

Exercise 1: The Rights Revolution in American High Schools

High school did not become a common experience for most American teenagers until after World War II, but in the 1950s and 1960s mandatory school attendance helped produce a shared youth culture. By the mid-1960s, many high school students became politicized—that is, they took notice of the rapid changes in their society, analyzed and critiqued society and school life, and sharpened their awareness of power relations in school and society. What do these documents tell us about how high school students viewed their world and the public schools? What changes did they want, and what rights did they claim?

Then as now, high school students were hardly homogenous. Because school desegregation shaped many large urban schools, divisions between black and white students created tensions, hostility, and sometimes violence. Yet racial divisions could fade when high school students perceived themselves as sharing common ground. How do the demands of black and white students in documents B and C differ? Looking at all of the documents together, what issues might students of different races agree on? Why? Was there one high school student movement or several?

At the time people often blamed the upheavals of the 1960s on a “generation gap,” arguing that young people and their elders could not communicate because of vast differences in their values. Most historians now downplay the generation gap because many young people shared the values of their parents. The high school haircut cases reinforce the latter view, since parents of boys who sued generally supported their children’s opposition to school rules, as did Chesley Karr’s parents. What do these documents tell us about a generation gap? What might the authors of documents B and C think of document D? How might the adults who wrote document D respond to the demands voiced in documents B and C?

Documents

- A. “What Do People Think about Their High Schools,” *Life*, May 10, 1969
- B. Demands of the New York High School Student Union, *New York High School Free Press*, 1970
- C. Demands of black students at Cubberly High School in Palo Alto, California, 1970
- D. “Student Rights and Responsibilities—A Central Board Policy Statement,” Detroit Board of Education, July 1971

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**Document A, “What Do People Think about Their High Schools”
Student Participation in Policy Making**

	<i>Students</i>	<i>Parents</i>	<i>Teachers</i>
Want more	58%	20%	35%
Want less	2	11	4
About same	39	65	60
Not sure	1	4	1

Importance of Student Participation in Policy Making

	<i>Students</i>	<i>Parents</i>	<i>Teachers</i>
Very important	54%	25%	30%
Somewhat important	34	38	39
Not very important	11	33	31
Not sure	1	4	*

* Less than 0.5%

Should Students Have More Say?

	<i>Students</i>	<i>Parents</i>	<i>Teachers</i>
In making rules	66%	24%	40%
In deciding curriculum	63	35	47
In determining discipline of student	48	28	37
In deciding how to conduct classes	48	21	28
In determination of grades	41	14	18

Should These Topics Be Discussed in Class?

	<i>Students</i>	<i>Parents</i>	<i>Teachers</i>
Folk rock music	35%	6%	19%
Black Students rights	52	27	36
Underground papers and Films	40	17	36
Sex hygiene	52	41	62
Hair, dress styles	37	30	28
Use of drugs	70	60	72

Life, May 10, 1969, pp. 23-33.

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Document B, Demands of the New York High School Student Union

1—No suspensions, involuntary transfers, exclusion from classes, detention, harassment of students. Due process for students. 2—No cops in schools, no narcos, security guards, plain clothesmen, informers. 3—No program cards, hall checks, ID's, passes. 4—An end to commercial and general diplomas, one diploma for every student upon graduation. 5—Open admissions to colleges, a college education free for everyone who wants one. 6—Jobs and housing for every student who wants them on graduating, dropping out, or leaving home. The army is not a decent job. 7—No military recruiting in schools, no military assemblies, literature, no sending names to draft boards or recruiters. An immediate end to the draft. 8—Black and Latin departments controlled by Black and Latin students. 9—Community control of the schools and every other community facility. Students are part of the community. 10—POWER! Student control of curriculum, publications, assemblies, clubs, student government, dress, etc. The right to organize politically. 11—We support the fifteen points of the Black and Puerto Rican Citywide HS Council.

New York High School Free Press (an underground newspaper), No. 8, reprinted in John Birmingham, *Our Time Is Now: Notes from the High School Underground* (New York: Praeger, 1970), 178.

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Document C, Demands of black students at Cubberly High School in Palo Alto, California

To: THE ADMINISTRATION AND FACULTY OF CUBBERLY HIGH SCHOOL

Because of the existing white racism at Cubberly we the Black Student Union make the following demands in order to survive:

1. Black Community Counselor (to be chosen with the approval of the Black students).
2. Legalization of Sneak-Out (so that the Kids can come back to E.P.A. every day after school without being followed).*
3. More black students to be admitted into the Palo Alto Unified School District.
4. A “Black” History course dealing with minority contributions in history (this Country was built by the toil and sweat of Black people).
5. Black literature to be chosen and approved by “Black” students to be taught in regular English Curriculum.
6. Allow the Black Student Union to be recognized. And that “Black” speakers be allowed to come on campus without having to show the opposite view because it already exists on campus.
7. Black students should be appointed to Elections Committee.
8. Make it possible for Black students to attend school activities (Financially—would like for this to be made possible so that Black students will be able to attend grad-night).
9. The IF program** would provide an opportunity for Black students to discuss with the white teachers and students the type of racism that exist [*sic*] at Cubberly.

