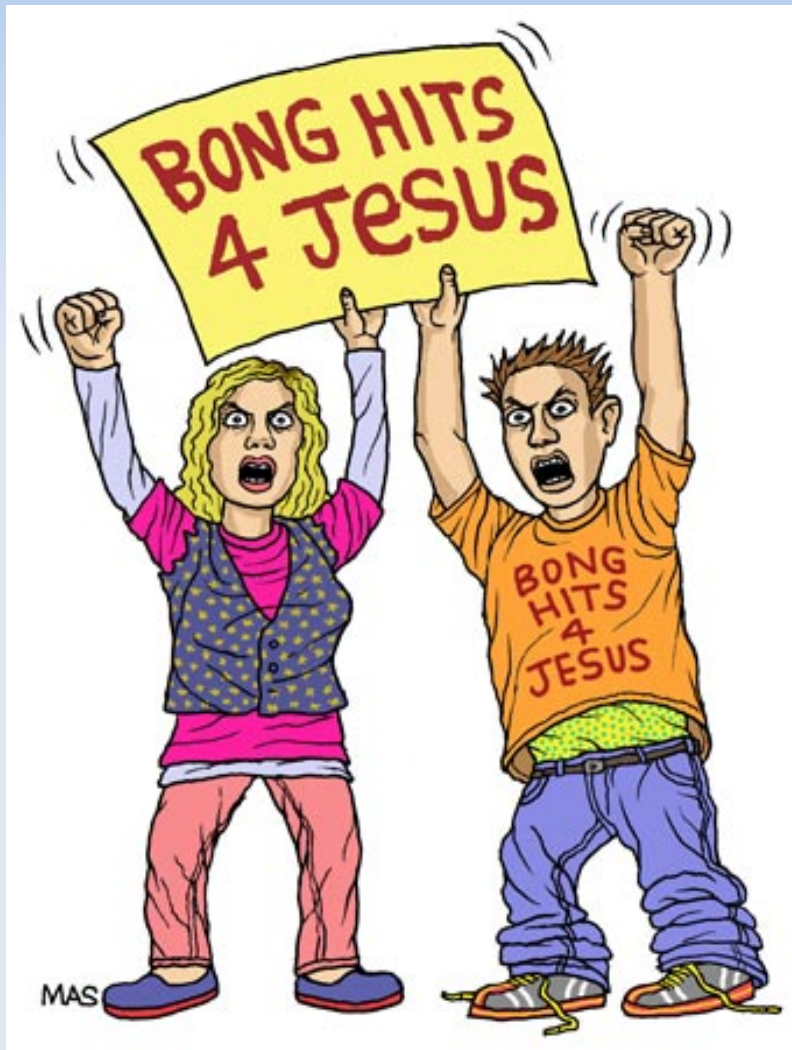


Group 5: Student Free Speech



Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal drugs at school-supervised events?

Cases

- Tinker v. Des Moines Independent Community School District (1969)
- Bethel School District No. 403 v. Fraser (1986)
- Hazelwood School District v. Kuhlmeier (1988).

Tinker

- Students suspended for wearing black armbands.
- Court found students have free speech rights.
- Court also found school can regulate “substantially disruptive” speech.
 - Which is different than what government can normally do.

Fraser

- Student was punished for giving election speech filled with sexual innuendo
- Court held that schools can regulate offensive and disruptive speech.

Kuhlmeier

- Court held that schools did not have to provide students with forums to speak.
- When they did, then students had less First Amendment protection.
- School can regulate speech in school-sponsored forum if it advances legitimate educational purpose.

Petitioner's Arguments

- First Participant

- Facts
- Arguments
 - ➔ Respondent was subject to school rules (IIC)
 - ➔ schools are special under the First Amendment (IA)
 - ◆ Tinker & Fraser give schools the ability to restrict speech disruptive to its mission (IA1&2)
 - ➔ Discouraging drug use part of schools mission (IB1)

- Second Participant

- Arguments
 - ➔ Respondent's speech was disruptive (IB2)
 - ➔ Kuhlmeier gives school the ability to restrict speech in a forum they create. (IA3)
 - ➔ Respondent's speech can be restricted under Kuhlmeier (IB3)

Respondent's Arguments

- First Participant

- Facts
- Arguments
 - Not a school speech case (ID)
 - Kuhlmeier does not apply (IA3)
 - If Kuhlmeier applies, still cannot restrict (IB3)

- Second Participant

- Tinker and Frasier to allow schools to restrict speech they don't like (IA1&2)
- No showing of disruption (IB1)
- No showing of being offensive (IB2)

Things to Consider

- Was he actually at school? Should that make a difference?
- Did the sign promote drugs?
 - If so, does that automatically make it something that the school can regulate?
 - Or must the school still show that the sign was disruptive?
- Was this school event analogous to a school newspaper?

Keep In Mind

- This is very fact sensitive, thus understanding the facts are important.
- Really only three cases apply. Thus drawing analogies and distinctions to the cases are important.
- This is all about the school being able to keep control and educate children now and in the future.