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Schools and the Marketplace of Ideas—4 Scenarios

Directions: Read and discuss each of the following scenarios. As you work through each scenario, you will want to refer to the First Amendment as well as **Handout B: Student Code of Conduct** and the ways in which you answered the questions. Apply your interpretation/understanding of both documents as you formulate your answers to the questions below, doing so from your perspective as a student.

SCENARIO 1

War has always been a political issue that causes debate in the United States. While World War II, for example, was very popular with most Americans, a great number of Americans during the 1960s and 1970s strongly opposed the Vietnam War. The Vietnam War was particularly unpopular with young Americans. As the draft let the government force young men who were 18 or older to go to war, the possibility of being sent to war left many students nearing the age of 18 uncertain about their future.

Siblings John and Mary Beth belonged to a pacifist family and believed all wars are wrong. They decided they would protest as part of a larger, community demonstration against the Vietnam War. Together with a friend, John and Mary Beth agreed to wear plain black armbands to school to mourn the dead and quietly show their opposition to the

war. Hearing rumors of the planned protest, their school district created a policy that banned the wearing of armbands in school. The school district threatened to suspend any students who violated the policy.

The students continued with their plans and deliberately wore their armbands to school despite the policy. They remained quiet and orderly during their protest, but refused to remove their armbands when told to do so by the principal. Some students made hostile [unfriendly or violent] statements to the trio, but no one threatened them or committed any violence. School principals suspended all three students, arguing that their protest and its message might cause trouble in school due to disagreements about the Vietnam War.

1. What forms of expression are in this scenario? Is the expression protected by the First Amendment? Is the expression protected by the Student Code of Conduct?

2. Are school officials justified in limiting the expression or limiting how it was expressed? Explain your answer.

3. Pretend you are on the Supreme Court. Complete the chart below to list the reasons you might say the speech was protected or not protected.

REASONS THIS EXPRESSION IS PROTECTED BY THE FIRST AMENDMENT	REASONS THIS EXPRESSION IS NOT PROTECTED BY THE FIRST AMENDMENT

SCENARIO 2

Since the Supreme Court's decision in *Roe v. Wade* (1973) legalized, in most circumstances, abortion [purposely ending a pregnancy] across the United States, the issue has caused fierce public debate on both sides. The sharp moral, religious and individual rights questions involved with this sensitive topic have at times caused violence.

In 1984, President Ronald Reagan made the third Sunday of each January to be a national "Sanctity [goodness or sacredness] of Human Life Day." The day has become important for those on the pro-life [anti-abortion] side of the debate. The day is usually marked by protests against the Supreme Court's *Roe v. Wade* decision. Citizens on the pro-choice (in favor of legal abortion being available) side engage in similar activity annually, typically coinciding with the anniversary of *Roe*.

In 2002, a small group of girls at a suburban high school chose to participate in the "Sanctity of Human Life Day." Days before, the girls gathered to make shirts that communicated their message. One of the girls suggested that the front of shirt display the text "It's a life, not a 'choice,'" and that the back of the shirt contain an image of an aborted fetus. The group agreed, and located a graphic online image to communicate their message. They made their shirts and wore them to school. The girls quietly entered the building as normal, and went to their first class. Several students complained to the teacher, and the teacher asked them to change their shirts, saying the class could not continue with such a disruptive message. The girls refused and were sent to the office where the principal suspended them for refusing to change their clothes.

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SCENARIO 3

One of the primary goals of education in America is to prepare students for citizenship in a republic. The principles of liberty and responsibility are essential in a free society. The American government system will not function well if young people do not have opportunities to learn and practice these principles. One common way schools educate students about government and citizenship is through student government. Student government is meant to give students some choice in how their school operates as well as practical experience in voting, representation, and other republican principles like the art of compromise.

In 1983, Matthew, a Washington state high school student, gave a speech supporting a classmate's election to student government. He gave this speech in a school assembly with about 600 students, teachers, and staff in the audience. The speech referred to

the candidate in ways that were full of obvious sexual innuendo (words that suggest inappropriate or obscene behavior).

Prior to giving the speech, Matthew discussed what he wanted to say with two teachers, who both advised him not to give it. They said that the speech was inappropriate, and that he might face "severe consequences" if he gave it. As Matthew spoke at the assembly, some students in the crowd made graphic gestures portraying the sexual activities suggested in the speech. Others yelled and cheered, and a counselor saw that plenty of other students appeared embarrassed and uncomfortable. The morning after his speech, Matthew was called into the principal's office. After admitting that he intentionally wrote the speech to include sexual innuendo, Matthew was suspended for three days for giving an obscene and offensive speech.

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SCENARIO 4

Immigration has always been a part of American life. Our nation was founded on principles that welcome all who wish to live freely, and millions of immigrants have come to America since the country's founding. Immigration has faced challenges, however, as people of different religions, cultures, and languages have sometimes conflicted.

In recent decades, a major source of immigration to America's western and southwestern states has come from Mexico. In many cities in this region, Cinco de Mayo is a cause for celebration.

Similar to other cultural holidays honored in America, Cinco de Mayo is a day for those of Mexican descent [people with Mexican family or ancestors] to celebrate their history and pride.

In 2010, students of Mexican descent at a largely Hispanic California high

school wore symbols, clothing and the colors of the Mexican flag to school in celebration of Cinco de Mayo. Five Caucasian students responded, on the same day, by wearing shirts showing the American flag. Because there had been past Cinco de Mayo conflicts between Mexican American and Caucasian students, the principal told the students with the American flag shirts to either turn them inside out, or be sent home. All five of the students admitted to the principal that they had already encountered hostility from other students, and agreed they might be in danger.

Still, two students refused the principal's order and were sent home for the day, though they were not actually suspended. Similar demands were not made to students wearing the Mexican flag or its colors.

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