

# Supreme Court Case Study 55



## Rights of Students to Free Speech

### ***Bethel School District v. Fraser, 1986***

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

Matthew Fraser, a student at Bethel High School in Pierce County, Washington, gave a speech to a school assembly nominating a fellow student for elective office. About 600 high school students elected to attend the assembly. Throughout his speech Fraser used “an elaborate, graphic, explicit sexual metaphor” to describe his candidate.

The assembly was a regular part of a school-sponsored educational program in self-government. Students were required to attend the assembly or report to a study hall.

Fraser had discussed his speech in advance with two of his teachers. Both warned him that the speech was “inappropriate” and that he “probably should not deliver it.” They warned him that giving the speech might have “severe consequences” for him.

Fraser chose to ignore this advice. His speech disrupted the assembly. Students “hooted and yelled.” Others appeared to be embarrassed. As a result, under the school’s disruptive conduct rule, school officials suspended Fraser from school for three days and removed his name from a list of possible graduation speakers.

The school’s rule prohibited conduct that “materially and substantially interferes with the educational process . . . including the use of obscene, profane language or gestures.” Fraser challenged the constitutionality of the school’s punishment under this rule. He claimed the school’s punishment violated his right to free speech as guaranteed by the First Amendment. Eventually the case made its way to the United States Supreme Court.

#### *Constitutional Issue* \*\*\*\*\*

Controversies over First Amendment rights to free speech often arise from unexpected sources and circumstances, and a common question is whether these rights apply to certain individuals—for example, children.

The First Amendment does not specify whether the rights of free speech are limited to persons of any particular age. Does this mean that adults have greater freedom to use whatever language they choose than young people? Do students in high school have the same freedom as older people? Does the First Amendment protection of free speech prevent school officials from limiting obscene or vulgar speech that could disrupt the educational process?

#### \*\*\*\*\* The Supreme Court’s Decision \*\*\*\*\*

By a vote of 7 to 2 the Court ruled that, under the First Amendment, school officials have the authority to discipline students for lewd or indecent speech at school events. Chief Justice Warren E. Burger wrote the decision.

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## Supreme Court Case Study 55 *(continued)*



Burger began by observing that the schools have a basic responsibility to prepare students for citizenship. Thus, it was appropriate for schools to prohibit the use of vulgar language in public discourse in school. Burger wrote, “The undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society’s countervailing interest in teaching students the boundaries of socially appropriate behavior.”

The Court noted that the First Amendment gives wide freedom to adults in matters of political speech. However, the Court stated, “It does not follow, however, that simply because the use of an offensive form of expression may not be prohibited to adults making what the speaker considers a political point, the same latitude must be permitted to children in a public school.”

Indeed, Burger observed that “nothing in the Constitution prohibits states from insisting that certain modes of expression are inappropriate and subject to sanctions.” Instead, Burger explained, “the determination of what manner of speech in the classroom or in school assembly is inappropriate properly rests with the school board.”

In the Supreme Court decision *Tinker v. Des Moines*, the Court had protected the rights of students under the First Amendment to wear black armbands to school to protest the Vietnam War. In that decision, the Court ruled that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Was using obscene speech to nominate a fellow student the same as using armbands to convey a political message about the Vietnam War?

In the *Tinker* case the Court had ruled that when school officials punished students for wearing black armbands, they were censoring students’ political ideas about the Vietnam War. In *Fraser’s* case, however, Burger pointed out that the school’s penalties “were unrelated to any political viewpoint.” Thus, Burger concluded that “the First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as [Fraser’s] would undermine the school’s basic educational mission.”

1) According to the Court, how did the school's responsibility for citizenship education affect students' First Amendment rights?

2) How did the Court distinguish between the *Tinker* case and the *Fraser* case?

3) Suppose Fraser had given the same speech to a group of students away from school grounds but had nevertheless been punished by school officials. How do you think the Court would have ruled in that case? Give reasons for your answer.

4) What did the Court say about the difference between adults' rights under the First Amendment and students' rights under the same amendment?

5) Do you agree or disagree with the Court's ruling in the *Fraser* case? Give reasons for your answer.