**Quick Hits Handout: Forum status of student media**

*A primer on forum status, case law and language*

*Policy*: If you’re developing a new policy, the Scholastic Press Rights Committee recommends using language like this:

*[Name of publication] is a designated public forum for student expression. Student editors make all content decisions without prior review from school officials.*

**Discussion Question:**What forum status best supports student freedom of expression?

**Key points/action:** In the post-Hazelwood world, it is more important than ever for student journalists and their advisers to know what policies their school has adopted relating to student publications or student expression.

The language of those policies (whether they give editorial control to students or keep it in the hands of school officials) and the amount of freedom that students have traditionally operated under at the school can determine whether Hazelwood or Tinker sets the standard for what school officials will be allowed to censor.

A designated public forum is created when school officials have “by policy or by practice” opened a publication for use by students to engage in their own free expression.

Often the most important question in that analysis is which of two First Amendment standards they have to meet.

1. The Tinker standard (as defined by the case Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969)), which says schools can censor only if their actions are necessary to avoid a material and substantial disruption of school activities or an invasion of the rights of others. This language may sound vague, but as the courts have interpreted it, the Tinker standard is a very difficult one for school officials to meet and typically requires them to show evidence of physical disruption before their censorship will be allowed.
2. The Hazelwood standard (as defined by the case Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988)), which says schools can censor if their actions are reasonably related to legitimate educational concerns. Although this standard requires school officials to justify every act of censorship as educationally sound, it is a standard that gives school officials more extensive authority to silence or punish student expression.

**Stance**: Of the three types of forums, open public, limited public and closed, JEA strongly endorses the designated (open) public forum concept.

In the Hazelwood case, the Court said it believed both the policy and practice at Hazelwood East High School reflected school officials’ intent to exercise complete control over the student newspaper’s content. That finding prompted the Court to say a designated public forum did not exist.

Student publications at other schools with different policies and different practices relating to editorial control can be public forums. Where student editors have been given final authority over content decisions in their publications or where a school policy explicitly describes a student publication as a designated public forum, the Tinker standard will still apply.

**Reasoning/suggestions:** If you’re developing a new policy, the Scholastic Press Rights Committee recommends using language something like this:

*[Name of publication] is a designated public forum for student expression. Student editors make all content decisions without prior review from school officials.*

Two things are important about the phrasing of this policy statement.

1. First is the use of the words “designated public forum” as opposed to “limited public forum” or other similar language. Although many once believed the two phrases were interchangeable, some recent court decisions have suggested that using the word “limited” opens the door to school censorship as permitted under Hazelwood.
2. Second, using the phrase “student editors make all content decisions” is in many ways a clearer restatement of the meaning of “designated public forum.” It conveys the intent behind the public forum phrase anyone unfamiliar with the relevant Supreme Court rulings should understand.

To help schools understand what we consider public forums, please note these definitions:

**Forums by policy:**An official school policy exists that designates student editors as the ultimate authority regarding content. School officials actually practice this policy by exercising a “hands-off” role and empowering student editors to lead. Advisers teach and offer students advice, but they neither control nor make final decisions regarding content.

**Forums by practice:**  A school policy may or may not exist regarding student media, but administrators have a “hands-off” approach and have empowered students to control content decisions. Advisers teach and offer students advice, but they neither control nor make final decisions regarding content.  
  
Resources:

[When your publication is a public forum and when it is not](http://jeasprc.org/questions-about-public-forum-status/), Mark Goodman, Knight chair in Scholastic Journalism

[Choosing your forum status is like choosing the best medicine](http://jeasprc.org/tweet2-choosing-your-forum-status-is-like-choosing-the-best-medicine/), JEA Scholastic Press Rights Committee