Law Week 2024 – Legal Issues in a Student's Life

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Introduction

The Sonoma County Bar Association thanks you for participating in this important educational program for Sonoma County high school students. This year's theme is **Legal Issues in a Student's Life**. The Law Week Committee has selected several relevant subtopics and carefully curated the following materials to help you prepare for your classroom presentations. Your role as a presenter is to talk about the law and guide an engaging, interactive discussion. Please be careful to avoid any political bias and to not give any legal opinions or advice.

Each of you has been assigned a classroom at a specific high school. The schedule you were provided has contact information for the teacher. Please contact your assigned teacher prior to the presentation (this is also a good time to find out about class size and any other specifics of interest to you).

Be creative with your presentations. The legal summaries, discussion questions, and class activities found in these materials are just suggestions. Once you are in contact with the teacher, feel free to create whatever format you think will be most engaging.

You will have approximately 1-1.5 hours to present and engage with the students. Exact times may vary depending on the location. Please verify the time available for your presentation when you contact the teacher.

We encourage you to set aside some time, at either the beginning or the end of the presentation, discussing the legal profession and your personal careers.

These materials are presented in an outlined format, but you need not follow that order or use everything in your presentation. Please take what you wish, adapt it to fit your presentation, and supplement if you so desire.

Last but not least, the Law Week Committee encourages you to consider the following objectives as you prepare for your presentations: (i) engagement of students; (ii) keeping content relatable; (iii) encouraging class interaction and discussion; and (v) incorporating diversity, equity, and inclusion, where possible.

On behalf of the Law Week Committee, including Michael Brook, Bianca Garcia, Bonnie Hamilton, Jenica Leonard, Kristin Mattiske-Nicholls, Dominic Rosales, Walt Rubenstein, Carmen Sinigiani, Rebecca Slay, Greg Spaulding, Judge Andy Wick, and Nicole Jaffee, we would like to thank all of you for participating in Law Week 2024.

- *Andrew Spaulding and Jack Sanford, 2024 Law Week Co-Chairs*

Finally, the Law Week Committee extends a very special thanks to Susan Demers at the Sonoma County Bar Association and Georgia Iokamides and Juliana Flynn at the Sonoma County Office of Education for their extraordinary work behind the scenes to make Law Week happen.

1. Freedom of Speech / Expression

The 1st Amendment to the United States Constitution provides many freedoms to citizens of the United States. One of the important guarantees is "freedom of speech". Although not directly stated in the Amendment, the Supreme Court has also implied the freedom of speech to include the freedom of expression. However, do students have unlimited protections in their speech or expression?

It is important to understand that the rights provided by the Constitution only apply to the Government (federal/state) or a person working on behalf of the Government, attempting to infringe on the specific freedom. However, privately owned businesses and schools are not included. This is why social media companies such as X (formerly Twitter) or Facebook may censor language or expression they do not approve of.

The 1st Amendment right to freedom of speech is not limitless and there are exceptions, such as speech that is defamatory or speech that creates a "clear and present danger." Although public schools are considered "state actors" because they are run by state governments, principals and administrators have additional restrictions they can place on speech as illustrated in the following cases:

Tinker v. Des Moines Independent Community School District (1969) 393 U.S. 503: A group of students decided to demonstrate their protest of the Vietnam War by wearing black armbands to school. The principal learned of the plan and created a policy requiring any student wearing an armband to remove it or face suspension. After some students were suspended from school, the school district was sued for violating the students' right of expression under the 1st Amendment.

This landmark opinion from the Supreme Court held that "students do not lose their First Amendment rights to freedom of speech when they step onto school property." In order to suppress speech, a school must prove that the conduct in question would "materially and substantially interfere" with the operation of the school. In this case, there was only a fear of disruption, not an actual one.

Discussion Questions:

Do you think the result would have been the same if the students had worn explicit anti-war clothing rather than an armband?

What if the students had walked out of school in protest?

Bethel School District No. 403 v. Fraser (1986) 478 U.S. 675: At a high school assembly, a student made a speech nominating a fellow student for elective office. In the speech, the student used several sexual metaphors and double entendres to promote his friend. For

the use of language that the school considered "profane or obscene", the student was suspended from school.

