

Your Association at Work!

Pupils May Swap and Grade Schoolwork in Class, Court Says

“Correcting a classmate’s work can be as much a part of the assignment as taking the test itself,” wrote Supreme Court Justice Anthony M. Kennedy in a February 19 decision. “It is a way to teach material again in a new context, and it helps show students how to assist and respect fellow pupils.”

With these words, the Supreme Court unanimously upheld the practice of students swapping and grading papers in class.

At last summer’s NEA Representative Assembly, Association members adopted a resolution on the case, *Misapplication of Student Privacy Rights: The Representative Assembly expresses its strong opposition to the misapplication of student privacy rights as expressed in the ruling of the U.S. Court of Appeals for the Tenth Circuit in the case of Falvo vs. Owasso Independent School District which prohibits teachers from asking students to grade each others homework assignments, tests, and quizzes.*

As a result, NEA presented a strong argument for the practice in an amicus brief: “The grading practice at issue is widely used throughout the

United States because many teachers -- and their employing school districts -- have found it to be educationally beneficial. The District Court identified certain of these benefits, and concluded that proscription of the practice ‘may have a detrimental effect upon both teaching and learning...’”

NEA pointed out that the trial court said that if teachers are not allowed to have students grade one another’s homework and quizzes, and are required to do all such grading themselves, “students will receive their results after delay,” denying them valuable immediate feedback.

The case arose in 1998, when an Oklahoma mother, Kristja Falvo, sued her suburban Tulsa school district in federal court, seeking an end to peer grading at the school her three children attended. She said her son, a special education student being “mainstreamed” into regular classes, was especially embarrassed when other children learned his grades.

Falvo, whose legal effort was funded by the Rutherford Institute, a conservative legal organization, contended that a grade

once marked on a student’s paper is an “education record” covered by FERPA, the 1974 Family Educational Rights & Privacy Act, which says that student files “maintained” by school administrators may not be released without parents’ consent.

Justice Kennedy’s opinion noted that, at oral argument last November, Falvo’s attorney “seemed to agree that if a teacher in any of the thousands of covered classrooms in the nation puts a happy face, a gold star, or a disapproving remark on a classroom assignment, federal law does not allow other students to see it. We doubt Congress meant to intervene in this drastic fashion with traditional state functions.”

Compiled from the Baltimore Sun, Washington Post, NY Times, and the NEA amicus brief, March 2002



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