(This program should have been instituted yesterday too.)

* E.P.A. stands for East Palo Alto. The “Sneak-Out” program allowed black students in East Palo Alto to attend Cubberly High School in Palo Alto proper (living there five days a week) if they had a white “sponsor.”

** IF stands for “Idea Forum,” a program of student-directed classes at Cubberly High School. Reprinted in Sylvia Berry Williams, *Hassling* (Boston: Little, Brown, 1970), 121.

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Document D, “Student Rights and Responsibilities—A Central Board Policy Statement,” Detroit Board of Education, July 1971

I. Right to an education: No student shall be denied the opportunity to participate in any program of the local board because of race, creed, color, or by country of national origin. Every member of the school community, including students, parents, and the school staff has the responsibility to promote a school climate free of fear, harassment, violence or disruption. Regular attendance at school and orderly conduct and behavior are required to provide the maximum opportunity for effective teaching on the part of the staff and effective learning on the part of the student.

II. Student dress: Students have the right to express their own individuality in their wearing apparel, responsibility for which is to be determined by the students and their parents, provided that the dress does not present, in the judgment of the school principal or his designee a health or safety hazard and does not disturb the educational opportunities of other students or disrupt the educational program of the school.

III. The right to freedom of expression and publication; dissent—right to petition: Students have the right orally, through symbols, and through publication, to express their opinions on issues and to express their beliefs. . . . Written expressions must be signed by the authors. Students who edit, publish, or distribute handwritten, printed, or duplicated matter must assume responsibility for the content of such publications. The times and places for the distribution of such materials will be determined by the principal or his designee. Libel, obscenity, personal attacks on individuals or groups, defamation of character, discriminatory materials of racial, ethnic or religious nature; commercial solicitation, and materials which endanger the health and safety of people, or threaten to disrupt the educational program, as determined by the school principal or his designee, are prohibited.

Students have the right to dissent—to express dissatisfaction with decisions and policies of the local school administration, the regional or central school administration, or with decisions and policies of others in positions of authority affecting students.

The right of dissent does not include participating in such activities as student sit-ins, unauthorized assemblies, the takeover of school offices or other school facilities, and the obstruction of halls and stairways.

Students have the right to petition and to seek redress of grievances. . . . In secondary schools, such procedure shall include a democratically selected representative committee of students which has the responsibility to help in the handling of grievances according to established procedures.

IV. Student Organization and other co-curricular activities: Students have the right to organize associations and student groups within the school for cultural, social, athletic, and other authorized purposes which will enrich and extend their education as an integral part of the curriculum of the school (clubs, seminars, and assemblies). Each group must have a faculty sponsor and a written statement of its goals, purposes, and activities.

V. Student government—participation in decision making: (1) In each high school there shall be established an elected and representative student government. (2) The organization, operation, and scope of student government should be specified in a written constitution, formulated with effective student participation. This constitution must not be in

Gael Graham, “Flaunting the Freak Flag: *Karr v. Schmidt* and the Great Hair Debate in American High Schools, 1965–1975,” *Journal of American History*, 91 (Sept. 2004), 522–43.

conflict with policies of the central and regional boards of education. (3) The student government shall have faculty sponsorship selected by the student government in consultation with the administration of the school.

VI. *Search and seizure*: Students shall be protected from unreasonable search and seizure of items in their possession and their lockers: (1) There should be reasonable cause to believe that possession constitutes a crime or rule violation, or in such cases where there is reason to believe that the student possesses evidence of a law violation. (2) There is reason to believe the student is using his locker in a fashion as to endanger his or others' health, safety or rights.

The school must retain the right to search in an emergency such as a bomb threat or belief there are weapons or dangerous materials on the premises. The student should be notified of such emergency action as soon as possible.

VII. *Codes of conduct—discipline*: Each school shall develop a simple list of unacceptable behavior violations of which regulations shall be subject to disciplinary procedures.

VIII. *Laws and rules regarding unacceptable behavior*: Included in this category are the following: arson, burglary, explosives, extortion, blackmail or coercion, firearms, larceny, malicious mischief, robbery; the sale, use or possession of alcoholic beverages or illegal drugs; trespass, unlawful interference with school authorities, unlawful intimidation of school authorities, smoking by students, non-attendance, disruptive conduct as creating a diversion, lack of cooperation with school personnel, refusal to identify self, possession of knives and darts.

IX. *Due Process Safeguards*: A basic requirement must be that the student is “treated with fundamental fairness in the light of the total circumstances” including the right to be fully informed as to alleged breach of behavior and opportunity to respond. Where charges are made by a third party, the accused should have the right to face the accuser.

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Reprinted in Sylvia Berry Williams, *Hassling* (Boston: Little, Brown, 1970), 121.

