

# Constitutional Rights Foundation Chicago

## THE “TEST” FOR STUDENT SPEECH RIGHTS

### What the Court has said about student speech since *Hazelwood*

- Is the student expression a **true threat**? If the answer is “yes,” then such expression—on-line or in print—is unprotected.
- Is the student speech **school-sponsored**? If yes, then *Hazelwood* applies and great deference is given by the courts to school officials.
- Is the student speech **vulgar, lewd or plainly offensive**? If so, then *Fraser* might well be applied by a court reviewing the case.
- If the speech is not a true threat, is not school-sponsored and is not lewd then the court will apply *Tinker* and ask whether school officials can **reasonably forecast** that the student expression will create a **substantial disruption** of school activities or invade the rights of others.

Excerpted from David L. Hudson Jr. “Chapter II: U.S. Supreme Court framework for student expression’ Student Online Expression: What Do the Internet and MySpace Mean for Students’ First Amendment Rights?” First Amendment Center (2007) pgs. 6-11.  
<http://www.fac.org/about.aspx?id=17913>