

Argument

**The U.S. Constitution Series in Partnership with the
National Constitution Center**

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About the National Constitution Center

The National Constitution Center was established by Congress to “disseminate information about the United States Constitution on a non-partisan basis in order to increase the awareness and understanding of the Constitution among the American people.” The center hosts interactive exhibitions, constitutional debates, and other activities to increase awareness and understanding of the United States Constitution.

National Constitution Center and the College Board

In partnership with the National Constitution Center, the College Board has developed a series of classroom lessons and materials related to the founding documents. This series includes resources to support instruction in AP US Government and Politics, AP Comparative Government and Politics, AP US History, and AP English Language. These lessons and resources are available to AP teachers via the course homepages at AP Central and to all teachers through the National Constitution Center's website.

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Argument

Plan

Introduction

Though the framers of the constitution were working to create laws that would govern the people of the newly formed republic, they also realized that times would change. They knew that it would likely become necessary for some laws to be reinterpreted as society developed. For this matter, our courts are tasked with the interpretation and application of the laws in the context of their contemporary society. This means that it may become necessary to revisit and reinterpret a ruling from decades ago. An example of this involves juries. In the 1985 *Batson v. Kentucky* case, the Supreme Court ruled that jurors could not be dismissed based on race — especially when that may deny equal protection under the law. This overturned a 1965 (*Swain v. Alabama*) ruling in which the court indicated that race mattered little in jury selection and that a defendant need not be ensured a jury reflective of the racial makeup of the jurisdiction. Through revisiting decisions and/or reinterpreting laws, it is still the job of the courts to ensure basic human rights asserted by the constitution.

Often, this “moving target” of legal interpretation leads to arguments about the opposing interpretations and applications of the law. The different perspectives from which these arguments emerge may rely only on the smallest difference in the reading of the law; or they may depend on a larger, fundamental difference in the approach to the law. Sometimes these differing perspectives may not even appear that different. The subtle differences in these perspectives reveal the ambiguity that the founders foresaw and accounted for when they framed the constitution.

In this lesson, students will encounter some differing and subtle interpretations of amendments in the Bill of Rights. They will be asked to consider these perspectives as they develop their own arguments considering historic Supreme Court cases and their own interpretations of the law. They will then be asked to develop a complete argument in essay form that considers different perspectives.

Using the National Constitution Center Resources: Interactive Constitution

The National Constitution Center, in partnership with the American Constitution Society, the Federalist Society, and the John Templeton Foundation, developed the *Interactive Constitution* to promote discussion about and understanding of the Constitution and its meaning today. On the site, constitutional scholars interact to explore the constitution's history and its place in our society. For each article and amendment of the constitution, scholars from across the ideological spectrum discuss what they agree upon and what they disagree about.

Input/Direct Instruction

Coming into this lesson, students should already know that :

- ▶ Effective arguments rely on reasonable evidence; and
- ▶ Perspectives emerge from experiences and values.

Students should already be able to:

- ▶ Draft a thesis statement that makes a claim;
- ▶ Write an effective argumentative paragraph; and
- ▶ Compose an argument based on evidence from their readings and/or experiences.

Learning Goals

Students will be able to:

- ▶ Engage multiple perspectives in their development of an argument; and
- ▶ Draft a thesis statement that positions an opposing perspective against a claim.

Key Takeaways

- ▶ Perspectives may differ in small but meaningful ways.
- ▶ Effective arguments engage multiple perspectives.
- ▶ Develop clearer, and more effective evidence and commentary in an argument.

Materials

- ▶ Student handouts
- ▶ National Constitution Center's *Interactive Constitution*
(<http://constitutioncenter.org/interactive-constitution>)

Introduction

Legal Perspectives

Though the framers of the constitution were working to create laws that would govern the people of the newly formed republic, they also realized that times would change. They knew that it would likely become necessary for some laws to be reinterpreted as society developed.

Often, this “moving target” of legal interpretation means arguments sometimes emerge about the opposing interpretations and applications of the law. The different perspectives from which these arguments emerge may rely only on the smallest difference in the reading of the law, or they may depend on a larger, fundamental difference in the approach to the law. Sometimes these differing perspectives may not even appear that different. The subtle differences in these perspectives reveal the ambiguity that the founders foresaw and accounted for when they framed the constitution.

In this lesson, you will encounter some differing and subtle interpretations of amendments in the Bill of Rights. You will be asked to consider these perspectives as you develop your own arguments considering historic Supreme Court cases and your own interpretations of the law. You will then be asked to develop a complete argument in essay form that considers different perspectives.

Teach

Essential Question:

How can different perspectives inform an argument?

Real-Life Application:

Watch the video by talk-show host and TV personality Dave Rubin on “Free Speech, Safe Spaces, and Trigger Warnings” (www.youtube.com/watch?v=WjkhBVvw7RI).

Discuss the Dave Rubin video as you ask students the following questions:

- What, according to Rubin, are the tactics of those people who refuse to hear others' views?
- What is the problem with a student protest that bans media?
- Why is debate about these types of social issues important?
- What are the components of an effective debate or argument?
- Why is it important to consider other perspectives as you debate an issue?
- By not hearing or responding to other's views, how is debate stifled or rendered ineffective?

Explain that you will be returning to this discussion a bit later in the lesson, but you want students to understand that an effective argument consists of the following:

- ▶ Making a claim.
- ▶ Providing evidence to support that claim.
- ▶ Providing commentary that explains the reasoning between the evidence and the claim.
- ▶ Providing a counterclaim(s).
- ▶ Providing evidence that refutes the counterclaim(s).
- ▶ Providing commentary that explains that the reasoning of the counterclaim is not as effective as the reasoning between the claim and evidence.

Essential Question: How can different perspectives inform an argument?

“Free Speech, Safe Spaces, and Trigger Warnings”

Known for his political satire, comedian, talk-show host, and television personality Dave Rubin often targets such topics as free speech, political correctness, politics, and media. Watch closely the video by Dave Rubin and be prepared to discuss the following questions about what you see:

What, according to Rubin, are the tactics of those people who refuse to hear others' views?

What is the problem with a student protest that bans media?

Why is debate about these types of social issues important?

What are the components of an effective debate or argument?

Why is it important to consider other perspectives as you debate an issue?

By not hearing or responding to other's views, how is debate stifled or rendered ineffective?

Focus

The First Amendment to the US Constitution:

Congress shall make no law respecting¹ an establishment of religion, or prohibiting the free exercise thereof; or abridging² the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition³ the Government for a redress⁴ of grievances.

