

Hold the Phone: Responding to Student Off-Campus Speech in Light of "The Cheerleader Case"

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The First Amendment

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

“It can hardly be argued that either students or teachers shed their constitutional rights at the school house door.”

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 506 (1969).

However...

Students' First Amendment Rights must be "applied in light of the special characteristics of the school environment."

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 506 (1969).



Whether student speech can be restricted depends on the following considerations:

whether the speech will lead to a “**substantial disruption**” of or “**material interference**” with school activities;

whether the speech is **lewd, vulgar, offensive, or obscene;**

whether the speech is “**school sponsored;**” and

whether it **promotes a controlled substance or illegal activity.**

Speech in the Classroom



Cases on Speech in the Classroom



What about
Speech in
the School
bathroom?



Clothing may be Protected Speech

*N.J. by next friend Jacob v. Sonnabend &
A.L. by next friend Lloyd v. Kaminski*



Maxwell v.
Sch. Dist.
of Volusia
County





STUDENT SPEECH ON SOCIAL MEDIA

The Cheerleader Case





A.F. by and
through Fultz
v. Ambridge
Area School
District



Cheadle v. North Platte R-1 School District

N.C.'s Mother's Messages (1/2)

“Hello This is [N.C.'s] mom. I wanted to let you all know that she is still alive. In her [Snapchat] video she posted earlier – which some of you thought was funny (I've read alllll of the messages) – you actually witnessed her having a life-threatening medical emergency. I found her on the bedroom floor, incoherent, and on the verge of blacking out. I called an ambulance and had her transported to the hospital. She had acute alcohol overdose and her levels were three times higher than an adult. We are finally back home and she will be recovering for a while. A 13 yo's body is not designed for that. And for those of you who may have suggested, encouraged, dared, ect. [sic] for her to do anything, just know I know who you are. And while you may not be getting a notification in your messages that says I've screenshot the chat – you won't – because I've screenshot them from MY phone instead.”

N.C.'s Mother's Messages (2/2)

“... it's pretty terrifying to find your kid on the floor who only keeps saying “help me” over and over but can't put the words all together in a straight sentence to tell you what's wrong or what happened. For a parent – It's traumatic. I'll never be able to wipe this from my mind. Learn from other people's mistakes and bad decisions, people, so you don't have to find out the hard way yourself.”

A hand is holding a smartphone. The screen shows a social media interface with a yellow Snapchat sticker featuring a white ghost icon. The background is dark and slightly blurred, showing other social media icons and text. An orange square is visible in the top right corner of the image.

Other Cases About Student Speech on Social Media

Another cheerleader case: *Haley v. DeSoto Parish School Board*



ANY
QUESTIONS?

