
COURT CASES PRIMER

There are many sources of law that inform the operations of school boards and school systems. One of those sources, of course, is the courts. The courts have provided us with many fundamental principles governing public school operations through the years, with decisions that defined the rights of students and employees and the obligations of school boards when conducting school business. These cases are not intended to be an exhaustive list of important cases in school law—such a list would be incredibly long! These summaries also are not intended as a substitute for talking with your local counsel as issues arise in your school district. With that in mind, here are 13 cases that address issues affecting boards of education.



Student Due Process Rights

Goss v. Lopez, 419 U.S. 565 (1975)

The Facts: Dwight Lopez, among others, was suspended from Central High School for 10 days for destroying school property and disrupting the learning environment. Ohio law did not require schools to afford students a hearing prior to suspension, and Lopez was suspended without a hearing. Lopez sued, arguing that his suspension without a hearing violated his due process rights protected by the Fourteenth Amendment.

The Ruling: The Fourteenth Amendment prohibits states from depriving any person of life, liberty, or property without due process of law. Because a 10-day suspension deprives a student of his property interest in educational benefits and his liberty interest in his reputation, the student must be afforded due process before receiving the suspension.

The Upshot: For suspensions of 10 days or less, students must be given oral or written notice of the alleged misconduct, an explanation of the administration's evidence, and an opportunity to present their side. In the majority of cases involving such suspensions, an informal discussion shortly after the alleged misbehavior is sufficient.

Givens v. Poe, 346 F. Supp. 202 (W.D.N.C. 1972)

The Facts: Two students were sent home from school after allegedly attacking a teacher. The students were not afforded a hearing before they were suspended and later expelled. The students sued in federal court, alleging a violation of their due process rights.

The Ruling: Where expulsion or suspension for any considerable period of time is a possible consequence of proceedings, due process requires a number of procedural safeguards, such as: (1) notice to parents and student in the form of a written and specific statement of the charges which, if proved, would justify the punishment sought; (2) a full hearing after adequate notice and (3) conducted by an impartial tribunal; (4) the right to examine exhibits and other evidence against the student; (5) the right to be represented by counsel (though not at public expense); (6) the right to confront and examine adverse witnesses; (7) the right to present evidence on behalf of the student; (8) the right to make a record of the proceedings; and (9) the requirement that the decision of the authorities be based upon substantial evidence.

The Upshot: As a result of this court decision, students in North Carolina public schools are afforded numerous due process protections before they are long-term suspended or expelled. G.S. 115C-390.8, enacted in part to codify the due process protections identified in *Givens v. Poe*, establishes the process to be followed before a student receives a long-term suspension.

Employee Speech Rights

Pickering v. Board of Education, 391 U.S. 563 (1968)

The Facts: Marvin Pickering, a teacher in Township High School District 205, wrote a letter to the editor of the local paper criticizing the board of education's allocation of financial resources and charging the superintendent with trying to prevent teachers from speaking out against a proposed bond issue. Pickering was fired following publication of the letter, and he later sued alleging that his dismissal violated his right to free speech under the First Amendment.

The Ruling: While the State has interests as an employer in regulating the speech of its employees, that interest must be balanced against the interests of the teacher, as a citizen, in commenting upon matters of public concern. Absent proof of false statements knowingly or recklessly made by the teacher, his speech concerning issues of public importance could not furnish the basis for his dismissal.

The Upshot: The school system has a diminished interest in regulating the speech of an employee speaking as a private citizen (i.e., unrelated to their job duties), especially when that speech touches upon matters of public concern.

Garcetti v. Ceballos, 547 U.S. 410 (2006)

The Facts: Richard Ceballos, a deputy district attorney in the Los Angeles District Attorney's Office, found that a sheriff misrepresented facts in a search warrant affidavit. Ceballos notified the prosecuting attorneys that the affidavit was questionable, but the District Attorney's office refused to dismiss the case. Ceballos also notified the defense of the affidavit, and defense counsel subpoenaed Ceballos to testify that the affidavit contained false information. Ceballos was allegedly subjected to adverse employment actions because of his actions, and he later sued alleging a violation of his right to free speech under the First Amendment.

