. The emphasis the Supreme Court places on the special nature of the educational environment implies that the *Hazelwood* standard is not a simple restatement of the previous standard on censorship from *Cornelius v. NAACP Legal Defense and Education Fund*, 473 U.S. 788 (1985).

As established within *Hazelwood School District v. Kuhlmeier*, the Court upholds limitations on school-sponsored speech so long as the limits are “reasonably related to pedagogical concerns” (*C.H. ex rel. Z.H. v. Oliva*, 172; *Fleming v. Jefferson County School District R-1*, 926; *Hazelwood School District v. Kuhlmeier*, 272). In *Hazelwood*, the principal of the school blocked publication of two articles in the *Spectrum*, the newspaper developed as part of the school’s Journalism II class, because he feared some of the content dealing with use of contraceptives and sexual activity inappropriate for the maturity level of the younger students and because the article could impinge upon the rights of other students and some parents (*Hazelwood School District et al. v. Kuhlmeier et al.*, 263 – 4).

The Court determined that the *Spectrum* was not a public forum due to school officials limiting access by exercising consistent editorial control and also reasoned that school officials need the extra control to carry out their mission (*Hazelwood School District et al. v. Kuhlmeier et al.*, 272). The Court subsequently held that the district properly blocked publication of the articles because the principal’s concerns reasonably

related to the goals of the journalism class (*Hazelwood School District et al. v. Kuhlmeier et al.*, 274 – 5). Through the ruling, the Supreme Court effectively established a special standard for restricting speech within a school-sponsored forum.

Unfortunately, this standard, coupled with the Court's given emphasis, creates some desultory real world effects. By creating the standard the court opens the door for teachers and administrators to silence the voice of the students. The Court says that when the students walk into school they effectively do not have the same rights as an adult. Effectively this says that while at school students have fewer First Amendment rights and should expect fewer rights. This is almost a precursor to zero tolerance policies because it establishes the possibility for schools to strictly censor their students. For instance the Court states students "are not automatically coextensive with the rights of adults in other settings" (*Hazelwood School District et al. v. Kuhlmeier et al.*, 266). This is very different than in other forums because under *Hazelwood* the Court grants more powers to educators than compared other cases.

The Court has basically defined the difference between speech that is strictly part of the curriculum and speech that is not part of the curriculum. For instance, in *Tinker v. Des Moines* students wore armbands to school in a passive protest of the Vietnam War and were suspended. Past passive protests, even one including brandishing a Nazi symbol, were supposedly allowed in the school district. The Court affirms the special environment. Also this implies that the court does not question the standard of impinging on the work of the school, despite its dicta tirade that a passing fear or discomfort is not enough to suppress speech (*Tinker v. Des Moines Independent Community School District*, 509). The concluding decision in this case was that the students' First

Amendment rights were violated because their protest did not impinge on school work. While in *Hazelwood* the Court defined speech part of the curriculum as that of school sponsored speech, *Tinker* established that curriculum was not disrupted by choice of attire. Clothing cannot be normally restricted because it falls outside the non-public forum of educational curriculum and is in fact public forum pure speech.

On face value, *Hazelwood* seems to create a more restrictive standard on censorship than the previous standard on censorship in non-public forums because it strictly limits such censorship to matters pertaining only to “educational concerns.” In the previous presiding standard, *Cornelius*, the Court simply requires the censorship to be “reasonably related to intent” of the forum; this is a very flexible standard. But the dicta within *Hazelwood*, the emphasis on deference as well as the special nature of educational system, in fact, give extensive censorship powers to educators and administrators. In the same breathe that they define a standard, the Court basically grants educators the power to censor at will within the boundaries of the classroom.

This extensive power is established by the emphasis drawn from the *Hazelwood* case. The language used within those examples given by the court in *Hazelwood v. Kuhlmeier* are used to show just the extent of intended power the court implies an educator should have and be able to execute. In particular, the Supreme Court contends in *Hazelwood v. Kuhlmeier* that school officials need the extra control over school-sponsored speech in order to make important decisions regarding appropriateness of message, sensitivity of the topic in relation to maturity of the audience and imprimatur or association of the school with a given message (*C.H. ex rel. Z.H. v. Oliva*, 172; *Fleming*

v. Jefferson County School District R-1., 928; *Hazelwood School District v. Kuhlmeier*, 272).

