



STATE BAR
of **NEW MEXICO**

2011 Student Essay Contest
\$1,000, \$750 and \$500 Awards



Symbolism and Freedom of Religion

Deadline: March 11, 2011

- Required length: 1000–1500 words
- Essays will be judged by a distinguished panel of lawyers, judges, State Bar staff and educators.
- Essays will be evaluated according to content, originality, writing skills and a public school essay scoring rubric.
- Official entry rules and entry form are on page 4.
- A writing tutorial is available at www.nmbar.org.

Sponsored by the Modrall Sperling Law Firm

Modrall, Sperling, Roehl, Harris & Sisk, PA is proud to honor the late James E. Sperling through sponsorship of the State Bar of New Mexico Student Essay Contest. Mr. Sperling practiced law with the Modrall firm from 1946 until his death in 1991 and served for many years as the firm's president. An avid outdoorsman, Mr. Sperling had a life-long interest in natural resources law, and he developed and managed the firm's natural resources department.

Mr. Sperling also dedicated years of public service to the New Mexico legal community. He chaired the New Mexico Federal Judicial Selection Committee and the Admissions and Grievance Committee of the United States District Court for the District of New Mexico. He served for many years on the New Mexico Judicial

Standards Commission and numerous other state and federal committees. He also taught oil and gas law at the University of New Mexico School of Law and authored several scholarly articles on natural resources law.

Aside from the laurels associated with an extraordinary legal career, Jim Sperling was a person of tremendous warmth, generosity and humility. He was a man of few words, but those he spoke were, as one of his colleagues put it, "nigh-on-perfect." During the latter years of his practice, much of Mr. Sperling's time was devoted to advising his law partners and training the new attorneys at the firm. His legacy to New Mexico lawyers and aspiring lawyers is his example of approaching law practice with unwavering integrity and complete dedication to the interests of one's clients.



TOPIC

Symbolism and Freedom of Religion

John Bajellos, an American Indian, and his family moved to south central New Mexico and John entered Torredo Charter High School as a freshman. The school was in a very poor district and the area around the school had a high crime rate. Gang violence was a significant threat and the school did what it could to ensure that the students would be safe while on school grounds. As part of the precautions, students were required to wear a uniform provided by the school and could not have tattoos or other identifying marks. Only female students were permitted to wear jewelry, which was limited to a pair of discreet earrings.

In his junior year, John began to wear his hair long unlike other American Indians at the school. School policy was that students were to be properly groomed, with male students required to keep their hair from descending below the ears and female students to keep their hair in a braid or otherwise constrained in a manner that would keep it from interfering with their schoolwork. A specific exemption was provided for any religious or cultural belief that required certain grooming habits at odds with school policy. To be eligible for the exemption, the student needed to demonstrate that he or she was a devotee of a religion or member of a culture that required particular grooming standards.

John initially provided no such demonstration, but when he was threatened with suspension, he claimed that he was following the precepts of his tribe's cultural and religious beliefs. John is not actually a member of a tribe, but his ancestors were Lipan Apache,

and he has petitioned to join the Mescalero Apache¹. During questioning by the principal, John could not provide written evidence of his beliefs or of a religion that could be researched or proof that the Mescalero Apache or Lipan Apache² required members to have long hair. In his family, only his grandfather and uncle had long hair, but John had only limited contact with them and neither had discussed with John his Indian heritage. The principal decided that as John could not prove his beliefs, he did not fall under the exemption and must either cut his hair or be suspended. John appealed to the school board and argued that he had only recently begun to study his heritage and that by wearing his hair long he felt a closer connection to his tribe. John asserted that, according to his understanding and belief, hair was not to be cut except at life-changing events. His hair, he continued, is a symbol that connects him to his ancestors and is a constant reminder of how long he has been here and an extension of who he is. John also offered the statements of two adults who were members of the Lipan tribe and who were teaching him about his heritage as a Native American. The school board considered the statements and John's testimony but decided that John was only asserting a personal preference and affirmed the principal's decision.

John has now filed suit in federal court.

¹Assume that he will meet the requirements for membership.

²Lipan are a sub-tribe of the Mescalero Apache.

THE ESSAY QUESTIONS

1. Is the policy an appropriate measure to further the educational process?
2. What is the rational basis for regulating the length of hair for males?
3. Will the absence of the policy cause harm to school functions?





LEGAL AND OTHER AUTHORITY

TORREDO SCHOOL POLICY

Whether or not a student is dressed appropriately or properly groomed shall be left to the discretion of the principal or designee.

- Female students should wear their hair in a neat and clean manner that does not interfere with their schoolwork.
- Female students are permitted to wear a pair of discreet earrings.
- Male students will not be allowed to wear any piercing jewelry.
- Male students should wear their hair in a neat and clean manner with hair no lower than the middle of their foreheads in the front, no lower than the shirt collar in the back, and no lower than the middle of their ears on the sides.
- Male students are not allowed to wear any facial hair in the form of mustaches, beards, etc.

