CIVILITY IN THE CLASSROOM

Presenter:

ANNE P. DUPRE
Associate Professor of Law
University of Georgia
Athens, Georgia

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Civility in the Classroom

Anne P. Dupre

University professors are becoming alarmed at what they perceive as increasing disorder and incivility in the classroom. This is surely a matter for concern, but it should not come as a surprise. Classroom disorder and incivility start in lower education, even in elementary schools. Once a society that generally respected the authority of teachers, deferred to their judgment and trusted them to act in the best interest of school children, we now accept defiance, disrespect and disorder as daily occurrences in many of our public schools. These students, of course, grow up and attend colleges and universities. Thus, it is important for those interested in higher education to understand the lower school environment that has conditioned many students.

This paper explores how constitutional doctrine has made it more difficult for schools to reclaim the order and discipline necessary to educate students. Although the deterioration of other institutions that are important to the child--family, religion, community--has certainly played a part in this tragedy,¹ the Supreme Court must also

¹See, e.g., MARIE WINN, CHILDREN WITHOUT CHILDHOOD (1983) (exploring cultural changes that have resulted in shortened period of nurture and protection for children). Of course, even as these institutions have disintegrated, the public school has been asked to take on more and more responsibility. Expected to provide the community with athletic and cultural recreation and the students with breakfast, lunch, and after-school care, the school has been asked to shoulder many
accept responsibility for the way it has intervened in the day-to-day running of our nation's public schools. Empirical studies have inferred--not surprisingly--that the adversarial and legalistic character of urban public schools--qualities attributable to the Court's school jurisprudence of recent years--and the corresponding unwillingness of teachers to maintain order have affected educational quality.\textsuperscript{2} As other institutions were crumbling, the Court--instead of shoring up the public school as an institution--cleared the way for its decline. The Court's analysis in the school power cases has exacerbated the loss of respect, deference and trust in the public school as an institution and has wrongly insinuated that these qualities were incompatible with liberty.\textsuperscript{3}

Those involved in higher education can no longer sit back complacently and think "it won't happen here." Public school teachers in the 1950's and 1960's would surely be shocked at the state of order in many classrooms today. Institutions of higher education are


\textsuperscript{3}See Hafen, \textit{supra} note 4, at 681 (maintaining that Supreme Court's children's rights decisions created a basic, though symbolic, shift in perceptions about relationship between children and public school authorities); Theodore F. Denno, \textit{Mary Beth Tinker Takes the Constitution to School}, 38 FORDHAM L. REV. 35, 58 (1969) (contending that Supreme Court cases indicate that "traditional deference paid to education officials" is "at an explicit end").
education that value civility in the classroom should monitor closely the extent to which public schools are constrained by courts with regard to discipline and order. The chaos that has overtaken many of our public schools did not happen overnight. Serious discipline problems usually do not arise spontaneously in a school. They creep in as children realize that schools are unwilling or unable to take disciplinary action for lesser conduct. Each time that misconduct by an individual student went unquestioned because the teacher or principal was afraid that it did not meet the "substantial disruption" standard set forth by the Supreme Court, we took one more step toward the turmoil that exists in the public school community today. The guerilla tactics of these institutional saboteurs have been "condoned, if not honored, by a host of external critics," some of whom I contend have been Justices on the Supreme Court. There are other factors that have contributed to the current state of the public school

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4. There is a telling connection between the problems in the public schools and the problems in many neighborhoods. Political scientist James Q. Wilson and criminologist George Kelling first introduced the "broken windows" theory in 1982. They contended that even seemingly benign social misbehavior like graffiti or a window left unfixed signaled to a neighborhood's citizens that the social order had broken down which, in turn, led to more and more serious crime. George L. Kelling & James Q. Wilson, Broken Windows, ATLANTIC MONTHLY, Mar. 1982, at 29; see also Wesley Skogan, Disorder and Decline: Crime and the Spiral of Decay in American Neighborhoods (1990). The crucial battles to save either a neighborhood or a school must be fought over minor social infractions. John Leo, Fighting For Our Public Spaces, U.S. NEWS & WORLD REP., Feb. 3, 1992, at 18. When disorderly behavior is left unchallenged, the signal is given that no one cares, and the disorder escalates. George L. Kelling & James Q. Wilson, Making Neighborhoods Safe, THE ATLANTIC, Feb. 1989, at 46.


