



Deadline: March 9, 2010

- Maximum length: 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.

THE “FACTS”

During the time of the incident in question, June Carter was a senior at City High School, which is part of the Metro School District. The incident occurred toward the end of her last semester of high school, when June was a straight-A student with a \$5,000 college athletic scholarship for cheerleading. An unexceptional athlete, she nevertheless had a very outgoing personality and performed well on herkies, pikes, half and full tucks and all the other cheerleading jumps and tumbles. Due to her overall performance, the cheer coach promoted her to head cheerleader. In that position, June led her varsity squad to secure top honors in the Universal Cheerleaders Association Summer Cheer Camp the prior year.

June and the other members of her team maintained pages on FaceSpace, a popular teen social networking site that students from all over the district used. Most information posted was generally public, but some areas of the page could be made private by means of a password. The Metro School District had a general policy regarding computer use in the school and by students. Administrators routinely reviewed the pages of students.

Interschool rivalry was an accepted practice, encouraged in part by the schools themselves in order to secure broader attendance at games. This year, the rivalry was particularly fierce due to FaceSpace. Comments that would not get past the censors in the school newspaper were flung left and right on the internet.

As the end of the semester and the time of the big annual cheerleading competition approached, cheerleaders at the opposing Central High School began posting images of themselves in cheerleader uniforms and stating that they were better looking than cheerleaders at City High School. June's squad responded with similar images. Arguments developed between students at both schools over the merits of the pictures.

In response to the heated discussions, district officials blocked FaceSpace at both schools and issued a notice that students were not to post images that displayed either themselves or others in suggestive poses and/or misusing school property. Not being able to control the students off school grounds, the arguments continued and June suffered a number of personal attacks on her image. She responded by using her home computer and posting an image showing her in her cheerleading uniform in a suggestive pose. June had posted the image on her FaceSpace page, setting the privacy controls so only those designated as friends could view it. However, someone copied the picture and gave it to school officials.

District officials stated that June had broken school policy and would be suspended for the rest of the school year, which could affect her grades and thus her scholarship. In addition, school officials stated June would not be allowed to graduate, and she was banned from cheerleading for the remainder of the year.

THE ESSAY QUESTIONS

1. Does the image June posted on FaceSpace constitute speech?
2. If it does constitute speech is it protected speech (i.e., is it a protected expression under the First Amendment)?
3. Assuming that June's FaceSpace image constitutes speech or, in the alternative, if you decide that her image is not speech:
 - a. Do you think it is proper for the Metro School District to block FaceSpace on school computers? Why or why not?
 - b. Do you think it is proper for the Metro School District to suspend June and prevent her from graduating or participating in the final game? Why or why not?

LEGAL AND OTHER AUTHORITY

METRO SCHOOL DISTRICT POLICY ON ACCEPTABLE COMPUTER USE

The Metro School District is committed to having computer facilities used in a responsible, efficient, ethical and legal manner to advance educational goals of the district. All users must acknowledge their understanding of the general policy as a condition of using the facilities.

Access is a privilege, not a right. Access entails responsibility. Computer technology is provided for students and staff to conduct research and communicate with others. Communications on the network are public in nature. Access to computer technology is given to users who agree to act in a considerate and responsible manner, just as they would be expected to act in any school environment.

Parental permission is required for student users. The Metro School District reserves the right to review and update these policies and practices as the need arises.

SCHOOL COMPUTER USE RULES & RESPONSIBILITIES

I will respect all laws concerning privacy (opening anyone else's files), piracy (violating site licenses), plagiarism (using other's work without accreditation).

1. I will use computers only for approved educational purposes.
2. I will use only appropriate language on computers.
3. I will respect the privacy of other users and of myself, by not giving out any personal information about my family, other students, or myself.
4. I will use e-mail only under the teacher's direction.
5. I will never intentionally initiate access to material that could be considered inappropriate, offensive, or pornographic.
6. I will not misrepresent other users or myself on computers.
7. I will not use the computers for hate mail, harassment, discriminatory remarks, or other antisocial behavior.
8. I understand that district staff will periodically monitor, audit and review the use of computers by students and staff, including e-mail messages sent and received.
9. I understand that not following the rules will mean a loss of my computer privileges and could also result in additional disciplinary action, including legal action or criminal prosecution.