Students are also prohibited from wearing facial jewelry apart from the above and from exhibiting visible body piercing, including piercing of the tongue, during school hours.

CASE LAW

Personal freedoms are rarely absolute, especially in a school environment. Students in a public school are expected to submit

to reasonable regulations pertaining to attendance, curriculum, and their relationships to their faculty and peers. Personal freedoms in a school environment “must yield when they intrude upon the freedom of others.” *Bishop v. Colaw*, 450 F.2d 1069, 1075 (8th Cir. 1971). School officials should be afforded considerable latitude in reconciling the personal freedom of their students with the needs and purposes of school discipline and education.

If school officials can prove a rational basis for a hair regulation, whether it promotes the furtherance of valid educational goals, health, or other legitimate purposes, they may restrict a student’s personal freedoms consistent with both the due process and equal protection clauses. See *Dwen v. Barry*, 483 F.2d 1126, 1130 (2d Cir. 1973) (“While it has been argued that hair length controversies are much ado about nothing, we think there is a substantial constitutional issue raised by regulation of the plaintiff’s (policeman’s) hair length.”)

Hatch v. Goerke, 502 F.2d 1189, 1192 (10th Cir. 1974); *Freeman v. Flake*, 448 F.2d 258, 262 (10th Cir. 1971), cert. denied, 405 U.S. 1032, 92 S.Ct. 1292, 31 L.Ed.2d 489 (1972) - “Complaints which are based on nothing more than school regulations of the length of a male student’s hair do not ‘directly and sharply implicate basic constitutional values’ and are not cognizable in federal courts . . .”

LEGAL WRITING BASICS

Although it is not required that the applicant follow any specific format, a persuasive essay with “legal formatting” is strongly recommended in order to give the applicant the true “flavor” of legal writing. Further, even though portions of the statutes/law are included, the excellent essay may include additional statutory or case research. As in real life, sometimes there is not enough information presented to answer a legal question.

Attorneys follow proper rules of written form to make their documents easier to read. The generally accepted form of a legal argument is an outline (refer to our website for more information).

First, a brief summary of the facts should introduce the reader to the event in question. Second, the legal argument is presented. There is generally more than one argument in a legal memo or brief. This essay contains three questions; each question contains a legal argument. Thus, your response would normally contain three sub-parts. Each sub-part would contain: a heading, which states your conclusion in one sentence; a statement of the applicable legal rule; your application of the facts given to the legal rule; and a conclusion, summarizing the key points leading to your conclusion.

VISIT US ONLINE AT
www.nmbar.org
for additional help and hints.

For Students

- ✓ Essay Contest Flyer
- ✓ Essay Contest Tutorial
- ✓ Official Entry Form
- ✓ View Past Winning Essays

For Teachers

- ✓ Standards and Benchmarks information
- ✓ Public Schools Generic Essay Scoring Rubric



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ESSAY CONTEST RULES

1. The contest is open to New Mexico high school juniors and seniors only.
2. All entries must be received via e-mail no later than 5 p.m., March 11, 2010.
3. Each entry must be typewritten in 12 point font, double-spaced on 8 1/2" x 11" paper and contain 1000 to 1500 words. Include word count on the entry form.
4. Judging will utilize the Public School Generic Essay Scoring Rubric in the following areas:
Content: Demonstrates clear understanding; deals with subject in strong and convincing manner; uses persuasive information.
Originality: Demonstrates creativity or originality; strongly shows writer's attitude or point of view in a meaningful and original way; thesis clearly supported.
Writing Style: Well-organized and focused; begins and ends effectively; strong development; writing style and structure reinforce tone and content; no grammatical errors; authoritative, using appropriate vocabulary and tone.
5. Each entrant must submit his or her essay with completed entry form attached.
6. Essays must be the original work of the student.
7. The essay will be judged by State Bar members, staff, and a distinguished panel of judges representing lawyers and courts statewide.
8. Three winning essays will be selected. Awards are: 1st place, \$1,000; 2nd place, \$750; 3rd place, \$500; 1st place winner's classroom, \$500.
9. Winners will be notified and awards will be presented at a luncheon in Albuquerque during Law Day activities in May 2011.
10. The State Bar of New Mexico will not be responsible for returning submitted essays, reserves the right to reprint the essays and to release the winning essays to local newspapers for publication.
11. All essays will become the property of the State Bar for publicity and promotional purposes.

State Bar of New Mexico 2011 Student Essay Contest Entry Form

(Please type or print.)

Download an entry form at www.nmbar.org.

Name of Student _____

Check One Junior Senior Word Count _____

Name of School _____

Name of Teacher _____ School Telephone _____

School Street Address _____

City _____ Zip _____

I hereby certify that the essay I submit is my original work.

Student Signature _____

E-mail essay along with the entry form to dseago@nmbar.org.
For further assistance or questions, call Dorma Seago, (505) 797-6030.