6. David L. Kirp, Proceduralism and Bureaucracy: Due Process in the School Setting, 28 STAN. L. REV. 841, 857 (1976). Professor Kirp has called the forms of disturbances like insubordination and acting out "institutional sabotage," with student disrupters, the "guerilla troops in a larger, political battle for control of the enterprise." Id.
institution, but I have little doubt that the ethos the Court has created has discouraged teachers over time in their efforts to maintain order. Significantly, the tone that is set for students in lower education can carry over to the higher education context.

Recently, however, the Supreme Court changed course in a way that could help public schools become a place where serious learning can and will take place. The Court made front-page headlines with its decision in *Vernonia School District v. Acton*, in which a divided Court upheld random drug testing for student athletes. This was the first time the court has allowed school officials to search students randomly, without suspicion of wrongdoing. Although the decision has been hailed by many, the Court has also been accused of writing an opinion that "soils the Constitution." In the aftermath of *Acton* much of the commentary has focused on *Acton*'s impact on the Fourth Amendment rights of public school students. It is important,  

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8See, e.g., Mark Walsh and Laura Miller, *Court Upholds Drug Tests for Student Athletes*, EDUC. WK., July 12, 1995, at 1, 23 (stating many school officials were pleased to have another tool to fight drug abuse in schools); Paul M. Barrett, *Court Says Schools Can Do Random Drug Tests*, WALL ST. J., June 27, 1995, at B1 (quoting [then] Clinton administration "drug czar" describing ruling as "major victory for kids"). Indeed many students agreed. See, e.g., Paula Yoo, *Youths Think Drug Checks Are OK, But Others Fear The Consequences of a Pass/Fail Mentality*, DET. NEWS June 30, 1995, at E1 (citing student support for drug tests).

9Tracey Maclin, *Court is Off-Base With Student Drug Tests*, NEWSDAY, Aug. 9, 1995, at A32.

however, to analyze Acton from a different and, in my view, more illuminating perspective. Rather than discuss how Acton fits into existing Fourth Amendment doctrine, it is important to examine how Acton fits into the Court's conception of school power. From the time the Court first decided to intervene in the public schools in Tinker v. Des Moines Independent Community School District1--it is the Court's conception of the public school as an institution and the power it should be afforded that has driven its analysis of student rights. The Court has tacitly set forth two models of school power--social reproduction and social reconstruction. In the social reconstruction model, the school is viewed as an institution that needs power only to facilitate the students in their attempts to construct a new social order. In contrast, in the social reproduction model the school must have the power to inculcate students with society's traditions and values so that the students will have the ability as adults to participate knowledgeably in democratic institutions. The conflict between these two models is deeply rooted in American intellectual history, and the Court has vacillated several times between them.

In the last half of the twentieth century the Supreme Court has considered school

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PUB. POL'Y 209 (1995) Some commentators have contended that school administrators and courts will read Acton so as to allow broader school searches, perhaps of the entire student body, or different kinds of searches, perhaps canine sniffs or searches of bookbags. See e.g., Ira Mickenberg, Court Settles on Narrower View of Fourth Amendment, NAT'L J., July 31, 1995, at C8 (asserting that nothing in Acton prevents its reasoning from being applied to other student groups or to all students). Other commentators have cautioned school districts to tread carefully if they plan to expand the scope of student searches beyond athletes. See Walsh & Miller, supra note 14, at 23 (quoting Gwendolyn A. Gregory, deputy general counsel of National School Boards Association).

discipline and order in various doctrinal contexts, including the First Amendment, the
Fourth Amendment and the Fourteenth Amendment. I begin with the Court's attempt to
address student expression in the school setting and Tinker—the watershed opinion that
announced that students do not "shed their constitutional rights to freedom of speech
expression at the schoolhouse gate." In 1965 a group of adults, with their children,
decided to wear black armbands to publicize their opposition to the hostilities in
Vietnam. The principals of the Des Moines schools, aware of the plan, adopted a policy
prohibiting students from wearing armbands to school. The students wore the
armbands to school and were suspended until they returned without the armbands.
The students, through their fathers, sued the schools, requesting an injunction
restraining school officials from disciplining petitioners and nominal damages. The
district court upheld the school authorities' action ban on the armbands because it
determined the prohibition was reasonable to prevent disturbance of school discipline,
and a divided Eighth Circuit affirmed without opinion. The Supreme Court reversed,

Supreme Court opinions before 1969 could be viewed as inaugurating the new era of student
rights cases. See, e.g., Meyer v. Nebraska, 262 U.S. 390 (1923) (implying rights of public school
students); West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943) (First Amendment
right not to salute flag); Brown v. Bd. of Educ., 347 U.S. 483 (1954). I begin with Tinker,
however, because it more clearly addresses the school's ability to keep order.