¹ Respecting: prep. – regarding; with reference or regard to

² Abridge: verb – to deprive, reduce, or restrict

³ Petition: verb – to make or present a formal request to (an authority) with respect to a particular cause

⁴ Redress: noun – remedy or compensation for a wrong or grievance

CASE #4

Hazelwood School District v. Kuhlmeier (1988)

Issue: Student Journalism and the First Amendment

Bottom Line: Schools Can Censor Student Newspapers

Background

Cathy Kuhlmeier, Leslie Smart, and Leanne Tippett, juniors at Hazelwood East High School in St. Louis, Missouri, helped write and edit the school paper, the Spectrum, as part of a journalism class. An issue of the paper was to include articles about the impact of divorce on students and teen pregnancy. The school's principal refused to publish the two stories, saying they were too sensitive for younger students and contained too many personal details. The girls went to court claiming their First Amendment right to freedom of expression had been violated.

Project or display the full text of the first amendment (provided with footnoted vocabulary). Then display or distribute the first half of Case #4 (Hazelwood). Read the brief on the case and separate students into two groups.

Students in Group 1 will write the claim from the perspective of the principal and provide supporting evidence for that claim. Encourage students to assume good intentions in the perspective of the principal.

Example: *One of a principal's responsibilities is to protect students from emotional harm.*

Group 2 will write the claim from the perspective of the students who wrote the article and provide supporting evidence for that claim. Encourage students to assume good intentions in the perspective of the students.

Example: *Unfortunately, parents getting divorced is a reality for many students and the article is reporting on that reality.*

They will be asked to share out. Refer them to the text of the First Amendment as necessary.

Now ask students from Group 1 to partner with a student from Group 2. Together, students should discuss each group's claims, reasoning, and evidence.

The member from Group 1 (Principal's claim) should take the claim, evidence, or reasoning from his/her Group 2 (student authors) and develop a short response to that claim.

The member from Group 2 (student authors) should take the claim, evidence, or reasoning from his/her Group 1 (principal) and develop a short response to that claim.

As students develop their responses, support their use of subordinate conjunctions (e.g., although, however, despite, even though, etc.) to concede the alternate perspective. This strategy will be discussed later in the lesson.

Ruling

The Supreme Court ruled against the girls. A school newspaper isn't a public forum in which anyone can voice an opinion, the Court said, but rather a supervised learning experience for students interested in journalism. "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities," the Court said, "so long as their actions are reasonably related to legitimate [educational] concerns."

Impact

Schools may censor newspapers and restrict other forms of student expression, including theatrical productions, yearbooks, creative writing assignments, and campaign and graduation speeches. But the Court's ruling in *Hazelwood* encourages schools to look closely at a student activity before imposing any restrictions and to balance the goal of maintaining high standards for student speech with students' right to free expression.

Discuss with students the following:

- a. What language from the First Amendment might agree with or influence the court's ruling?
- b. According to the court, what is the line between a school newspaper and one not published by students in a school?
- c. How does the court's opinion apply to *the perspective you discussed with your partner*?
- d. What do you see as the difference between your perspective and that perspective of the Supreme Court in this ruling?
- e. How do we see this impact in our school?

Explain that they will be exploring multiple sides of an argument that involve reading the same text, amendments from the constitution, and interpreting them in different ways.

Acquire

Show students how to navigate the National Constitution Center's *Interactive Constitution Website*.

1. Navigate your browser to the National Constitution Center's *Interactive Constitution* (<http://constitutioncenter.org/interactive-constitution>). Read the introduction aloud.
2. Scroll down and click on the "Explore It" arrow near the bottom-center of the page.
3. The page includes:
 - a. Links to all 27 amendments to the constitution;
 - b. A link, near the top left-hand corner, to the articles of the constitution;
 - c. A link, near the top right-hand corner, to a scholarly articles "About the Constitution";
 - d. A link to information "About the Interactive Constitution"; and
 - e. A search field to allow you to search all contents for certain words or phrases.
4. Choose "Amendment I" from the menu.
5. Show students how it provides links to interpretations of different parts, or clauses, of the First Amendment (you may need to scroll down to see these).
 - a. The Establishment (of laws regarding religion) clause,
 - b. The Free Exercise (of religion) clause,
 - c. Freedom of Speech clause, and
 - d. Freedom of Assembly and Petition.

National Constitution Center's Interactive Constitution Website

Directions:

Follow along with your teacher.

1. Navigate your browser to the National Constitution Center's *Interactive Constitution* (<http://constitutioncenter.org/interactive-constitution>)
2. Scroll down and click on the "Explore It" arrow near the bottom-center of the page.
3. The page includes:
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 - a. The Establishment (of laws regarding religion) clause,
 - b. The Free Exercise (of religion) clause,
 - c. Freedom of Speech clause, and
 - d. Freedom of Assembly and Petition.

AP ENGLISH LANGUAGE AND COMPOSITION WORKSHOP HANDBOOK

Argument Organizer: Claims, Counterclaims, and Evidence

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:	Evidence #2	Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Did You Know?

Subordinating conjunctions (although, however, despite, even though, etc.) can help incorporate a counterclaim into an argument.

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Model

Now you will continue the discussion about the Hazelwood case by modeling the process and thinking that you will later expect students to practice. Ask students to follow along and take notes on the first organizer in their handbook as you model this process.

1. Open “Common Interpretation: Clauses of the First Amendment” (<http://constitutioncenter.org/interactive-constitution/amendments/amendment-i/the-freedom-of-speech-and-of-the-press-clause/interp/33>).
2. Explain to students that this section includes the things on which scholars mostly agree. Select the *Freedom of Speech and the Press* by Geoffrey Stone and Eugent Volokh link from the Common Interpretations section. Read the first four paragraphs; and then only read Situation #2 (regarding restricting speech because of a special relationship with the government).
3. Ask students to think back on the discussion earlier about the Hazelwood case.
 - a. How does this reading inform that decision?
 - b. What parts of this situation (#2 on the website) seem to relate to this case?
4. Explain to students that we are going to develop a claim and then support it with evidence and reasoning from the reading and from the First Amendment. Students will record this on the “Claims, Counterclaims, and Evidence” handout. We will also develop a counterclaim that presents another perspective on the argument.

TEACHER TALK

Help students understand reasoning.

Reasoning is the *how and why* evidence supports a claim. **Commentary** is the explanation of the reasoning.

Students should be certain that their commentary (reasoning) makes sense for their audience. If the audience does not understand the reasoning, then the argument will not work.

5. Explain to students that by using certain subordinating conjunctions at the front of the thesis statement, they can introduce the opposing viewpoint to their claims. To do this effectively, however, it is better to do it with specific details about the counterclaim that they are addressing. As they work on the organizer, explain to students that their draft thesis will not only admit the counterclaim, but will engage something specific about it that will then be addressed in their claim. Explain that this creates a more specific and focused argument and may increase the effectiveness of the argument as it shows the audience that the writer of the argument has not only recognized the opposition, but has also closely considered it.

