



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute
2004 Volume I: The Supreme Court in American Political History

Understanding and Implementing the First Amendment

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Essential Question

How does the First Amendment of the Constitution interact with written expression? To answer this question, students must be able to answer the following questions. What forms of expression does the First Amendment protect? Why does the First Amendment protect the freedom of speech and press? How does one determine what is protected free speech and what is not?

These questions form the backbone of this unit. If a student can successfully answer and rationalize his or her answer to all of these questions then the learning objectives have been met. Each student must be able to answer these questions in an assessable manner which provide a clearly define stance and supporting reasons and evidence to give credence to this stance.

Rationale

The First Amendment of the Constitution is the most widely invoked and well known Amendment; however it is not until American High School students take Civics class that they grapple with this Amendment. Indeed it is assumed by most that this Amendment is the best understood of all twenty-seven amendments. Furthermore the First Amendment is primarily dealt with as a legal text which does not encompass all of the possible forms of speech and written expression that the First Amendment protects and more importantly does not protect. The First Amendment also needs to be closely studied and practiced by High School students as it is one of the Amendments which is limited within a school building. Many students are not aware that their First Amendment rights are curtailed within a school and students need to understand why their rights are not fully endowed within the classroom.

To expose students to the First Amendment and illustrate it in practice, students need to work out their own understanding of the Amendment's language and apply this language to bodies of text. To achieve this I propose students apply the First Amendment as it is understood outside the classroom and inside the classroom and in relation to literature. Specific texts for poetry, short fiction and song lyrics would prove to be

easy texts to use in class for response writing and discussion. There are also pertinent cases which have to do with student expression that will be used as a primary text for the unit.

The cases that will be used as primary documents for this case will include two important Free Speech Cases that were directly connected to a high school environment. The first case that will be used is *Tinker vs. Des Moines School District*. In this case students contested their right for peaceable protest of the Vietnam War by wearing black armbands in school and during class. This was upheld as protected free speech as it did not interfere with the proceedings of class or the school day. The *Hazelwood et al vs Kulheimer et al* case illustrates what is considered to be protected free speech and what is not. In a school newspaper, students printed an article about teen pregnancy and a separate article about divorce and how it affects teens. The pregnancy article was censored due to its sexually graphic nature and reference to birth control. There was also a fear that students could be identified through the article even if their names were withheld. The divorce case cited a quotation from a student about the student's father and his behavior. The objection to this aspect of the article was that the father's name was used without consent and he was not given a chance to tell his side of the story. This case is very fascinating and pertinent to high school students as it connects to the use of the school newspaper and differentiates a school newspaper from a privately published newspaper. This case also illustrates a school faculty's ability to editorialize student produced work in the context of the school news paper.

I am using these two cases because they show two distinct interpretations of the First Amendment and they also are used as a precedent for further adjudication over the First Amendment. These cases will be used in abbreviated form for the sake of class length and readability, but I will leave the text in tact so that students can see the language as it is used in courts and legal documents.

This unit will be closed by a major writing project. This writing project will also be an extension of the text rendering techniques employed during the unit. One of the key components of text rendering is student sharing. When students share their reactions and ideas in written form and receive reactions from their classmates there is a greater degree of ownership of ideas and enhancement of ideas by the process of sharing and reacting. At a key juncture in the writing process, students will be asked to peer edit each other's rough drafts. This is a simple practice but can greatly enhance each student's writing if they are able to freely exchange and evaluate each other's work without fear of embarrassment. It may seem silly and doomed to failure, but there are quantifiable positive results to these practices that have been shown by the Connecticut Writing Project upon which NHBOE English Language Arts Standards are largely based.