13 One of the students, though not a petitioner, was only eight years old and in the second
grade. The Tinker majority never questioned to what extent either little John Tinker or any of the
other children was being exploited merely as a vehicle for his parent's political views. Cf.
were seeking to vindicate their own free exercise claims); see also Robert A. Burt, Developing
Constitutional Rights Of, In and For Children, 39 J. LAW & CONTEMP. PROBS. 118, 124 (1975)
(arguing that Tinker facts suggest armbands reflected conviction of parents imposed on children).
sending shock waves down the corridors of public schools. ¹⁴ In essence, the Court declared that absent "substantial disruption" or "material interference" with the education process, the school could not restrain student expression.

Eighteen years later, the Court again addressed student expression in school in Bethel School District v. Fraser. ¹⁵ A student, Matthew Fraser, by his father as guardian ad litem, sued the school for attempting to discipline him after he gave a nomination speech at a school assembly that contained a number of obvious sexual metaphors that "glorifi[ed] male sexuality." ¹⁶ Students at the assembly reacted by simulating masturbation and sexual intercourse with their hips, a reaction the Ninth Circuit termed merely "boisterous." ¹⁷ Although the school district ultimately prevailed, the two lower courts, relying on the Tinker substantial disruption/material interference standard, had rejected the school's argument that it was justified in disciplining Fraser because the

¹⁴See, e.g., Perry A. Zirkel, et al., Tinkering With the First Amendment Rights of Students, 37 EDUC. L. REP. 433 (1987) (characterizing Tinker as a "stunning blow" to school authorities); Denno, supra note 5 at 53 (showing that Tinker severely limited traditional broad power of school officials).


¹⁶Fraser gave the following speech:
I know a man who is firm—he's firm in his pants, he's firm in his shirt, his character is firm—but most . . . of all, his belief in you, the students of Bethel, is firm. Jeff Kuhlman is a man who takes his point and pounds it in. If necessary, he'll take an issue and nail it to the wall. He doesn't attack things in spurts—he drives hard, pushing and pushing until he finally—he succeeds. Jeff is a man who will go to the very end—even the climax, for each and every one of you. So vote for Jeff for A.S.B. vice-president—he'll never come between you and the best our high school can be.
Id. at 687 (Brennan, J., concurring in the judgment).

¹⁷Fraser v. Bethel School Dist., 755 F.2d 1356, 1360 (9th Cir. 1985). The court's full description was that "[w]hile the students' reaction to Fraser's speech may fairly be characterized as boisterous, it was hardly disruptive of the educational process." Id.
speech had a disruptive effect on the educational process. Fraser was awarded $278 in damages and $12,750 in litigation costs. It took three years of litigation before the United States Supreme Court finally told the Bethel School District that it was permitted to impose a disciplinary sanction on Matthew Fraser.

In some ways, the majority opinion in Fraser is little more than a reprise of Justice Stewart's quip about obscenity--"I know it when I see it." The majority opinion could be read as stating merely that "certain modes of expression are inappropriate in the school setting and this is one of them." According to the Court, the school's role in "teach[ing] by example the shared values of a civilized social order" gave the school the power to discipline a student who showed such disregard for civility.  

_Hazelwood School District v. Kuhlmeier_, 20 decided two years after Fraser, addressed student First Amendment rights once again--this time in the context of a school-sponsored newspaper. Students brought suit against the school district, the school principal and a teacher, alleging that their First Amendment rights had been violated when the principal deleted two pages of articles from one issue of the paper. 21

The Court, noting that the paper was published as part of the Journalism II class,

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19 478 U.S. at 683.

21 One article discussed the experience of three students with their pregnancy. The other discussed the impact of divorce on students. The principal excised the articles because he thought the pregnant girls might be identifiable from the text, because he believed the article's references to sexual activity and birth control might be inappropriate to some of the younger students, and because he believed that parents in the divorce story should have had a chance to respond to accusations that appeared in the article.
decided that the standard it had "articulated in *Tinker* for determining when a school may punish student expression need not also be the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression."\(^{22}\) Instead, when exercising editorial control over the style and content of student speech in school-sponsored activities, school officials are not constrained by the First Amendment "so long as their actions are reasonably related to legitimate pedagogical concerns."\(^{23}\) As of this writing, the Court has made no further pronouncements since *Hazelwood* regarding student expression in the public schools.