6. Now ask students to think of what evidence they would use to support their claim. Remind students that this could be evidence from their readings or personal experiences. Include the class agreed upon response in the Evidence #1 box on the organizer. Repeat the process to complete the Evidence #2 box.

Tell students that you are going to stop here with Evidence #1 and Evidence #2 and now look at the reasonings for your evidence.

7. Model for students that they should always be thinking about how the evidence supports their claims. This is the reasoning that helps their argument make sense to the reader.

On a sticky note, explain the reasoning between the claim and the evidence. Add this sticky note to the Evidence #1 box on the organizer.

Example Evidence #1 Reasoning Sticky Note: The discussion of family strife may cause a disruption in the education process.

On another sticky note, explain the reasoning between the claim and the evidence. Add this sticky note to the Evidence #2 box on the organizer.

Example Evidence #2 Reasoning Sticky Note: The articles for the school newspaper are an extension of a supervised learning experience; therefore, the school newspaper is not a public forum and school administration has the right to limit what is published.

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CHECK FOR UNDERSTANDING

Explain to students that they have seen how you have navigated the website and used the readings as part of your argument. Now they will do a little on their own by adding Evidence #3 and their reasoning on the organizer.

Ask students to pair up and, using their own devices, navigate to the Volokh text “Frontiers for Free Speech” near the bottom of the page. They should select the Full Text link to the text. Though the introduction is based on a text they have not read (the other perspective by Geoffrey Stone), the rest of the text is not. Point them to the section, “Hostile Environment Harassment’ Rules.” This is the third section in the full text. Students should:

1. Read the text in their pairs.
2. Discuss what statements from Dr. Volokh’s perspective could be used to support the draft thesis that you have modeled for them, and has been included on the organizer.
3. After they have read and briefly discussed, ask them to share out what they found and discuss these things as a class;
4. As a class settle on what information from the Volokh reading will be used to support the thesis and how it will be used;
5. Write this into the remaining spot on the organizer. (*Possible Text: The principal of the school could have felt that articles about divorce and pregnancy would have created a “hostile or offensive [learning] environment” for some students. As such, the student journalists’ speech was rightfully restricted.*)
6. Ask students in their pairs to now go back and write on a sticky note the reasoning for the Evidence #3.

Discuss as a class what the reasoning should be. Write a sticky note and add to the now completed model organizer.

Frontiers of Free Speech: Hostile Environment Harassment Rules

Part I Directions

Now that you have seen you teacher model both the navigation of the website and the thinking process involved, you and your class will start working with some of your own thinking.

Pair up and navigate to the Volokh text, “Frontiers for Free Speech.” Though the introduction is based on a text you have not read (the other perspective by Geoffrey Stone), the rest of the text is not. Pay close attention to the section, “Hostile Environment Harassment’ Rules.”

Read the text in pairs.

Discuss what statements from Dr. Volokh’s perspective could be used to either support the draft thesis that your teacher modeled for you.

After you and your partner have read and briefly discussed it, be prepared to share out what you found and discuss these things as a class.

As a class settle on what information from the Volokh reading will be used to support the thesis and how it will be used.

Write this into the remaining spot on the organizer.

Now, with your partner, write your reasoning for that evidence on a sticky notes. Be prepared to share your response with the class.

Example Evidence #3 Sticky Note: *Divorce and teen pregnancy are sensitive and personal issues.*

Confrontation and discussion in the school setting about these personal issues may cause unnecessary emotional harm.

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Guided Practice Prompt

Watch the video at www.cnn.com/2014/05/29/us/utah-highschool-yearbook-photos-editing

The Supreme Court has ruled, "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities" (*Hazelwood School District v. Kuhlmeier*). Consider this ruling and the circumstances of the video about the editing of the yearbook pictures. Then, in a well-organized essay, develop your position on the constitutionality of the administrators' decision.

Complete the Organizer: Claims, Counterclaims, and Evidence about the yearbook photo editing. Feel free to refer to the model organizer you completed with your teacher.

After you complete the organizer, write one to three well formed paragraphs that present the following:

- ▶ Your claim, evidence, and reasoning.
- ▶ Your counterclaim, evidence, and commentary that explains that the reasoning of the counterclaim is not as effective as the reasoning between the claim and evidence.

Remember that your draft thesis statement will be more effective if you not only admit the counterclaim, but engage specifics about it that will then be refuted by the claim of the thesis statement.

Be certain to rely on your reading of the First Amendment and its associated perspectives on The National Constitution Center's Interactive Constitution website when developing your position.

You can also refer to the model organizer you completed earlier.

Practice**Guided Practice**

Watch the video at www.cnn.com/2014/05/29/us/utah-highschool-yearbook-photos-editing

Place students in small groups and ask them to complete the "Claims, Counterclaims, and Evidence" organizer to draft brief commentary that they would use to explain the link between the evidence and the claim of the argument.

Ask students to include evidence with reasoning as well as a counterclaim and thesis statement similar to how you modeled earlier. Students should refer to this completed model while completing their organizer.

Students should rely on their reading of the First Amendment and its associated perspectives on The National Constitution Center's Interactive Constitution website when developing their position.

Depending on where you are in the year with your instruction, you can stop this activity with the completed organizer.

If students have had sufficient practice writing effective arguments, you may want them to use their organizer to develop well-organized paragraphs (or essays) that present their claim with evidence as well as their counterclaim.

Argument Organizer: Claims, Counterclaims, and Evidence

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2

Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Did You Know?

Writing an argument is a part of almost every discipline; however, each discipline has a different expectation as to how an argument should be organized. In English, for example, deductive reasoning is common practice in that the claim or position is stated at the beginning of the argument and evidence is used to support that claim for the remainder of the argument. In political science, inductive reasoning is often standard practice. Reasons and evidence are stated upfront and the claim is stated at the end of the argument.

Independent Practice Prompt

The British Broadcasting Company (BBC) describes the term “*trigger warning*” as something that someone adds to a video, text, etc. “in recognition of strong writing or images which could unsettle those with mental health difficulties.” Trigger warnings have seen increasing use in the past several years as ways of notifying people of potentially offensive or troubling subject matter.

Some high schools and colleges are considering requirements that teachers and professors include trigger warnings when a class may study potentially offensive or troubling subject matter. Examples may include warnings to be used when a book in an English class includes a troubling scene or offensive language, when a lesson in a science class addresses material that may go against someone’s beliefs, or when a particularly troubling period of history is to be covered in a history class.