In this case, the Supreme Court found that the school was justified in prohibiting the use of vulgar or offensive language at school events. The speech in this scenario was distinguished from the political speech in Tinker because the speech in this instance was inconsistent with the "fundamental values of public school education" and was a substantial interference with the assembly.

Hazelwood School District v. Kuhlmeier (1988) 484 U.S. 260: This case involved a school-sponsored newspaper that was written and edited by students. When the school principal reviewed the proofs of the upcoming issue, he determined that two of the articles were inappropriate and ordered that the articles be withheld from publication. The students who wrote the articles then sued the school, asserting a violation of their First Amendment rights.

In this instance, the Supreme Court held that schools hold the power to promote particular types of student speech. Specifically, schools retain the right to refuse to sponsor speech that is "inconsistent with 'the shared values of a civilized social order.'" Additionally, exercising editorial control over the content of student speech in a school newspaper is within the rights of the school so long as the actions are reasonably related to legitimate educational concerns.

Discussion Question: Do you believe that a school should be able to limit what speech is printed in a school newspaper? Why or why not?

As can be seen from the prior cases above, it is clear that the law provides certain exceptions for schools and their officials with respect to the freedom of speech and expression of students even though they are technically funded by the state and federal government.

While this may be true for on-campus activities and off-campus events that are school sponsored, does the First Amendment prohibit public school officials from regulating off-campus student speech?

Mahoney Area School District v. B.L. (2021) 594 U.S. ____ : A student failed to make the cut for her high school varsity cheerleading team, but made junior varsity. During the weekend, she posted a picture of herself on Snapchat with the caption "fuck school…fuck cheer fuck everything." The photo was visible to mostly students from her school. The coaches decided the snap violated team and school rules and suspended the student from the junior varsity team for a year.

The Supreme Court held that the school was incorrect to suspend the student from school for the Snapchat post because it did not cause a substantial disruption to the school. This

was based on multiple factors including the fact that the Snapchat post only lasted for thirty seconds and was viewed by a small number of people. While the majority opinion provided that a school's interests in regulating student speech do not disappear when the speaker is off campus, the concurring opinions warned that school officials should be cautious of regulating off-premises student speech.

Discussion Questions:

Do you think the case would have turned out differently if the post had been made on a different social media application such as Facebook or Twitter?

If a school potentially has an interest in regulating student speech that occurs off campus, where do we draw the line?

2. Expectation of Privacy / Fourth Amendment Search and Seizure

Searches in General

The Fourth Amendment to the Constitution of the United States of America limits the ability of the government to search for and seize evidence without a warrant. The Fourth Amendment states:

> ***"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."***

This means the Fourth Amendment protects people from unreasonable searches and seizures. Generally, a search requires *probable cause*. *Probable cause* means a police officer has knowledge that is trustworthy and is enough to give them the belief that a crime has taken place and evidence of that crime can be found in a certain location. Without probable cause, the search is likely unconstitutional.

Early significant cases:

1. *Weeks v. United States*, 1914. This decision established that evidence obtained through unconstitutional means was **inadmissible** in court. This is known as the "exclusionary rule," which is important because it provides an incentive for law enforcement personnel and other government agents to honor citizens 4th Amendment protections.

2. *Katz v. United States*, 1967. Charles Katz was a sports gambler who cheated when betting on college basketball games. When he came to the attention of federal investigators, he used a public phone booth near his apartment to conduct his illegal business. To build the case against him, the FBI tapped the phone booth, which resulted in criminal charges and a conviction against Katz. Katz appealed his case, but the 9th Circuit upheld the search because it did not penetrate the telephone booth's walls. However, the Supreme Court reversed the lower court's decision, threw out the FBI's wiretap evidence, and overturned his conviction based on the new doctrine of a **"reasonable expectation of privacy."**

Generally, the courts have held that a person has a *reasonable expectation of privacy* in property located *inside a person's home*. The courts have also held that a person has a reasonable expectation of privacy in the conversations taking place in an enclosed phone booth (though that may be a hard thing to find in today's world), in the contents of an opaque container, or in the thermal images of the various rooms of their home. However, the courts have held that a person does not have a reasonable expectation of privacy in activities conducted in open fields, in garbage deposited at the outskirts of their property, or in a stranger's house that a person has entered without the owner's consent in order to commit a theft.