The sensitivity of a given topic is often based upon personal position and not content alone. For example, different school officials may view religious topics differently; some administrators such as the substitutes in *C.H.* feel religion has no place in school, while others such as the permanent teacher do not feel it as threatening to the educational environment and merely wish to control it for the sake of the children. (*C.H. ex rel. Z.H. v. Oliva*, 175). It is said that without the ability to make censorship restrictions, school officials would be crippled when dealing with the decisions they must make about school-sponsored speech. The Court acknowledges that they are delegating interpretive powers to the educators, and such broad powers can easily be stretched within all the factors that the Court lists, not to mention those the Court fails to mention beyond maturity and sensitivity.

The Court specifically grants schools the right to disassociate themselves from messages that “might be reasonably perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with ‘the shared values of a social order’ or to associate the school with any position other than neutrality on matters of political controversy.” (*C.H. ex rel. Z.H. v. Oliva*, 172; *Fleming v. Jefferson County School District R-1.*, 928; *Hazelwood School District v. Kuhlmeier*, 272). Basically the Court is tossing out power left and right to the educators, more power than perhaps they should not be holding. And in some ways, by stating this, the Court allows the educators to somewhat shy away from their duties legally; teachers can simply avoid any controversial issue they deem too difficult to teach.

And this special deference to educators is also emphasized by courts that later affirm *Hazelwood*. For example, the school in *Fleming v. Jefferson County School District R-1* allowed students and local parents to create tiles to start the mending process following a shooting at the school (*Fleming v. Jefferson County School District R-1*, 920 – 1). The school created guidelines for allowable depictions on the tiles, and the tiles were screened before each firing to ensure compliance. Additionally, only students and invited members of the public were allowed to create tiles (*Fleming v. Jefferson County School District R-1*, 920 – 1). The consistent editorial control in these cases was sufficient to show intent to limit access to the forums and thus the Court decided that they were nonpublic.

The Court seems to stretch what education concerns are, even considering that decorative tiles fall into the same category of the educational curriculum. It seems ridiculous and questionable to say that even though tiles may bare imprimatur of the school, which is why the Court comes to this conclusion, to define a one-time activity that did not involve teaching students as something that is under the category of the term curriculum. The Court's decision also effected outside participants that were not students so should not be defined as part of the educational curriculum. The Court in *Fleming* and *C.H.* before it seem to jump upon insignificant reasons to grant educators more and more power and encompass more and more activities under the guise of educational curriculum.

They certainly were not educating the parents or the students so there is absolutely no reason to define it as a curriculum. Simply defining after-school extra-curricular such as student newspapers, not directly related to a journalism class, as

curriculum is already stretching the boundaries of the term. Even if school property was used in the project, the Court should not consider it educating the students. Going further to classify this small artistic activity as such is abusing the definition and giving teachers much more discretion than is deserved. The Courts, in effect, are giving the educators so much power that they are able to censor even this small artistic activity meant to heal and not educate. This is an activity that is clearly not part of the curriculum, yet it is almost as if the Courts want to hand over responsibility onto the schools so that they can be able to avoid the issue altogether.

Another case-law example further showing the Court's position of surrendering full discretion to educators is in *C.H. ex rel. Z.H. v. Oliva*. The 3rd Circuit affirmed the reasonableness of levying a restriction based on the maturity level of students (*C.H. ex rel. Z.H. v. Oliva, 166*). In *C.H.*, a teacher restricted presentation of a religious book a student brought in because she felt that it was inappropriate for the highly impressionable elementary school students that were still early in their religious journeys (*C.H. ex rel. Z.H. v. Oliva, 169 – 170*). The court contends that the context of the classroom makes the teacher's restrictions on religious content reasonable (*C.H. ex rel. Z.H. v. Oliva, 167, 175*).

The court highlights the enhanced roll of the teacher as the main role model for the kindergarteners and also states that the teacher must protect the right of the parents and community to religiously guide their respective children as they see fit (*C.H. ex rel. Z.H. v. Oliva, 167, 175*). In other words the Courts have established this specific test tailored to educators but it also may grant them extensive power which can be abused in what will later be explained as zero tolerance policies. Although educators have an

important role in society to teach our children, vesting the power in them to decide what the boundaries of the lessons are, seems to be a gross delegation of power. Overall, these two previously discussed cases simply affirm what is said in the test established in the *Hazelwood* case.

