



Curriculum Units by Fellows of the Yale-New Haven Teachers Institute  
1988 Volume I: The Constitution in Public Schools

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## Debating Teenage Rights

Curriculum Unit 88.01.01  
by Richard Canaleri

Each year, the state of Connecticut, through the Connecticut Department of Education's Law Related Education Program, sponsors a Young People's Debate Program. The tournament, for middle school students, begins in the Fall of each year with a workshop for interested teachers and coaches and culminates with the final round some time in May.

One issue is chosen for debate each year. It is researched throughout the state by competing schools. The topic remains the same for the whole year and students debate both sides of the issue during the various competitions. The issue chosen each year is of interest to teenagers and relates to their lives.

The purpose of this unit is twofold. First, it will explore several landmark Supreme Court cases related to teenagers, and second it will explain the basic rules of debate as well as the format followed by the state in preparation for the competition.

Although the topic for each year's tournament is not announced until September, the cases chosen for this unit are related to the rights of teenagers and in that respect they may very well be related to future topics for the state debate tournament. They are also important because they relate to the lives of all students and are excellent topics for classroom debates.

The unit is designed primarily for the middle school level although the rules for high school debate are similar and the unit can be used at any level. The two primary differences between middle school and high school debate are the time limits for speakers and the fact that at the high school evidence must be produced upon the request of the other team.

Videotapes of the middle school state championship debates for 1987 and 1988 are available through the Yale New Haven Teacher's Institute. The 1987 Championship debate was between Amity Junior High School and Bethel Middle School. The question argued was mandatory drug testing. The 1988 championship debate was between Darien Junior High School and Jackie Robinson Middle School in New Haven. The topic dealt with the question of whether or not student publications should be protected from censorship by the 1st Amendment. This topic has been chosen as the focal point of this unit. The format for the debate tournament as well as the responsibilities of each speaker will be presented through the censorship topic in the second part of the unit.

Even if a school does not wish to enter the state competition, the use of debate will stimulate students to want to learn. Education, in order to be successful, must be an active process. Unless students have a role to play in

learning, little of the material presented is retained or more importantly, understood. Students should not be expected to just listen and memorize a litany of facts and definitions. While memory skills are important, memorizing unconnected facts in isolation has no value.

In the same way that a science lab is used to provide “hands on” activities in science, forensic activities of debate offer students an opportunity to deal with “real world” questions in settings that resemble Congress or the courtroom. In the science lab, as in debate, students are required to identify a problem, find causes, research possible solutions, determine the best solution, and plan a means of implementing the best solution. This process, set forth by John Dewey, allows for education that is useful and which fosters higher level learning skills.

Debate also provides students with an opportunity to do research, to write speeches, to cross examine, to speak before a group, to understand and appreciate opposing viewpoints, to summarize, to explore our court system, to work as a team, and to learn that what is presented in the classroom has relevancy in the real world. The idea that students can share knowledge and learn from one another is one which is essential and long overdue.

## **Landmark Supreme Court Decisions Affecting Teenagers**

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Should teenagers have the same rights as adults under the Constitution? Several cases have dealt with this question. The answer is not always yes and the court has said, in fact, that in certain instances teenagers can be treated differently.

There are many instances where even the courts cannot agree. Lower court decisions have been overturned on appeal. In addition, many Supreme Court decisions are decided with strong dissenting opinions. When used in debate, these dissenting opinions and lower court decisions can be important in building a case for a particular position. It should be stressed by teachers, to students of debate, that the ruling of a court does not prove a particular position. Debaters should not assume that the majority rulings in the cases discussed are the most important factors in the debate or that they are the “correct” answers to the problem. The rulings are the judges opinions and debaters, like all citizens in a democracy, are entitled to have their own opinions regardless of what the judges say. Many court decisions, in fact, seem to contradict other court decisions. Opinions, court decisions, and other research information are merely tools in building a case. The debate is won or lost by how well these tools are used to form a comprehensive plan for a particular position and to refute the position presented by the opposing team.

The first part of this unit will discuss landmark cases affecting teenagers. These cases can form the basis for classroom debates or in preparation for state debate competition. The cases discussed relate to the question of whether or not teenagers are entitled to the same protection under the law as adults. The second category deals with substantive issues. It deals with cases that relate to the question of what teenagers can and cannot do in society. This category is divided into two sections. The first section deals with cases relating to the 1st Amendment rights of teenagers. The second section deals with Supreme Court rulings regarding the disciplining of teenagers. At the conclusion of each category, several questions will be asked to help initiate classroom debate.