Student Searches and the 4th Amendment

The good news is that public school students DO have 4th Amendment rights and on-campus searches and seizures of these students by school officials must be "reasonable." However, these Fourth Amendment rights of public-school students are more limited than those guaranteed to adults and minors outside of the school environment.

Both the United States Supreme Court and the California Supreme Court have determined the standards for school searches and detentions by applying a **reasonableness balancing test**, which weighs the governmental interest against the intrusiveness of the privacy invasion. Specifically, the *Courts have balanced the schools' legitimate need to maintain a safe and secure environment where learning can take place, against the students' reasonable expectations of privacy in their persons and belongings*. Students' expectations are less than those of adults and minors in nonschool settings because students are subject to supervision and control while on K-12 school campuses.

In the landmark decision of *New Jersey v. T.L.O.*, the United States Supreme Court considered the proper application of the Fourth Amendment's prohibition against unreasonable search and seizure to student searches conducted by public school officials and held that the appropriate standard for authorizing searches by school officials should be reasonable suspicion rather than probable cause. In *New Jersey v. T.L.O.*, the teacher at a high school in New Jersey discovered two girls smoking in a school restroom. Smoking in the restroom was a violation of school rules. The assistant principal questioned the students. One admitted they had violated the smoking rule, but T.L.O. denied smoking in the restroom. The assistant principal asked T.L.O. to come into his private office and demanded to see her purse. Opening the purse, he found a pack of cigarettes. As he reached into the purse for the cigarettes, the assistant principal noticed a package of cigarette rolling papers and proceeded to search the purse thoroughly. The search revealed evidence of drug dealing. On the basis of T.L.O.'s subsequent confession and the evidence seized by the assistant principal, the state of New Jersey brought delinquency charges against T.L.O. in the juvenile court.

In *T.L.O.*, the Supreme Court ruled that *neither a warrant or probable cause is required* for an on-campus search of a student or her personal property by a school official; reasonable suspicion is sufficient. The Court ruled:

- The search "will be 'justified at its inception' when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school."
- Such a search "will be permissible in scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction."

The California Supreme Court also adopted the reasonable suspicion standard for public school searches. In *In re William G.* (1985) 40 Cal. 3d 550, 564, the Court said: "In balancing students' privacy interests with the governmental interest in promoting a safe learning environment, we conclude that **searches of students by public school officials must be based on a reasonable suspicion that the student or students to be searched have**

engaged, or are engaging, in a proscribed activity (that is, violation of a school rule or regulation, or a criminal statute)."

Based on the holdings in *New Jersey v. T.L.O.* and *In Re William G.*, if a school administrator is able to **show facts which would lead a person to believe that a student had violated a school rule or the law, then a search would be justified**. The facts should indicate that a school rule has been broken such as smoking cigarettes or possession of drugs or weapons. But just being late or leaving class early is not enough. In the case of *In Re Lisa G.*, the Court of Appeal held that a search of a student's purse was not justified at its inception when the student left the class without permission from the teacher. The teacher decided to write a disciplinary referral and opened the student's purse to look for the student's identification number and found a knife in the purse. The Court of Appeal held that mere disruptive behavior did not authorize a school official to search through a student's personal belongings. The court held that there must be a connection between the wrongful behavior of the student and the intended findings of the search for a valid search of the student under the Fourth Amendment.

It appears that over time the Courts are generally making it easier for school officials, as well as police officers on campus, to search students, their lockers, and their belongings. These trends have been powered by increasing concerns for school security and the desire to prevent and find weapons (particularly guns) and drugs on K-12 campuses.

Here are three examples of this trend of students' diminishing Fourth Amendment rights:

1) The California appellate courts have expanded school officials' authority to search school-issued lockers in which students store their personal belongings. (See *In re Joseph G.* (1995) 32 Cal. App. 4 1735; *In re Cody S.* (2004) 121 Cal. App. 4 86; *In re J.D.* (2014) 225 Cal.App.4 709.)
2) In the interest of keeping weapons and drugs off K-12 campuses, the courts have approved suspicionless programmatic searches, even in circumstances where the schools' concerns are not based on documented evidence. (See *In re Latasha W.* (1998) 60 Cal.App.4 1524 [high school's random metal detector searches for weapons did not violate the Fourth Amendment]; *In re Sean A* (2010) 191 Cal.App.4 182 [upholding suspicionless searches of students who return to school after being off-campus during the school day, pursuant to a school policy].)
3) The courts have held that the relaxed reasonable suspicion standard for public school searches apply to school resource officers, i.e. regular police officers assigned to school campuses (see *In re William V.* (2003) 111 Cal. App. 4 1464), and to on-campus searches conducted in coordination with regular law enforcement officers. (See *In re K.S.* (2010) 183 Cal.App.4 72; *In re J.D.* (2014) 225 Cal.App.4 709; *In re K.J.* (2018) 18 Cal. App.5 1123.)

