

# Does Free Speech Stop at the Schoolhouse Gate?

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**Lesson:** Symbolic Speech and Student Rights

**Duration:** Two 90 minute blocks

**Subject:** Social Studies: US Government, and AP US Government and Politics

**Description:** Students will research, analyze, interpret and debate the US Constitution's First Amendment right of free speech and how it is applied to school districts' codes of conduct.

## **Standards:**

- USG-1.5 Evaluate limited government and unlimited government with regard to governance, including rule of law, the role of constitutions, civil rights, political freedom, and the ability of citizens to impact or influence the governing process.
- USG-2.1 Summarize core principles of United States government, including limited government, federalism, checks and balances, separation of powers, rule of law, popular sovereignty, republicanism, individual rights, freedom, equality, and self-government.
- USG-2.5 Evaluate significant American historical documents in relation to the application of core principles (e.g. the Virginia and Kentucky Resolutions, the Ordinance of Nullification, the Seneca Falls Declaration, the emancipation Proclamation, Martin Luther King Jr.'s "Letter from a Birmingham Jail"), the eleventh through the twenty-seven amendments to the Constitution, and critical Supreme Court cases.
- USG-3.1 Evaluate the Constitution as the written framework of the United States government, including expression of the core principles of limited government, federalism, checks and balances, separation of powers, rule of law, popular sovereignty, republicanism, individual rights, freedom, equality, and self-government.
- USG-4.5 Evaluate the importance of civil rights and civil liberties for citizens in American political culture and the protective role of the national government through the Bill of Rights, the judicial system, and the fourteenth amendment.
- USG-4.6 Explain how fundamental values, principles, and rights often conflict within the American political system; why these conflicts arise; and how these conflicts are and can be addressed.

## **Materials:**

Copy of the US Constitution

American Government Textbook

There are articles and specific Web addresses listed within this lesson plan that can be used to prepare arguments for debate; however, it is encouraged that students research on their own for more information.

**Objectives:**

Students will analyze and discuss the First Amendment of the US Constitution

Students will research, and gather information on the following symbolic speech issues pertaining to school district dress codes: Clothing and adornments; Tattoos; Piercings; Hair color

Students will assume shared responsibility for collaborative work so students may present argument during debate.

**Instruction:**

Students in small groups will research symbolic speech issues using listed materials.

Each group should research information and answer questions under “Background Information and Law.”

Students will analyze, evaluate and synthesize court cases in order to create sound evidence for debate argument.

Students will summarize their opinion on school dress code issues supported by case study evidence and sound argument in a 500-700 word reflective paper.

**Class Activities/Assessment:**

Students will be placed in small groups for research of the First Amendment rights as related to school dress codes.

Teacher will assign students into 4 groups of “School Authorities” and 4 groups of “Students.” Each group will represent one side of the debate on one of the four dress code issues: clothing and adornment, tattoos, piercings and hair color.

Students write a 500-700 word reflection paper

## **Background Information and Law**

**Directions:** Each group will research school dress code issues using the following questions and Web Sites as a research guide.

### **General Website Resources:**

<http://www.uscourts.gov/EducationalResources/ConstitutionResources/LegalLandmarks/LandmarkSupremeCourtCasesAboutStudents.aspx>

Landmark Supreme Court Cases about Students

<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/studentspeech.htm>

Exploring Constitutional Conflicts

<http://www.uscourts.gov/EducationalResources/ClassroomActivities/FirstAmendment/FreeSpechAndSchoolConduct/FactsAndCaseSummary.aspx>

Morse v. Frederick (2007)

<http://www.firstamendmentschools.org/resources/handout1a.aspx?id=14081>

Limits of free speech

Marisa Kakoula. "Fighting Oppressive School Dress Codes: A Legal Link Guide for Students and Parents." <http://news.bmezine.com/wp-content/uploads/2008/09/pubring/legal/20050407.html>

"Expression Rights of Public School: Employees and Students." Figure 2, "Key Supreme Court Decisions Governing Student Expression Rights." <http://www.nassp.org/portals/0/content/58255.pdf>

David L. Hudson Jr. "Clothing, dress codes & uniforms." The section entitled, "Legal Standards." <http://www.firstamendmentcenter.org/clothing-dress-codes-uniforms>

David L. Hudson Jr. "Student Expression in the Age of Columbine: Securing Safety and Protecting First Amendment Rights." The section entitled, "Summary of Legal Principles."