Unit Learning Objectives

- Students will explore the concept of precedent and how it works through role-playing rule changes in a classroom.
- Students will read and analyze the language within the First Amendment.
- Students will "text render" the First Amendment to create a personal and meaningful definition of what the First Amendment is and means.
- Students will read the court's opinion on the Free Speech Case concerning Students protesting the Vietnam War by wearing black armbands in school. (*Tinker vs. Des Moines Schools*)

- Students will read the court's opinion on Free Expression and its limits within the context of a school newspaper. (Hazelwood vs. Kulheimer).
- Students will retell the court's opinion in their own words to show that they can demonstrate that they have an understanding of the opinion's crucial points and aspects.
- Students will review court opinions about students being restricted as to what they can wear or if they can show tattoos (cases to be determined).
- Students will write their own opinion on a hypothetical case having to do with a "student written poem" (falsely generated) along with a report on the events in the case. Students will determine what the outcome of the case should be and explain their opinion in terms of the First Amendment. This will serve as the formal and summative assessment of the unit.

Unit Lesson Outline: 7-11 Lessons (50 minute periods each)

Day One: Discussing the Concept of Precedent and Court Opinions

Day Two: First Amendment Text Rendering

Day Three-Four: Read Black Armbands (Tinker) opinion

Day Five: Small Group Discussion on Black Armbands

Day Six-Seven: Read Hazelwood opinion

Day Eight: Small Group Discussion on Hazelwood

Day Nine-Eleven: Rough Drafting of Hypothetical opinion

Case Law Usage

As I have found, case law, case studies and court opinions are rather dry. As an adult, I can get by this and go beyond the words to discover meaning however I could see how students could easily tune out and turn off to the language and label it as “boring”. For this reason I have only included the opinion summaries in this documentation but provided a link to where the full version of the text can be located. I will leave it to the classroom teacher to decide as to which specific selections outside the summary will be used according to the population within the classroom.

Text Rendering: A Quick and Dirty Guide

Text Rendering is a technique promoted by the Connecticut Writing Project which essentially is a means to teach students a schema of specific habits and skills for effective reading. The first trick to Text Rendering is getting students to re-read the text without them realizing that they are re-reading. The next major step is get students to take ownership of the text by creating their own questions about the text and then answering them for each other rather than the teacher providing a set of questions and having the students answer them individually. The dynamic of dialogue and dialectic between students is the means through which students really learn these skills because they are generating their own inquiries and answering them for each other.

Here is a brief outline of tasks to accomplish in order to make Text Rendering happen. These tasks are scaffolded from basic tasks to more advanced tasks.

Crucial/Golden Words: Have students read through a *brief* selection of the text and write down a list of what they deem to be the most important words. Make a list of these words on the board for everyone to see.

Crucial/Favorite Lines: Have each student read through the same passage again and pick what they think is either their favorite line or what they think is the most crucial line to understanding the whole passage. Again, these should be written on the board for everyone to see.

“I wonder why...”: Have a student read the passage aloud and then have each student write one to three questions that begin with “I wonder why”. These questions then could be written on the board or butcher block or collected and compiled and used as a ready base of open ended questions. Each student should also attach his or her initials to the question so that the respondent can directly address that person. This is very helpful because the questioner can then go back and respond to the answer that he or she received from the respondent.

The question and answer aspect of Text Rendering is where the real learning begins and this is flexible enough to take place in the safety of small group but is also a lot of fun in a large group where students can riff off each other in a meaningful way that directly relates back to the text. The trick to text rendering is practice and safety. The first few times you try this the students will not get it and need a few chances to really practice the techniques and understand the flow in order to feel safe enough to really get into the whole process. It is highly recommended that these practices and skills be modeled and front loaded before the unit is taught and that clear guidelines be spelled out or else you’ll find yourself with a classroom of blank faces

staring back at you. In the end, it must be realized and accepted that Text Rendering is a means of kids teaching each other based upon their own inquiry *and* their written responses to those inquiries to each other which provide for what amounts to a written conversation. That is what the “I wonder why” questions are very important and should be written down and compiled and students do not necessarily just have respond to the person answering them, they can comment on what another student responded to another student’s question.

For example: John asks the question “I wonder why the First Amendment is so important to some people but not important to others.” Sally reads this question and writes to John: “Because the 1st Amendment allows you to speak your mind and some people treasure the ability to speak up while some people don’t know what it means to think for yourself.” Carl see Sally’s response and adds: “In many other countries the Right to Free Speech is not given to the people and many of those people try to come to this country just so they can have the right to speak freely which reminds me of something Jane wrote to me about my question...” This entire exchange should happen on a piece of paper in a classroom almost as if the students were passing a note amongst each other. It seems odd but truly works and promotes good close reading habits especially for students who are below grade level and this manner of dialogue among students promotes direct reference to the text.