Exercise 2: High School Dress Codes

American society, which had long valued formality in many public places, including schools, became far more informal in speech, manners, and dress in the 1960s. Rules governing the dress and hairstyles of high school students seemed either a bulwark against the tide of informality or an obstacle to current fashion, depending on one's point of view. Long hair and countercultural attire increasingly symbolized opposition to traditional (adult) culture. Some school administrators believed that controlling students' appearance would shape their attitudes and make them better students. Conflicts between students and administrators over dress codes raged in many parts of the country. By the end of the high school student rights movement (around 1973), many public school dress codes had been liberalized or even abandoned, but in recent years such codes have been revived.

In the following documents, what seems to be the rationale for specific requirements of the dress codes? What values are encoded in the rules? What are the similarities and differences in the codes for students and the one for teachers? In documents B, C, and D, why do the students attack dress codes? What values do they appear to embrace? How do they connect dress codes to a broader critique of education? Why do you think a teacher sued over the document F dress code? How might school officials in Perryville, Knox County, or East Hartford (documents A, E, and F) defend their dress codes in court? How might those officials respond to the student views in documents B, C, and D? Document E is a recent dress code from a southern school district. How is it similar to or different from dress codes of the 1960s? Why do you think dress codes have been brought back, some thirty years after they faded in the mid-1970s? What do you think about high school dress codes, and why? Should there be a dress code for teachers or other adult workers? Why or why not?

Documents

- A. Dress code of Perryville, Arkansas, School District, 1971–1972
- B. “Take Off Your Clothes,” editorial from high school underground newspaper in Fargo, North Dakota
- C. “The Dress Code at an Average High School,” cartoon from the High School Independent Press Service, New York City
- D. “If the School Board Gets More Money,” cartoon from the *New Improved Tide* (underground newspaper at John Marshall High School)
- E. Middle and high school dress code policy, Knox County, Tennessee, 2004
- F. Dress code for school employees, East Hartford, Connecticut, 1972

Exercise 2: High School Dress Codes

Document A, Dress Code of Perryville, Arkansas, School District, 1971–1972

Girls: Dresses, skirts and blouses, dress slacks and blouses or pant suits may be worn. No divided skirts or dresses; no jeans or shorts may be worn. Blouses that are straight around the bottom may be worn outside the skirt or slacks. The length of the skirts or dresses will be no more than six (6) inches above or six (6) inches below the knee.

Excessively tight skirts or pants will not be allowed. Girls are expected to be neatly dressed and well groomed at all times.

Girls will not come to school with hair in rollers.

Boys: Boys may wear dress or sport pants, including jeans. No frayed trousers or jeans will be allowed. Shirt tails, unless the tail is straight and hemmed, will be worn inside the pants.

Socks are required at all times.

Boys will be expected to be neat and well groomed at all times. This means that their hair will be trimmed; it will not be down over the ears, in the eyes or down over the shirt collar. The face will be clean shaven—no mustaches, beards or sideburns below the ear lobes.

General: No tie-dyed clothing will be worn. Shirt or clothing having slogans, pictures, or emblems, etc. will not be worn except school approved emblems.

As amended (by memo to parents) at the beginning of the 1971–72 school year:

After checking in some stores and talking with parents concerning the girls' dress, we have decided to relax the code. We will allow jeans that are made for girls to be worn providing: If the jeans open in front, a tunic or square-tailed blouse must be worn to conceal the opening. If the jeans open on the side, then an ordinary length blouse may be worn. In either case, the jeans will not be allowed if they fit too tightly.

Cited in *Wallace v. Ford*, 346 F. Supp. 156 (1972).

Exercise 2: High School Dress Codes
Document B, "Take Off Your Clothes"

Does the way a person dresses have anything to do with his ability to learn? Do teachers and administrators have the right to regulate the way a student dresses? Hell no!

As we see it the person's dressing habits have nothing to do with his learning capabilities. The way a student dresses should be up to the student himself. Teachers shouldn't have a thing to do with the way you dress; aren't they there to channel your studies in the right direction? And they would be better at this if they would quit worrying about the way we look when we come to class.

If the students were allowed to dress the way they wanted to, they would wear something within reason most of the time and wouldn't really change that much.

The things that would change the most would be the length of the boys' hair which should be allowed to be longer. Girls would wear slacks or whatever would be the most comfortable for the time of year.

Both of these changes should be allowed in the schools. A student should be able to wear what is comfortable to him or her and this, in most cases, is what the students want.

What we're trying to say is that the school shouldn't be able to tell us what to wear, where to wear it, and when to wear it. They are saying, 'Be yourself,' so why don't they let us? Let's do something about it, abolish dress codes now!

—Ron Hurlbut and Roger Kennedy
AMERICAN SPIRIT
 Fargo, North Dakota

Reprinted in Diane Divoky, *How Old Will You Be in 1984?* (New York: Avon, 1971), 27.