Consider this information about trigger warnings and their potential requirement in some high schools. Then, in a well-organized essay, develop a position regarding requirement of trigger warnings with high school courses.

You are encouraged to use your exploration of the First Amendment and the associated readings on the National Constitution Center’s website as evidence in your argument.

Practice**Independent Practice**

Remind students of the video, Dave Rubin on “Free Speech, Safe Spaces, and Trigger Warnings” (www.youtube.com/watch?v=WjkhBVvw7RI) and the activity of determining evidence for each claim.

Part 1

Students will complete this activity individually as you monitor to determine if students are ready for this level of independent skill practice. Provide students with the “Independent Practice” prompt.

Note: If you determine after this activity that students need more practice, please see the Extension Activity at the end of this lesson.

1. Ask students to read it briefly, and form an opinion based on their perspectives.
2. Distribute a blank *Claims, Counterclaims, and Evidence* organizer. Ask students to complete the organizer in response to the prompt. Remind students to include evidence with reasoning as well as a counterclaim and thesis as they did when you modeled and they practiced earlier. Remind them that their draft thesis statement will be more effective if they not only admit the counterclaim, but engage specifics about it that will then be refuted by the claim of the thesis statement. They should be able to refer to the example you modeled for them and the guided practice they completed earlier.
3. Students should navigate and use National Constitution Center’s *Interactive Constitution* (<http://constitutioncenter.org/interactive-constitution>) website, including the Stone and Volokh texts from earlier, as they develop and support their position.
4. Remind students to think about the relationships between claim and counterclaim and evidence and so on.

Part 2

5. Pair students up for a peer review. Ask the reviewer to make notes on their partner’s organizer identifying where responses to the following questions are addressed or areas where additional work is needed:
 - a. What is the claim being made in this draft thesis statement?
 - b. What is the counterclaim? What details about the counterclaim are included?

Part 1

Directions

You have been given the “*Independent Practice Prompt*.”

Read and form an opinion based on your perspectives.

Complete the *Claims, Counterclaims, and Evidence* handout in response to the prompt. Be sure to include evidence with reasoning as well as a counterclaim and thesis as you did with your teacher and practiced earlier.

You should navigate and use the National Constitution Center’s *Interactive Constitution* (<http://constitutioncenter.org/interactive-constitution>) website, including the Stone and Volokh texts from earlier, as you develop and support your position.

Be certain to closely consider the relationships between claim and counterclaim and evidence and so on, including a focus on using specifics of the counterclaim in your draft thesis statement.

Consider these questions as you work:

What is the claim being made in this draft thesis statement?

What is the counterclaim? What details about the counterclaim are included?

Does the claim address the counterclaim and the specific details about it?

Part 2

Now, using your completed *Claims, Counterclaims, and Evidence* organizer, write a well formed essay that presents your claim with evidence and reasoning. Include also your counterclaim with reasoning that explains that the reasoning of the counterclaim is not as effective as the reasoning between the claim and evidence.

Be prepared to review your work with another student.

Part 3

Finally, while working with your partner, answer these questions about the value of counterclaims to the efficacy of an argument.

Why is the counterclaim so important to the development of an argument?

Why might it be important to include specifics about the perspective of the counterclaim as early as the thesis statement?

Organizer: Claims, Counterclaims, and Evidence

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2:

Evidence #3:

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Did You Know

Subordinating conjunctions (although, however, despite, even though, etc.) can help incorporate a counterclaim into an argument.

- c. Does the claim address the counterclaim and the specific details about it?

Part 3

With their peer review partners, ask students to discuss their responses to the following questions:

- a. Why is the counterclaim so important to the development of an argument (Possible answer: *It shows the audience that you have considered the other sides.*)
- b. Why might it be important to include specifics about the perspective of the counterclaim as early as the thesis statement? (Possible answer: *Because some perspectives may be pretty close to one another, so that the disputed aspects are very particular. By addressing these particular differences up front, the writer is clarifying the distinction and asserting his or her position.*)

Assess

The following is modeled after the 2012 AP® English Language and Composition Free Response — Argument Question

Please take into consideration where students are on the continuum of skill and understanding development when deciding the best time to assign this assessment.

(Suggested Time — 40 Minutes)

PROMPT:

John Stuart Mill (1806–1873) was an English philosopher and political thinker. His ideas contributed much to our contemporary political thinking.

Regarding freedom of speech, Mill wrote in his 1859 work, *On Liberty*:

If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.

But he also wrote later wrote in the same work that

The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.

In a well-organized essay, take a position on the relationship between freedom of “opinion” and the responsibility to “prevent harm to others.”

You are invited to draw upon your recent examination and discussion of the First Amendment and particular Supreme Court cases in your position.

The scoring guidelines for the original 2012 prompt are on the AP Central AP English Language and Composition Exam site at

http://apcentral.collegeboard.com/apc/public/repository/ap12_english_language_scoring_guidelines.pdf.

The full scoring guidelines are also included at the end of this document.

Assessment

(Suggested Time — 40 Minutes)

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Regarding freedom of speech, Mill wrote in his 1859 work *On Liberty*:

“If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”

But he also wrote later wrote in the same work:

“The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”

In a well-organized essay, take a position on the relationship between freedom of “opinion” and the responsibility to “prevent harm to others.”

You are invited to draw upon your recent examination and discussion of the First Amendment and particular Supreme Court cases in your position.

Related Free-Response Question

From the 2012 AP English Language and Composition Exam Free-Response Questions

(Suggested time — 40 minutes.)

Consider the distinct perspectives expressed in the following statements.

“If you develop the absolute sense of certainty that powerful beliefs provide, then you can get yourself to accomplish virtually anything, including those things that other people are certain are impossible.”

—*William Lyon Phelps, American educator, journalist, and professor (1865–1943)*

“I think we ought always to entertain our opinions with some measure of doubt. I shouldn't wish people dogmatically to believe any philosophy, not even mine.”

—*Bertrand Russell, British author, mathematician, and philosopher (1872–1970)*

In a well-organized essay, take a position on the relationship between certainty and doubt. Support your argument with appropriate evidence and examples.

RELATED FREE-RESPONSE QUESTION

You might ask students to only develop a thesis with claim, counterclaim, and evidence, or you might ask them to complete the entire (or some portion of) the essay.

From the 2012 AP English Language and Composition Exam Free-Response Questions

Scoring guidelines for this free-response question can be found in the appendix of this document.

(Suggested time — 40 minutes)

Consider the distinct perspectives expressed in the following statements.

“If you develop the absolute sense of certainty that powerful beliefs provide, then you can get yourself to accomplish virtually anything, including those things that other people are certain are impossible.”