Formative Assessment

Students will be assessed on completing class assignments with a score of 1-5. One being assigned to student work that does not meet the minimal requirements of the day’s task and five meaning a student’s work exceeds the task’s expectation. Expectations will be outlined and explained in class. There will be ten assignments through the unit making for a total score of 50. This score will be translated into a major assignment/test grade.

Summative Assessment

The final and formal assessment of this unit will be a paper worked on during class time and a final draft prepared at home. This paper will be a student’s own “court opinion” on their decision on a Free Speech case brought before them. Each student will be charged with providing judgment based on the case’s particulars and provide a legal opinion on why they have come to that decision.

The scoring rubric is largely based on the CAPT English Language Arts Response to Literature rubric. This rubric is in wide circulation and should be already aligned with most district curricula or frameworks. Moreover this rubric is widely read and known and can thus be easily modified for specific classroom needs as could the format of the summative assessment.

SupPLEMENTAL Sources/Materials

ALA First Amendment Project: <http://www.ala.org/ala/oif/firstamendment/firstamendment.htm>

First Amendment Center: <http://www.firstamendmentcenter.org/>

American Bar Association: <http://w3.abanet.org/home.cfm>

Peace Fire: <http://www.peacefire.org/>

Connecticut Writing Project: <http://vm.uconn.edu/~cwpadm4/>

1984 by George Orwell (selections)

Equilibrium (film)

Pre-Reading Lesson

Objective: Students will retell the classroom or school rules according to a contested topic such as hats, CD players, cell phones or food outside of the cafeteria. Students will then be subjected to an unfair situation whereas a few select students will be allowed to “break the rules” where everyone else must adhere to them. Students will then record the dictionary definition of “precedent” in their notebooks and then write a definition of precedent in their own words which will convey the meaning of the word.

1. Methods and Materials: You will need a dictionary for at least every other student. You will also need a CD player with headphones and/or a cellular phone.
2. Begin the period with a Daily Oral Language exercise that the students will begin as soon as the period bell rings.
3. As students begin to work, quietly inform one or two students that they may be allowed to listen to their CD players or wear their hats then inform the class that everyone must take off their hats and put their CD players away. Allow the one or two students you’ve told otherwise to listen to music as loud as they want and just wait.
4. Someone will eventually protest the legitimacy of this situation. Raise the issue with the class by asking them to give their reasons as to what is inequitable about the classroom and its rules.
5. Have each student make a list of what his or her complaints are in the classroom and provide reasons for each item. List major categories of these items (i.e.: Students aren’t allowed to wear hats in class or CD players are not to be worn in class) on the board and conduct a vote of how many students support these “Resolutions”.
6. Ask for reactions to the simulation. Allow the students some time to try and connect today’s simulation with real-world examples.
7. In the time remaining, detail out dictionaries to either pairs or small groups and instruct the students to locate the word “precedent” and record its definition in their notes. Then each

student is to synthesize this definition into his or her own words in terms of the day's simulations. This assessment can be checked for class-work credit or given as a homework assignment.

Assessment

Informally assess which students pick up the fact that one student is allowed to break the rules or is granted an exception. This could be useful for later lessons as these students could perform strongly in small group discussion if they are so observant of "the rules". A more formal assessment would be to match the student's synthesized definition of precedent. Students can earn a score of 5 points for restating an accurate definition of the word "precedent" and correctly applies that definition to the simulation. A student can earn a score of 3 points if he or she synthesized a general definition of the word precedent and attempts to connect this definition to the day's simulation. A student can earn a score of 1 point if he or she was present for the simulation but did not synthesize a definition.

Text Rendering Lesson: First Amendment

Lesson Objectives: The students will read and select what they deem to be the three most important words of the First Amendment. The students will provide a reason for the importance of each of their selections in a paragraph no less than five sentences for each word. The students will create an open ended question using "I wonder why..." as a beginning. The students will exchange questions in groups of three to write responses to each other's questions.

