

Student Rights to Expression

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There are very few things that the Supreme Court agrees upon. Even though there are many differences between the nine justices on the highest court in the United States, they are able to say together that, “[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools” (Strope, 1999, np). In fact, schools are usually the main source of socializing information with respect to citizenship, nationalism, and democracy. Therefore, it is important for teachers to understand what constitutional freedoms their students have so as to protect against the stagnation and death of American civilization (Strope, 1999, np). In specific, public school teachers must know the rights of their students to express themselves religiously and to express themselves socially.

The matter of religion in public schools is one of the most volatile of rights issues in schools. It is a commonly held myth by teachers and administrators that the existence of religion inside the school doors is strictly prohibited. To the contrary, the Equal Access Act provides students the right to participate in religious activities on school grounds as long as the school allows other secular groups to meet during similar times (Mawdsley, 1999, np). In addition, as long as the activity is entirely student run, although teachers may participate, schools may not prevent religious groups from meeting. It is important for teachers to not become entangled in the operations of religious activities to ensure that they do not violate the Lemon Test of the First Amendment. The Lemon Test, established by the Supreme Court says, among other things, that religious activities that unnecessarily entangle the federal government are in violation of the Establishment Clause of the First Amendment (Liberty, 1999, np). Because public education is a government service, if teachers become entangled in religion, this also means that the federal government is becoming entangled in religion and hence is violating the First Amendment.

In addition, teachers may not, in general, prohibit students from praying in school. The only exception to this rule is when prayer disrupts classroom instruction (Liberty, 1999, np). Although students may not force other students to pray by leading the entire school in a prayer over the intercom or at a football by holding a captive audience, students may pray on their own

or in voluntary groups. What teachers may prohibit religiously is the integration of religion into their curriculum. The Sixth Circuit Court found that prohibiting a student from doing a report on Jesus Christ did not result in viewpoint discrimination, but instead showed that teachers have more autonomy over their curriculum (Mawdsley, 1999, np). On the contrary, teachers may not “accidentally” inject religion into their classrooms. Even though a teacher may not be able to lead their class in a prayer because of the Establishment Clause, a tricky teacher may think of a work around involving voluntary student-led prayer. Although sneaky, the teacher’s plan would still be unconstitutional because the teacher would have to tell the students to have voluntary prayer, therefore establishing the prayer and violating the First Amendment.

To avoid violating the First Amendment, teachers should vigilantly use the Lemon Test; they should check to see if the activity has a secular purpose, if the activity neither supports or goes against a particular religion, and if the activity overly entangles the federal government in religion (Liberty, 1999, np). Using this test can enable teachers to avoid violating the First Amendment in their classroom and allow for constitutional freedom of religious expression.

In addition to religious expression, teachers need to understand the right of social expression. Although the Courts have frequently ruled in favor of religious freedom, they have recently ruled against the ability for students to express socially unacceptable behavior. In the past, the Courts had ruled generally on the behalf of academic freedom. This meant that teachers could incorporate the use of “inappropriate” language and sexually explicit descriptions if it served an educational goal. But now the Courts have began to support the “school officials obligation to teach ‘socially acceptable behavior’” (Strope 1999, np). This interpretation can have important implications for teachers, especially in the area of the humanities. In cases such as Cecilia Lack’s, who had received state, local, and nation wide recognition for her curriculum program, she was terminated for allowing her students to incorporate “unacceptable” language into projects (which were observed by school officials at the time of the offense, but were not reported until over a year later on an unrelated topic). Although Cecilia appealed her case to the

Courts, the Courts ruled that because her students behavior did not promote “shared social standards,” whatever those are, she was qualified for termination by her school district (Strope, 1999, np).

From this example, it is apparent that teachers need to check with their administration to get clarifications on school policies that prohibit student behaviors in vague terms such as unacceptable; what exactly is unacceptable behavior and by what standards? This information should not scare teachers into not teaching lessons with social criticism, but it should encourage teachers to gain a better understanding of the rules and regulations of their schools and school districts. It will be very difficult for teachers to have impact on students lives after they have been fired.

Even though the Courts are opposed to “unacceptable behavior,” this does not mean that the Courts are against social criticism. In fact, the Courts still support students’ right to wear symbols that do not, “materially or substantially disrupt the work and discipline of the school” (Lunenber & Ornstein, 2000, p. 414). Therefore, students can wear arm bands to protest air strikes on Afghanistan, but students who are wearing armbands celebrating the terrorist attack on New York could cause fights and seriously interfere with the ability for any class to be taught. Therefore, it is important for teachers to test students’ behaviors on a case-by-case basis to see if it districts from educational learning. A zero-tolerance policy towards freedom of expression is not acceptable in light of court decisions and the inherent ambiguity of rights.

Although rights may be ambiguous, the necessity of protecting the rights of students is recognized by even the highest court in America. Because schools are when children learn about democracy and the American system, it is important that the rights imbedded in these two social constructs are exemplified in the school system. It is therefore vitally important for teachers to understand the important rights that students have in school. If these rights, including the freedom of religious expression and the freedom of social expression, are protected by teachers, then the foundation of the American social system can be strengthened.

References

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