U. S. Constitution: 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.

Supreme Court rulings

Pro student's rights

Tinker v. Des Moines Independent Community School Dist., 393 U.S. 503 (1969). In this case the Supreme Court ruled that students have limited first amendment protection. The case involved several students who were punished for wearing black armbands to protest the Vietnam War. The Supreme Court ruled that the school could not restrict symbolic speech that did not cause undue interruptions of school activities. The Court held that the schools may restrict some rights of students within certain guidelines. School officials could only limit student speech when they could demonstrate that it would cause a material and substantial disruption of school activities or an invasion of the rights of others.

Pro school's right to censor

The Supreme Court has ruled that schools have a right to censor school-sponsored student publications. One such ruling came from the lawsuit of *Hazelwood School District et al. v. Kuhlmeier et al.*, 484 U.S. 260 (1988) where the U.S. Supreme Court held for the first time that public school officials may impose some limits on what appears in school-sponsored student publications. The court noted that the rights of students in public schools are not necessarily the same as those of adults in other settings. *Hazelwood* was in dramatic contrast

to court decisions from across the country handed down over the previous two decades that had given student journalists extensive First Amendment protections. Under *Hazelwood*, a school need not tolerate student speech that is inconsistent with the school's basic educational mission, even though the government could not censor similar speech outside the school. The Court said, school officials could censor school-sponsored speech if they could show it was "reasonably related to legitimate pedagogical concerns." In other words, if a school could present a reasonable educational justification for its censorship, it would be allowed.

Another case is *Bethel School District No. 403 v. Fraser*, 478 US 675 (1986) in which the Supreme Court held that a high school student's sexual innuendo-laden speech during a student assembly was not constitutionally protected and the student could be punished. Specifically, the Court stated that, "The First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as [the student's] would undermine the school's basic educational mission. ... It was perfectly appropriate for the school to disassociate itself to make the point to the pupils that vulgar speech and lewd conduct is wholly inconsistent with the 'fundamental values' of public school education." This applies in extracurricular activities as well.

New Mexico Administrative Code (paraphrased)

Schools may regulate student speech and assembly within legal limits which include the limitations of state and federal constitutions (NMAC 6.11.2.9).

Within legal limits, schools may discipline students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school (NMAC 6.11.2.9).

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**



2010 Student Essay Contest \$1,000, \$500 and \$250 Awards

ESSAY CONTEST RULES

- 1) The contest is open to New Mexico high school juniors and seniors only.
- 2) All entries must be e-mailed, faxed or postmarked no later than **5 p.m., March 9, 2010.**
- 3) Submit entries to: State Bar of New Mexico, Attn.: Marilyn Kelley, PO Box 92860, Albuquerque, NM 87199-2860; fax (505) 797-6074; or e-mail to mkelley@nmbar.org.
- 4) Each entry must be typewritten in 12 point font, double-spaced on 8 1/2" x 11" paper and contain 1000 to 1500 words. Please include a statement of word count.
- 5) Essays will be judged on:
 - 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.
 - Public School Generic Essay Scoring Rubric** – See www.nmbar.org for more details.
- 6) Each entrant must submit his or her essay with completed entry form attached.
- 7) Essays must be the original work of the student.
- 8) The essay will be judged by State Bar members, staff, and a distinguished panel of judges representing lawyers and courts statewide.
- 9) Three winning essays will be selected. Awards are: 1st place – \$1,000; 2nd place – \$500; 3rd place – \$250; 1st place winner’s classroom – \$100. Awards are sponsored by the Modrall, Sperling, Roehl, Harris & Sisk, PA law firm.
- 10) Winners will be notified and awards will be presented at a luncheon in Albuquerque during Law Day activities in May 2010.
- 11) The State Bar of New Mexico will not be responsible for returning any essays submitted to the contest and reserves the right to reprint the essays and to release the winning essays to local newspapers for publication.
- 12) All essays will become the property of the State Bar for publicity and promotional purposes.
- 13) For more information or entry forms, visit the State Bar Web site, www.nmbar.org; or contact the State Bar, (505) 797-6048, or e-mail mkelley@nmbar.org.

State Bar of New Mexico 2010 Student Essay Contest Entry Form

(Please type or print. Staple entry form to essay if mailing, include form if faxing, or include this information if e-mailing.)
Additional forms are available at www.nmbar.org

Name of Student _____

Check One Junior Senior

Name of School _____

Name of Teacher _____ School Telephone _____

School Street Address _____

City _____ Zip _____

I hear by certify that the essay I submit is my original work.

Student Signature _____

Send essay by e-mail with above information to: mkelley@nmbar.org,
or fax to: (505) 797-6074, or mail to: State Bar of New Mexico, Attn: Marilyn Kelley
PO Box 92860, Albuquerque, NM 87199-2860