Materials: Each student will need a complete copy of the First Amendment to keep in their notes for later reference. Each student will need at least two sheets of loose leaf paper for small group work.

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.

Methods:

- 1) Begin lesson with the 1st Amendment on the board, have students copy the entire Amendment into their notebooks.
- 2) Request a volunteer to read the Amendment aloud for the class.
- 3) Have each student read the Amendment to his/her self and then give them at least five

minutes to pick what they think are the three most important words and for each word they must provide an explanation of the word's importance and meaning or something that relates to the word they chose.

4) Begin making a list of words on the board as students call them out and make a check mark next to each word that is repeated, this way students can see that they may share similar views or values on certain word choices and don't feel discounted, it also can provide insight into the class's values as a whole.

5) After the word list is done, have each student create an open ended question about the First Amendment. While they are doing that team up students into groups of threes.

6) After each student has designed his/her own question and broken down into groups they are going to circulate their questions to either the right or left and then respond to the question they have just received. Each response should be a paragraph no less than five complete sentences. Once completed the group will change again and each student will read the question, the response and write their own response to both the question and prior response. The students will switch once more and each student will then write a response to what their peers have said about the question that he/she raised.

7) Collect the responses from each group and assign credit as per usual.

Homework/Further Assessment: Locate and example of the First Amendment in use and explain how the Amendment is being used. For example: a demonstration outside of the White House is a form of peaceful assembly.

Formal Assessment: Jaded High School Poet vs. New Haven Board of Education

Objective:

You are going to review the particulars of a fictional court case that is being brought before the Supreme Court. Upon reading the details of this case and both sides' arguments you will then decide on this case in which way you favor and write a corresponding opinion about your decision. Your opinion must clearly state what your decision is, how it is keeping with the First Amendment and which aspects of the parties' arguments swayed your opinion.

Process:

This project is going to take a great deal of time and thought to complete. After having read the case you are

going follow this checklist over the next several class periods until you have written a final draft of this opinion. Use this sheet as a checklist, scratch off each circle as you complete the tasks.

- Write down in one sentence what you decision is over this case.
- Highlight or underline the parts of this case that helped you come to your conclusion. Make a list of these details and include page numbers.
- Write a thesis statement of your decision.
- Create an outline for your rough draft that organizes your opinion by the following paragraph format: Introductory paragraph, three two four supporting paragraphs that speak to particular elements of the case and the First Amendment, a conclusion that explains the importance of your opinion and the desired precedent you wish to set by this opinion.
- Write a rough draft based on your outline
- Circle two paragraphs that you want to work on the most
- Exchange rough drafts within a small group, read rough drafts and comment on how your classmates can improve their rough drafts according to the circled paragraphs.
- Incorporate revision into rough draft based on classmate feedback.
- Finalize rough draft into a typed and proof read final draft.

Scoring:

Your opinion will be compared against a scoring rubric of criteria which your final draft packet will be compared to. The rubric will encompass not only your final draft but every element of this entire project going all the way to the beginning. This raw score will be translated into a grade that will count as a major test or project.

Appendix A: Synopsis of Hazelwood vs. Kuhlmeier et al

Full opinion can be found at: http://www.bc.edu/bc_org/avp/cas/comm/free_speech/hazelwood.html

Syllabus

Respondents, former high school students who were staff members of the school's newspaper, filed suit in Federal District Court against petitioners, the school district and school officials, alleging that respondents'

First Amendment rights were violated by the deletion from a certain issue of the paper of two pages that included an article describing school students' experiences with pregnancy and another article discussing the impact of divorce on students at the school. The newspaper was written and edited by a journalism class, as part of the school's curriculum. Pursuant to the school's practice, the teacher in charge of the paper submitted page proofs to the school's principal, who objected to the pregnancy story because the pregnant students, although not named, might be identified from the text, and because he believed that the article's references to sexual activity and birth control were inappropriate for some of the younger students. The principal objected to the divorce article because the page proofs he was furnished identified by name (deleted by the teacher from the final version) a student who complained of her father's conduct, and the principal believed that the student's parents should have been given an opportunity to respond to the remarks or to consent to their publication. Believing that there was no time to make necessary changes in the articles if the paper was to be issued before the end of the school year, the principal directed that the pages on which they appeared be withheld from publication even though other, unobjectionable articles were included on such pages. The District Court held that no First Amendment violation had occurred. The Court of Appeals reversed.