<http://www.firstamendmentcenter.org/clothing-dress-codes-uniforms>

"Freedom of Expression in Schools." <http://education-law.lawyers.com/school-law/Freedom-Of-Expression-In-Schools.html>

[http://www.educationworld.com/a\\_admin/admin/admin398.shtml](http://www.educationworld.com/a_admin/admin/admin398.shtml)

Enforcing dress codes-A continuous challenge

<http://www.aclu-il.org/legal/highschool/students/freeexpression.shtml>

ACLU Freedom of Expression FAQs

## **Questions:**

1. How does the first amendment read?
2. Referring specifically to “freedom of speech,” what specific type of speech applies to student dress?
3. Which level of government has control of student dress codes? What problem does this pose to students who challenge dress codes?
4. What are the four US Supreme Court rulings that specifically relates to student dress?
5. List and discuss the legal standards used when evaluating dress restrictions for students.

## **VIEW OF SCHOOL BOARD**

David L. Hudson Jr. “Clothing, dress codes & uniforms.” The section entitled, “Legal Standards.”  
<http://www.firstamendmentcenter.org/clothing-dress-codes-uniforms>

Nathan L. Essex. “Zero Tolerance and Student Dress Codes.” The section entitled “Guidelines for Dress Codes.” <http://www.naesp.org/resources/2/Principal/2004/S-Op54.pdf>

“Student Dress Codes.” [http://www.education.com/reference/article/Ref\\_Uniforms\\_Dress/?page=6](http://www.education.com/reference/article/Ref_Uniforms_Dress/?page=6)

## **VIEW OF STUDENT**

“Student Dress Codes.” [http://www.education.com/reference/article/Ref\\_Uniforms\\_Dress/?page=6](http://www.education.com/reference/article/Ref_Uniforms_Dress/?page=6)

“Fighting for Free Speech in Schools.”  
<http://www.time.com/time/magazine/article/0,9171,1619549,00.html#ixzz1yC2yF3xn>

## **SPECIFIC ISSUES:**

### **DRESS**

“South Carolina parents sue over school’s dress code.” <http://www.firstamendmentcenter.org/south-carolina-parents-sue-over-schools-dress-code>

“ACLU drops challenge to S.C. school’s dress code.” <http://www.firstamendmentcenter.org/aclu-drops-challenge-to-s-c-schools-dress-code>

“Iowa school district’s dress code goes too far, state judge finds.”  
<http://www.firstamendmentcenter.org/iowa-school-districts-dress-code-goes-too-far-state-judge-finds>

“6<sup>th</sup> Circuit backs school’s ban on Confederate flag garb.” <http://www.firstamendmentcenter.org/6th-circuit-backs-schools-ban-on-confederate-flag-garb>

“High court turns away challenge to Confederate flag ban.” <http://www.firstamendmentcenter.org/high-court-turns-away-challenge-to-confederate-flag-ban>

“Calif. School can bar students’ American flag T-shirts.” <http://www.firstamendmentcenter.org/calif-school-can-bar-students%E2%80%99-american-flag-t-shirts>

“Federal jury backs Neb. Schools in dispute over memorial T-shirts.”

<http://www.firstamendmentcenter.org/federal-jury-backs-neb-schools-in-dispute-over-memorial-t-shirts>

“Kan. School drops ‘boobies’ bracelet ban.” <http://www.firstamendmentcenter.org/kan-school-drops-boobies-bracelet-ban>

“Utah school district backs breast-cancer bracelets.” <http://www.firstamendmentcenter.org/utah-school-district-backs-breast-cancer-bracelets>

<http://my.madison.com/forums/Topic4456267-2894-1.aspx>

Blog-Forum discussing student dress codes

## **TATTOOS**

Marisa Kakoula. “Fighting Oppressive School Dress Codes: A Legal Link Guide for Students and Parents.” *Stephenson v. Davenport Community School District*. <http://news.bmezone.com/wp-content/uploads/2008/09/pubring/legal/20050407.html>

Scott P. Martin. “Does the First Amendment Protect the Right to Give Tattoos?”

[http://writ.news.findlaw.com/student/20021009\\_martin.html](http://writ.news.findlaw.com/student/20021009_martin.html)

“Barbie can get a tattoo, Why can’t I?” <http://wakeforestlawreview.com/comment-barbie-can-get-a-tattoo-why-can%E2%80%99t-i-first-amendment-protection-of-tattooing-in-a-barbie-world>

## **PIERCINGS**

“N.C. high school, teen at odds over nose ring.” <http://www.firstamendmentcenter.org/n-c-high-school-teen-at-odds-over-nose-ring>

“Court lets girl with nose ring return to school.” <http://www.firstamendmentcenter.org/court-lets-girl-with-nose-ring-return-to-school>

## **HAIR COLOR**

David L. Hudson Jr. “Clothing, dress codes & uniforms.” The section entitled, “What about hair?”

<http://www.firstamendmentcenter.org/clothing-dress-codes-uniforms>

“Ind. Family tries to clip basketball team’s haircut policy.” <http://www.firstamendmentcenter.org/ind-family-tries-to-clip-basketball-teams-haircut-policy>

<http://askville.amazon.com/legal/AnswerViewer.do?requestId=7865382>

Blog- School Dress Code questions about colored hair, dress, etc.