

Student Sample – High School D

Student Rights

Civil Rights

Student rights have changed dramatically in the 20th century. While some may argue that school searches and free speech censorship have caused a decrease in student rights, a closer examination reveals that access to education facilities, educational activities and even the basic access to education has increased. Therefore while some rights have increased, others have decreased in the 20th and early 21st century.

The right to free speech, the right to privacy, the right to remain silent in a police interrogation, the right to be free from unreasonable searches of your home, the right to a fair court trial; these are just a few of the rights guaranteed from the first 10 amendments. These first 10 amendments are what are considered “civil liberties” and are amendments restricting the government from stripping citizens from their basic rights. While on the other hand there are civil rights as shown in the 14th Amendment. In 1865, the 13th Amendment was passed but reconstruction had created a system where freedmen had fallen victim to the controls by the old plantation aristocracy. This resulted to multiple abuses of civil rights for black americans: lack of education, voting rights, work, and segregation (Jim Crow Laws). Therefore, the 14th Amendment was created to protect those freedmen and former slaves. It reduced the power of the states and grew the power of federal to ensure that the southern states that were being reconstructed no longer continued to discriminate against black americans. The interpretation of the constitution as especially the applicability and scope of the amendments have been debated by scholars and Supreme Court officials for centuries. As years and years have gone by, these civil rights interpretation, originating from the 14th Amendment, have expanded while the civil liberties have decreased.

Civil Rights have expanded and widened as years have gone by; going all the way back to strict interpretations like Plessy v. Ferguson of 1896. Contemporary interpretations of the 14th amendment go way beyond just race, and ensure that people are not discriminated against and get

equal opportunity not matter what race, gender, disability, etc.. The text from the 14th Amendment of the United States (1868) states that all people born in the United States are considered citizens.

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

This amendment was spearheaded by the so called Radical Republicans who were determined to usher in social, political, and economic equality for all, but especially former slaves. The amendment was only possible because of the coerced nature of allowing the seceded states to reenter the Union. Although the southern states accepted the 14th amendment and ratified it, there was much resistance to its implementation. Therefore segregation occurred in the south for 80 years until the civil rights movement brought forward the Civil Rights Act of 1964. The act states:

“All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin”

The civil rights act of 1964 as well as the 14th amendment have been used to increase rights for citizens in America, particularly in school.

The case Plyer v. Doe, radically expanded the original intent of the 14th amendment. A 1975 Texas law forbade education to the natural All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national born persons of “illegal aliens.” The controversial decision, as indicated by a 5-4 majority opinion by the Supreme Court Justice Brennan, the court ruled that the Texas statute violated the equal protection clause of the 14th amendment. Therefore even in their parents were illegal immigrants but the students themselves were born in the United States they are citizens and therefore entitled to all the privileges and immunities as other citizens, including, but not exclusive to education.

The case of Plyer, as well as Brown v. the Board of education (1954), when compared to Plessy v. Ferguson (1896) clearly expresses the widening view the Court developed through the 20th century. Through the 1980s and 1990s legislation such as the Equal Access act and the American with Disabilities act have been used to widely expand educational access to individuals of different demographics well beyond race. In all cases the 14th amendment and ensuring 1964 Civil Rights act have been used as the governing legal documents for such policies.

The Policy letter from the U.S. department of Education (2011) involves the equal access act creating guidelines for public schools that if they allow a non curricular student group to meet on school grounds during after school hours, they cannot deny similar access to other non curricular student groups, regardless of religion, political, philosophical or other matters. This is important to prove that civil rights have increased over time because it protects the students even more from

schools and government from restricting them of equal access based on what the non curricular group is. At the same time, states have fought back this broader interpretation of the 14th amendment and Civil rights act. An ABC news report by Stacy Teicher Khadaroo (2011) Alabama Immigration Law sought restrict access to public school enrollment in Alabama are allowed to check the immigration status of children when they enroll. This is just one example that increasing civil rights for students in school is not a universal philosophy.