## Category 1—Supreme Court cases affecting the procedural protections of teenagers under the Constitution.

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### ***In Re Gault —Minors' Rights***

In June 8, 1964 an Arizona teenager named Gerald Gault was arrested for allegedly making an obscene phone call to a neighbor, Mrs. Cook. His parents did not know he had been arrested and when they returned home, Gerald was nowhere to be found.

The Gaults finally located Gerald at the Maricopa County Children's Detention Center in Arizona, in the custody of the arresting officer, deputy probation officer Flagg. The Gault's lawyer immediately filed a petition of habeas corpus on Gerry's behalf arguing that their son had been denied his rights under due process.

The hearing on the petition was not held until August 17, 1964. The judge then said that because Gerald was under the age of eighteen years, he was in need of protection by the court; and that said minor was a delinquent minor.

Gerald's accuser was not present at a June 15th hearing. He denied making the call. Witnesses differed in their recollections of Gerald's initial remarks. Officer Flagg agreed that Gerald did not admit to making the lewd remarks. Gerald's parents recalled that Gerald said he dialed the number and handed the phone to Ronald Lewis, his friend, who then made the remarks. The two boys, may have, said Officer Flagg, blamed each other but this was not clear. In any event Gerald was, at the conclusion of the hearing on June 15th, found to be at fault and was committed as a juvenile delinquent to the state industrial school "for the period of his minority (that is, until 21) unless sooner discharged by the due process of law." He was 15 years old at the time making this a six year sentence.

For an adult charged with a similar crime the penalty in Arizona at this time earned a maximum penalty of a \$50.00 fine and two months in jail. The reason for this large discrepancy is that in 1964, judges were allowed to act "in loco parentis" or in place of parents. They could use their own judgement as to innocence or guilt without regard to due process, the right of confrontation and cross-examination, the privileges against self-incrimination, and the right to a transcript to the proceedings. Teenagers were not protected by the Constitution in this case in the same way as adults would have been protected.

The Arizona Supreme Court agreed with the initial decision in the Gault case saying that the adult and juvenile court systems had different aims and the latter should not be subject to strict adult regulations. Gerald, they said, had not been treated differently from other juveniles, therefore, the decision to confine him was upheld.

Unconvinced, the Gault's attorney appealed to the Supreme Court. In May of 1967 the court responded changing the entire juvenile justice system. The Court ruled 8-1 that the 14th Amendment applies to juveniles. Juvenile offenders have the right to know the charges against them, to have a lawyer represent them, and to confront witnesses. They must also be told of their right not to testify against themselves.

The one dissenting opinion in the Gault case was from Justice Potter Stewart. His belief was that juvenile proceedings are not criminal trials and that the objective of the juvenile court is to correct a condition; not to convict and punish a criminal, which is the purpose of a criminal court. Justice Stewart gave an example of a 12 year old child named James Guild who, during the 19th century in New Jersey, was tried as an adult for the murder of Catherine Beakes. A jury found him guilty and sentenced him to death by hanging. The sentence

was executed by the state of New Jersey. Justice Stewart believed it was not the place of the juvenile court to treat children as adults as in the dark world of Charles Dickens and warned of this danger in the Gault decision.

### ***Goss v. Lopez* —Student Suspensions**

The case of *Goss v. Lopez* stemmed from race related student riots at Central High School in Columbus, Ohio in 1971. The principal suspended 75 students for racial disruptions in the lunchroom and damaging school property. One student, Dwight Lopez, insisted he was innocent. He did not, however, get a hearing to tell his side of the story. Along with eight other students, they brought their case to court.

A federal court agreed with the students that they had a right to a hearing. School officials appealed. Finally on January 2, 1975, the court affirmed the decision of the three judge panel by a 5-4 vote saying that under the 14th Amendment, people cannot be denied liberty without due process.

Lawyers for the school district had argued that there is no constitutional right to education, so due process does not protect against suspensions. They would further say that due process only applies if a student suffered a “severe loss.” The loss of ten school days (Lopez’s punishment) was not, in their eyes, severe. The court disagreed.

In the book, *In Defense of Children* Franklin Zimring and Rayman L. Solomon state that *Goss v. Lopez* presents a very basic question dealing with the management of the school. Are schools like a family model where problems are resolved in the way that a family resolves problems or are schools more like the bureaucratic model followed in society? In the family model the principal would usually act as the father in resolving problems. Zimring and Solomon feel the traditional family model was a thing of the past by the time the court heard this case. Granting students hearings before suspensions further changed the history of school government.

