In re Gault

http://en.wikipedia.org/wiki/In_re_Gault

http://www.oyez.org/cases/1960-1969/1966/1966_116

GENERAL CLASS RESPONSE

• Does what happened to John Junior seem fair? Why or why not?

• If you were John, what would you want to happen? Who should he get to talk to? What information should he have been given?

• If you think it was unfair, where does that sense of unfairness come from? Do you know of a rule or law that protects someone like John J. Junior?

TAKE A QUIZ ON JOHN J. JUNIOR'S BAD DAY (Handout)

1. In John's case, the charge of "unlawful communication of obscene messages" was never explained to him. What right does John have to be informed of the charges against him?
(a) John doesn't have a right to know what he was charged with because John was there and knows if did something wrong.
(b) John doesn't have a right to know what he was charged because his mother and the judge were informed of the charges.
(c) John has the right to be told of the charges in advance of the court hearing, so he has a reasonable opportunity to prepare to defend himself against the charges.

2. In John's case, he did not have a lawyer. What right does he have to talk to a lawyer?
(a) John doesn't get an attorney because he has a parent present in court and the judge is there to protect his rights.
(b) John can get a lawyer, but only if his parents pay for one and bring the lawyer to court.
(c) John has the right to a free lawyer to assist him about the law, inquire into the facts, and help him in his decisions.

3. In John's case, he answered the questions the judge asked him. Does he have a right to remain silent?
(a) John is required to talk to the judge because the judge was trying to find the truth,

and John should tell the truth.
(b) John is required to talk to the judge because confession is good for children who have done something wrong.
(c) John has the right to remain silent; he doesn't have to say anything that would incriminate himself.

4. In John's case, the Principal did not come to court, and there were no other witnesses called against him. What right does John have to challenge the case against him?
(a) John doesn't have the right to challenge the Principal's version of events because the Judge didn't think it was necessary.
(b) John doesn't have the right to confront the Principal because the text message was clear and it came from John's mother's phone.
(c) John has the right to question the Principal to challenge the evidence against

HAZELWOOD SCHOOL DISTRICT v. KUHLMEIER

*wikipedia.org/wiki/Hazelwood_**v**._Kuhlmeier*

http://www.oyez.org/cases/1980-1989/1987/1987_86_836

www.freedomforum.org/.../first/.../L08-CaseSummaryHazelwood.ht...

Case Summary: *Hazelwood School District v. Kuhlmeier*

Changing the Rules
Hazelwood School District v. Kuhlmeier raised the question of whether the principal of Hazelwood East High School, near St. Louis, violated the First Amendment rights of his students by deleting two pages of the *Spectrum*, the school-sponsored newspaper that was produced in a school journalism course.

A journalism adviser, who supervised the *Spectrum's* staff, submitted each edition to the principal for review, prior to publication. In May 1983, a substitute was advising the newspaper because the regular journalism teacher left before the school year ended. After reviewing the May 13 edition of the paper, principal Robert Reynolds decided that two articles should not be published. The articles covered teenage pregnancy at Hazelwood East and the effects of divorce on students. Reynolds decided to delete the two pages on which they appeared, thus deleting additional articles as well.

This is how the story on teen pregnancy in the May 13 issue of the *Spectrum* began:

*Sixteen-year-old Sue had it all — good looks, good grades, a loving family and a cute boyfriend. She also had a seven pound baby boy. Each year, according to Claire Berman (*Readers Digest, *May 1983), close to 1.1 million teenagers — more than one out of every 10 teenage girls — become pregnant. In Missouri alone, 8,208 teens under the age of 18 became pregnant in 1980, according to Reproductive Health Services of St. Louis. That number was 7,363 in 1981.*

The article followed with personal accounts of three Hazelwood East students who became pregnant. The names of all three were changed:

Terri: I am five months pregnant and very excited about having my baby. My husband is excited too. We both can't wait until it's born. . . .

Patti: I didn't think it could happen to me, but I knew I had to start making plans for me and my little one. . . .

Julie: At first I was shocked. You always think 'It won't happen to me.' I was also scared because I did not know how everyone was going to handle it. . . .

Principal Reynolds believed the pregnancy article was inappropriate for a school newspaper and its intended audience, and the girls' anonymity was not adequately protected. He also believed that the divorce article, in which a student sharply criticized her father for not spending more time with his family, violated journalistic fairness because the newspaper did not give the girl's father a chance to defend himself. As the journalism class was, in part, designed to teach these notions of fairness, Reynolds asserted that he was acting in the best interests of the school by censoring the material.

Students on the *Spectrum* staff, surprised at finding two pages missing, filed a lawsuit against the school on the grounds that their First Amendment rights had been violated.

Five years later, the final decision came down in *Hazelwood*, the first Supreme Court case to focus specifically on high school student press rights.

The Decision of the Supreme Court:

On Jan. 13, 1988, the U.S. Supreme Court voted 5-3 to reverse the decision of the U.S. Court of Appeals for the 8th Circuit in St. Louis, which had upheld the rights of the students. The Court ruled that Principal Reynolds had the right to censor articles in the student newspaper that were deemed contrary to the school's educational mission.

Where *Tinker* gave students the power of free expression, *Hazelwood* gave school administrators the power to censor student newspapers.

The Supreme Court began its analysis by citing *Tinker's* basic premise that students "do not shed their constitutional rights to freedom of speech or expression at the school house gate." But the Court modified this position by citing *Bethel vs. Fraser*, "A school need not tolerate student speech that is inconsistent with its basic educational mission."

The Court said schools could censor any forms of expression deemed "ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences," or any expression that advocates "conduct otherwise inconsistent with the shared values of the civilized social order."

The key: "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns."

The Court found it was "not unreasonable" for Reynolds to have concluded that "frank talk" by students about their sexual histories and the use of birth control, even though their comments were not graphic, was "inappropriate in a school-sponsored publication distributed to 14-year-old freshmen."

Justice Byron White wrote in the Court's majority opinion, "A school must be able to set high standards for the student speech that is disseminated under its auspices — standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the 'real' world — and may refuse to disseminate student speech that does not meet those standards.

"In addition, a school must be able to take into account the emotional maturity of the intended audience in determining whether to disseminate student speech on potentially sensitive topics, which might range from the existence of Santa Claus in an elementary school setting to the particulars of teenage sexual activity in a high school setting."

Justice William Brennan filed the dissenting opinion, which was joined by Justices Thurgood Marshall and Harry Blackmun. In his dissent, Justice Brennan wrote that he found the newspaper at Hazelwood East High School to be a "forum established to give students an opportunity to express their views" and said the Supreme Court should have applied the *Tinker* standard. Justice Brennan characterized the censorship at Hazelwood East as indefensible, saying it "aptly illustrates how readily school officials (and courts) can camouflage viewpoint discrimination as the 'mere' protection of students from sensitive topics.

"Such unthinking contempt for individual rights is intolerable from any state official," Brennan wrote. "It is particularly insidious from one to whom the public entrusts the task of inculcating in its youth an appreciation for the cherished democratic liberties that our Constitution guarantees."