*New Jersey v. TLO*\(^{24}\) was the Court's first and only foray into the Fourth Amendment's application in the school setting until it decided *Acton* in 1995. In *TLO* a high school teacher discovered two girls violating a school rule by smoking in a lavatory. The teacher took the girls to the principal's office, where the principal questioned them about the incident. When one of the girls denied smoking, the principal searched her purse for cigarettes. While removing the cigarettes from the purse, the principal came upon cigarette rolling papers, an item closely associated with marijuana use. A thorough search of the purse revealed several items that implicated the student in drug dealing. The principal turned the items over to the police, *TLO* confessed to selling marijuana at the high school and the State brought delinquency charges against her. *TLO* moved to suppress the evidence found in her purse along with the confession,

\(^{22}\) *Id.* at 272-73.

\(^{23}\) *Id.* at 273.

\(^{24}\) 469 U.S. 325 (1985).
contending that the principal's search violated her Fourth Amendment rights. The Supreme Court heard oral arguments in *TLO* on two separate occasions in two separate terms.\(^{25}\) When the Court finally announced its decision in *TLO*, five Justices wrote opinions.

The Court rejected the argument--one that had been accepted by some lower courts--that teachers and administrators act in loco parentis in their dealings with students and therefore were not subject to the constraints of the Fourth Amendment. Instead, the Court determined that the Fourth Amendment did apply to searches conducted by school officials, but it was unwilling to constrain teachers with the full warrant and probable cause standard usually required of the State. The Court declared that the proper standard for assessing the searches conducted by public school officials is one of reasonable suspicion that the search will turn up evidence that the student has violated either the law or a school rule.\(^{26}\) In the case at hand, the Court ruled that the search met the applicable standard and that the evidence in *TLO*'s purse could be admitted at the delinquency proceedings.\(^{27}\) The Court explicitly left open the question it later would address in *Acton*--whether individualized suspicion was necessary for a school search.\(^{28}\)

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\(^{25}\)Certiorari was originally granted to examine if the exclusionary rule was applicable to searches conducted by school officials. After hearing argument on that issue, the Court ordered reargument to decide what limits the Fourth Amendment places on searches by school officials. *Id.* at 332.

\(^{26}\) *Id.* at 341-42.

\(^{27}\) *Id.* at 347-48.

\(^{28}\) *Id.* at 342 n.8.
In *Goss v. Lopez*,\(^{29}\) decided in 1975, the Court decided in a 5-4 vote that students in public schools had procedural due process rights that afforded them "some kind of notice" and "some kind of hearing" before the school had the power to suspend them.\(^{30}\) Just two years later, in *Ingraham v. Wright*,\(^{31}\) another 5-4 decision, the Court decided that students did not have procedural due process rights that would afford them any notice or hearing before being paddled at school.\(^{32}\)

In describing the facts of the *Goss* case, the majority cryptically stated that the petitioners were suspended during a "period of widespread student unrest" that was "a time of great difficulty."\(^{33}\) Six of the named plaintiffs were suspended for disruptive or disobedient conduct committed directly in the presence of the school principal, who then immediately ordered the suspensions. One of the named plaintiffs was among a group of students demonstrating in the school auditorium while a teacher attempted to conduct a class there. When the school principal ordered him to leave, and he refused to do so, he was suspended. The school principal also saw another plaintiff physically attack a police officer who was attempting to remove the first student from the auditorium. The second student was also immediately suspended. Four other students

\(^{29}\) 419 U.S. 565 (1975).

\(^{30}\) *Id.* at 579.


\(^{32}\) *Id.* at 682. The difference in the outcome in *Goss* and *Ingraham* is a result of Justice Potter Stewart changing sides. The *Ingraham* Court also determined that paddling at school did not constitute cruel and unusual punishment in violation of the Eighth Amendment. *Id.* at 664.