Exercise 2: High School Dress Codes

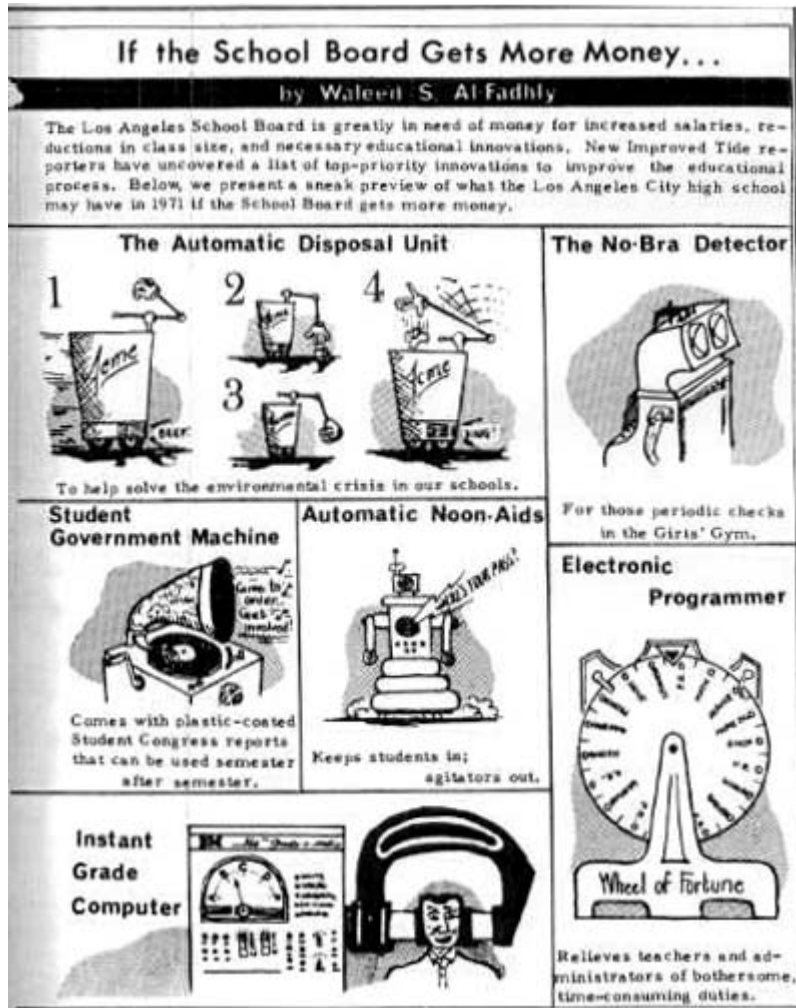
Document C, The Dress Code at an Average High School



Reprinted in Diane Divoky, *How Old Will You Be in 1984?* (New York: Avon, 1971), 27.

Exercise 2: High School Dress Codes

Document D, "If the School Board Gets Money"



New Improved Tide, John Marshall High School underground student newspaper, reprinted in Irving G. Hendrick and Reginald L. Jones, eds., *Student Dissent in the Schools* (Boston: Houghton Mifflin, 1971), 79.

Gael Graham, "Flaunting the Freak Flag: *Karr v. Schmidt* and the Great Hair Debate in American High Schools, 1965–1975," *Journal of American History*, 91 (Sept. 2004), 522–43.

Exercise 2: High School Dress Codes

Document E, Middle and High School Dress Code Policy, Knox County Schools, Knox County, Tennessee, 2004

The following expectations for student dress have been established to promote a safe and optimum learning environment.

Apparel or appearance which tends to draw attention to an individual rather than to a learning situation must be avoided. In matters of opinions, the judgment of the principal/designee shall prevail.

The following standards will be observed in all Knox County Middle and High Schools:

1. Pants must be worn at the waist. No sagging allowed.
 2. Shirts, blouses, and dresses must completely cover the abdomen, back, shoulders and must have sleeves. Shirts or tops must cover the waistband of pants, shorts, or skirts with no midriff visible.
 3. Head apparel, except for religious or medical purposes, must not be worn inside the school.
 4. Footwear is required and must be safe and appropriate for indoor and outdoor activity. Flip-flops and shower-type shoes are examples of inappropriate footwear for school.
 5. Clothing and accessories such as backpacks, patches, jewelry, and notebooks must not display (1) racial or ethnic slurs/symbols, (2) gang affiliations, (3) vulgar, subversive, or sexually suggestive language or images; nor should they promote products which students may not legally buy; such as alcohol, tobacco, and illegal drugs.
 6. Skirts, dresses, and shorts must be beyond fingertip length.
 7. Prohibited items include (1) large, long and/or heavy chains, (2) studded or chained accessories, (3) sunglasses, except for health purposes, (4) sleepwear, and (5) skin-tight outer materials such as spandex.
 8. Coats and jackets exceeding fingertip length are not to be worn in the building.
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Knox County Schools, Middle and High School Dress Code Policy,
<http://www.kcs12tn.net/dresscode/high_middle_code.htm> (August 1, 2004).

