

Pickering v. Board of Education
391 U.S. 563, 88 S. Ct. 1731 (1968)

Identification of the Case (Brief Fact Summary)

A school science teacher, Marvin Pickering, wrote a letter to the local newspaper criticizing the school board proposal to increase school taxes for the betterment of the school athletic department instead of the school academics. The school board responded by firing Pickering stating that the letter was “detrimental to the efficient operation and administration of the schools.” Pickering brought suit against the school board alleging his letter was speech protected under the First Amendment. The lower court ruled in favor of the school board, the Supreme Court of Illinois affirmed. However, the ruling was overturned in the U.S. Supreme Court.

Action Sought

Pickering sought to have the letter declared free speech under the First Amendment and his termination reversed.

Facts of the Case

The Petitioner, Marvin Pickering, was fired after sending a letter to the Lockhead Herald that was critical of the school board’s recent attempt to increase taxes stating it was to pay for athletics instead of academics. The Petitioner brought the case to the Board of Education, the Circuit Court of Will County, and then to the Supreme Court of Illinois, all of which affirmed his dismissal. The U. S. Supreme Court; however, reversed the decision.

Question(s) to be Answered by the Court

Is the speech of an off-duty public employee protected under the First Amendment?

Answer(s) Given by the Court

The Supreme Court of the United States determined that public school employees are guaranteed First Amendment protections as long as the employees are not intentionally spreading falsehoods or defamatory statements with reckless disregard.

Reasons for those Answers

Thurgood Marshall wrote, “The problem in any case is to arrive at a balance between the interests of the [individual], as a citizen, in commenting on matters of public concern and the interests of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” (Marquette) The weight was on whether or not the right of the individual outweighed the protections guaranteed to the employer. It was determined that Pickering did not act with reckless disregard or knowingly spread falsehood to purposely damage any one person, the school board, or the administration as there was no personal relationship between Pickering and the aforementioned entities.

Significance of the Case

This case is often cited as a basis for employees’ right of free speech guaranteed by the First Amendment. It is also important to note that the case was concerned more with the ability of an employer to control the employee’s actions than it was about the First Amendment’s freedom of speech. However, the First Amendment limits the amount of control an employer has over their employee because the employee is still a citizen. *Pickering v. Board of Education* was used in determining *Connick v. Myers* where an employee solicited the support of her criticisms of superiors’ “policies and practices.” (Imber) In this case, the firing

of the employee, Myers, was upheld as Myers alluded to coercion in the workplace in the circulated questionnaire. As a result of these two cases, the courts have applied the Pickering Connick Test to determine whether or not a public employer has violated an employee's First Amendment's right to free speech.

The Pickering Connick test contains two parts:

1. Did the employee speak out on a larger public concern?
 - a. If not, the employer prevails.
 - b. If yes, the employee usually prevails.
2. The balancing prong is applied by determining whether the employee's free speech outweighs the "employer's interests in an efficient, disruptive-free workplace."
(Hudson)

Academic Pledge:

"I have neither given nor received help on this work, nor am I aware of any infraction of the Honor Code."