This presents an interesting civics lesson: As Justice Stevens stated in his concurring and dissenting opinion in *T.L.O.*:

> The schoolroom is the first opportunity most citizens have to experience the power of government. Through it passes every citizen and public official, from

> schoolteachers to policemen and prison guards. The values they learn there, they take with them in life. One of our most cherished ideals is the one contained in the Fourth Amendment: that the government may not intrude on the personal privacy of its citizens without a warrant or compelling circumstance. The Court's decision today is a curious moral for the Nation's youth.

Searches of Cell Phones

In *Klump v. Nazareth Area School District*, teacher Shawn Kocher confiscated student Christopher's cell phone because he displayed it during school hours, in violation of a school policy prohibiting the use or display of a cell phone during school. Then, Ms. Kocher and the Assistant Principal, Ms. Grube, called nine other students listed in the student's phone number directory to determine whether they too were violating the school's cell phone policy. The assistant principal and teacher also accessed Christopher's text messages and voicemail and held a conversation with Christopher's younger brother by using the cell phone's instant messaging feature. They did not identify themselves as being anyone other than Christopher. At a meeting with Christopher's parents, Ms. Grube said that while she had their son's phone, Christopher received a text message from his girlfriend requesting that he get her a "tampon," which Ms. Grube stated at the meeting was a reference to a large marijuana cigarette. Ms. Grube stated that the text message prompted her search and use of the phone. Christopher, however, alleged that he had received his girlfriend's text message the day before the search and seizure of his phone. The court stated that Kocher was justified in seizing the cell phone, because Christopher violated the school's policy prohibiting use or display of cell phones during school hours. In calling other students, however, Grube and Kocher were conducting a search to find evidence of other student's misconduct, which they may not do because they had no reason to suspect at the outset that such a search would reveal that Christopher himself was violating another school policy; rather, they hoped to utilize his phone as a tool to catch other students' violations. The court ruled that there was no justification for the school officials to search Christopher's phone for evidence of drug activity. It would appear that school officials need reasonable suspicion that the student was using the cell phone to buy or sell illegal drugs, engage in bullying or harassment, cheat on exams, sext, or commit a crime before school officials could search the phone, review the logs, text messages, voice messages, or photographs or videos on the phone. For a violation of the district policy against possession of a cell phone during school hours, school officials could seize the phone but would not have sufficient reasonable suspicion to justify a search of the phone at its inception, nor would school officials have justification to expand the scope of the search of the cell phone by reading the text messages or listening to the voicemails.

In summary, school administrators may search a student's cell phone if they have reasonable suspicion that the student has violated the law or the rules of the school with respect to the possession or use of weapons, sale, use, or purchase of illegal drugs, cyberbullying, cheating on exams, harassment or making threats. However, school administrators may not search a student's cell phone for violating rules regulating the possession of a cell phone at school or the use of a cell phone at school. School administrators may confiscate or seize the phone

for violation of school rules regulating the possession and use of cell phones at school, but may not search the cell phone unless the school administrator has information that would lead the administrator to have a reasonable suspicion that the cell phone was used to either violate the law or the rules of the school.

Student Drug Testing

In *Vernonia School District v. Acton*, the United States Supreme Court upheld a random urinalysis drug testing program established by the Vernonia School District for students who participated in the school district's athletic program. The drug testing policy applied to all students participating in interscholastic athletics. Students wishing to participate in sports and their parents were required to sign a form consenting to the testing. Athletes were tested at the beginning of each season and randomly once each week during the season. The samples were sent to an independent laboratory which routinely tested them for amphetamines, cocaine, and marijuana. The laboratory was not told of the identity of the students whose samples it tested.

In the fall of 1991, James Acton, a seventh-grader in the district, signed up to play football at one of the district's schools. He was denied participation because he and his parents refused to sign the testing consent forms. The United States Supreme Court held the policy to be constitutional.

