

No First Amendment Rights in America's Classrooms: Teacher loses job for saying peace

National School Board Association (NSBA) silences all teachers

By [Deb Mayer](#)

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Global Research Editor's note

We bring to the attention of our readers the case of a community school teacher who has being fired for raising the issue of the war in Iraq in her classroom. The National School Board Association is arguing that First Amendment rights do not hold in the classroom:

1. A public school teacher's curricular speech is per se not speech on a matter of public concern and therefore is not protected by the First Amendment
2. A teacher's classroom speech is part of his or her official job duties and therefore is not protected by the First Amendment.

The conclusion of the amicus brief filed by the National School Board Association with the Seventh Circuit Court of Appeals in favor of the school district in Indiana is as follows:

"Permitting K-12 teachers to express personal opinions in class under the guise of academic freedom is less justifiable, because elementary and secondary students are more likely to be a captive audience with significantly less individual choice and control over the instruction to which they are exposed than college students. Stated more concretely, college students are better able to avoid through course selection and class attendance a professor who exercises his or her academic freedom rights in a manner the student finds offensive. In the public K-12 school district context, school boards consider parental input in setting curriculum and may allow parents to opt their children out of certain classes, such as sex education. But in general, parents and students who choose to attend public schools have more limited flexibility in selecting teachers and courses than college students. School boards and administrators assign teachers to teach specific subjects to specific grades at specific schools. In many instances, school administrators assign students to particular schools—and often particular classes and teachers. And, as the facts of this case illustrate, schools are not always able to grant parents' requests to transfer their children from a particular teacher's class, regardless of the parents' reasons. It would be both impractical and impolitic for school districts to accommodate parental requests that their children only be taught by teachers who share the parents' ideology. Not only would school districts have to spend countless hours rearranging students' schedules, they might also be reduced to hiring teachers based on ideological viewpoint rather than professional competence. In short, a K-12 teacher deviating from the curriculum and injecting classroom discussion with personal opinions disregards parents' expectations and robs school boards of their authority to implement a uniform curriculum of their choosing.

To date, this court has not recognized any academic freedom rights for elementary and secondary school teachers. *Palmer*, 603 F.2d 1271 (holding a teacher had no First Amendment right to refuse to participate in various patriotic activities); *Webster*, 917 F.2d 1004 (holding a teacher had no First Amendment right to teach non-evolutionary theories of creation). Even in the higher education context, this court has stated that deviating from the curriculum is not protected by academic freedom rights. *Clark v. Holmes*, 474 F.2d 928, 931 (7th Cir. 1972) (denying college professor's claim that academic freedom allows him "to override the wishes and judgment of his superiors and fellow faculty members as to the proper content of the required health course"). This court should similarly decline to give constitutional significance to speech in the K-12 context where no academic freedom rights are established.

CONCLUSION

For the reasons explained above, Amici urge this court to affirm the district court decision and to preserve the authority and discretion of school boards to determine and implement curricula and ensure that teacher expression advances the adopted program of studies."

For the complete transcript click:
<http://www.nsba.org/site/pdf.asp?TP=/site/docs/39200/39151.pdf>

The implications of this case are farreaching and we call upon people across the US to take a stand to protect freedom of speech in America's classrooms.

[For details on how you can support Deb Mayer, click here](#)

Michel Chossudovsky, Global Research, 19 Oct 2006

I wanted to share with you an amicus brief filed by the National School Board Association with the Seventh Circuit Court of Appeals in favor of the school district in Indiana that is trying to abolish free speech at school. It's scary.

<http://www.nsba.org/site/page.asp?TRACKID=&CID=889&DID=11113>

Click on Mayer v Monroe County Community School Corporation

<http://www.nsba.org/site/pdf.asp?TP=/site/docs/39200/39151.pdf>

Keep in mind that school boards across the country do not even know about my case.

This brief was prepared with considerable assistance from the attorneys for MCCSC.

Here are several things to remember when reading the brief:

1. I was teaching the curriculum.
2. The School has already conceded in court documents that I was speaking on a matter of

public concern—the War in Iraq, but the NSBA insists that was not the case.

3. *Garcetti v. Ceballos*, which the defense relies on heavily, was decided only a few months ago. In that case the Supreme Court ruled that government workers never have First Amendment free speech rights while they are doing their jobs. For my money, it's unconstitutional. AND my case has been pending for two years.

4. NSBA (lawyers) wrote a brief in favor of free speech for Ceballos. Why the change of heart? (You can read that brief at the above web site also.)

5. There are many misrepresentations (lies) in the brief. One of my favorites is teachers do not participate in creating the curriculum. (I'm wondering what those B.S., M.S., and Admin. degrees I have are for?)

You may wonder where the National Education Association stands in all of this. I will tell you about the conversation I had with Michael E. Simpson, assistant counsel for NEA. I have been pleading for months—since March, with NEA through various attorneys to support me or at the very least tell teachers about the appeal. This was Mr. Simpson's final response after offering his deepest sympathy several times. He said, "What if we had a teacher who wanted to express her own opinions about gay and lesbian marriage in a K-12 classroom? What would we do then?"

Really, I'm not making this up. I said we would use the same system we have had in place for decades. We already have laws to protect kids from teachers who say inappropriate things. We shouldn't abolish the rights of all teachers because of one thing one teacher may one day say. It was a heated conversation that ended with me pleading with him one last time to publish something about my case on the NEA website. That's when he ended all communication with me.

My fellow teachers nominated me for the Defense of Academic Freedom Award given by the National Council for the Social Studies. I won. The award will be presented at a conference in Washington D.C. December 2-4, 2006. I'm not sure if I should accept it. What if I lose the appeal, and we lose free speech because I said "peace" in my class? Then I should win the Destruction of Academic Freedom Award. I'm so conflicted about this.

The day before the conference, December 1st, my attorney and I will be in Chicago at the Seventh Circuit Court of Appeals presenting oral arguments. We have 15 minutes at 9:30 in the morning to save free speech at school. I'm inviting anyone who cares about free speech to attend. Feel free to extend that invitation to anyone who cares about free speech.

I hope you will tell people about the NSBA brief. Basically, the NSBA has declared war on teachers. I think *Garcetti v. Ceballos* may be the most egregious attack on our freedoms since the Constitution was written, and virtually no one knows about it. It's crazy to me! I'm sure if I had shot a cat or dated a student it would be all over the news. This is so important, and it affects everyone. People should know when their rights are taken away!

I don't expect to win in court. The odds are overwhelmingly against me because of the political climate that pervades. But I would like people to know how hard I fought before it's over.

I'm living in Portland, OR now with family. Still unemployed. I am selling my car to pay for oral arguments. It's the only thing I have left. Free speech has been really expensive for me.

Peace,

Deb Mayer

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