Writing for the dissent in this case, Justice Powell stated, “Discipline did not represent harm but was itself an integral part of education. It is no less important than learning to read and write.” This idea went along with the dissent opinion by Justice Black in the Tinker decision when he wrote, “School discipline, like parental discipline, is an integral and important part of training our students to be good citizens—to be better citizens.

### ***New Jersey v. T.L.O.* —Students Searches**

In Piscataway High School in 1980, a teacher discovered a 14 year old freshman and her companion smoking cigarettes in the school lavatory in violation of a school rule. He took them to the principal’s office where they met with the vice-principal. When the respondent, in response to the vice-principal’s questioning, denied that she had been smoking and said she did not smoke at all, the vice-principal demanded to see her purse.

Upon opening the purse, he found a pack of cigarettes, marijuana, an index card containing a list of students that owed money, and two letters implicating her in marijuana dealing. The juvenile court held that the Fourth Amendment applied to searches by school officials but that the search in question was a reasonable one and adjudged respondent to be a delinquent. The Superior Court of New Jersey agreed with the juvenile court but the New Jersey Supreme Court reversed the decision and ordered the suppression of the evidence found in the respondent’s purse, holding that the search of the purse was unreasonable. School children, they said, have legitimate expectations of privacy.

The school appealed to the Supreme Court and the case was decided on January 15, 1985. The lawyers for the

school argued that teachers must be permitted to keep discipline, and this includes searching students' lockers and purses. T.L.O.'s lawyers argued that the search violated the Fourth Amendment's ban against unreasonable searches and seizures.

By a 6-3 vote, the Supreme Court decided that while the 4th Amendment protects students against unreasonable searches, teachers do not need "probable cause" to think that a crime has been committed in order to conduct a search.

In adult cases police must suspect that a crime has been committed. This is not true in schools. School officials need only to have "reasonable grounds" that there has been a violation of school rules. The court said searching T.L.O.'s purse was reasonable.

Justice Brennan writing for the dissent said that, "It would be incongruous and futile to charge teachers with the task of imbuing their students with an understanding of our system of constitutional democracy, while at the same time immunizing those same teachers from the need to respect constitutional protections."

## **Procedural Protections—Questions for Debate**

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After reading the summaries of *In Re Gault*, *Goss v. Lopez* and *New Jersey v. T.L.O.*, several important questions should be discussed. The method used by the teacher will depend on the particular class and their objective. It may be in preparation for the state debate competition or simply to better understand how the Constitution relates to teenagers.

Should school officials be able to do random searches of student property?

Should school officials be required to have specific reasons to believe wrongful conduct by a particular student has been committed, "probable cause," before they are allowed to search a student, as is the case with adults?

Who should decide whether searching a particular student is reasonable?

Should school officials be required to notify a child's parents and conduct a hearing before searching a student?

Should school officials be able to do the same things to students in school as parents are able to do at home—act in "loco parentis?"

Should school officials be required to have a search warrant before being allowed to search a student?

Do the rights of the group take precedence over the rights of an individual? Is the potential danger, for example, that a student may have a weapon enough to allow random searches of lockers?

Are students entitled to a hearing before they can be suspended? If yes, how formal should these hearings be? If no, why not?

Should teenagers charged with a crime have the same procedural protections under the Constitution as adults?

Should judges be able to treat teenagers in court in the same way as parents treat their children at home—act in “loco parentis?”

Which of the three cases discussed seems to give students the most freedom? The least? How do the cases differ? How are they alike? Which decisions, if any, do you feel were unfair? Why? Do any of the cases contradict each other? If yes, which ones and how?

### ***Tinker v. Des Moines Independent School District***

#### *Free Speech*

In 1965, Christopher Eckardt was 16. John Tinker was 15 and in Vietnam was wrong and planned to protest by fasting and wearing black arm bands to school.

The Vietnam War was a very emotional issue and school officials feared disturbances. When they learned of the plan to wear armbands, they warned the students that they would be asked to remove them. If they refused they would be sent home until they returned without the armbands. All the Tinker children and Chris Eckardt wore the armbands. All were suspended.

The Tinker children went to court to protest their suspensions. Their lawyer argued that school officials had violated their First Amendment rights to freedom of speech. A local judge dismissed the case. Two years later, in 1967, the case reached the Supreme Court.

The lawyers for the Des Moines School District argued that schools were not the place for displays of free speech. They said they needed to keep order in schools and that anti-war protests could cause fights. On February 24, 1968, the court ruled 7-2 that First Amendment guarantees apply to students. Neither students nor teachers, it declared, “Shed their constitutional freedom of speech or expression at the schoolhouse gate.” The court went on to say, “We do not confine the permissible exercise of First Amendment rights to a telephone booth or the four corners of a pamphlet, or to supervised or ordained discussion in a classroom.”