The court noted that student expectations of privacy in the public schools were not as great as an adult in the general society. While children do not shed their constitutional rights at the schoolhouse gate, the nature of those rights is substantially different from the rights of adults in general society. The court went on to note that legitimate privacy expectations are even less with regard to student athletes. Public school locker rooms afford little privacy to students. There are no individual dressing rooms, there is a communal shower, and students dress and undress in front of each other. The court also noted that extracurricular activities involved a higher degree of regulation than attendance at school. There may be a pre-season physical exam, insurance coverage may be required, and a minimum grade point average may be required.

The court found that the deterring of drug use by the nation's school children is at least as important as enhancing efficient enforcement of the nation's laws against the importation of drugs or deterring drug use by engineers and trainmen. The court noted that students are of an age when the physical, psychological, and addictive effects of drugs are most severe. Maturing nervous systems are more critically impaired by intoxicants than adult ones and the childhood losses in learning are lifelong and profound.

Random Drug Testing

In *Board of Education v. Earls*, the United States Supreme Court upheld the constitutionality of a school district's drug testing policy which required all students participating in competitive extracurricular activities to submit to drug testing. The policy required all middle and high school students to consent to drug testing in order to participate in any

extracurricular activity. The policy applied to competitive extracurricular activities, such as the Academic Team, Future Farmers of America, Future Homemakers of America, band, choir, cheerleading, and athletics. The tests were designed to detect the use of illegal drugs, including amphetamines, marijuana, cocaine, opiates, and barbiturates, not medical conditions or the presence of authorized prescription medications.

The Supreme Court noted that the Fourth Amendment to the United States Constitution protects the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. The Court found that drug abuse is a nationwide epidemic that makes the war against drugs a pressing concern in every school district in the nation. Therefore, school districts do not have to show that there was a demonstrated problem of drug abuse in their particular school.

Applicability of Criminal Law

Criminal law is applicable everywhere in the state including the public schools. The power and authority of law enforcement officers extend to any place in the state including school grounds, and the police are available to assist school officials in maintaining order on school campuses. School officials are required to cooperate with law enforcement officers and law enforcement officers have the right to come on campus to interview students who are suspects or witnesses.

Discussion Questions:

Do YOU think the law would be the same if the right to vote began at 16?

What concerns do YOU have about your 4th Amendment Rights when you are at school?

3. School Safety

The need for personal safety is a natural basic drive. It is also a natural desire to protect children. The question today is how best to protect children in school. Parents want to believe that when they drop off their children at school, the students will be protected. Students want and have a natural right to be and feel protected when they are in school.

The Second Amendment to the United States Constitution states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms , shall not be infringed."

Over the last few years school shootings seem to be an increasing problem. However, the first known school shooting occurred on July 26, 1764, in Pennsylvania.

Firearms are the third leading cause of death of children in the US. (National Center for Education Statistics Digest of Education).

School safety not only concerns the availability of firearms, but knives and anything that might be used as a weapon.

EDC 48900 provides that a student can be suspended or expelled, provided the superintendent and or principal determined that a student possessed a firearm, knife, or any other dangerous object. The use of such weapons, and or providing them, also is included.

EDC 48900 also includes various sections on types of activity that could cause harm. Not only bodily harm, but also other types of behavior, such as bullying.

Discussion Question: How much control should the government have over the locations where firearms are permitted?

Many US citizens own and participate in the use of firearms. Hunting has been a historical activity since the founding of the country. Many gun owners regularly engage in shooting at gun clubs and ranges, and for sport competition. Some families include their children in these activities.

Parents have a responsibility for appropriate supervision of their children. In California, there are laws on the safe storage of firearms in the home and how firearms can be transported. Recently, California passed a law to restrict where guns can be carried, even if the person has a concealed weapon permit. (Senate Bill 2). This law is being challenged in federal court as being unconstitutional. Presently, there is an injunction for the federal case. The California restrictions are still in place for 2024, until the federal case is resolved.

Under AB 2571, California placed restrictions on marketing of firearms to minors. The legitimacy of this law is also being litigated.

Recent studies in neuroscience appear to show that youth brains take a while to mature and therefore there should be restrictions on what minors are exposed to. The rough age of brain development reaching maturity is approximately age 26. When sentencing those under the age of 26, courts are required to take the age of the offender in consideration.