The law in Alabama reveals that the century old debate between a broad interpretation of the constitution as supported by Alexander Hamilton and continued through with the Brown v. Board and Plyer decisions still meet firm resistance from those who support views held by Thomas Jefferson or or the Supreme Court in Plessy v. Ferguson, which is the constitution and the 14th amendment specifically should be interpreted strictly and based on its original intent. n though school say it does not block enrollment others argues that this serves as a barrier for education.

Regardless of the debate, the most recent policy at the Federal level is to expand educational civil rights. This is demonstrated in a 2015 memo from the US United States Department of

Education (2015) which states that all children in the United States must be given the opportunity to a public or secondary education regardless of their race, color, national origin, citizenship or immigration status or the status of their parents/ guardians. Therefore denied access to education.

On the other end of the spectrum, civil liberties which limits the government from stripping away rights of citizens in schools have decreased. One of the more prominent cases that illustrate the lost of rights, or rather “civil liberties” in *New Jersey v. T.L.O* in 1986. In an era where the Civil Rights act was expanding through the equal access act and the American with Disabilities act, 4th amendment rights in school were being greatly reduced.

In *T.L.O.* the ideas of what protects a student from search and seizures was greatly reduced. Before, the standard for warrantless search and seizure was that it must be a police official and must have probable cause. *New Jersey vs. T.L.O* United States Supreme Court (1986) explains that if a teacher or school authority has *reasonable suspicion* of a child they may search the students bag without a warrant. This greatly reduces the standard for search and thus the liberties of citizens. This case is important because it is a prime example of how in more recent years civil liberties have decreased.

The governments or schools power in this case is extended in other cases such as *Bethel v. Fraser* and *Hazelwood v. Kuhlmeier*. In both these cases the schools power to censor speech that is considered to be either “lewd” or “not in the interest of the educational mission of the school” is increased. In *Bethel school district vs. Fraser* United States Supreme Court (1986) denies a student freedom of speech based on the topic of his speech. Although his speech includes topics such as being, “offensive to both teachers and students -- indeed, to any mature person. By glorifying male sexuality, and in its verbal content, the speech was acutely insulting to teenage girl students.” While the virtue of the speech and whether or not it is appropriate can be debated, it seems a far cry from what the founding fathers intended when they wrote the 1st amendment, “ Congress shall make no law... or abridging the freedom of speech, or of the press; or the right of the people..”

These two Supreme Court decisions not only become the law of the land and the dominating

policy in every school across america but also occur in a time when other rights are being extended throughout the 1980s, as mentioned earlier.

In the 1990s the school's power is even more extended while the individual's rights and liberties are even more limited. Although the 4th amendment which was ratified in 1792 states :

“ The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized,

The Supreme Court (1995) in the case of *Vernonia v. Acton* authorized random urine drug tests for students who participate in athletic programs but was said to violate the 4th Amendment saying of unreasonable search and seizure. This is an extension from the New Jersey case earlier because it removed reasonable suspicion and allows randomness, which requires no suspicion. *Vernonia* greatly reduces the rights and liberties of students in school.

The standard for search is even more decreased in the case of Pottawatomie school district v. Earls (2002). In this case the Court ruled in a narrow 5-4 majority that a policy that requires ALL students who participate in extracurricular activities to submit to a urinalysis is indeed consistent with the 4th amendment.

In conclusion, while student rights through a broadening interpretation of the 14th amendment and subsequent acts of Congress like the Civil Rights act of 1964 and the Equal Access Act have increased, student rights or liberties, as noted in the above listed 1st and 4th Amendment cases have decreased. It is also important to note that these decisions are controversial and often times decided by a 5-4 vote (Brown v. Board was 9-0) and therefore reveal that the debate over constitutional interpretation and to a greater extent the purpose of power of government is still alive and electric.