Exercise 2: High School Dress Codes

Document F, Dress Code [for teachers], adopted by East Hartford, Connecticut, School Board, March 26, 1972

The attire of professional employees during the hours when school is in session must be judged in light of the following:

1. Dress should reflect the professional position of the employee.
2. Attire should be that which is commonly accepted in the community.
3. It should be exemplary of the students with whom the professional employee works.
4. Clothing should be appropriate to the assignment of the employee, such as slacks and jerseys for gym teachers.

In most circumstances the application of the above criteria to classroom teachers would call for a jacket, shirt and tie for men and dress, skirts, blouse and pantsuits for women. If an individual teacher feels that informal clothing such as sportswear, would be appropriate to his or her teaching assignment, or would enable him or her to carry out assigned duties more effectively, such requests may be brought to the attention of the Principal or Superintendent. An attempt should be made on all levels to ensure that the above principles are applied equitably and consistently throughout the school system.

Cited in *East Hartford Association v. Board of Education of the Town of East Hartford*, 405 F. Supp. 94 (1975).

Exercise 3: Youth Rights and the Law

In 1969 the U. S. Supreme Court decided the landmark case *Tinker v. Des Moines Independent School District* on the First Amendment rights of children. The case concerned whether minor children had the right to symbolic “speech” of a political nature while in school (here, to wear black armbands demonstrating opposition to the Vietnam War), or whether school officials could quell such speech to prevent disruption of education. The Court affirmed that students possess First Amendment rights even in school, but added two important qualifiers. First, the Court recognized that the “special school environment” might permit the abridgement of some student rights. Second, the Court found that speech concerning national foreign policy was a significant First Amendment issue, while it characterized as trivial and thus not protected student rights to specific dress or hairstyles. In addition, one Supreme Court justice, although agreeing with the ruling, disagreed with its implication that children’s rights exactly paralleled those of adults. Taken as a whole, those opinions enabled lower court judges to rule both for and against high school dress codes and haircut regulations and to cite *Tinker* no matter which side they took.

Thirty-odd years later, *Tinker v. Des Moines* is still regarded as “good law,” meaning that lawyers and judges refer to it as a precedent. But the lack of clarity in *Tinker* on the precise rights possessed by students and where or how those differ from adult rights has meant that judges apply the *Tinker* ruling in divergent ways. Excerpts from the four opinions appear below. Two of the cases occurred during the height of the high school student movement, and two after the movement had ebbed. The courts ruled for the students in two of the cases and against them in the other two.

How did the judges draw on the *Tinker* decision in arriving at their opinions? Do their readings of *Tinker* seem consistent, or do different opinions emphasize different aspects of the *Tinker* case? If high school students’ right to free speech pits freedom against order, which value do the judges favor? Do you agree with their choices? Why or why not? What might have resulted in each case had the ruling been in favor of the losing party? Do you think it would have made a difference had the students in question been older (college age) or younger (elementary school age)? Why?

Documents

- A. *Quarterman v. Byrd*, 453 F.2d 54 (1971)
- B. *Melton v. Young*, 465 F.2d 1332 (1972)
- C. *Goss v. Lopez*, 419 U.S. 565 (1975)
- D. *Bethel School District v. Fraser*, 478 U.S. 675 (1986)

Exercise 3: Youth Rights and the Law
Document A, *Quarterman v. Byrd*

The opinion in part:

The regulation, assailed by the plaintiff, is facially invalid. Its basic vice does not lie in the requirement of prior permission for the distribution of printed material, though such requirement is manifestly a form of prior restraint of censorship. Free speech under the First Amendment, though available to juveniles and high school students, as well as to adults, is not absolute and the extent of its application may properly take into consideration the age or maturity of those to whom it is addressed. Thus publications may be protected when directed to adults but not when made available to minors, or, as Justice Stewart emphasized in his concurring opinion in *Tinker*, First Amendment rights of children are not ‘co-extensive with those of adults.’ Similarly, a difference may exist between the rights of free speech attaching to publications distributed in a secondary school and those in a college or university. It is generally held that the constitutional right to free speech of public secondary school students may be modified or curtailed by school regulations “reasonably designed to adjust these rights to the needs of the school environment.” *Antonelli v. Hammond*, 308 F. Supp. 1329, 1336 (1970). . . .

What is lacking in the present regulation, and what renders its attempt at prior restraint invalid, is the absence both of any criteria to be followed by the school authorities in determining whether to grant or deny permission, and of any procedural safeguards in the form of “an expeditious review procedure” of the decision of the school authorities.

Quarterman v. Byrd involved the suspension of tenth grader Charles C. Quarterman from Pine Forest High School in Southern Pines, North Carolina, for violating a school rule that forbade students to hand out any literature without the prior permission of the principal. Quarterman alleged that forcing him to get permission to distribute his underground newspaper was a form of “prior restraint” and was thus unconstitutional.

Quarterman v. Byrd, 453 F.2d 54 (1971).