The Second Amendment

The constitution does allow for some restrictions, while upholding the second amendment right to bear arms. A landmark Constitutional decision of the Supreme Court of the United States, *District of Columbia v. Heller, 544 U.S. 570 (2008),* authored by Justice Scalia, ruled that, while the Second Amendment to the U.S. Constitution protects an individual's right to keep and bear arms,

> "Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose... forbidding the carrying of firearms in sensitive places such as schools and government buildings…"

Since the *Heller* case, there have been several other cases that have expanded the right to not only "keep arms" but to also "carry firearms." Most of these cases have removed restrictions in terms of places where firearms are permitted, and whether a permit is required to carry a concealed weapon or even "open carry".

In some states, such as Arizona, it is legal to carry firearms in an open manner. In California, with proper training and application for a permit one can legally have permission to carry a firearm in a concealed way.

The present legal issue is to define "sensitive places." Given school shootings over the last few years many people argue that schools should be absolutely free of anyone carrying a firearm.

California Penal Code section 626.101, "Gun Free School Zones" makes it a crime to carry a firearm within 1000 feet of a school. The crime is a wobbler, which means that, depending on circumstances, the charge could either be a misdemeanor or a felony. The law applies even if the gun is not on the campus itself.

How Can Schools Be Protected?

One consideration to protect students is to have trained police officers on campus. Some argue that a place of learning should be free of such symbols of force or power as it is contrary to the idea of a place where ideas and views can be exchanged freely. Some people believe having police on campus could unfairly single out certain groups.

Another alternative to having police on campus is the suggestion to arm teachers. This proposal usually also requires that if a teacher can carry a firearm, then that teacher would be exempt from PC 626.101. And of course, the teacher must be trained. There have been surveys of teachers on this subject. Most believe that the idea would not make schools safer.

Several concerns have been raised about these ideas. If teachers are armed, some students might emotionally withdraw, knowing their teacher has this power. Generally, teachers are empathetic to their students. Would arming teachers be conducive to learning? Another concern is how effective would a trained teacher be if there is a shooter at the school? How well-prepared and realistically trained would they be?

Fully trained police officers statistically only hit their targets 35% of the time. Many teachers have expressed reluctance to having guns at school, because of the possibility they might accidentally harm one of the students. As a society we all need to collaborate, including students, to create a safer learning environment.

4. Class Activity #1 – Freedom of Speech / Expression

Fact Pattern 1: Dress Code

Facts: In a large public high school (500 students), a group of 10 seniors showed up to the school assembly, reached into their backpacks and pulled out bright red T-shirts which they donned once the students had assembled, which read in large, bold black letters: "ROE THE BOAT, WADE IN SIN". The 10 students were suspended for one day for violating the school's dress code, which stated that if t-shirts were worn, they could only be white, blue or yellow (the school colors).

Discussion Questions:

What if the number of students who participated was 100, not 10? Would the analysis be different?

What if the T-shirts were white, not red, but carried the same message? What if the lettering was very small?

What if the T-shirts were being handed out to students (rather than brought in by the students themselves) at the door of the auditorium by a popular teacher? Would the analysis be different? Why?

What if this occurred in a small (100 students) private Catholic school? Would the analysis be different? Why?

Fact Pattern 2: School Newspaper censorship

Facts: In a very large public high school (800 students), the school journalism class published a monthly newsletter. One segment was called "The Village Voice." In that section, a student correspondent would publish an item clearly labeled "Opinion Piece" on various topics such as cafeteria unrest, campus graffiti, parking lot etiquette and the like. One month, a student who wished to publish under the name "Anonymous" wrote a stirring piece about the bullying she experienced when she was pregnant while attending the school, and the experience of being a pregnant teenager. The school principal, who always screened the newsletter and approved it before it was published, deemed the article to be inappropriate and disallowed it from being printed.

Discussion Questions:

Does a public school principal have the ability to censor what is contained in a school paper? Why or why not? Should the censorship decision be left to one person? Does a student have a First Amendment right to "tell her truth" by using the school newsletter? Why or why not?

Would an opinion article about a student's attending or listening to a nationally-televised debate be subject to the same level of scrutiny? Why or why not?

