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Speech Restrictions Off-Campus

The issue of a public school's right to discipline a student for speech that is made off-campus is one that is growing in importance, as well as in controversy. The first amendment, protecting citizens' freedom of speech, was written many years ago. The argument can be made that the founding fathers had no real idea of what was in store for their new country. When they wrote the constitution, all they knew was that our country would always be in the midst of a state of perpetual change. This is why they wrote the first amendment so loosely, so that with the approach of new problems, it would be open to new interpretation. Recent innovations such as the internet and growing media have severely complicated the issue of punishment for off-campus speech. It is now apparent that students cannot say whatever they want, even off campus, and when they engage in inappropriate speech, must be disciplined for it. Disciplinary actions should occur if the speech is violent, if it is excessively crude, if it disrupts the other students' learning, or if it has any negative effect on the school's ability to run effectively. These principles are shown in *Tinker v. Des Moines*, *J.S v Blue Mountain School District*, *Doninger V Neihoff*, and my own personal experiences.

Over the years, there have been many Supreme Court decisions made regarding this issue. One of the most important early on decisions lies in the case, *Tinker v. Des Moines*. In 1969, students wore black armbands to school protesting the Vietnam War, and this violated the dress code. District Courts ruled in favor of the school district, but when the case reached the Supreme Court, it sided with the students. Wearing anti-war armbands was not disrupting learning at the school in any way. The Supreme Court decided that student speech may not be punished unless it causes a "substantial and material disruption at the school." This decision should most definitely apply to speech on and off campus, because speech made off-campus can often greatly affect the school. This principle is set forth in the case of *J.S. v. Blue Mountain School District*.

The creation of social networking sites such as Facebook or MySpace has complicated the issue even further. In the case of *J.S. v. Blue Mountain School District*, a student was suspended for ten days for making a fake MySpace page that showed her principal in an incredibly negative light, as a sexual predator. The girl complained that her free speech rights were violated, but the judge ruled against this complaint, saying "A school can validly restrict speech that is vulgar and lewd and it can restrict speech that promotes unlawful behavior." The judge, James M Munley, also said that the suspension was justified because of the off campus speech's effect on campus. The Myspace page targeted students of the school and came to be discussed at school. Personally, I agree with the ruling made on this case. School is a place for learning, and to put it simply, the creation of this page disrupted the learning of the girl's classmates.

Another perfect example of when off-campus speech should be disciplined lies in the Connecticut case, *Doninger v. Niehoff*. In this case, a student criticized school administrators online, using crude, offensive language. The result was that she was no

longer allowed to run in the school's election. The Connecticut court sided with the principal, because, once again, this speech was harming the school's ability to run effectively. And even though it was technically off-campus, the speech targeted students of the school. In this case, the student encouraged her classmates to give their principal a hard time. This would make it much more difficult for the school to run.

Obviously, not everyone of this type of issue has been taken to court. In my ten years of school, I have encountered problems like these often. For instance, in the eighth grade a boy running for class president posted, on his MySpace page, comments suggesting inappropriate sexual relations between two teachers at the school. The teachers found out, and the boy was no longer allowed to run for president. As a freshman in high school, my own sister faced a similar issue. A boy in her grade had made an "Everyone who hates Elizabeth Schlessinger" group on MySpace. In fourth grade, two boys (one Jewish, one black) had an argument walking to the bus stop. Several racial comments were spoken. In all of these cases, the bullying and speech occurred off school grounds, yet all of the perpetrators were punished. Schools cannot limit the speech they discipline to just speech that occurs on campus.

The disciplining of off-campus speech will continue to be an issue for our country. However, when the speech is crude, violent, disruptive, or will make running the school effectively more difficult, it should be punished. The cases listed and explained above exemplify this necessity. Schools must continue to discipline students for inappropriate speech made off-campus.