Justice Potter Stewart, while concurring with the majority said that he did not share the court’s “uncritical assumption that the First Amendment rights of children are co-extensive with those of adults. A child, like someone in a captive audience, is not possessed with that full capacity for individual choice which is the presupposition of First Amendment guarantees.”

In the dissent opinion, Justice Hugo Black pointed out that while he believes in the 1st and 14th Amendments, he does not believe, “that any person has a right to give speeches where he pleases and when he pleases.” The Vietnam issue is “highly emotional and may disrupt the learning process.” Justice John Harlan also wrote a dissent opinion saying, “School officials should be accorded the widest authority in maintaining discipline and good order in their institutions.”

The majority, however, felt that “students, in school as well as out are ‘persons’ under our Constitution. Students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate.”

### ***Hazelwood v. Kuhlmeier -Student Censorship***

As in the case of *Tinker vs. Des Moines Independent School District* discussed earlier, the *Hazelwood vs. Kuhlmeier* case deals with the First Amendment rights of students to free expression. The controversy began

in the spring of 1983 when Robert E. Reynolds, the principal of Hazelwood East High School, refused to permit the publication of two articles in the Spectrum, a school newspaper produced by students in a journalism class.

Principal Reynolds said he deleted the two articles dealing with divorce and teenage pregnancy because they described families and students in such a way that even though their names were not mentioned it was “clear the articles were going to tread on the rights of privacy of students and their parents.” School officials further said that the newspaper was an extension of classroom instruction and did not enjoy First Amendment protection.

A district court judge agreed with the school board’s lawyer who said that schools would be in trouble if people could change curriculum at the drop of a lawsuit. A court of appeals disagreed, however, and by a 2-1 decision overturned the judge’s decision saying the Hazelwood’s Spectrum was, in fact, a “public forum.”

The case finally reached the Supreme Court where on January 13, 1988, the court ruled 5-3 that school officials have broad power to censor school newspapers, plays and other “school-sponsored expressive activities.”

The Supreme Court’s ruling on this decision was not without strong dissent. In addition, several experts, organizations, and related court cases make it unclear exactly what rights to expression students do or do not have.

The *Hazelwood v. Kuhlmeier* case, the topic for the 1987-1988 state competition, will be discussed further in section two of this unit.

### ***Board of Education v. Pico Library Censorship***

In September of 1975, a politically conservative organization complained about several books found in school libraries. In February of 1976, acting on this list, nine books were removed from the school library for study by the school board. A committee of parents and teachers was also formed to look at the books.

The committee recommended that five of the books be retained but the Board rejected the committee’s report and only allowed one book returned to the library without restriction. Five students, including Steven Pico, brought suit with their parents and lawyers to have the books returned to the library. They claimed the Board’s actions denied them their rights under the First Amendment.

A District court judge upheld the school board’s right to remove the books. The judge felt that the courts “should not intervene in the daily operations of school systems” unless “basic constitutional values” were violated. Since the books were removed based on a conservative educational philosophy and not on religious principles, the court felt it was not a constitutional violation. While the court did say removal of the books may reflect a misguided philosophy, it was not a direct infringement of any first amendment rights.

An appeals court reversed the decision and the Supreme Court on June 25, 1982 upheld this reversal. Justice William Brennan in writing the majority opinion stated that, “access to ideas makes it possible for citizens generally to exercise their rights of free speech and press in a meaningful manner. Students need access to ideas to help prepare them for active and effective participation in society.” The Court further said that the library, “has special characteristics that make this environment especially appropriate for the recognition of First Amendment rights of students.”



## Category 2—Section 1

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### 1st Amendment Rights for Teenagers—Questions for Debate

After reading the summaries of *Tinker v. Des Moines Independent School District*, *Hazelwood v. Kuhlmeier*, and the *Board of Education v. Pico*, the following questions should be discussed. Many of the questions will overlap with questions from the other categories, and students in preparation for debate should consult cases from other areas for their relationship to one another and for supporting evidence.

Are there any books that you feel do not belong in a library? If yes, can you name one?

Who should decide whether a book is appropriate?

Should school officials be able to arbitrarily remove student articles from the school newspaper without giving reasons? From the school library?

Should books being used as part of a course in a classroom have the same rules of censorship as books in a library?

Should students writing for their school newspaper under the school “imprimatur” (seal or sponsorship) be subject to censorship by school officials?