William Lyon Phelps, American educator, journalist, and professor (1865–1943)

“I think we ought always to entertain our opinions with some measure of doubt. I shouldn't wish people dogmatically to believe any philosophy, not even mine.”

Bertrand Russell, British author, mathematician, and philosopher (1872–1970)

In a well-organized essay, take a position on the relationship between certainty and doubt. Support your argument with appropriate evidence and examples.

The original question and its associated scoring guidelines can be found at http://apcentral.collegeboard.com/apc/members/exam/exam_information/2001.html

Extension Activity

1. Assign each student to read the first half of case #5 (*Acton*) and distribute the “Extension Independent Practice” handout.

CASE #5

Vernonia School District v. Acton (1995)

Issue: Student Athletes and Drug Testing
Bottom Line: Schools Can Require It

Background

James Acton, a 12-year-old seventh grader at Washington Grade School in Vernonia, Oregon, wanted to try out of the football team. His school required all student athletes to take drug tests at the beginning of the season and on a random basis during the school year. James’s parents refused to let him be tested because, they said, there was no evidence that he used drugs or alcohol. The school suspended James from sports for the season. He and his parents sued the school district, arguing that mandatory drug testing without suspicion of illegal activity constituted an unreasonable search under the Fourth Amendment.

2. Direct students to the Fourth Amendment site on the Interactive Constitution website.
3. Students should spend time reading the commentaries there by Barry Friedman and Orin Kerr.
4. Students should then independently use the readings from the website and the provided organizer to respond to the prompt and draft a thesis statement that might be used in a full free-response question essay.

NOTE: Depending on where this lesson is taught during the school year, you might ask students to complete the entire essay.

5. At the end of this activity, don’t forget to share the second half of the case brief.

Ruling:

The Supreme Court ruled in favor of the school district. Schools must balance students’ right to privacy against the need to make school campuses safe and keep student athletes away from drugs, the Court said. The drug-testing policy, which required students to provide a urine sample, involved only a limited invasion of privacy, according to the Justices: “Students who voluntarily participate in school athletics have reason to expect intrusions upon normal rights and privileges, including privacy.”

Extension Independent Practice

Having read the case brief from the Acton case, develop your position regarding whether or not the school’s required drug test violates the student’s right to protection from unreasonable search and seizure. Be certain to include material from your reading and exploration of the National Constitution Center’s Interactive Constitution. Use this organizer to help you establish a claim relative to a counterclaim while also including supporting evidence.

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2

Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Did You Know

Subordinating conjunctions (although, however, despite, even though, etc.) can help incorporate a counterclaim into an argument.

The Court noted that all students surrender some privacy rights while at school: They must follow school rules and submit to school discipline. But student athletes have even fewer privacy rights, the Justices said, and must follow rules that don't apply to other students. Joining a team usually requires getting a physical exam, obtaining insurance coverage, and maintaining a minimum grade point average. And athletes must be willing to shower and change in locker rooms, further reducing their privacy. "School sports are not for the bashful," the Court said.

Impact

More recently, the Court has ruled in favor of school policies requiring random drug testing for all extracurricular activities (*Board of Education vs. Earls*, 2002).

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Appendix



AP® English Language and Composition 2012 Scoring Guidelines

The College Board

The College Board is a mission-driven not-for-profit organization that connects students to college success and opportunity. Founded in 1900, the College Board was created to expand access to higher education. Today, the membership association is made up of more than 5,900 of the world's leading educational institutions and is dedicated to promoting excellence and equity in education. Each year, the College Board helps more than seven million students prepare for a successful transition to college through programs and services in college readiness and college success — including the SAT® and the Advanced Placement Program®. The organization also serves the education community through research and advocacy on behalf of students, educators, and schools. The College Board is committed to the principles of excellence and equity, and that commitment is embodied in all of its programs, services, activities, and concerns.

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AP Central is the official online home for the AP Program: apcentral.collegeboard.org.



AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES

Question 1

The score should reflect a judgment of the essay's quality as a whole. Remember that students had only 15 minutes to read the sources and 40 minutes to write; the essay, therefore, is not a finished product and should not be judged by standards appropriate for an out-of-class assignment. Evaluate the essay as a draft, making certain to reward students for what they do well.

All essays, even those scored 8 or 9, may contain occasional lapses in analysis, prose style, or mechanics. Such features should enter into the holistic evaluation of an essay's overall quality. In no case may an essay with many distracting errors in grammar and mechanics be scored higher than a 2.

-
- 9** Essays earning a score of 9 meet the criteria for a score of 8 and, in addition, are especially sophisticated in their argument, thorough in development, or impressive in their control of language.

8 Effective

Essays earning a score of 8 **effectively** develop a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They develop their position by effectively synthesizing^{*} at least three of the sources. The evidence and explanations used are appropriate and convincing. Their prose demonstrates a consistent ability to control a wide range of the elements of effective writing but is not necessarily flawless.

- 7** Essays earning a score of 7 meet the criteria for a score of 6 but provide more complete explanation, more thorough development, or a more mature prose style.

6 Adequate

Essays earning a score of 6 **adequately** develop a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They develop their position by adequately synthesizing at least three of the sources. The evidence and explanations used are appropriate and sufficient. The language may contain lapses in diction or syntax, but generally the prose is clear.

- 5** Essays earning a score of 5 develop a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They develop their position by synthesizing at least three sources, but how they use and explain sources is somewhat uneven, inconsistent, or limited. The argument is generally clear, and the sources generally develop the student's position, but the links between the sources and the argument may be strained. The writing may contain lapses in diction or syntax, but it usually conveys the student's ideas.

^{*} For the purposes of scoring, *synthesis* means using sources to develop a position and citing them accurately.

AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES

Question 1 (continued)

4 Inadequate

Essays earning a score of 4 **inadequately** develop a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They develop their position by synthesizing at least two sources, but the evidence or explanations used may be inappropriate, insufficient, or less convincing. The sources may dominate the student's attempts at development; the link between the argument and the sources may be weak; or the student may misunderstand, misrepresent, or oversimplify the sources. The prose generally conveys the student's ideas but may be less consistent in controlling the elements of effective writing.

- 3** Essays earning a score of 3 meet the criteria for a score of 4 but demonstrate less success in developing a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They are less perceptive in their understanding of the sources, or their explanation or examples may be particularly limited or simplistic. The essays may show less maturity in control of writing.

2 Little Success

Essays earning a score of 2 demonstrate **little success** in developing a position on whether the USPS should be restructured to meet the needs of a changing world, and if so, how. They may merely allude to knowledge gained from reading the sources rather than citing the sources themselves. These essays may misread the sources, fail to develop a position, or substitute a simpler task by merely summarizing or categorizing the sources or by merely responding to the prompt tangentially with unrelated, inaccurate, or inappropriate explanation. The prose of these essays often demonstrates consistent weaknesses in writing, such as grammatical problems, a lack of development or organization, or a lack of control.