It is important to note that *Hazelwood* is a targeted version of *Cornelius v. NAACP Legal Defense and Educational Fund* which was a standard about reasonableness. The standard established in allows restrictions on speech in nonpublic forums if those restrictions are reasonably related to the purpose of the forum (*Cornelius v. NAACP Legal Defense and Educational Fund*, 806). The Court in *Cornelius* faced control exerted by the Government in the federal workplace over speech instead of control of speech in school. Several political groups sought access to advertise in the Combined Federal Campaign (CFC), a program designed by executive order to allow charities to collect in the federal workplace without disrupting the workplace (*Cornelius v. NAACP Legal Defense and Educational Fund*, 793, 805). The order limited eligible parties to those providing “direct health and welfare services” and excluded organizations that attempt to politically influence public policy. (*Cornelius v. NAACP Legal Defense and Educational Fund*, 792, 795). The NAACP challenged the exclusion.

The Court found that the CFC was a nonpublic forum and not a limited public forum because the use of the CFC was strictly limited, and the Court held that the Government’s exclusionary practices were reasonable in light of the goal of limiting disruption of the federal workplace. (*Cornelius v. NAACP Legal Defense and Educational Fund*, 797, 805 – 6). These cases distinguish from *Cornelius*; because unlike *Cornelius*, all these cases emphasized the “special nature of the educational

system,” being not a normal forum, and emphasized “deference to educators” where they had special power to handle First Amendment cases with their judgment. These are more specific tests for the special environment of the education system as compared to *Cornelius* as these establish the test for censorship in school. So in effect, even though the verbatim of the *Cornelius* test appears more flexible than the *Hazelwood* standard, the test established by the Court in *Hazelwood* grants more leeway to educators than *Cornelius* grants to officials and administrators of other non-public forum.

The Court in *Cornelius v. NAACP* was not dealing with the forum of school-sponsored speech. As described above, *Cornelius* tackled restrictions on speech in the federal workplace (*Cornelius v. NAACP Legal Defense and Educational Fund, Inc.*, 788). The Court in *Hazelwood* instead faced the very different forum of school-sponsored speech. The Court recognized that the school environment is a very special environment; schools are tasked with the daunting responsibility of “awakening the child to cultural values’ and promoting conduct consistent with ‘the shared values of civilized social order’” (*Fleming v. Jefferson County School District R-1*, 928 ; *Hazelwood School District v. Kuhlmeier*, 272).

Because of this special mission, even though students do not lose their rights on the school campus, the rights of students are not the same as rights of adults elsewhere. *Hazelwood School District v. Kuhlmeier*, 266 ; *Tinker v. Des Moines Independent Community School District*, 506). The mission of the school is so important that the Court is willing to reduce the rights of students. Granting that government work is important, the federal workplace is not a forum where the workers are shaped and molded

to become the future of the nation. In general, the work in a government setting is not such that the rights of the employees can be truncated.

In light of the unique mission of educators, the Court in *Hazelwood* further emphasized that the courts must defer to the authority of school educators in shaping and educating the nation's youth (*C.H. ex rel. Z.H. v. Oliva*, 171; *Fleming v. Jefferson County School District R-1*, 928; *Hazelwood School District v. Kuhlmeier*, 273). These educators must have extra control to ensure the success of their mission (*Hazelwood School District v. Kuhlmeier*, 272; *Tinker v. Des Moines Independent Community School District*, 507). The Court not only confiscates the rights of students, but it also greatly defers to and grants extra power to the school administrators. This imbalance of rights in favor of school officials indicates that the special educational environment is very different from other settings such as the federal workplace. When dealing with school-sponsored speech that directly relates to the emphasized special mission of schools, the Court then would not apply the same viewpoint-neutral standard as that applied to the traditional nonpublic forums faced in previous cases (*C.H. ex rel. Z.H. v. Oliva*, 173). So the *Hazelwood* standard is not a restatement of the *Cornelius* standard, but it is instead a special adaptation of the previous standard.

