**Senior's photo deemed too sexy for yearbook**[http://i.cdn.turner.com/cnn/.element/img/3.0/1px.gif](http://articles.cnn.com/2012-01-09/us/us_yearbook-photos_1_yearbook-photos-senior-portrait-facebook-page?_s=PM:US)

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January 09, 2012|By Jim Spellman, CNN**http://articles.cnn.com/images/pixel.gif**

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Sydney Spies, 18, submitted this photo to her high school yearbook in Durango, Colorado. The yearbook staff rejected it.

A high school senior's racy picture is causing controversy after the yearbook staff refused to publish it, calling the picture inappropriate.  
  
The photo shows 18-year-old Sydney Spies in a short skirt and revealing top. She had it taken by a professional photographer in her hometown of Durango, Colorado, and submitted it to the yearbook with her mother's approval.

"She tells me that she has grown tired of seeing all the boring pictures submitted, and she wanted to do something different," said Sydney's mother, Miki Spies.

http://articles.cnn.com/images/pixel.gifSeniors at Durango High School can submit their own photos to the yearbook. They often choose pictures that reflect their interests, like sports or music.  
  
A committee of five students determines whether the photos are acceptable. They rejected Spies' photo, calling it inappropriate. A second photo, showing her in a short dress against a brick wall, was also rejected.

"There's something wrong when people can't express themselves in their own yearbook," Miki Spies said.

The Durango School District says it wasn't part of the process, but it supports the decision of the yearbook committee.

According to spokeswoman Marty Kay Hutton, "The student editors of Durango High School's yearbook informed a senior student in December that her photo in question would not be included as a senior portrait in the yearbook and asked her to submit a replacement. Durango School District administration supports this decision."

Miki Spies says her daughter should be able to express herself, just like any other student.

"There are no standards that are required for yearbook photos. She's into the arts outside of school," Miki Spies said.

The photos have outraged many as the story has spread. On a Facebook page set up by the family, some of the comments are extremely negative:

"Too sexy for a young woman. Think of how you will be remembered for the rest of your life, in the eyes of your classmates."

"You are gross and your parents are losers like you are."  
"Tramp."  
Miki Spies says that she is surprised by the comments but that they have strengthened her resolve to fight for her daughter. She's not sure what they will do next but says she has contacted the ACLU for help.

"I'm a fighter for the underdog, and I hate the abuse of authority," she said. "I'm surprised more Americans aren't on the side of freedom of expression anymore."

**Colorado Student Free Expression Law**  
  
**Citation:** *Colo. Rev. Stat. Sec. 22-1-120*  
June 7, 1990  
  
**Summary:**   
In addition to the First Amendment to the U.S. Constitution, states can provide additional free speech protection their own citizens by enacting state laws or regulations. The Colorado Student Free Expression Law is such a provision and provides student journalists attending Colorado public schools with added protection against administrative censorship.

**Section 22-1-120 -- Rights of free expression for public school students**

(1) The general assembly declares that students of the public schools shall have the right to exercise freedom of speech and of the press, and no expression contained in a student publication, whether or not such publication is school-sponsored, shall be subject to prior restraint except for the types of expression described in subsection (3) of this section. This section shall not prevent the advisor from encouraging expression which is consistent with high standards of English and journalism.

(2) If a publication written substantially by students is made generally available throughout a public school, it shall be a public forum for students of such school.

(3) Nothing in this section shall be interpreted to authorize the publication or distribution by students of the following:

(a) Expression which is obscene;

(b) Expression which is libelous, slanderous, or defamatory under state law;

(c) Expression which is false as to any person who is not a public figure or involved in a matter of public concern; or

(d) Expression which creates a clear and present danger of the commission of unlawful acts, the violation of lawful school regulations, or the material and substantial disruption of the orderly operation of the school or which violates the rights of others to privacy or that threatens violence to property or persons.

(4) The board of education of each school district shall adopt a written publications code, which shall be consistent with the terms of this section and shall include reasonable provisions for the time, place, and manner of conducting free expression within the school district's jurisdiction. Said publications code shall be distributed, posted, or otherwise made available to all students and teachers at the beginning of the 1991-92 school year and at the beginning of each school year thereafter.

(5) (a) Student editors of school sponsored student publications shall be responsible for determining the news, opinion, and advertising content of their publications subject to the limitations of this section. It shall be the responsibility of the publications advisor of school-sponsored student publications within each school to supervise the production of such publications and to teach and encourage free and responsible expression and professional standards for English and journalism.

