



## **Oregon New Lawyers Division 2012 High School Essay Contest**

### **Introduction**

The Oregon State Bar's New Lawyers Division is proud to announce the 2012 High School Essay Contest. The contest is open to all Oregon high school students and three winners will be chosen to receive \$500, \$350, and \$250, respectively for first, second, and third place entries.

### **Deadline**

All entries must be RECEIVED at the Oregon State Bar office NO LATER THAN 5:00 p.m. on **May 3, 2012**. Late entries will not be considered. Please include your name, school, and contact information on your submitted essay. To submit your essay you may:

(1) Mail your essay to:  
ONLD-LRE Essay Contest  
P.O. Box 231935  
Tigard, OR  
97281-1935

(2) Hand-deliver the essay to the Oregon State Bar located at:  
16037 SW Upper Boones Ferry Rd  
Tigard, OR  
97224

*Please direct the essay to ONLD-LRE Essay Contest*

**or**

(3) Email the essay to:  
ONLD@osbar.org *Please write ONLD-LRE Essay Contest in the subject line of the email*

## **The Essay – Rules**

Submit a persuasive essay of 500 to 750 words, using only the sources and information found in the Essay Universe<sup>1</sup> attached.

The Essay Universe consists of:

1. The Essay Question
2. First Amendment to the United States Constitution and Case Law
3. Johnson's Argument
4. School District's Argument

Citation to additional research is prohibited. This is a persuasive essay, not a research paper. A bibliography is not necessary.

The first, second, and third place essays will be chosen based on the following:

1. Each essay must reflect the student's writing and original thinking.
2. Each student must thoroughly, thoughtfully, and persuasively explain his/her argument.
3. Each essay must be organized and typed using appropriate grammar, spelling, and punctuation.

### **Announcement of Winning Essays**

All of the submissions will be evaluated by a panel of lawyers from the Oregon State Bar's New Lawyers Division. The three contest winners will be announced and formally recognized.

**Good luck everyone!**

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<sup>1</sup> Documents in the Essay Universe are based on cases that the federal circuit courts (courts directly below the United States Supreme Court) decided. While they are designed to capture the spirit and key components of the original briefs, they are not designed to reflect the entire legal arguments. They have been summarized here for the purposes of this contest only.

## **ESSAY QUESTION**

Jane Johnson was a student at American High School in Anytown, Oregon when she was suspended from school for two weeks for creating and posting pictures on a Facebook page entitled “S.O. Loves Crack,” which was dedicated to ridiculing a fellow student named Sandy Olsen for her rumored anorexia and drug problem.

Johnson created the page on her home computer one day after school. Johnson then invited others (mostly fellow American High students) to “like” the page, so they could post and respond to comments and pictures. Approximately 25 American High students “liked” the page in just the first few hours.

Nearly all the comments on the page focused on Sandy Olsen. Johnson first posted two pictures of Olsen—one in which she had drawn a picture of a device for smoking crack cocaine near Olsen’s mouth, making it appear that Olsen was using drugs, and another in which she had digitally altered Olsen’s teeth to make it appear that they were rotting. Several students commented on and “liked” this picture, with comments ranging from “who’s her dealer?” to a statement that the pictures were “the best pictures [the student had] seen on Facebook so far.” The second picture showed a thin-looking Olsen eating a drawn-on hamburger, with the caption saying that “crackhead” Olsen should “eat a burger,” while another comment directed Olsen to a 1-800 line for an anorexia treatment center. Students called Johnson their “hero” and encouraged her to “take [Olsen] down.” When one student commented “wait until [Olsen] sees this page lol,” Johnson replied “hahaha...forget her.” Comments were made on personal cell phones and computers as well as school computers, though the comments made using school computers all occurred after classes had ended for the day.

The next morning, Olsen and her parents went to American High School and filed a harassment claim with the principal regarding the page. Olsen did not go to school that day, stating that she felt uncomfortable sitting with classmates who had posted comments about her on the “S.O. Loves Crack” Facebook page.

After an investigation, school administrators determined that Johnson had created a “hate website” in violation of the school’s harassment policy, and issued a two-week suspension. Johnson was also given a two-month “social suspension” which prohibited her from attending prom and participating on the school’s cheerleading squad. Johnson claimed the acronym S.O. Loves Crack stood for Someone Loves Crack.

Johnson has filed a lawsuit against the school district, and argues that her suspension violated the First Amendment to the United States Constitution by restricting her right of free speech.

What do you think? Should the school district be allowed to punish Johnson for engaging in speech that occurred outside the school but violates the harassment policy? Did Johnson’s suspension violate the First Amendment?