Ironically, despite the establishment of the previously discussed tests, more recent decisions relating to zero tolerance complaints have ignored *Hazelwood*. In *State of Wisconsin v. Douglas D.* the Supreme Court of Wisconsin reversed the decision involving an eighth-grade student who wrote a story about his teacher's head being cut off after being instructed to complete a creative writing assignment where the teacher gave no limits regarding the topic. After being scolded by the teacher for disturbing class

and asked to finish his work in the hallway, the student handed in his work which read the following:

There one lived an old ugly woman her name was Mrs. C that stood for crab. She was a mean old woman that would beat children senseless. I guess that's why she became a teacher. Well one day she kick a student out of her class & he didn't like it. That student was named Dick. The next morning Dick came to class & in his coat he concealed a machete. When the teacher told him to shut up he whipped it out & cut her head off. When the sub came 2 days later she needed a paperclip so she opened the door. Ahh she screamed as she found Mrs. C.'s head in the door (*State of Wisconsin v. Douglas D.*, 6).

The teacher regarded this as a true threat and sued the student and originally won the case. After Douglas D. challenged the decision in an appeal the Court found that they qualified the creative writing assignment as pure speech and therefore were protected under First Amendment rights to free speech. They basically said in their opinion that under the state rules regarding zero tolerance policies the student should have been censored accordingly and his actions should have been constituted as disorderly conduct, however because this was a matter of free speech protected under the Constitution they reversed the original decision. (*State of Wisconsin v. Douglas D.*, 3).

The reasoning behind the reversal is unsound but the Court's statement regarding First Amendment rights should take priority over state-run zero tolerance policies. It is doubtful that *Hazelwood* intended to allow educators and similar officials to have such power as given in recently acquired zero tolerance policies. Simply said, First Amendment rights should be more important than censorship in schools. What are we

teaching our nation's youths when they are constantly being censored, yet simultaneously taught about the importance of having free speech in accordance with our First Amendment rights? It makes no sense to tell children one thing yet treat them in the exact opposite way.

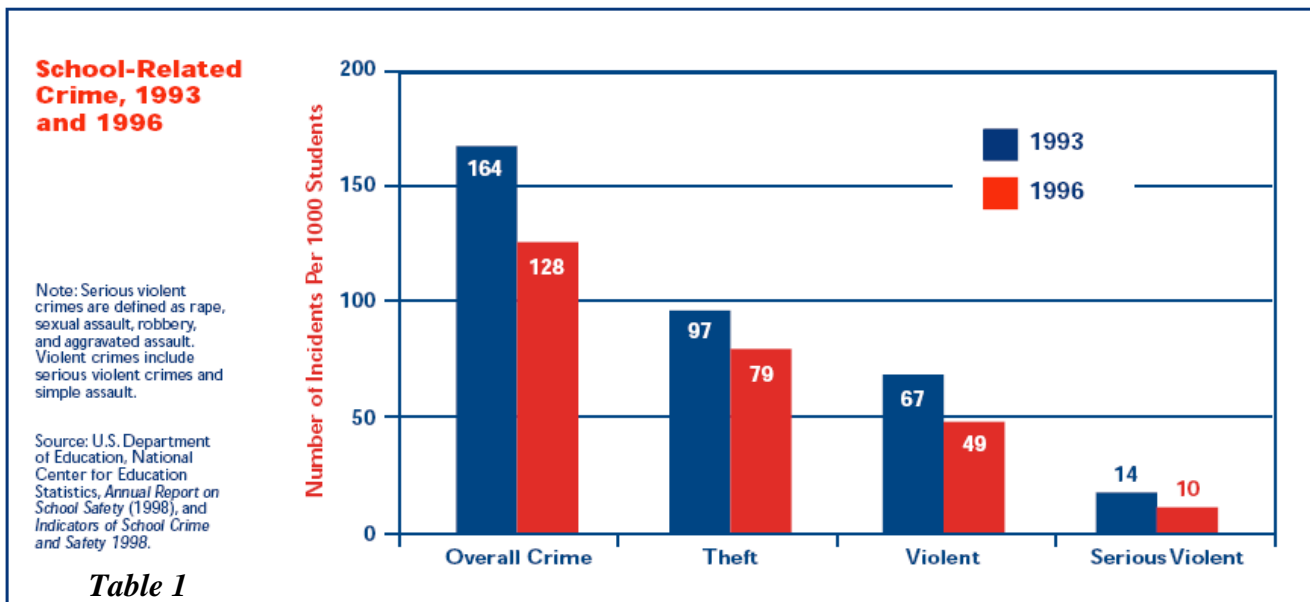
Already, under new zero tolerance disciplinary policies, students are at risk for facing expulsion and suspension for minor offenses that used to be either disregarded or at worse resulted in sending a student to the principle's office. Today, zero tolerance policies create an overarching "one-punishment-fits-all" conduct, including those that are deemed to be harmless activities (ABA Zero Tolerance Report). Zero tolerance policies require extreme punishments for various violations ranging from minor to severe offenses, while completely taking no notice of the student's unique and particular circumstances, age, history, or additional factors. Zero tolerance policies grew out of the fear sparked by such horrific and highly publicized events as the 1999 Columbine High School shootings and the number of suspensions and expulsions has increased dramatically ever since these policies have been implemented.