- 1** Essays earning a score of 1 meet the criteria for a score of 2 but are undeveloped, especially simplistic in their explanation, weak in their control of writing, or do not allude to or cite even one source.
- 0** Indicates an off-topic response, one that merely repeats the prompt, an entirely crossed-out response, a drawing, or a response in a language other than English.
- Indicates an entirely blank response.

AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES

Question 2

The score should reflect a judgment of the essay's quality as a whole. Remember that students had only 40 minutes to read and write; the essay, therefore, is not a finished product and should not be judged by standards appropriate for an out-of-class assignment. Evaluate the essay as a draft, making certain to reward students for what they do well.

All essays, even those scored 8 or 9, may contain occasional lapses in analysis, prose style, or mechanics. Such features should enter into the holistic evaluation of an essay's overall quality. In no case may an essay with many distracting errors in grammar and mechanics be scored higher than a 2.

-
- 9** Essays earning a score of 9 meet the criteria for a score of 8 and, in addition, are especially sophisticated in their argument, thorough in their development, or impressive in their control of language.

8 Effective

Essays earning a score of 8 **effectively** analyze* the rhetorical strategies President Kennedy uses to achieve his purpose. They develop their analysis with evidence and explanations that are appropriate and convincing, referring to the passage explicitly or implicitly. The prose demonstrates a consistent ability to control a wide range of the elements of effective writing but is not necessarily flawless.

- 7** Essays earning a score of 7 meet the criteria for a score of 6 but provide more complete explanation, more thorough development, or a more mature prose style.

6 Adequate

Essays earning a score of 6 **adequately** analyze the rhetorical strategies President Kennedy uses to achieve his purpose. They develop their analysis with evidence and explanations that are appropriate and sufficient, referring to the passage explicitly or implicitly. The writing may contain lapses in diction or syntax, but generally the prose is clear.

- 5** Essays earning a score of 5 analyze the rhetorical strategies President Kennedy uses to achieve his purpose. The evidence or explanations used may be uneven, inconsistent, or limited. The writing may contain lapses in diction or syntax, but it usually conveys the student's ideas.

4 Inadequate

Essays earning a score of 4 **inadequately** analyze the rhetorical strategies President Kennedy uses to achieve his purpose. These essays may misunderstand the passage, misrepresent the strategies Kennedy uses, or may analyze these strategies insufficiently. The evidence or explanations used may be inappropriate, insufficient, or less convincing. The prose generally conveys the student's ideas but may be less consistent in controlling the elements of effective writing.

* For the purposes of scoring, *analysis* refers to identifying features of a text and explaining how the author uses these to develop meaning or to achieve a particular effect or purpose.

AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES

Question 2 (continued)

- 3** Essays earning a score of 3 meet the criteria for a score of 4 but demonstrate less success in analyzing the rhetorical strategies President Kennedy uses to achieve his purpose. They are less perceptive in their understanding of the passage or Kennedy's strategies, or the explanations or examples may be particularly limited or simplistic. The essays may show less maturity in control of writing.

2 Little Success

Essays earning a score of 2 demonstrate **little success** in analyzing the rhetorical strategies President Kennedy uses to achieve his purpose. These essays may misunderstand the prompt, misread the passage, fail to analyze the strategies Kennedy uses, or substitute a simpler task by responding to the prompt tangentially with unrelated, inaccurate, or inappropriate explanation. The prose often demonstrates consistent weaknesses in writing, such as grammatical problems, a lack of development or organization, or a lack of control.

- 1** Essays earning a score of 1 meet the criteria for a score of 2 but are undeveloped, especially simplistic in their explanation, or weak in their control of language.
- 0** Indicates an off-topic response, one that merely repeats the prompt, an entirely crossed-out response, a drawing, or a response in a language other than English.
- Indicates an entirely blank response.

AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES

Question 3

The score should reflect a judgment of the essay's quality as a whole. Remember that students had only 40 minutes to read and write; the essay, therefore, is not a finished product and should not be judged by standards appropriate for an out-of-class assignment. Evaluate the essay as a draft, making certain to reward students for what they do well.

All essays, even those scored 8 or 9, may contain occasional lapses in analysis, prose style, or mechanics. Such features should enter into the holistic evaluation of an essay's overall quality. In no case may an essay with many distracting errors in grammar and mechanics be scored higher than a 2.

- 9 Essays earning a score of 9 meet the criteria for a score of 8 and, in addition, are especially sophisticated in their argument, thorough in their development, or particularly impressive in their control of language.

8 Effective

Essays earning a score of 8 **effectively** develop a position on the relationship between certainty and doubt. The evidence and explanations used are appropriate and convincing, and the argument is especially coherent and well developed. The prose demonstrates a consistent ability to control a wide range of the elements of effective writing but is not necessarily flawless.

- 7 Essays earning a score of 7 meet the criteria for a score of 6 but provide a more complete explanation, more thorough development, or a more mature prose style.

6 Adequate

Essays earning a score of 6 **adequately** develop a position on the relationship between certainty and doubt. The evidence and explanations used are appropriate and sufficient, and the argument is coherent and adequately developed. The writing may contain lapses in diction or syntax, but generally the prose is clear.

- 5 Essays earning a score of 5 develop a position on the relationship between certainty and doubt. The evidence or explanations used may be uneven, inconsistent, or limited. The writing may contain lapses in diction or syntax, but it usually conveys the student's ideas.

4 Inadequate

Essays earning a score of 4 **inadequately** develop a position on the relationship between certainty and doubt. The evidence or explanations used may be inappropriate, insufficient, or less convincing. The argument may have lapses in coherence or be inadequately developed. The prose generally conveys the student's ideas but may be less consistent in controlling the elements of effective writing.

- 3 Essays earning a score of 3 meet the criteria for a score of 4 but demonstrate less success in developing a position on the relationship between certainty and doubt. The essays may show less maturity in control of writing.

**AP® ENGLISH LANGUAGE AND COMPOSITION
2012 SCORING GUIDELINES**

Question 3 (continued)

2 Little Success

Essays earning a score of 2 demonstrate **little success** in developing a position on the relationship between certainty and doubt. These essays may misunderstand the prompt or substitute a simpler task by responding to the prompt tangentially with unrelated, inaccurate, or inappropriate explanation. The prose often demonstrates consistent weaknesses in writing, such as grammatical problems, a lack of development or organization, or a lack of coherence and control.

