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United States Supreme Court

**A public high school infringed on cheerleader’s First Amendment rights when the school suspended her from cheerleading squad due to student’s vulgar Snapchat message.**

*A school district may only regulate off-campus student speech in certain circumstances.*

The Supreme Court issued a ruling that a cheerleader’s vulgar online speech was protected by the First Amendment. The Court affirmed that there are certain circumstances when a school may have a special interest in regulating off-campus speech—such as severe bullying, harassment targeting particular individuals, threats aimed at teachers or students, breaches of school security devices, and students’ failure to follow rules concerning schoolwork. However, the Supreme Court ruled that a profanity-laden Snapchat on a Saturday did not meet any of the special circumstances that would have allowed the school to limit the cheerleader’s off-campus speech.

B.L. was a student at a Pennsylvania high school who tried out for the varsity cheerleading team. After receiving the news that she did not earn a spot on the varsity team (and would need to spend another year on the junior varsity team) she told [NPR](#) in an interview that she “was really upset and frustrated at everything.” To express her displeasure with the situation, B.L. sent a Snapchat message to friends in which she was flipping off the camera with superimposed text reading "F\*\*\* the school . . . F\*\*\* cheer, F\*\*\* everything." Another student took a screenshot, showed the coaches, and the school subsequently suspended B.L. from the cheer team for the following year.

B.L., along with her parents, filed suit in a federal district court claiming B.L.’s First Amendment rights had been violated. The district court granted a preliminary injunction ordering the school to reinstate B.L. to the cheerleading team. The district court then granted a motion for summary judgment and ruled that the Snapchat message did not create a substantial disruption at school. The Third Circuit affirmed the district court, and now the Supreme Court has also affirmed the decision.

The Supreme Court was hesitant to create a broad rule regarding what types of digital communication are, or are not allowed—particularly in an era when digital-learning technology is rapidly growing. However, the Court’s opinion offered reasons why this particular off-campus speech could not be regulated by the school.

First, the doctrine of “in loco parentis” does not apply here. The doctrine of in loco parentis treats school administrators as standing in the place of students’ parents under circumstances where the children’s actual parents cannot protect, guide, and discipline them. The Court ruled that on the weekend, off-campus, a school will rarely be in loco parentis.

Second, if a student’s speech were to be regulated on-campus, as well as off-campus (even in situations that are not especially disruptive), then a school would effectively have the power to regulate student speech all day, every day. The Court ruled that this would be over-limiting to students who would then have their speech regulated all day every day, and over-burdening schools who would then have to regulate student speech all day every day.

Third, the Court ruled that America’s public schools are “nurseries of democracy,” and therefore the school actually has an interest in protecting B.L.’s unpopular opinion. Schools have a duty to ensure that future generations understand the freedom to disagree and promote discourse. The Court summed up the majority opinion by admitting that B.L.’s speech was distasteful, but ultimately, her speech rested on the fundamental freedom of the First Amendment.

*Mahanoy Area School District v. B.L.*, 594 U.S. \_\_\_\_ (2021).

*Mahanoy Area Sch. Dist. v. B. L., a Minor, By & Through Her Father Levy*, No. 20-255, 2021 WL 2557069, at \*7 (U.S. June 23, 2021)

Take-away: School districts should make sure they have the right to regulate off-campus student speech before doing so. Justice Alito offered advice directly to school districts in his concurring opinion, saying “the regulation of many types of off-premises student speech raises serious First Amendment concerns, and school officials should proceed cautiously before venturing into this territory.”