In fact, national statistics from the Department of Education's Office for Civil Rights suggest that suspensions have increased gradually for all students, rising from "1.7 million to 3.1 million by 1997" for most acts that involved non-violent conduct (Center on juvenile and criminal justice). Even the American Bar Association House of Delegates, in 2001, took a note of the problems involved in these policies by releasing a report that said that they did not agree with the policies. In releasing such a report, the ABA's policy-making House of Delegates supported the following:

There are many misconceptions about the prevalence of youth violence in our society and it is important to peel back the veneer of hot-tempered discourse that often surrounds the issue.... While it is important to carefully review the circumstances surrounding these horrifying incidents so that we may learn from them, we must also be cautious about inappropriately creating a cloud of fear over every student in every classroom across the country. In the case of youth violence, it is important to note that, statistically speaking, schools are among the safest places for children to be (ABA Zero Tolerance Report).

Despite the fact that the probability of being killed in school is quite low, polls continue to show that the American public believe otherwise. “There has been a thirty percent drop in youth crime, but almost two-thirds of Americans think it is on the rise” (Brooks, 619).

Even before zero tolerance policies were implemented the number of school-related



crime had already been declining, as shown in table 1. And despite consistent data trends that reflect the lack of change in misconduct before and after school districts introduced

zero tolerance policies, as shown in table 2, mass public concern and panic for the safety of children continues to occur. The common belief that schools are dangerous is an enormous misconception for those who continue to believe it and the growing misconception leads to policies that seem, on the outside, to be helpful when they are actually criminalizing our nation's children.

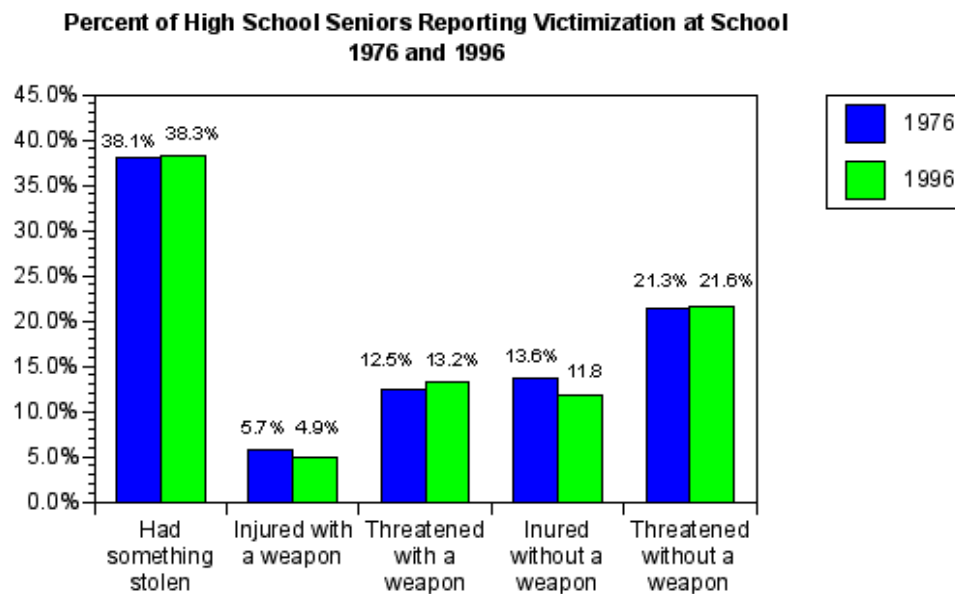


Table 2

The dispute over zero tolerance policies has been continuing ever since its implementation in the late 1990s. While public schools insist on its affective and necessary execution in order to prevent school violence, such as those events which occurred at Columbine, juvenile advocates and parents alike have been appalled by the unjust policies that punish and criminalizes students. It has been shown in recent studies that zero tolerance polices affect minority and special education students disproportionately (Center on juvenile and criminal justice).