Held: Respondents' First Amendment rights were not violated. Pp. 266-276.

(a) First Amendment rights of students in the public schools are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment. A school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school. Pp. 266-267.

(b) The school newspaper here cannot be characterized as a forum for public expression. School facilities may be deemed to be public forums [261] only if school authorities have by policy or by practice opened the facilities for indiscriminate use by the general public, or by some segment of the public, such as student organizations. If the facilities have instead been reserved for other intended purposes, communicative or otherwise, then no public forum has been created, and school officials may impose reasonable restrictions on the speech of students, teachers, and other members of the school community. The school officials in this case did not deviate from their policy that the newspaper's production was to be part of the educational curriculum and a regular classroom activity under the journalism teacher's control as to almost every aspect of publication. The officials did not evince any intent to open the paper's pages to indiscriminate use by its student reporters and editors, or by the student body generally. Accordingly, school officials were entitled to regulate the paper's contents in any reasonable manner. Pp. 267-270.

(c) The standard for determining when a school may punish student expression that happens to occur on school premises is not the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression. *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, distinguished. Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns. Pp. 270-273.

(d) The school principal acted reasonably in this case in requiring the deletion of the pregnancy article, the divorce article, and the other articles that were to appear on the same pages of the newspaper. Pp. 274-276.

795 F. 2d 1368, reversed.

Appendix B: Synopsis of Tinker vs. Des Moines

Full opinion can be located at: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=393&invol=503>

Petitioners, three public school pupils in Des Moines, Iowa, were suspended from school for wearing black armbands to protest the Government's policy in Vietnam. They sought nominal damages and an injunction against a regulation that the respondents had promulgated banning the wearing of armbands. The District Court dismissed the complaint on the ground that the regulation was within the Board's power, despite the absence of any finding of substantial interference with the conduct of school activities. The Court of Appeals, sitting en banc, affirmed by an equally divided court. Held:

1. In wearing armbands, the petitioners were quiet and passive. They were not disruptive and did not impinge upon the rights of others. In these circumstances, their conduct was within the protection of the Free Speech Clause of the First Amendment and the Due Process Clause of the Fourteenth. Pp. 505-506.
2. First Amendment rights are available to teachers and students, subject to application in light of the special characteristics of the school environment. Pp. 506-507.
3. A prohibition against expression of opinion, without any evidence that the rule is necessary to avoid substantial interference with school discipline or the rights of others, is not permissible under the First and Fourteenth Amendments. Pp. 507-514.

Appendix C: Hypothetical Case Documentation and Synopsis

Summary

During the 2004-2005 school year Clifford Collins, a 12th grader in a large New Haven Public School, wrote a poem that contained violent imagery and connotations which he submitted to the school's literary magazine. The magazine's editorial staff approved the poem for publication citing it for complex and vivid imagery. Upon review, the magazine's faculty advisor found the poem to be distressing and did not want the poem included into the final copy of the magazine. The issue went before the principal who sided with the advisor. The principal cited the following reasons for the poem's removal from magazine: 1) violent imagery/language 2) the poem could potentially cause distress among the student body 3) the poem could pose as a possible threat to the welfare of the student body based on the language within the poem.

The poem's author, Clifford Collins, has a long disciplinary record with the school. He has actually been expelled from another high school for publicly threatening another student. He has a criminal record for assault. Clifford also is diagnosed with clinical depression and does not regularly self medicate however this last aspect of Clifford's personal history has been kept private. The first two parts of Clifford's history are well known to faculty and students.

In response to the principal's actions Clifford's family brought a suit into court based on the premise that

Clifford's poem should not be censored from the magazine because it is a form of protected free speech and that Clifford's Constitutional Rights were being infringed upon based on his history and reputation rather than the poem's content.