\(^{33}\) *Goss*, 419 U.S. at 580 n.9.
were suspended for similar conduct. None was given a pre-suspension hearing.\textsuperscript{34} The Goss Court first determined that the students had legitimate claims of entitlement to a public education as a property interest protected by the Due Process Clause.\textsuperscript{35} Moreover, the suspension and the record thereof could deprive the student of his liberty interest in "good name, reputation, honor and integrity," interests that the Court at the time had held were also protected by the Due Process Clause.\textsuperscript{36} The Court rejected the school administrators' argument that the students' claim of entitlement (based on the state law providing for free education) was limited by the law itself, which clearly permitted school principals to suspend students for 10 days.\textsuperscript{37} In addition, said the Court, even temporary exclusion from school is "not de minimis" and thus due process must be afforded the student so deprived. After explaining that due process applied, the Court held that a student must receive oral or written notice of the charges against him, an explanation of the evidence the authorities possessed and an opportunity to present his side of the story.\textsuperscript{38}

\textsuperscript{34}Three additional plaintiffs were suspended without a hearing, but it was not clear on what information the decision was based.

\textsuperscript{35}Id. at 574.

\textsuperscript{36}Id. (citation omitted). Cf. Paul v. Davis, 424 U.S. 693 (1976) (determining that there is no liberty interest in reputation alone).

\textsuperscript{37}Goss, 419 U.S. at 580 n.9. Cf. Bishop v. Wood, 426 U.S. 341 (1976) (holding that public employee receives procedural due process protection only where law or contract defining job expressly states that the employee can be fired solely for cause).

\textsuperscript{38}419 U.S. at 581. The Court stated that it was addressing only "the short suspension, not exceeding 10 days." Id. at 584. It cautioned that "[I]n longer suspensions or expulsions . . . may require more formal procedures." Id. Cf. In re Gault, 387 U.S. 1 (1967) (requiring formal due process standards in juvenile court proceedings).
The students in Ingham--one of whom was subjected to over 20 licks with a paddle that resulted in a hematoma requiring medical attention--were not granted notice of the charges against them or the opportunity to explain their actions. The Ingham majority first determined that the Eighth Amendment's prohibition against cruel and unusual punishment applied only to those convicted of crimes, not paddling of school children. But because corporal punishment involves "restraining the child and inflicting appreciable physical pain," the Court held that the student's Fourteenth Amendment liberty interests were implicated.\footnote{Ingham v. Wright, 430 U.S. 651, 674 (1977). The Court explicitly stated that the case did not involve a state-created property interest. \textit{Id.} at 674 n.43.} Nonetheless, the Court saw no need for a Goss-type hearing. At common law, teachers were permitted to inflict corporal punishment on children in their care and the Court reasoned that state remedies were sufficient protection against the abuse of that privilege. Moreover, imposing even an informal hearing before paddling would be too much of a burden on the teacher trying to maintain classroom order.\footnote{\textit{Id.} at 681.} In short, the Court explicitly made a cost-benefit analysis and decided that the likely disruption and cost to teacher authority and the resulting loss of school discipline was too important to jeopardize, even for a constitutional liberty interest.

The cases discussed above arose in different contexts, but they each involved the same underlying issue, an issue the Court does not acknowledge, but that has nonetheless driven its analysis in all of these cases: How much power should a school have over students. Instead of addressing the issue directly and coherently, the Court
created what I call the school power continuum and used that structure to set forth the confusing and often conflicting constitutional standards described above.

The Court could have gone on in this manner—moving back and forth on the school power continuum based on the Justices' everchanging views regarding the reconstruction and reproduction models. But the Court recast the analysis of school power in *Vernonia School District v. Acton.*\(^{41}\) Instead of arguing about the "special characteristics" of the school that may or may not allow for a certain amount of power on the school power continuum, the *Acton* Court simply set forth the very nature of the power the school possesses, and pronounced that the power is broad and deep. The *Acton* Court simply defined the nature of school power as "custodial," "tutelary," or that of a "reasonable guardian."\(^{42}\) The Court had never before used these terms to describe the relationship between school and student.\(^{43}\) Later in the opinion the Court used the term "guardian" to portray the nature of the school's power.\(^{44}\) Justice Scalia never

\(^{41}\) 115 S.Ct. 2386 (1995).

\(^{42}\) *Id.* at 2392 & 2397.