The Ruling: Unlike Marvin Pickering's speech (see above), Ceballos' speech was made pursuant to his official duties because he was fulfilling his responsibility to advise his colleagues on how to proceed with a case. "[W]hen public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline."

The Upshot: School employees may be disciplined for speech made pursuant to their official duties. The line between speech made as a private citizen and speech made pursuant to official duties is not easily drawn, however, and it is therefore advisable to consult the board attorney before disciplining an employee for their speech.

Student Speech Rights

W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943)

The Facts: The State Board enacted a rule requiring children in public schools to salute the American flag. A group of Jehovah's Witnesses challenged the rule, claiming that the compulsory salute violated the dictates of their faith and their right to free speech under the First Amendment.

The Ruling: The First Amendment is implicated not only when a citizen is punished for speech, but also when a citizen is punished for not speaking. Requiring students in public schools to salute the flag and recite the pledge of allegiance violates the First Amendment.

The Upshot: While schools are free to conduct the pledge of allegiance or observe a moment of silence, they cannot compel students to participate.



Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969)

The Facts: At the height of the Vietnam War, students in the Des Moines Independent Community School District in Iowa wore black armbands to school as an expression of their dissatisfaction with U.S. foreign policy. The district passed a rule prohibiting the armbands as part of a larger dress code, and students challenged the ban as a violation of their right to free speech under the First Amendment.

The Ruling: Students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” While schools have a special interest in regulating speech that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others,” the school failed to make that showing in this case.

The Upshot: Students retain their right to free speech at school, and absent a showing or forecast of a substantial disruption to school operations caused by the speech, courts view any attempt to regulate student speech with suspicion.

Student Speech Rights

Mahanoy Area Sch. Dist. v. B.L., 141 S. Ct. 2038 (2021)

The Facts: B.L. was suspended from her school's cheerleading squad after she made vulgar posts on Snapchat. B.L.'s posts were made off campus and not during school hours. B.L. challenged her suspension in court, alleging it violated her right to free speech under the First Amendment.

The Ruling: A school's interest in regulating students' speech is diminished when that speech occurs off campus outside of the school's education program or activities. None of the circumstances that may give rise to a school's heightened interest in regulating off-campus speech were present here (e.g. serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; the failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; breaches of school security devices). In this case, B.L.'s interest in free speech outweighed the school's interest in regulating her off-campus speech.

The Upshot: Schools generally have diminished leeway when disciplining students for off-campus speech occurring outside of the education program or activities. Schools should consult with their attorney to determine whether a student can be disciplined for off-campus speech.



Student Searches

New Jersey v. T.L.O., 469 U.S. 325 (1985)

The Facts: After a student (“TLO”) was caught smoking cigarettes in school, she was confronted by the school’s vice principal, who forced the student to hand over her purse. The vice principal then searched her purse, found drug paraphernalia, and called the police; the student was eventually charged with multiple crimes and expelled from school. T.L.O. argued that the evidence should not have been admissible in court because it violated her Fourth Amendment protection against unreasonable searches and seizures.

The Ruling: The Fourth Amendment does apply to the actions of school officials, and students have a legitimate expectation of privacy when in school. However, the search of T.L.O. was “reasonable” and therefore did not violate the Fourth Amendment.

The Upshot: While students retain their Fourth Amendment right to be free from unreasonable searches, schools have more leeway to search students and their personal effects than what is permitted of law enforcement in searching citizens. Generally speaking, school officials may initiate a search when there are reasonable grounds to believe the search will reveal evidence that the student violated or is violating the law or the rules of the school. The search will generally be permissible in scope when the measures adopted are “reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.”



Religion in the Schools

Engel v. Vitale, 370 U.S. 421 (1962)

The Facts: A school district in New York directed its principal to cause the following prayer to be said aloud by each class in the presence of a teacher at the beginning of each school day: “Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.” Parents sued, alleging the school prayer violated the Establishment Clause of the First Amendment.

The Ruling: Schools cannot hold prayers in public schools. “Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitation of the Establishment Clause, [which] is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce non-observing individuals or not.”

The Upshot: The Constitution prohibits school-sponsored religious observances irrespective of their non-denominational nature or coercive effect on students or employees.