The Poem

"Time Bomb Ticking"

By: Clifford Collins, Class of '05

You see me everyday

But do not know I am there.

You don't even know you hate me

Even when I am here.

Right behind you.

Waiting.

Watching.

I could be me.

The next one

To bring a gun

To finish what they begun

Just because it's fun to see you run

Away from the barrel of my gun.

I should be the next one.

Just because you laugh and point and stare

At my clothes, my music my style

While I bide my time

Waiting...

For the right time.

Clifford's Argument

Clifford Collins does have a past of violent behavior but a person's past cannot necessarily determine a

person's future. A child has the ability to evolve into an adult and part of that evolution is self expression. Self expression and the freedom to do so in print is a Constitutional Right guaranteed by the First Amendment. Written expression, as in a poem, can be a form of protest against an unjust or intolerant climate which Clifford found himself in. His means of dealing with an inhospitable climate was to write a poem that expressed his frustrations. There was no imminent threat to the student body or community and no violent act of illegal action accompanied the submission or performance of the poem Clifford wrote.

According to *Tinker vs. Des Moines*, the Supreme Court upheld the students' right to protest and thus freely express themselves so long as the expression or act did not interfere with the daily proceedings of the school. Clifford's poem would not have interfered with the daily proceedings of class or inhibited a faculty member's ability to conduct class or any other school function. Furthermore, Clifford's poem does not indicate or threaten any particular individual or group of students therefore it cannot be inferred that there is a clear and imminent threat to any of the students or faculty members.

New Haven Board of Education's Argument

Clifford Collins is a student who has displayed in and out a school a penchant for violent behavior. His disciplinary record reflects that he has threatened violence against another student so severely that it warranted expulsion. He also has a prior criminal record that includes assaulting another minor which resulted in minor injuries to that child.

The language Clifford uses in his poem alludes to an act of violence which could be committed within the near future. It is a school's duty to protect its students even if it means protecting students from themselves. There is no room for interpretation or poetic license in this regard. If a faculty member feels that a student is endangering the student body then sufficient and appropriate action must be taken. In this case the poem was removed from the school's literary magazine because the faculty advisor, a duly appointed professional educator, and the school's principal felt that Clifford's poem was a general threat of violence towards the student body if not towards a particular student.

In the case of *Hazelwood vs. Kuhlmeier* the Supreme Court found that a school publication can be rightfully censored because a school published literary magazine is not a private publication. If the advisor or principal feels it is appropriate to remove an article or poem from the publication then it is not only an appropriate action but a perfectly legal one as well. In this regard the school's actions are an infringement upon Clifford's Constitutional Rights since this is not a form of protected free speech.

Writing Project

You are going to approach this situation as if you were the judge presiding over this case as it is brought in suit. Your objective is to make a decision on who is correct and write a court opinion explaining to all parties involved the reasons for your decision. You will need to make direct and specific references to the *Hazelwood* and *Tinker* cases that you have studied and comment on their relevance to this case. Your opinion will be scored holistically according to the guidelines and rubric that follows:

1: Student makes no apparent effort to make provide an explanation for the written opinion of the opinion is incomplete.

2: Student displays a significantly flawed piece of writing that contains major grammatical flaws which inhibit understanding and does not give sufficient reasons for the basis of the opinion.

3: Student displays a piece of writing that gives some explanation and justification for the opinion but contains several grammatical mistakes and does not provide a fully realized or supported opinion.

4: Student displays a piece of writing that reflects several instances of revision and attempts to support the opinion with clear and direct references to primary texts. There are few grammatical flaws.

5: Student displays a piece of writing that contains several instances of major revision that significantly clarifies the opinion and makes use of clear references to primary texts. There are few to no grammatical flaws and errors.

6: Student displays a finished piece of writing that reflects a thorough revision over the rough draft and makes clear and logical references to primary texts for support and may even draw on outside sources for further support and explanation. There are no grammatical flaws or errors.

Your final packet should include the following items for completion: A basic outline of your opinion. A rough draft that shows evidence of revisions and corrections in the margins. A final draft that is proof read for spelling errors and grammar mistakes. A cover sheet with your name, class, due date and date turned in clearly indicated.

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