\(^{43}\) In *Schall v. Martin*, 467 U.S. 253 (1984), where the Court authorized pretrial detention of juveniles, the Court stated that "juveniles, unlike adults, are always in some form of custody." *Id.* at 265. According to *Acton*, during school hours this custody is committed to teachers and school officials. *Cf. Ingraham v. Wright*, 430 U.S. 651, 670 (1977) (observing that students "are not physically restrained from leaving school").

\(^{44}\) Justice Scalia used the term "guardian" twice. See *Vernonia Sch. Dist. v. Acton*, 115 S.Ct. 2386, 2396 (1995) ("The most significant element in the case is . . . that the Policy was undertaken in furtherance of the government's responsibilities under a public school system, as guardian and tutor or children entrusted to its care") and *id.* at 2397 ("[W]hen the government acts as guardian and tutor the relevant question is whether the search is one that a reasonable guardian and tutor might undertake.").
explained how he selected the terms "custodial" or "tutelary" or "guardian," but he explained the effect of this power: The state is permitted a greater degree of "supervision and control" than it could exercise over "free adults;" close supervision of school children is required; schools may enforce "rules against conduct that would be perfectly permissible if by an adult." For those who are serious about the kind of public school reform that would revive confidence in the public school as an institution and restore civility to the classroom, Acton's repudiation of the absolute reconstruction model in lower education is a step in the right direction. To the extent that Acton's definition of the nature of school power--as that of a custodian or guardian--allows school officials to predict with more certainty the extent to which specific efforts to keep order are permissible, it will also enhance the ability of the public school to provide each student with a serious education.

Although the model of custodian or guardian may not fit well into the university construct, it is possible to refine the construct that the Acton Court set forth regarding the nature of school power in a way that better fits today's university. To that end, I recommend that we return to a theory that has been buried for over twenty-five years in Justice Harlan's dissent in Tinker v. Des Moines Independent School District. Justice

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45The Court merely quoted TLO's statement that a proper educational environment requires close supervision and rules against conduct that would be permissible if undertaken by an adult. Id. at 2392.

46Id.

Harlan stated that courts should allow schools the ability to constrain students -- even students who claimed to be attempting to exercise their free speech rights -- unless the school was "motivated by other than legitimate school concerns." Within that dissent is the seed of another model of school power. Instead of the guardian-ward construct established by the Acton Court, I suggest an attorneyship model. Professor Marci Hamilton has posited that the attorneyship model of representation, rather than self rule, describes the role of the representative in a liberal republican democracy.\footnote{Marci A. Hamilton, Discussion and Decisions: A Proposal to Replace the Myth of Self-Rule with an Attorneyship Model of Representation, 69 N.Y.U.L.Rev. 477 (1994).}

Professor Hamilton proposed a theory of representation patterned after an attorneyship model that envisions the legislator acting as an attorney to her constituents.\footnote{Id. at 529.} Although Professor Hamilton contends that the rights and obligations of legislators and their constituents are like that of attorney and client, the model may also have relevance in the university context. As Professor Hamilton explains, "[A] representative under the attorneyship model is entrusted with delegated responsibility to act in the best interest of her present and future client-constituents while fulfilling an obligation of continued communication."\footnote{Id. at 523.} The representatives and the client-constituent share an "overarching mutual political commitment" to each other.\footnote{Id. at 535.} Indeed, the representative is the "trustee" for the larger cause and, because of that responsibility, may be forced to
ignore individual voices.\textsuperscript{52} A legislator's--like an attorney's--abdication of the responsibility of exercising independent judgment--by refusing to vote, giving narrow interest groups the ultimate decision or engaging in pretextual decisionmaking--is a serious offense.\textsuperscript{53}

Under this model, educators at the college and university level are the trustees for the larger cause -- ensuring that students build on the knowledge base begun in lower education so that those students can be learned participants in our nation's public and economic institutions. These educators would be entrusted with the delegated responsibility to act in the best pedagogical interest of present and future students while fulfilling an obligation of continued communication with both student and parent. College and university students who have gained the necessary knowledge base from their lower education can and should be a part of questioning and refining the social order. Students need a laboratory to test out the ideas and theories that they have been building on throughout their education. It is in their best interest then, to allow them the freedom to express these views both in the classroom and on campus. But this expression cannot and should not impose on the ability of other students to obtain the knowledge to which they are entitled. Maintaining civility in the classroom and on the campus is necessary so that the university community will continue to be valued as the essential marketplace of ideas where serious learning can and will take place.

\textsuperscript{52}Id. at 536.

\textsuperscript{53}Id. at 538.