What if the school principal regularly allowed publication of articles about one side of an issue (such as war in Ukraine) but regularly censored articles about the opposing viewpoint? Would that create any First Amendment problems? What if the principal regularly banned all articles about the war in Ukraine, regardless of the content? Would the analysis change?

Fact Pattern 3: Off-campus conduct

Facts: Instead of writing her article on teenage pregnancy in the school paper, the teenaged student of the same high school posted a photo of herself on a weekly basis on her Snapchat account. In each photo she showed only her bare belly as it grew, and she was holding a sign in front of her face which read: "Fuck you Bullies at (Unnamed High School) Pregnancy is Beautiful at Any Age!" The majority of students saw her postings regularly. After three months of posting these messages, the teen, who held a position in school government, was told she could no longer be in student government for conduct "unbecoming" a student body officer.

Discussion Questions:

What if the same post had been made, but did not name the school? Would that make a difference? Why?

What if the same post had been made, but did not contain the “F” word? Would that make a difference? Why?

What if the same post had been made, but the student was approached after the third week (not the third month) and asked to stop because a large group of students had begun interrupting their 5th Period classes at 1:10 p.m. every day by standing up and holding a sign in front of their face that stated the same message as the Snapchat post? Would the timing and the added impact within the school make a difference to this analysis? Why or why not?

5. Class Activity #2 – Expectation of Privacy / Fourth Amendment

Fact Pattern 1: Drug Policy

All students participating in school athletics, and their parents, are required to sign a form consenting to random drug testing by a urinalysis sample. The samples were tested for amphetamines, cocaine, marijuana, opiates, and barbiturates. The laboratory conducting the test was not told of the identity of the students whose samples it tested. Only the superintendent, principals, vice-principals, and athletic directors had access to the test results.

Discussion Questions:

Do you think this policy is legal? Fair?

What if the testing was for all students?

What if the testing was done every week?

Fact Pattern 2: Privacy

If the principal of the school has a reasonable suspicion that a particular student may have drugs or a weapon, the school policy allows the principal to search the student by ordering the student to empty his or her pockets, by conducting a "pat down" search, or by searching a student's locker, book bag or purse.

Discussion Questions:

Do you think this search is legal?

Should the principal do the pat-down if the student objects?

What if the student is an honor student, with no history of bad behavior?

What if the principal is searching all students?

What if the search is done in the presence of the school counselor or school nurse?

5. Class Activity #3: School Safety (Class Debate)

Background: In the wake of a recent incident at a California high school, where a student entered campus with a loaded gun, resulting in severe injuries to a student and teacher, and the increase of gun violence in schools across the United States, California State Senator Bo Bumkin* has proposed a new bill. Its stated purpose is to prevent more tragedy in California's schools. The relevant text of the proposed bill is as follows:

> AB123. Education and Public Safety: School Violence Prevention Act.
>
> Section 1 - Introduction. Due to the increasing incidents of gun violence in schools, the State of California mandates that certain safety precautions be implemented in all public schools located within State limits.
>
> Section 2 – Conceal Carry. All teachers, administrators, and staff, as defined hereafter, are mandated to obtain a conceal carry permit for the use of firearms. For the purposes of this bill, the restrictions of Penal code 626.101 are hereby waived as to those teachers, administrators, and staff.
>
> Section 3 – Mandatory Training. All teachers, administrators, and staff, as defined hereafter, are mandated to undergo firearms safety training every six months. A condition to employment is the receipt of a certificate of completion.

Debate Activity:

Two competing groups will appear to testify at a Senate hearing, before the Senate Committees on Education and Public Safety: California Peace For All* (opposing the bill) and the California Firearms Association* (supporting the bill).

Split your class into two sections with one section arguing on behalf of each competing lobby group. Use what you learned about School Safety to help bolster your respective arguments.

*All names/organizations are fictional.

Conclusion / Wrap Up

Please remember to leave time at the end of your presentation for Q&A, and to talk about the legal profession and your career (if you have not done so already).

If you'd like, you might also consider offering your contact information to the teacher, in case any students are interested in learning more about what it's like to be a lawyer (or other legal professional), how to pursue a career in law, or anything else.

Thanks again for your participation in Law Week 2024. If, like us, you are passionate about this program and want to see it continue to improve, we encourage you to join the Law Week Committee in 2025!

-Andrew and Jack