You are a Justice on the United States Supreme Court, and you are trying to convince your fellow Justices that your opinion is best. Write a persuasive essay expressing your opinion to the Justices. Use the following enclosed information to support your opinion:

- (1) First Amendment to the United States Constitution and Case Law
- (2) Johnson's Argument
- (3) School District's Argument

## *First Amendment*

The First Amendment to the United States Constitution states:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The First Amendment is also referred to as the right to free speech.

Under the First Amendment, states are not allowed to restrict what a person says or expresses. Students retain significant First Amendment Rights when they are at school, but their rights are not the same as those of adults. Administrators have some latitude in regulating student speech to further educational objectives.

## *Case Law*

*Tinker v. Des Moines Independent Community School District* (decided in 1969)—the school disciplined students for wearing black armbands in class to protest the Vietnam War. The Supreme Court said the school could not discipline the students because it had a “fear of disturbance.” Instead, the school could discipline students for conduct that occurred within the “schoolhouse gate” that “materially and substantially disrupt[ed] the work and discipline of the school.”

*Bethel School District No. 403 v. Fraser* (decided in 1986)—the school disciplined a high school student for giving a sexually explicit speech in support of a student government candidate during a school assembly. The Supreme Court upheld the discipline and said the school could punish the student for “vulgar and lewd speech” that could undermine the school’s basic educational mission.

*Hazelwood School District v. Kuhlmeier* (decided in 1988)—the school refused to publish student newspaper articles about student pregnancies and the impact of divorce. The Supreme Court said that the school could exercise editorial control over the style and content of student speech in this school-sponsored activity as long as their actions were reasonably related to legitimate pedagogical (teaching) concerns.

*Morse v. Frederick* (decided in 2007)—the school suspended a student for displaying a banner with a logo promoting drug use directly across the street from the school during a school-sanctioned event. The Supreme Court upheld the discipline and said the speech was school speech because it occurred during the course of a school event. The Court also said the discipline was appropriate because schools have a responsibility to provide their students with a safe environment free of messages advocating illegal drug use.

### *Johnson's Argument*

Johnson says that school administrators violated her free speech rights under the First Amendment by punishing her for speech that occurred outside the school. She argues that school administrators could not discipline her because her speech occurred off-campus and was not related to school. She contends that the Supreme Court has never before said that a school can punish student speech that occurs away from school. In fact, speech that would be punishable if it was made on school grounds is not punishable when it occurs off-campus, even if it would be likely to have a disruptive effect on the school community either way.

According to Johnson, school officials should only be allowed to restrict student speech within the schoolhouse gate, and only then if such speech materially and substantially disrupts the work and discipline of the school. More specifically, the offensive speech must have taken place on school property, at a school function, or while engaged in school-sponsored activity. The First Amendment protects not only speech but also the right to express one's views or philosophies by membership in a group (including the Facebook page at issue here). Because Johnson was at home when she created the Facebook page, and was not on school property, at a school function, or engaged in school-sponsored activity, the school district did not have authority to suspend her. The school district's decision to suspend her violated the First Amendment.

### *School District's Argument*

The school district says that it did not violate Johnson's First Amendment rights. School administrators can regulate off-campus student speech if it creates a foreseeable risk of reaching school property and causing a substantial disruption to the work and discipline of the school. Schools have a responsibility to teach students about socially appropriate behavior, and may take disciplinary action against a student for vulgar or offensive speech.

The district contends that Johnson created a Facebook page that singled out Olsen for harassment and bullying, because it included pictures and postings indicating that Olsen had a drug problem and an eating disorder. According to the district, Johnson's speech was vulgar and offensive and could be regulated by school officials.

Furthermore, the district says, it was foreseeable that Johnson's actions (even if they occurred off-campus) would reach the school, and also foreseeable that her actions would create a substantial disruption in the school. The majority of those who Johnson invited to "like" the Facebook page were American High School students, and given that nearly all students have electronic devices which connect to the Internet, it is unsurprising that a large number of them "liked" the page and commented on its pictures and posts within a few short hours. Many comments were made using school equipment. Johnson's page caused Olsen and her parents to file a formal complaint with the school, and Olsen missed school because she felt uncomfortable attending classes with the students who had posted comments on the webpage. School administrators spent considerable time and energy investigating the incident, including interviewing several students, and ultimately resolved it by suspending Johnson and a few others who participated in the page's commentary. In short, the school district did not violate the First Amendment by suspending Johnson for her vulgar and offensive speech.