Should students who have written a newspaper or pamphlet on their own at home be allowed to distribute these materials on school grounds?

Should all material written by students be available in the school library no matter how controversial? How do the Hazelwood and Pico cases relate?

Are there any types of articles that you think would “substantially disrupt” the learning process? If yes, what kinds of articles are they? Should they be removed? Who should decide?

Are there any types of protests or demonstrations by students that would “substantially disrupt” the learning process? If yes, should they be banned? Who should decide?

Does the decision in *Tinker v. Des Moines Independent School District* case contradict the decision in the *Hazelwood v. Kuhlmeier* case? Do you agree with both decisions? If no, why?

Which of these three cases gives students the most freedom? The least? Why?

## Category 2—Section 2

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### Supreme Court cases affecting disciplinary rules for teenagers.

#### *Ingraham v. Wright* —Corporal Punishment

In 1970 James Ingraham, an eighth-grader in Dade County, Florida, was sent to the office for not answering his



teacher fast enough. He was given twenty whacks with a wooden paddle for the offense. Mrs. Ingraham's lawyer filed charges against the school in federal court arguing that the punishment was too severe and against the 8th Amendment's ban on cruel and unusual punishment.

The federal court judge disagreed with Mrs. Ingraham and she and her lawyer appealed to the Supreme Court. On April 19th, 1977 the court upheld the lower court decision that school could use physical punishment by a 5-4 majority. It said that, unlike prisons, schools are open institutions and while parents may protest mistreatment, the schools could in fact use corporal punishment. In addition, a hearing prior to the corporal punishment was not necessary.

In relating the various cases presented in this unit, an important point should be made. There are no clear cut answers. The 5-4 decision in *Ingraham v. Wright* shows a strong dissenting opinion. When preparing for classroom debate, teachers and students should consider all aspects of a case and their connection to other cases and points of view.

It is especially interesting, for example, that in *Ingraham v. Wright*, Justice Potter Stewart agreed with the majority in upholding corporal punishment in schools. The decision, as mentioned, also said no hearing was necessary before the corporal punishment was administered. Yet, in the case of *Goss v. Lopez*, Justice Stewart agreed with the majority in saying the students must be guaranteed a hearing before being suspended even for a short time. Both decisions have had a major role in influencing schools throughout our country, and yet they were decided by the narrowest of margins. In preparing arguments for a particular position in debate, the student will quickly learn that simple answers are not possible for very complex questions and that even the experts disagree, sometimes even with themselves.

### ***High v. Zant No. 87-5666 and Wilkins v. Missouri No. 87-6026***

#### *Death Penalty for Juveniles*

The final Supreme Court case discussed in this unit will be heard during the 1988-89 term. In this case the Supreme Court will consider banning capital punishment for all juvenile murderers. The question is whether the use of the death penalty for anyone under the age of 18 violates the Constitution's ban on "cruel and unusual punishment."

Two cases, one in Georgia and one in Missouri will be used to help decide the issue.

Jose Martinez High is currently a prisoner on death row in Georgia. Just a few weeks short of his 18th birthday, he took part in a service station robbery during which an eleven year old boy was shot to death.

In the other case, Heath Wilkins, while 16, helped rob a liquor store in Missouri. Nancy Allen, a clerk, was fatally stabbed.

According to the National Coalition to abolish the Death Penalty there are currently about 2,100 people nationwide of death row. 30 of these inmates were under 18 when they committed their crimes. Of the 100 men and women executed in this country since the Supreme Court reinstated the death penalty in 1976, three committed their crimes when they were 17. Since 1948, no one has been executed for a crime committed when he or she was younger than 17.

Four justices have already said the death penalty was unconstitutional for those who were younger than 16. Three justices did not set age limits for executions. One justice, Sandra Day O'Connor, ruled against the death

penalty for one 15 year old because there was a state statute prohibiting the death penalty, but she did not state a general belief for all cases. New Justice Anthony M. Kennedy who has not yet expressed an opinion on the matter will play an important role in helping to decide this issue.

## Category 2—Section 2

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### Disciplinary Rules for Teenagers

#### *Questions for Debate*

Is corporal punishment in schools fair? if yes, what type and by whom? If no, why not?

Do the *Goss v. Lopez* decision and *Ingraham v. Wright* decisions contradict one another?

Does the Gault case giving teenagers adult procedural protections make capital punishment for teenagers justifiable?

How do you think the Supreme Court will rule on the death penalty for juveniles? Why do you feel this way?