Exercise 3: Youth Rights and the Law
Document B, *Melton v. Young*

The majority opinion in part:

This is a troubling case; on the one hand we are faced with the exercise of the fundamental constitutional right of freedom of speech, and on the other with the oft conflicting, but equally important, need to maintain decorum in our public schools so that the learning process may be carried out in an orderly manner. It is abundantly clear that this Court will not uphold arbitrary or capricious restrictions on the exercise of such jealously guarded and vitally important constitutional tenets. However it is contended here that the circumstances at the time of the appellant's suspension were such that the District Court could properly find that

the Principal had every right to anticipate that a tense, racial situation continued to exist at Brainerd High School as of the school [*sic*] in September of 1970 and that repetition of the previous year's disorders might reoccur if student use of the Confederate symbol was permitted to resume.

...In this regard it should be noted that District Judge Frank Wilson's opinion reflects a careful and studied consideration of the precepts of *Tinker* and its application to the case before the Court. In the language of the trial court

Unlike the *Tinker* case, where the Court found no evidence of either actual or potential disruptive conduct, but only an 'undifferentiated fear or apprehension of disturbance,' the record in the present case reflects quite clearly that there was substantial disorder at Brainerd High School throughout the 1969–70 school year, that this disorder most materially disrupted the functioning of the school, so much so that the school was in fact closed upon two occasions, that much of the controversy of the previous year had centered around the use of the Confederate flag as a school symbol and that the school officials had every right to anticipate that a tense racial situation continued to exist as of the opening of school in September of 1970.

We conclude that this determination is fully supported by the evidence presented to the Court.

Melton v. Young involved Rod Melton, a high school student in Chattanooga, Tennessee, who was suspended after refusing to remove a Confederate flag from his jacket. The school dress code had forbidden "provocative symbols" on clothing in the wake of violence between black and white students at the school the year before over the school's nickname ("Rebels") and song ("Dixie").

Melton v. Young, 465 F.2d 1332 (1972).

Exercise 3: Youth Rights and the Law
Document C, *Goss v. Lopez*

The majority opinion in part:

Although Ohio may not be constitutionally obligated to establish and maintain a public school system, it has nevertheless done so and has required its children to attend. Those young people did not “shed their constitutional rights” at the schoolhouse door. *Tinker v. Des Moines School Dist.*, 393 U.S. 503, 506 (1969). “The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted.” *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 637 (1943). The authority possessed by the State to prescribe and enforce standards of conduct in its schools although concededly very broad, must be exercised consistently with constitutional safeguards. Among other things, the State is constrained to recognize a student’s legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by the Clause.

Goss v. Lopez involved a class action suit on behalf of Ohio public school students by a group of public high school students in Columbus, Ohio, who had been suspended for ten days. The students claimed that under the due process clause of the Fourteenth Amendment, they should have been granted a hearing by school officials.

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

Exercise 3: Youth Rights and the Law

Document C, *Bethel School District v. Fraser*

The court's opinion in part:

This Court acknowledged in *Tinker v. Des Moines Independent Community School District*. . . . that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” The Court of Appeals read that case as precluding any discipline of Fraser for indecent speech and lewd conduct in the school assembly. That court appears to have proceeded on the theory that the use of lewd and obscene speech in order to make what the speaker considered to be a point in a nominating speech for a fellow student was essentially the same as the wearing of an armband in *Tinker* as a form of protest or the expression of a political position.

The marked distinction between the political “message” of the armbands in *Tinker* and the sexual content of respondent’s speech in this case seems to have been given little weight by the Court of Appeals. In upholding the students’ right to engage in a nondisruptive, passive expression of a political viewpoint in *Tinker*, this Court was careful to note that the case did “not concern speech or action that intrudes upon the work of the schools or the rights of other students.”

The First Amendment guarantees wide freedom in matters of adult public discourse. A sharply divided Court upheld the right to express an antidraft viewpoint in a public place, albeit in terms highly offensive to most citizens. See *Cohen v. California*, 403 U.S. 15 (1971). 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 to be a political point, the same latitude must be permitted to children in a public school.

Bethel School District v. Fraser concerned fourteen-year-old Matthew Fraser of Bethel High School in Pierce County, Washington, who, in a speech nominating another student for student government, used “elaborate, graphic, and explicit sexual metaphor,” titillating some students, confusing or embarrassing others. Fraser claimed that his speech was protected under *Tinker* and the First Amendment.

Bethel School District v. Fraser, 478 U.S. 675 (1986).

Exercise 4: Public Opinion

Although the editors of both of the main newspapers in El Paso—the *El Paso Times* and the *El Paso Herald-Post*—belittled the significance of the battle over hair length in the public high schools, both papers placed the story of Chesley Karr’s challenge to school officials on their front pages and followed his story until it dead-ended with the refusal of the U.S. Supreme Court to hear Karr’s appeal. Both published multiple editorials about the case and the subsequent student uprising. Similarly, some citizens of El Paso found the matter significant enough to write letters about it to the newspaper editors. Four such letters are reproduced here. Two of the authors find the contest between students and school officials gravely important, although they disagree about which party is right. The other two authors differ over how the case should come out but (in contrast to the first two authors) agree that the issue is trivial. A fifth letter to advice columnist Ann Landers comments on one defense of long hair; it is not specifically related to the case in El Paso.