There seems to be proof of the underlying affects of these unjust and rather arbitrary punishments. The ABA has a report that specifically states that “Black students, already suspended or expelled at higher rates than their peers, will suffer the most under new ‘zero tolerance’ attitudes toward rising school violence...zero tolerance means that black students will be pushed out of the door faster” (ABA Zero Tolerance Report). These policies not only have implications that punish students who engage in normal adolescent behavior but further targets minorities. The scare tactics of the media in combination with the power the Courts have given to schools has justified the abuses of such policies.

Rather than school officials reviewing each student’s situation according to a case-by-case viewpoint, instead we have more ridiculous reported cases such as that of an 8 year old being “suspended from school for three days, for pointing a breaded chicken finger at a teacher and saying ‘Pow, pow, pow’” (Akdart). From cases where students are expelled or suspended for being excessively tardy to cases where young children are banned from school for expressing themselves in ways that do not have intent to harm, they become labeled as criminals in accordance to these policies that lack common sense and proper justification.

Some cases involving zero tolerance have constituted inflexible policies that aim to push their limits even further. For instance, in *S.G. v. Sayreville Board. of Education*, a kindergarten student was suspended for saying "I'm going to shoot you" during recess at a school plagued by students threatening each other with guns (*S.G. v. Sayreville Bd. of Edu., 419*). Student absent day principal announces new strict policy of immediate suspension for further threats. Student makes a threat while playing when returned and

was simply playing cops and robbers. The student argues that it was recess and his actions simply did not disrupt the school operations or hurt others' rights. The Court brings up the *Tinker* case but then states *Bethel* and *Hazelwood* do allow censorship when the case is related to the educational mission. (*S.G. v. Sayreville Bd. of Edu.*, 421).

The Court also highlights cases that emphasize that age and maturity of the student must be accounted for. The court argues that educators of younger students have more power to regulate speech than those of older students (*S.G. v. Sayreville Bd. of Edu.*, 423). First of all, ignoring the circumstance of recess completely and utterly denies the essence of the definitions set forth in *Tinker* and *Hazelwood*. Recess is clearly not part of the educational curriculum and therefore is considered to be protected pure speech. The court misinterprets the standard entirely. While the argument of maturity does play a role in determining limits of censorship, again, the increased power of maturity does not justify totally ignoring the circumstances. And although this decision drapes itself in the trappings of a follower of *Hazelwood* it is in fact a misapplication that threatens the basic rules set forth in that precedent to justify an outrageous action under a zero tolerance policy.

Similarly, there are other cases that are classic examples of the outrageous zero tolerance dress code which students could be punished for violating. For instance, in *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, the school was subject to problems with racial intimidation between students (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 4-5). As a result, the administrators having learned about a group of students referring to themselves as the "Hicks" had organized to demonstrate white power by wearing confederate shirts on Wednesdays, disseminating racial jokes and waving confederate

flags (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 10-17). The actions of these racist students eventually spread off campus leading up to the enactment of several strict clothing policies as listed above. *Sypniewski* purchased Jeff Foxworthy joke shirts listing reasons "you might be a Redneck Sports Fan" and claim they did so without any racist intent. (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 22-27). *Sypniewski* was eventually suspended after wearing the shirt on several occasions because the administrators felt it expressed a racist message (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 33).

Ironically, his younger brother wore the very same shirt to middle school and was informed that the shirt was not deemed racist under the new clothing policies. Plaintiff requests that the defendant is enjoined from enforcing the policies unless it can be shown that not doing so would result in disruption of the classroom (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 47). After reviewing several procedural challenges and case precedent, the Court decides that the defendant must not enforce the policies unless they are edited to include the requirement that the censored material would otherwise cause disruption in class (*Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 122).

However the court comments that disciplinary actions could be taken under other policies that do include the "disruptive" clause or that cover the t-shirts in a more applicable manner and less vague manner. It was argued that the policy was so broad that *Sypniewski* could not have foreseen that his particular shirt fell within that dress code policy. Basically, the court touches on *Tinker* and *Hazelwood* to properly conclude that the policies are ridiculous especially when applied to the current t-shirt in question because if they allowed the educators to apply it then the educators could basically censor

anything, whether or not it disrupted class; the standards would become completely arbitrary.