## Part 2—The Rules of Debate

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The cases discussed in this unit relate to the rights of students. Any of these would be excellent as topics for debate. Clearly, they are all controversial and of interest to students. The remainder of the unit will give basic rules and speaker responsibilities for debate. A complete workshop is held each Fall for middle school teachers and coaches interested in further information on debating as well as the state middle school debate tournament. Much of the information which follows comes from material provided by the state at that workshop. Those interested in the tournament are encouraged to contact Denise W. Merrill at the beginning of the school year in Hartford at (203) 566-5871 for a schedule of events.

Also, a reminder that videotapes of the state championship debates for 1987 and 1988 are available at the Yale New Haven Teachers Institute's office. Examining these videotapes provides an excellent teaching tool. The tapes should be stopped frequently and the strengths and weaknesses of each speaker discussed. The speaker responsibilities described in this section of the unit will become clearer when combined with the videotapes of these two exciting championship debates. The 1988 censorship topic is referred to briefly while discussing speaker responsibilities.

The first thing necessary in a debate is a resolution, or topic to be argued. The resolution, or proposition, must be in the form of a statement. It must also go against the way things are now, the status quo. The 1988 topic for middle schools was the following:

Resolved: That Student Publications should be protected by the First Amendment.

When this issue was chosen in September as the 1987-88 topic, the *Hazelwood v. Kuhlmeier* case discussed

earlier had not yet been decided. In January of 1988, however, while debates were in progress, the Supreme Court did rule in favor of the school board in allowing censorship of school newspapers. This decision is not, however, the only related case and as shown in the cases discussed in this unit, there are always two sides to any argument.

Once the resolution is selected, two teams are chosen. One team argues for the resolution. This is the affirmative team. They are against the status quo which is the way things are now. The second team is the negative team. Their job is to uphold the status quo and show that things are fine the way they are now.

For the state competition, each team is comprised of two members. A minimum of four students or two teams, from each school is required. The number of team members, if larger than four, must increase in multiples of four to either eight or twelve. This enables proper pairings between schools. Students debate two times during each round. In one round they argue the affirmative and in the other they assume the negative position. They must therefore prepare both sides of the question.

Once it is determined which team will argue each position, the debate begins. Each speaker has certain responsibilities and must adhere to specific guidelines, speaking order, and time limits.

The Connecticut Middle School Debate Tournament follows the Oregon style debate format referring to its place of origin. This format has also been chosen recently by the American Forensic Association's national debate tournament to replace the Oxford or Standard debate format. The major difference is that the Oregon style debate format uses principles of cross-examination while the Standard format does not include cross-examination.

The time limits for each speaker are longer at the high school level but the format and major responsibilities of each speaker are the same. The middle school and high school time limits for each speaker under the Oregon format are shown on the following page. The high school time limits are shown in parentheses. Later in this section, the responsibilities of each speaker will be described.

## **Time Limits For Oregon Style Debate Format**

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1. 1st Affirmative Constructive Speech 5 min. (8)
2. 1st Affirmative is questioned by 2nd Negative speaker  
2 min. (3)
3. 1st Negative Constructive speaker 5 min. (8)
4. 1st Negative is questioned by 1st Affirmative speaker  
2 min. (3)
5. 2nd Affirmative Constructive Speech 5 min. (8)
6. 2nd. Affirmative is questioned by 1st Negative speaker 2 min. (3)
7. 2nd Negative Constructive Speech 5 min. (8)
8. 2nd Negative is questioned by 2nd Affirmative speaker  
2 min. (3)
9. 1st Negative Rebuttal 3 min. (4)

10. 1st Affirmative Rebuttal 3 min. (4)
11. 2nd Negative Rebuttal 3 min. (4)
12. 2nd Affirmative Rebuttal 3 min. (4)

Also, each team has 5 minutes of preparation time (10 minutes for high school) to be taken any time during the debate in increments of 60 seconds each. The timekeeper will keep track of this.

Judges may ask each speaker if he/she wishes to take any of the preparation time before each speech.

During the debate, judges keep a “flow sheet” to keep track of arguments and speaker points. At the end of the debate the judges confer with each other to determine which team won the majority of the arguments. They then decide on the winner of the debate and complete a ballot giving reasons for their decision. Six categories are evaluated by the judges in helping them to reach their decision. The six categories are:

- a. Analysis: How well did this speaker assess the arguments presented?
- b. Evidence: How well did this speaker support his argument?
- c. Refutation: How well did he respond to opposition’s arguments?
- d. Organization: How well did he structure his speech and follow the affirmative case?
- f. Delivery: How well did he present himself (dress, speech, pace, etc.)