(b) For the purposes of this section, "publications advisor" means a person whose duties include the supervision of school-sponsored student publications.

(6) If participation in a school-sponsored publication is part of a school class or activity for which grades or school credits are given, the provisions of this section shall not be interpreted to interfere with the authority of the publications advisor for such school-sponsored publications to establish or limit writing assignments for the students working with the publication and to otherwise direct and control the learning experience that the publication is intended to provide.

(7) No expression made by students in the exercise of freedom of speech or freedom of the press shall be deemed to be an expression of school policy, and no school district or employee, or parent, or legal guardian, or official of such school district shall be held liable in any civil or criminal action for any expression made or published by students.

(8) Nothing in this section shall be construed to limit the promulgation or enforcement of lawful school regulations designed to control gangs. For this purpose

**Constitutional Amendment and Precedents**

***First Amendment***  
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.

***Tinker v. Des Moines Independent Community School District* (1969)**Students John and Mary Beth Tinker opposed the war in Vietnam. To show their opposition, they planned to wear black armbands to school. Having found out about the Tinkers’ plan, the Des Moines principals adopted a new policy prohibiting armbands. Despite the policy, the Tinkers wore armbands to school. They refused to remove the armbands and were suspended from school.

The Supreme Court ruled in favor of the students. It made clear that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” To restrict speech, a school must demonstrate that the speech would “materially and substantially interfere” with the work of the school or interfere with the rights of other students. School officials in Des Moines, the Court explained, could not “reasonably forecast” that the Tinkers’ speech would cause a substantial disruption or invade the rights of others.

***Bethel School District No. 403 v. Fraser* (1986)**  
During a school assembly at Bethel High School in Washington, Matthew Fraser gave a speech to nominate a classmate for student government. The short speech was filled with sexual references and innuendoes: for example, he said that his friend is “firm in his pants . . . his character is firm” and “will go to the very end – even the climax, for each and every one of you.” The students greeted the speech with hoots, cheers, and lewd motions. The friend who Fraser nominated won by a wide margin; Fraser was suspended for three days.

Ruling in favor of the school district, the Supreme Court emphasized that students do not have the same First Amendment rights as adults. It explained that school officials may prohibit the use of lewd, indecent, or plainly offensive language, even if it is not obscene. Schools have an interest in preventing speech that is inconsistent with the school’s “basic educational mission” and in “teaching students the boundaries of socially inappropriate behavior.” In addition, the First Amendment should not prevent school officials from maintaining order during a school-sponsored educational program.

***Hazelwood School District v. Kuhlmeier* (1988)***The Spectrum* at Missouri’s Hazelwood East High School was a newspaper written and edited by students in journalism class. In May 1983, the students created a final edition of the newspaper, which their faculty advisor submitted to the principal for approval. The principal objected to two of the paper’s articles: (1) an article about teen pregnancy discussed sex and birth control and also hinted at the identities of pregnant students; (2) an article about divorce included a student’s complaints about her father without giving him a chance to defend himself. Because it was near the end of the school, the principal decided to pull the pages the articles were on.

The Supreme Court ruled in favor of the school district. It said a school principal could censor a student newspaper that is produced as part of journalism class. A school has a right to censor speech in activities – like student newspapers or theatrical productions – that others may believe the school is endorsing. In these school-sponsored activities, school officials can limit speech so long as their actions are “reasonably related to legitimate pedagogical concerns.”

Court Case Responses

I. Group Work

A. Discussion Questions:

1. What is the question you are addressing?

a. Description of the problem/ Rights or Values in conflict

b. What constitutional amendment and principle is at play?

2. Was it a legitimate use of government authority?

a. Did it serve a compelling governmental interest?

B. Take a Vote of the Members of your Group

1. Who won/ who is your Court siding with?

D. Assign Majority/Dissenting Opinions

II. Assignment: To Be Turned in for a Grade

A. Write a Majority/Dissenting Opinions that Explains and References:

1. Constitution Amendment and/or principle of the case

2. Rationale based on precedent

a. Precedent- *stare decisis* used to come about your decision

3. Is your ruling limiting or expanding government power? How? a. Precedent your ruling sets

4. Nifty Quote summarizing the gist of the opinion

5. SCOTUS Actual Ruling

a. Who did the SCOTUS side with?

b. What was their rationale?

IIII. Whole Class Work

A. Announce your group’s decision

1. What was the tally? 5-1/4-2/ETC

2. Which Side Did you Agree with? Who Won?