Why do Michael Smith and Clark J. Matthews believe the length of high school boys’ hair is important? What other issues do they draw in to make their points? What values seem to undergird their opinions? In contrast, what does “I Like It Short” think about the hair debate? What does Ann Landers’s reply suggest about her opinion on long hair?

Back in El Paso, why do Edna S. Kelly and Mrs. Harry E. Jordan dismiss the controversy as insignificant? What values permeate their views? Which letter writers wrestle most with the implications of long hair, and which seem to have some agenda other than hair? Why do they use Karr’s case to pursue the other agenda? As a whole, what can these letters tell us about the 1960s?

Although the El Paso letters were chosen (out of a large stack of letters) because they cover the range of opinion—two pro-student, two anti-student; two seeing great significance, two seeing much ado about nothing—the two letters that emphasize the triviality of long hair were written by women, and the two letters that emphasize its importance were written by men. Do you think this is a mere coincidence? What role might gender have played in forming these authors’ opinions? Do you think “I Like It Short” was a man or woman? Why? In what other documents in the other exercises do you see ideas about gender and gender roles?

The last document in this section is an Associated Press report on Justice Hugo Black’s dismissal of Chesley Karr’s petition to have the haircut rule suspended while his case worked its way through the courts. Why does Black think Karr’s case is not worth hearing? With which of the letter writers do you think Black would most agree? Why? Is the author of the news story a neutral reporter? How do you know?

Documents

- A. Letter of Michael Smith to editor, *El Paso Herald-Post*, Feb. 1, 1971.
- B. Letter of Clark J. Matthews to editor, *El Paso Times*, Feb. 8, 1971.
- C. Letter of Mrs. Harry E. Jordan to editor, *El Paso Herald-Post*, Feb. 5, 1971.
- D. Letter of Edna S. Kelly to editor, *El Paso Herald-Post*, Feb. 10, 1971.
- E. Letter from “I Like It Short” to Ann Landers, *San Francisco Examiner*, June 23, 1971.
- F. “Supreme Court Refuses to Hear Long Hair Case,” *El Paso Times*, Feb. 12, 1971.

Exercise 4: Public Opinion

Document A, Michael Smith to *El Paso Herald-Post*

EDITOR:

The New Orleans Fifth Circuit Court of Appeals has reinstated the “hair rule” and thus extinguished a brief spark of freedom won by El Paso’s high school students. Today’s legal system, with a flair for consistency, leaves no stone unturned and has destroyed even the smallest of human rights.

The unconstitutionality of the hair rule is clear. Under the Ninth Amendment, the agencies of government may enforce no law which is not authorized by the Constitution. Our modern lawmakers, using the Bill of Rights as a shield, have perpetrated a fatal inversion. They are no longer restricted to making only laws that the Constitution permits—they now have the privilege to devise any law that the Constitution fails to prohibit. If they were to put their policy into words, the words would be: “Since the Bill of rights does not forbid us to force our preference of hair styles on people, we have the right to make you get a haircut.” Or, on a higher level: “Since the Bill of Rights does not say that we do not own the lives of young American men, we have the right to draft you.”

Nothing is needed to get away with such measures as the hair rule except neurotic fear and sufficient political power to enforce that fear on victims. The suppressors and their apologists, untouched by concepts such as reason, justice, or freedom, see no need to even discuss the main point of the issue: just how anyone can claim a right to the preposterous power of forcing another person to get a haircut. Their style is identical to that of all the drooling slavemasters of history, whose sole answer to any “whys” they may ever hear is a gun in the face, or its equivalent.

The dress code is just another small step down the road of our return to a cannibal society. Individual rights are being snuffed out with each passing day, accelerating America’s transition to a police state. We are delivering ourselves to the spiritual descendants of the primeval brute, who never grasped that he did not have the right to bash the skull of anyone who dared to differ with him.

Michael Smith

El Paso Herald-Post, Feb. 1, 1971, p. B-2.

Exercise 4: Public Opinion

Document B, Clark J. Matthews to *El Paso Times*

Editor, El Paso Times:

In reading and viewing the news as presented these days one cannot help but give a lot of thought to such problems as the school dress code and particularly that section which deals with long hair on males. In the past 300 years there have been many hair styles for both male and female of the species; but never in my opinion have the young males exhibited such dislike, such apparent hatred and shame for having been born a male as now. So naturally they try to look as much like the females as possible, even to growing long hair and wearing it wearing it [*sic*] as much like the females do as possible.

Where is that virile young male of yesteryear—so strong, so outstanding?

Where is that pride of manhood so nobly fought for by the males in the past?

Even among the dumb animals the male has so much pride in his being a male and protector of his female and offspring that he would die of shame if his looks were altered to make him look like a female.