NOTE: Delivery is only one-sixth of the criteria.

Each category is worth five points for a perfect score of thirty. The winning team is based on the total speaker

points for each team. A combined total of 60 points is possible. If there are two judges, they must agree on which team won. There can be no ties and while a member of one team may have the highest individual score, the total team score determines the winner. Tournament results are based on won-lost records with the total number of points being used to break ties if the won/lost records are the same. A copy of the score sheet is provided on the next page.

American Forensic Association Debate Ballot

(figure available in print form)

## ***SPEAKER RESPONSIBILITIES***

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### ***1st Affirmative Constructive (5 minutes)***

The debate begins and ends with the affirmative team. The 1st affirmative speaker begins by introducing his partner and then stating the resolution which his team would like adopted. The 1st affirmative then gives the 1st affirmative constructive speech. In this pre-written speech, the 1st affirmative speaker must show that there is an *inherent* problem with the status quo which cannot be solved under the existing structure of laws. In the *Hazelwood v. Kuhlmeier* case, this inherent problem is that principals and school officials can censor articles in school publications without having to give students any reasons.

The 1st affirmative speaker must show the harm caused by the status quo. Evidence must be presented to substantiate each harm presented. Finally, the 1st affirmative must show the significance of these harms and the results of these harms to the students' lives.

After showing there is a problem by covering the above, the 1st affirmative must show that his team can solve the problem by presenting a plan. The plan must show how the resolution, that student publications be protected by the 1st Amendment, will be implemented. Presenting a more detailed plan with specific steps is advantageous. It helps protect against arguments by the negative that important ideas of implementations were not considered.

The final step in the 1st Affirmative Constructive speech is to show that the plan will work. The affirmative teams shows there will be more problems and if their plan is not adopted and why their plan has advantages over the status quo. The 1st affirmative asks for an affirmative judgment in the debate.

### ***1st Affirmative Cross Examination (2 Minutes) Questions asked by Second Negative***

In preparing for cross-examination, it is essential that the teams listen carefully to one another and take notes. Cross-examination is an opportunity to question the information presented by your opponent. It is a chance to show that what was said was unclear or incorrect. the questioner can only ask questions. He cannot make statements. He should ask as many questions as possible and have follow up questions to hold the upper hand. The main goal is to keep control and in this case to poke holes in the plan presented by the 1st affirmative.

Note: While the 2nd negative is cross examining the 1st affirmative, the 1st negative should be preparing and refining his speech. There is only five minutes of preparation time for each team throughout the debate and this time should not be used unnecessarily.

### ***First Negative Constructive (5 Minutes)***

The 1st negative constructive speaker is responsible for attacking the affirmative's case. He must concentrate on showing that there is no inherent problem with the status quo. In this case that means that school newspapers across the country have worked very well under the present system. There are no significant problems with allowing school officials the right to censor articles and any change in the present system would cause significant harm. Any problems with the status quo can be remedied with minor changes.

### ***First Negative Cross-Examination (2 minutes) Questions asked by 1st affirmative***

(see 1st affirmative cross-examination for suggestions.)

### ***Second Affirmative Constructive (5 minutes)***

This speech refutes the arguments that 1st negative just brought up. The 2nd affirmative basically rebuilds the points made by the 1st affirmative and proves that the negative attacks are weak or incorrect. The 2nd affirmative must show that there is an inherent danger in censorship and prove that minor repairs are not enough. Further, he must show that only adoption of the affirmative plan for protecting the rights of student journalists will solve the problem. 2nd affirmative must deal with the question of solvency—showing how the plan will solve the problem.

### ***Second Affirmative Cross-Examination (2 minutes) Questions asked by 1st Negative. Second Negative constructive (5 minutes)***

This negative speaker concentrates on showing that the affirmative plan will not work. This speaker prepares beforehand several attacks which may or may not apply. After hearing the affirmative plan, this speaker chooses the attacks that apply. It is important to use only attacks that are relevant. Listening and taking notes will help the 2nd negative be persuasive and spontaneous in attacking the affirmative plan.

The 2nd negative attacks should serve two major functions. First, they should show that the affirmative plan does not meet the stated needs. Allowing students complete autonomy to write anything they want, for example, takes away the opportunity for students to learn from advisors what is or is not appropriate for a school newspaper. Second, they should show that adoption of the affirmative plan will result in significant disadvantages. Students allowed to print anything without "prior review" may disrupt the learning process and cause serious rioting and libel suits.