- 1** Essays earning a score of 1 meet the criteria for a score of 2 but are undeveloped, especially simplistic in their explanation and argument, weak in their control of language, or especially lacking in coherence and development.
- 0** Indicates an off-topic response, one that merely repeats the prompt, an entirely crossed-out response, a drawing, or a response in a language other than English.
- Indicates an entirely blank response.

Handouts

The First Amendment to the US Constitution:

Congress shall make no law respecting¹ an establishment of religion, or prohibiting the free exercise thereof; or abridging² the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition³ the Government for a redress⁴ of grievances.

¹ Respecting: *prep.* – regarding; with reference or regard to

² Abridge: *verb* – to deprive, reduce, or restrict

³ Petition: *verb* – to make or present a formal request to (an authority) with respect to a particular cause

⁴ Redress: *noun* – remedy or compensation for a wrong or grievance

The Fourth Amendment to the US Constitution:

The right of the people to be secure in their persons, houses, papers, and effects¹, against unreasonable searches and seizures², shall not be violated, and no warrants³ 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.

¹ **Effects:** *noun* – personal belongings; anything that belongs to a person

² **Seizure:** *noun* – the action of capturing someone or something using force

³ **Warrant:** *noun* – a document issued by a legal or government official authorizing the police or some other body to make an arrest, search premises, or carry out some other action relating to the administration of justice

CASE #1

Tinker v. Des Moines Independent School District (1969)

Issue: Freedom of Speech at School

Bottom Line: You Have the Right To Express Yourself — Up to a Point

Background

In December 1965, John and Mary Beth Tinker and their friend Chris Eckhardt wore black armbands to school in Des Moines, Iowa, to protest the war in Vietnam. School officials told them to remove the armbands, and when they refused they were suspended (John, 15, from North High; Mary Beth, 13, from Warren Harding Junior High; and Chris, 16, from Roosevelt High). With their parents, they sued the school district, claiming a violation of their First Amendment right of freedom of speech.

Ruling

The Supreme Court sided with the students. Students and teachers don't "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," the court said.

The court did not, however, grant students an unlimited right to self-expression. It said First Amendment guarantees must be balanced against a school's need to keep order; as long as an act of expression doesn't disrupt classwork or school activities or invade the rights of others, it's acceptable. Regarding the students in this case, "Their deviation consisted only in wearing on their sleeve a band of black cloth," the court said. "They caused discussion outside of the classrooms, but no interference with work and no disorder."

Impact

In 1986, applying the "disruption test" from the *Tinker* case, the Supreme Court upheld the suspension of Matthew Fraser, a 17-year-old senior at Bethel High School in Tacoma, Washington, who gave a school speech containing sexual innuendos (*Bethel School District v. Fraser*). The court said, "It is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse."

Lower courts have relied on *Tinker* in rulings on school attire, allowing nose rings and dyed hair, for example, but disallowing a T-shirt displaying a Confederate flag.

In June 2007, the Supreme Court weighed in on another student expression case, *Frederick v. Morse*, ruling that schools can limit student speech that seems to advocate illegal drug use. The case concerned Joseph Frederick, an 18-year-old senior at Juneau-Douglas High School in Alaska, who was suspended in 2002 for holding a banner that said "Bong Hits 4 Jesus" while standing across the street from the school during the Olympic torch relay.

CASE #2

New Jersey v. T.L.O. (1985)

Issue: Privacy Rights at School

Bottom Line: Your Belongings Can Be Searched, but Not Arbitrarily

Background

T.L.O. (Terry), a 14-year-old freshman at Piscataway High School in New Jersey, was caught smoking in a school bathroom by a teacher. The principal questioned her and asked to see her purse. Inside was a pack of cigarettes, rolling papers, and a small amount of marijuana. The police were called and Terry admitted selling drugs at school.

Her case went to trial and she was found guilty of possession of marijuana and placed on probation. Terry appealed her conviction, claiming that the search of her purse violated her Fourth Amendment protection against “unreasonable searches and seizures.”

Ruling

The Supreme Court ruled in favor of the school. Students have “legitimate expectations of privacy,” the court said, but that must be balanced with the school’s responsibility for “maintaining an environment in which learning can take place.” The initial search of Terry’s purse for cigarettes was reasonable, the court said, based on the teacher’s report that she’d been smoking in the bathroom. The discovery of rolling papers near the cigarettes in her purse created a reasonable suspicion that she possessed marijuana, the court said, which justified further exploration.

Impact

T.L.O. is the landmark case on search and seizure at school. Basically, school officials may search a student’s property if they have a “reasonable suspicion” that a school rule has been broken, or a student has committed or is in the process of committing a crime. These are called “suspicion-based” searches. There are also “suspicionless searches” in which everyone in a certain group is subject to a search at school. [See *Vernonia v. Acton* in part 2 of this article in the next issue of *Upfront*.]

CASE #3

West Side Community Schools v. Mergens (1990)

Issue: Student Clubs

Bottom Line: Public Schools that Allow Student-Interest Clubs Cannot Exclude Religious or Political Ones

Background

Bridget Mergens was a senior at Westside High School in Omaha, Nebraska. She asked her homeroom teacher, who was also the school's principal, for permission to start an after-school Christian club. Westside High already had about 30 clubs, including a chess club and a scuba-diving club. The principal denied Bridget's request, telling her that a religious club would be illegal in a public school.

The year before, in 1984, Congress had addressed this issue in the Equal Access Act, which required public schools to allow religious and political clubs if they let students form other kinds of student-interest clubs. When Bridget challenged the principal's decision, her lawsuit became the Supreme Court's test case for deciding whether the Equal Access Act was constitutional under what is known as the Establishment Clause of the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Ruling

The Supreme Court ruled in favor of Bridget. Allowing students to meet on campus to discuss religion after school did not amount to state sponsorship of religion. The court said: "We think that secondary-school students are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits."

Impact

If a public school allows only clubs tied to the school curriculum — a French club related to French classes, for instance — it can exclude clubs that don't connect to its educational mission. But once a school allows student-interest clubs — such as a scuba-diving club, environmental club, or jazz club — it cannot exclude religious clubs, political clubs, gay-lesbian clubs, or other groups.

If the club is religious in nature, however, the school must refrain from active involvement or sponsorship, so that it doesn't run afoul of the Establishment Clause, the court said.

CASE #4

Hazelwood School District v. Kuhlmeier (1988)

Issue: Student Journalism and the First Amendment

Bottom Line: Schools Can Censor Student Newspapers

Background

Cathy Kuhlmeier, Leslie Smart, and Leanne Tippett, juniors at Hazelwood East High School in St. Louis, Missouri, helped write and edit the school paper, the Spectrum, as part of a journalism class. An issue of the paper was to include articles about the impact of divorce on students and teen pregnancy. The school's principal refused to publish the two stories, saying they were too sensitive for younger students and contained too many personal details. The girls went to court claiming their First Amendment right to freedom of expression had been violated.