Perhaps this apparent feeling of shame for being a male is one reason why we have so many “yellow bellies” who balk at doing their military duty. Also this may account for so many demonstrations and other militant acts.

I am not one to judge harshly, but when I behold my sex being betrayed by so many young teens who have more knowledge than their elders but so inexperienced [*sic*] that they do not know how to use it I take the position that these thoughts should be made known to the general public.

To say the least, it is a frustrating experience to be walking along the street and behold what looks and to all outward appearance is a good looking young woman approaching you and have that cloud of doubt seize you at the moment the person comes in close proximity to you.

Was it a boy or a girl?

Needless to say I prefer the old-fashioned appearance and a young man who, [*sic*] is proud to be and look like a male, and by the same token a young lady who looks and acts like a young lady.

Clark J. Matthews

El Paso Times, Feb. 8, 1971, p. A-4.

Exercise 4: Public Opinion

Document C, Mrs. Harry E. Jordan to *El Paso Herald-Post*

EDITOR:

I think that the controversy over length of students' hair is pathetic. It seems to me that this is a "fight for the sake of fighting" on the part of the students. Have they nothing better to do than argue, spend their time writing brochures encouraging dissent, and holding rallies? Do they not know that learning is the purpose of school—not "hairing" and protesting? Why do they worry about the length of hair when there are so many real problems; war, poverty, hatred, alcoholism, drug addiction... the list is seemingly infinite. Why do they not work to solve these instead of creating one more? Are these students so self-centered that they cannot see these problems, or is it that they can't see beyond the hair covering their faces?

Mrs. Harry E. Jordan

El Paso Herald-Post, Feb. 5, 1971, p. B-2.

Exercise 4: Public Opinion

Document D, Edna S. Kelly to *El Paso Herald-Post*

EDITOR:

All this commotion about hair length is ridiculous. Years ago there was a furor when girls started bobbing their hair. In the seventeenth century when Puritan men began cutting their hair, they were ridiculed and called “Round Heads.” Styles change, often start merely as fads. Why make a moral or legal issue out of something that is merely a matter of taste? If Tom wants his hair short, and Dick wants his hair long, who cares? Harry believes that if it is clean, and free from lice, little else matters. Discipline? Yes, we need discipline. But don’t wreck it by trying to control individuality and personal taste. Is hair length more important than education? Then why tear the schools to pieces over it? “Let’s compromise: Do it my way.”

Edna S. Kelly

El Paso Herald-Post, Feb. 10, 1971, p. B-2.

Exercise 4: Public Opinion

Document E, Letter to Ann Landers

Dear Ann Landers:

If one more kid says to me, “Long hair is great. After all, Jesus had long hair,”—I will personally kick him in the teeth. Nobody knows what Jesus looked like. They did not have photographers 2000 years ago and no artist ever painted a picture of Him. The pictures we see hanging in churches and hospitals are based on somebody’s imagination. The best information we have regarding hair styles of that time is from the Bible, Corinthians, Chapter 11, Verse 14: “Does not even nature itself teach you that, if a man have long hair, it is a shame unto him?”

Any kid who wants to wear his hair long ought to be man enough to do it without saying he is imitating Jesus.

I Like It Short

Dear Like It:

I swore I would not print another letter about hair, but yours is out of the ordinary, so I’m making an exception. Thanks for writing.

San Francisco Examiner, June 23, 1971, p. 23.

Exercise 4: Public Opinion

Document F, Supreme Court Refuses to Hear Long Hair Case

WASHINGTON (AP)—Justice Hugo L. Black, all but bald and going on 85, concluded Thursday the Constitution does not give high school boys the right to wear their hair long.

More than that, Black said, lawyers should not be pressing the Supreme Court with “emergency motions” claiming the nation will be in crisis unless long hair is allowed.

Black set forth his views in ruling against Chesley Karr, a student at Coronado High School in El Paso. The boy wanted him to suspend the school’s rule against long hair while a suit against the rule moves through the courts.

It is one thing, Black said, for the Supreme Court to order school officials to desegregate: the 14th Amendment was designed primarily to outlaw racial discrimination.

But, he said, “There is no such direct, positive command about local school rules with reference to the length of hair state school students must have.”

Black said he could not take the Karr boy’s plea seriously except on one point—”the idea that anyone should think the federal Constitution imposes on the United States courts the burden of supervising the length of hair that public school students should wear.”

All the federal courts, including the Supreme Court, are heavily burdened with important cases, the kind they must be able to handle if they are to perform their responsibility to society, the justice wrote.

“Moreover,” he added, “Our Constitution has sought to distribute the powers of government in this nation between the United States and the states.”

El Paso Times, Feb. 12, 1971, p. A1.



Chesley Karr in 1970, the year in which he challenged the haircut rules at Coronado High School in El Paso, Texas.

Courtesy Chesley Karr.

Gael Graham, "Flaunting the Freak Flag: *Karr v. Schmidt* and the Great Hair Debate in American High Schools, 1965–1975," *Journal of American History*, 91 (Sept. 2004), 522–43.