Kennedy v. Bremerton Sch. Dist., 142 S. Ct. 2407 (2022)

The Facts: Joseph Kennedy, an assistant football coach in the Bremerton School District, knelt at midfield after games to offer a quiet personal prayer. The school district asked Kennedy to discontinue the practice, and after he continued to pray at midfield, Kennedy’s coaching contract was not renewed. Kennedy sued, alleging a violation of the First Amendment’s Free Speech and Free Exercise Clauses.

The Ruling: Although Kennedy was technically “on duty” during the time he offered his prayers, the school district allowed coaches to attend to personal matters in the moments following a game. Kennedy had a First Amendment right to engage in a personal religious observance during the time coaches were permitted to attend to personal matters.

The Upshot: School employees have a right to engage in private religious observances on the job when such observances will not interfere with their job duties and when the employees are not coercing others to participate. Given the difficulty in determining what observances will be considered coercive or in conflict with job duties, schools should consult their attorney before disciplining employees for religious expression.

The Opportunity for a Sound Basic Education

Leandro v. State, 346 N.C. 336 (1997)

The Facts: Several boards of education, students, and parents from low wealth school systems sued the State, alleging that the State's funding system denied their rights to adequate educational opportunities guaranteed to them under the North Carolina Constitution.

The Ruling: While rejecting the argument that the State Constitution required equal funding or equal educational opportunities across the various school systems in the State, the court did recognize that the Constitution guaranteed the opportunity to receive a sound basic education, and that an education that failed to prepare students to participate and compete in society did not constitute a sound basic education.

The Upshot: Following this case, the General Assembly revised the General Statutes to codify the central holding of *Leandro* and clarify the primary responsibility of school boards: "It shall be the duty of local boards of education to provide students with the opportunity to receive a sound basic education and to make all policy decisions with that objective in mind[.]" G.S. 115C-47(1).

Schools and the Community

Garlock v. Wake County Bd. of Educ., 211 N.C. App. 200 (N.C. App. 2011)

The Facts: Meetings of the Wake County Board of Education began generating increasingly significant public attention. In anticipation of an extraordinarily large crowd for the March 23, 2010 meeting, the board initiated measures to handle the crowd, including issuing a limited number of tickets to the meeting and establishing an overflow room where the public could view a video feed of the meeting. Citizens who were prevented from attending sued alleging a violation of the Open Meetings Law.

The Ruling: The court rejected the plaintiffs' argument that the exclusion of any one person from a meeting violated the Open Meetings Law, instead holding that the board is required to "take reasonable measures to provide for public access to its meetings." However, the court found that the board's last-minute adoption of a ticketing policy was unreasonable. While State law requires the board to provide advance notice of the time and place of its meetings, that notice "is worthless if a person planning to attend a meeting is not also informed that a ticket will be required." The court held that "a public body's meeting notice must include any information reasonably necessary to give members of the public the opportunity to attend a meeting."

The Upshot: There may be times when the board cannot accommodate every person who wishes to attend or participate in a board meeting. Any rules restricting access to meetings should only be implemented when necessary and must allow the public reasonable access in light of the circumstances.

Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist., 508 U.S. 384 (1993)

The Facts: A New York school district issued rules regarding the use of school property when not in use for school purposes. These rules allowed for “social, civic, or recreational uses,” but prohibited use “by any group for religious purposes.” Lamb’s Chapel applied to the district to use school facilities to show a film series about child rearing and family values “from a Christian perspective,” which the district denied on the grounds that the film was church-related. Lamb’s Chapel then sued alleging a violation of its rights to free speech under the First Amendment.

The Ruling: Showing a film on school property about child rearing and family values would constitute a use for social or civic purposes, as permitted by the school district’s usage rules. Permitting school property to be used for the presentation of all views about family issues and child rearing except those dealing with the subject matter from a religious standpoint constitutes impermissible viewpoint discrimination. “[T]he government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includible subject.”

The Upshot: A school system is authorized to preserve the property under its control for the use to which it is dedicated and may decide whether to permit after-hours use of its property. However, if it does decide to permit after-hours use of its property, the school system must not place restrictions on that use in a way that unlawfully discriminates against certain users or points of view.