However, they imply by their veiled comment that the school could still enforce under another policy or by a reworded version of the dress code policy that the zero tolerance is actually supported, most likely the judges recognize that the school is falling apart due to racism. So overall, although this case turns over a zero tolerance policy, it gives overall implied acceptance to similar policies.

Another example of the legal implications involved in zero tolerance policies includes that of *Anderson v. Milbank Sch. Dist.* The school explicitly put forth in a handbook that profanity on school grounds would result in suspension and any class time missed during that suspension would result in grade reductions. The student said "shit" in the principal's office after she was handed a note from her mom that told her to ride buses after the buses had already left and she was suspended in addition to having her grades docked (*Anderson v. Milbank Sch. Dist.*, 3-4). The court dismisses the case and grants summary judgment to the school on the standing but does go into dicta about zero tolerance (*Anderson v. Milbank Sch. Dist.*, 7-8).

The court actually, at first, seems to ridicule zero tolerance policies, stating that the secretary should not have reported that the student had cursed and shown some mercy much like the way in which a police officer does not always give a ticket to every speeder. The court further reaffirms the idea set forth in *Tinker* that not all speech on school grounds can be censored unless it disrupts the "educational mission" (*Anderson v. Milbank Sch. Dist.*, 10-11). However, the court begins to backpedal and actually states that schools are considered to be nonpublic forums. The Court stated that indecent speech

on school grounds is subject to some censorship because use of that language and its circulation among the student body can undermine the lessons of decency and morality the school is trying to teach and that there are times in which when free speech is not "absolute at all times" (*Anderson v. Milbank Sch. Dist.*, 20).

Basically, the court is giving approval to the given zero tolerance policy despite first acknowledging its potential blindness to circumstances and lack of mercy. Here it gives the strongest argument from *Tinker* then proceeds to cut it apart with pithy and somewhat misplaced justifications that expand the curriculum of the school to all grounds on its campus purely with the excuse that immoral actions on the campus go against the school mission. That excuse is so expansive that any action by the students on the grounds then could arguably go against the school mission; chewing gum can be viewed as against the basic lessons of manners; possibly even burping could merit a suspension under these guidelines.

Instead of punishing inflexible penalties on students and keeping them out of school for non-violent and non-harmful misconduct which lack intent, we should be trying to get them to stay in school and learn responsibility for their actions. If anything is going to change in the near future it would have to be done so through our judicial legal system. The possible legal solutions have to involve bringing cases involving zero tolerance policies to court and appealing it all the way to the Federal Supreme Court of the United States. At that point it would be important to argue and address the conflict in the courts by saying that no matter what policy changes occur at state level and in local school boards, if the Supreme Court disagrees even the state level decisions would be overturned. For example, in every type of law, the bill of rights is the most hallowed of

institutions, yet the courts decide to place the educators' power over that which does not make logical sense. The idea of the school as a "special nature" environment is an invalid argument. Another alternative method of solution could be in making changes through the legislature which can overrule the Supreme Court. Currently there have been recent attempts by juvenile justice advocates to pass such legislative bills in efforts to eliminate zero tolerance policies altogether but there has been little success regarding the issue.

In conclusion, it is likely that if these state Supreme Court cases continue to pass down similar rulings it will be unlikely for them to be heard by the United States federal Supreme Court. The hopes, for juvenile advocates, is that the U.S. Supreme Court will at some point rule on the Constitutionality of zero tolerance policies and have them eliminated as they do more harm than good for students and our education system. And although it is understandable since the occurrence of events like the Columbine shootings for schools and officials to become suddenly aware and a bit paranoid about the potential violence that can occur at any school, they continue to use methods of inflexible zero tolerance implementation that create controversies and tension that make the problems worse.

It is unlikely for people to criticize a school for expelling students who carry weapons for the purpose of harming another student but the strategy that is used for punishing insignificant and trivial offenses with severe penalties by expulsion and suspension of students will certainly cause an outrage and demand for justice among juveniles and advocates alike. Undoubtedly what ends up happening is that you create two groups of extremes, on one end you have the advocates for stronger zero tolerance policies who claim that they help keep schools safe and on the other end you have civil

rights advocates demanding remedies for violation of rights. Interestingly enough, though, advocates for zero tolerance have yet to release any study showing even the slightest level of effectiveness as a direct result of these policies and until then their argument will be a lot easier to attack from a logical point of view.

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