Ruling

The Supreme Court ruled against the girls. A school newspaper isn't a public forum in which anyone can voice an opinion, the court said, but rather a supervised learning experience for students interested in journalism. "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities," the court said, "so long as their actions are reasonably related to legitimate [educational] concerns."

Impact

Schools may censor newspapers and restrict other forms of student expression, including theatrical productions, yearbooks, creative writing assignments, and campaign and graduation speeches. But the Court's ruling in Hazelwood encourages schools to look closely at a student activity before imposing any restrictions and to balance the goal of maintaining high standards for student speech with students' right to free expression.

CASE #5

Vernonia School District v. Acton (1995)

Issue: Student Athletes and Drug Testing

Bottom Line: Schools Can Require It

Background

James Acton, a 12-year-old seventh-grader at Washington Grade School in Vernonia, Oregon, wanted to try out for the football team. His school required all student athletes to take drug tests at the beginning of the season and on a random basis during the school year. James's parents refused to let him be tested because, they said, there was no evidence that he used drugs or alcohol. The school suspended James from sports for the season. He and his parents sued the school district, arguing that mandatory drug testing without suspicion of illegal activity constituted an unreasonable search under the Fourth Amendment.

Ruling

The Supreme Court ruled in favor of the school district. Schools must balance students' right to privacy against the need to make school campuses safe and keep student athletes away from drugs, the court said. The drug-testing policy, which required students to provide a urine sample, involved only a limited invasion of privacy, according to the Justices: "Students who voluntarily participate in school athletics have reason to expect intrusions upon normal rights and privileges, including privacy."

The court noted that all students surrender some privacy rights while at school; they must follow school rules and submit to school discipline. But student athletes have even fewer privacy rights, the justices said, and must follow rules that don't apply to other students. Joining a team usually requires getting a physical exam, obtaining insurance coverage, and maintaining a minimum grade point average. And athletes must be willing to shower and change in locker rooms, further reducing their privacy. "School sports are not for the bashful," the court said.

Impact

More recently, the Supreme Court has ruled in favor of school policies requiring random drug testing for all extracurricular activities (*Board of Education v. Earls*, 2002).

The preceding case summaries were all published as part of an article in the September 2007 edition of The New York Times Upfront, a news magazine for teens published through a partnership between Scholastic and The New York Times.

Jacobs, Tom. 2007. "10 Supreme Court Cases Every Teen Should Know." *The New York Times on the Web Learning Network*. The New York Times and Scholastic. September.

Accessed January 15, 2016. <http://learning.blogs.nytimes.com>.

Lesson 1 Organizer: Comparing Texts and Examining Revisions

Drafted Text

HOUSE AMENDMENT #4

The freedom of speech, and of the press, and the right of the people to peaceably assemble and consult for their common good, and to apply to the government for redress of grievances, shall not be infringed.

Final Text

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 the right of the people peaceably to assemble,** and to petition the **Government for a redress of grievances.**

Examination of Revised Elements

The Revision: “and consult for their common good” was dropped completely.

1. What about this choice might not accomplish the goal of the original writing?

2. What is the implication of this revision? What is the revision trying to achieve?

Lesson 1 Independent Practice: Comparing Texts and Examining Revisions**Drafted Text****Final Text****Examination of Revised Elements****The Revision:**

1. What about this choice might not accomplish the goal of the original writing?

2. What is the implication of this revision? What is the revision trying to achieve?

Argument Organizer: Claims, Counterclaims, and Evidence

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2

Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Independent Practice Prompt

The British Broadcasting Company (BBC) describes the term “*trigger warning*” as something that someone adds to a video, text, etc. “in recognition of strong writing or images which could unsettle those with mental health difficulties.” Trigger warnings have seen increasing use in the past several years as ways of notifying people of potentially offensive or troubling subject matter.

Some high schools and colleges are considering requirements that teachers and professors include trigger warnings when a class may study potentially offensive or troubling subject matter. Examples may include warnings to be used when a book in an English class includes a troubling scene or offensive language, when a lesson in a science class addresses material that may go against someone’s beliefs, or when a particularly troubling period of history is to be covered in a history class.

Consider this information about trigger warnings and their potential requirement in some high schools. Then, in a well-organized essay, develop a position regarding requirement of trigger warnings with high school courses.

You are encouraged to use your exploration of the First Amendment and the associated readings on the National Constitution Center’s website as evidence in your argument.

Argument Organizer: Claims, Counterclaims, and Evidence

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2

Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Extension Independent Practice

Having read the case brief from the Acton case, develop your position regarding whether or not the school's required drug test violates the student's right to protection from unreasonable search and seizure. Be certain to include material from your reading and exploration of the National Constitution Center's Interactive Constitution. Use this organizer to help you establish a claim relative to a counterclaim while also including supporting evidence.

Claim: *What am I going to assert?*

Counterclaim: *What might someone say to argue with my claim?*

Evidence: *What information from my readings/experiences might support my claim and/or refute the counterclaim?*

Evidence #1:

Evidence #2

Evidence #3

Draft Thesis Statement: *Begin with Although, Despite, Even if, Even though, or Regardless.*

Assessment

(Suggested Time — 40 Minutes)

John Stuart Mill (1806–1873) was an English philosopher and political thinker. His ideas contributed much to our contemporary political thinking.

Regarding freedom of speech, Mill wrote in his 1859 work *On Liberty*:

“If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind.”

But he also later wrote in the same work:

“The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”

In a well-organized essay, take a position on the relationship between freedom of “opinion” and the responsibility to “prevent harm to others.”

You are invited to draw upon your recent examination and discussion of the First Amendment and particular Supreme Court cases in your position.

Related Free-Response Question

From the 2012 AP English Language and Composition Exam Free-Response Questions

(Suggested time — 40 minutes.)

Consider the distinct perspectives expressed in the following statements.

“If you develop the absolute sense of certainty that powerful beliefs provide, then you can get yourself to accomplish virtually anything, including those things that other people are certain are impossible.”

—*William Lyon Phelps, American educator, journalist, and professor (1865–1943)*

“I think we ought always to entertain our opinions with some measure of doubt. I shouldn’t wish people dogmatically to believe any philosophy, not even mine.”

—*Bertrand Russell, British author, mathematician, and philosopher (1872–1970)*

In a well-organized essay, take a position on the relationship between certainty and doubt. Support your argument with appropriate evidence and examples.