### ***2nd Negative Cross-Examination (2 minutes) Questions asked by Second Affirmative 1st Negative Rebuttal (3 minutes)***

This is the point of the debate used to summarize arguments. The 1st negative begins the process. It is at this point that teams may wish to use any of their 5 minute preparation time that still remains.

The 1st negative rebuttal should attack the affirmative need for change argument. It should also develop the negative position further with evidence. It should continue to show how the affirmative plan won't meet the need. It should also summarize what the negative team has proven.

### ***1st Affirmative Rebuttal (3 minutes)***

The 1st affirmative rebuttal answers all arguments made by the negative toward the need for change and the plan for that change. 1st affirmative should focus on major issues and give a summary emphasizing the strength of own case. Finally, the 1st affirmative should point out what the negative has failed to prove.

### **2nd Negative Rebuttal (3 minutes)**

2nd negative should summarize the negative case and defend the present system. The 2nd negative should also point out issues that the affirmative team failed to discuss. The negative should call for rejection of the affirmative's plan and the resolution. The 2nd negative should focus on the major issues and can be emotional.

### **2nd Affirmative Rebuttal (3 minutes)**

The 2nd affirmative speaker ends the debate. In this rebuttal the 2nd affirmative calls for acceptance of his team's plan and the resolution. This can be an emotional speech and should summarize the affirmative's own case. It should also give reasons why the affirmative should win and should refute the negative's replies. The 2nd affirmative should also point out issues that the negative failed to discuss. Finally, the 2nd affirmative should focus on the major issues.

After the 2nd affirmative rebuttal is finished, the judges confer and based on the arguments presented determine the winner. In debate, however, both teams are winners. Debating teaches higher level thinking skills and research skills which make participation a victory in itself. This fact is *not* debatable.

## **Annotated Bibliography**

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### *A. Supreme Court Cases Relating to Procedural Protections for Teenagers*

*In Re Gault* 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1964). Decision which gave teenagers many procedural protections previously denied.

*Goss v. Lopez* 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 725 (1975). Decision gave students the right to an informal hearing before being suspended.

*New Jersey v. T.L.O* 469 U.S. 325, 105 S. Ct. 733, L. Ed. 2 d 720 (1985).

Decision upheld right of school officials to search students when reasonable suspicion exists.

### *B. Supreme Court Cases Relating to Substantive Protections for Teenager*

*Tinker v. Des Moines Independent School District* 393 U.S. 503, 89 S. Ct. 733, 21 L. Ed. 2d. 731 (1969).

Landmark decision upholding rights of students to wear black armbands to school in protest of war in Vietnam.

*Hazelwood School District v. Kuhlmeier* 108 S. Ct. 562, 98 L. Ed. 2d. 592 (1988).

Recent Supreme Court decision upholding the rights of school officials to censor school newspapers.

*Board of Education v. Pico* 457 U.S. 853, 102 S. Ct. 2799, 73 L. Ed. 2d. 435 (1982).

Decision lessened the power of school officials to remove books from school libraries.

*Ingraham v. Wright* 430 U.S. 651, 97 S. Ct. 1401, 51 L. Ed. 2d. 711 (1977).

Decision allowed corporal punishment of students without a hearing.

*High v. Zant No. 87-5666* and *Wilkins v. Missouri No. 87-6026*. Two Federal Court cases which will be heard in the Fall of 1988 by the Supreme Court. The cases deal with capital punishment for juveniles under the age of 18.



## Other Resources

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Burt, Robert, "Developing Constitutional Rights of, In and For Children" 39 *Law and Contemporary Problems* 118 (Summer 1975).

Discussion regarding the rights of parents to make decisions for children and the right of government to limit such decisions.

Fryar, Maridell, Thomas, David A., and Goodnight, Lynn. *Basic Debate*. Illinois: National Textbook Co., 1966.

A basic textbook for beginning level debate students in which the skills of analysis, research, and reasoning are carefully examined.

Mnookin, Robert, ed. *In the Interest of Children: Advocacy, Law Reform and Public Policy*. New York: Walt Freeman and Co., 1985.

Explores five landmark child advocacy cases. Excellent introduction to legal system and questions regarding the rights of children.

O'Neill, Terry, ed. *Censorship—Opposing Viewpoints*. Minnesota: Greenhaven Press, 1985.

A series of essays giving opposing viewpoints on censorship including library censorship, news media, pornography, the national security, and free speech in general. Better suited for high school students and above.

*1988 Deskbook Encyclopedia of American School Law*. Minnesota: Data Research, Inc., 1988.

Encyclopedic compilation of federal and state appellate court decisions in the field of education. Excellent resource for teachers, administrators, and coaches of debate.

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