



CIVICS AND GOVERNMENT ACTIVITY

NOTE TO TEACHERS:

The court case, Baker v. Brandywine School District, used for the activity on the following page is a work of fiction. Any resemblance to actual persons and events is pure coincidence. It is the teacher's decision whether to reveal the case's fictional nature to students.



CIVICS AND GOVERNMENT ACTIVITY

BAKER V. BRANDYWINE SCHOOL DISTRICT (2018)

Approximately 50 minutes

INSTRUCTIONS:

Read the following case brief. The class will be divided into three groups. Using real US Supreme Court cases as precedent (cases listed below the brief), you will argue on behalf of Baker or Brandywine School District or serve as a Supreme Court justice in deciding the outcome of the case. To prepare, you will read the precedent cases, noting which of them best represents the case you are trying to make, and which might counter your side. You must cite these cases in your written arguments. Justices will not create written arguments but must create questions that cite the precedent cases. All justices will be required to ask at least one question in the question portion of the hearing.

- **P R E P A R A T I O N** (approximately 30 minutes) should be used to read precedent cases and write opening statements, arguments, and outlines for potential rebuttals. Justices should write questions that cite precedent. Rebuttal drafts and questions should be revisited and reworked in response to arguments while the case is being heard.
- **O P E N I N G S T A T E M E N T S** (2 minutes) should provide an overview of the facts of the case from the perspective of either Baker or Brandywine School District.
- **A R G U M E N T S** (2 minutes) should explain, based on precedent, why Baker's First Amendment right to free speech was violated or why it was not.
- **R E B U T T A L S** (2 minutes) should counter the other side's argument. Both sides should anticipate how precedent can be used against them and be ready to address such issues during their rebuttal.
- **Q U E S T I O N I N G** (approximately 5-10 minutes) requires all justices to ask at least one question to either side. Students who did not give the opening statements, arguments, or rebuttals are required to answer questions on behalf of Baker or Brandywine School District.

QUESTION(S):

Did either the school administrators' suspension or its denial of his candidacy for class valedictorian violate Baker's First Amendment right to free speech?

CASE BRIEF:

Alan Baker, a senior student at Concord High School and a member of the student council, used an Instagram account from his phone to protest the rescheduling of an afterschool student council event to promote a new student organization called "Students Against War." After school hours, Baker posted that the rescheduling represented "fascism" on the part of the school administrators. He urged his Instagram followers to email the school to protest.

As a result of Baker's actions, school officials were bombarded with emails and phone calls generated from his post. Two weeks later, the school canceled the event altogether. While not at school, Baker created another post, referring to officials as "disgusting trolls." In addition, he specifically encouraged his Instagram followers to continue contacting the school principal in order to "irritate her even more." The number of emails reached over one hundred. Over the course of the next month, ten students were disciplined (required to serve detention for one to five days) for chanting disturbing names ("fascist" and "troll") at teachers and/or defacing school property by scrawling support for Alan.

When school officials became aware of the Instagram posts, the principal barred Baker from consideration for valedictorian. Baker had been one of the three students declared finalists for this prestigious position. After a principal's hearing one week later, Baker was suspended for three days. In response, Baker circulated a petition, receiving over one hundred student signatures (roughly half the graduating class), which both supported Baker for valedictorian and condemned the suspension.



PRECEDENT:

- New Jersey v. T.L.O. <https://www.oyez.org/cases/1983/83-712>
- Bethel School District v. Fraser <https://www.oyez.org/cases/1985/84-1667>
- Tinker v. Des Moines <https://www.oyez.org/cases/1968/21>
- Cohen v. California <https://www.oyez.org/cases/1970/299>
- Morse v. Frederick <https://www.oyez.org/cases/2006/06-278>