

2023 Teen Symposium on Social Media and Free Speech

Dear all:

We are excited to announce our next project: a **2023 Teen Symposium on Social Media and Free Speech**. We are hosting the symposium to promote intellectual debate and engagement with pending issues at the Supreme Court among high school students nationwide. We hope that experiences of high school students will bring a unique perspective to this discussion, particularly in light of the proliferation of new technologies that disproportionately shape the lives of younger Americans.

The 2023 Symposium will be centered around the pending cases *O'Connor-Ratcliff v. Garnier* (No. 22-324) and *Lindke v. Freed* (No. 22-611), as they raise important questions respecting the distinction between private and state action and First Amendment protection. In each matter, elected officials blocked critics on their personal social media to stop the barrages of negative comments being levied at their accounts. In response, the critics sued and claimed the officials had effectively censored their speech, thus violating their first amendment rights.

A current circuit split likely necessitated the Supreme Court's review. In *O'Connor-Ratcliff*, the 9th Circuit ruled that the social media block constituted state action. Meanwhile, the 6th Circuit reached the opposite conclusion in *Lindke*. This spring, certiorari was granted by the Supreme Court in the following questions for *O'Connor-Ratcliff* and *Lindke*, respectively:

“Whether a public official engages in state action subject to the First Amendment by blocking an individual from the official’s personal social-media account, when the official uses the account to feature their job and communicate about job-related matters with the public, but does not do so pursuant to any governmental authority or duty.”

“Whether a public official’s social media activity can constitute state action only if the official used the account to perform a governmental duty or under the authority of his or her office.”

The decision from these cases will have profound impacts on how members of the public relate to their elected officials via social media, especially as younger generations with greater use of social media become increasingly involved in politics. **Our symposium will seek to explore the issues presented in *O'Connor-Ratcliffe* and *Lindke*, in two separate panels:**

- 1. The first will concentrate on the legal questions posed by *Lindke* and *O'Connor-Ratcliffe*; what methods of interpretation ought to be used in deciding the case, how past precedents might come into play, what factors should be considered in the Court’s decision, and how the decision might be made.**

2. **The second panel will discuss the public policy implications of the decision, how it could affect politicians at the national, state, and local levels, the advantages and drawbacks to either outcome, and how policy might change as a result of the decision.**

Each panel will have 3-5 student panellists, and the discussion will be moderated by a law professor. Moderating professors will be announced shortly. Regardless of your previous writing experience, either with *Originalist Angles* or otherwise, this is a special opportunity to get a paper credentialed that is uniquely accessible to high school submissions.

Interested students should submit a **200-250 word proposal** detailing their thoughts on either the legal or public policy topics, including at least one question for further research or discussion.

Proposal Guidance: This proposal should be more than a cursory generalized explanation of what your full paper *will* do. Instead, proposals should cite specific precedent, historical examples, or other rationales for deciding the case in a particular case (or considerations that should animate the court's reasoning without necessarily taking a merits determination) and explain specifically how these sources can serve to answer the question (obviously room for longer analysis/explanation). Proposals, which can analyze the issue through any perspective, should be specific enough to allow for specific questioning during the panel discussion, and should allow for individualized feedback from the editors in advance preparation for the symposium.

These questions may serve as starting points, but we encourage maximum independence and creativity:

- How would a totality of the circumstances rule differ from the 6th Circuit's duty-or-authority test?
- How should the history of the passage of Section 1983 factor into this case?
- Does the *Hurley*-line of cases bear on this question?
- How could ruling for the government officials diminish effective political advocacy? Effective public administration? What examples could bear on the question?
- What does it mean to act “under color of law”
- Would ruling that this type of blocking violates the Constitution jeopardize the practice of public officials in registering certain things to their offices as opposed to their homes or personal contact for security reasons? What would be the public policy fallout?
- What are the benefits and drawbacks of social media usage being integrated into public functions?
- What are the implications for public universities banning certain student group accounts?

The proposals should be submitted through email to team@originalistangles.com by **September 20** for review by the editors, and the panellists will be chosen by **October 2**. Please note if you wish to be considered for the law or policy panel.

Allowing sufficient time for authors to ruminate on the issues, the specific symposium date will be scheduled at everyone's convenience/availability following the oral arguments in *O'Conor-Ratcliffe* and *Lindke*. Afterwards, based on feedback and questioning, writers will draft a full article (approximately 2,000 words) on the questions discussed.

Lastly, we would again like to thank our advisory board and the student writers who have made our latest issues possible. We hope you are excited for the upcoming symposium, and enjoy reading the second issue of *Originalist Angles*!

Sincerely,

Kevin Bizily and Maxwell Steinberg,
Originalist Angles Editors