

Activity: Examining Student Speech Rights

Background: The Supreme Court's 1969 ruling in *Tinker v. Des Moines* established a precedent for student rights that continues to shape legal battles today. This documentary explores the impact of *Tinker v. Des Moines* and the ongoing challenges to student speech in a digital age.

Objective: Analyze Supreme Court cases related to student expression.

True or False? Read the statements below and indicate whether they are true or false or you are not sure.	
The First Amendment of the U.S. Constitution protects the personal expression of public school students, even when the expression is controversial.	☐ True ☐ False ☐ Not sure
The First Amendment does not prevent public schools from punishing students for speech that is deemed disruptive or harmful to the learning environment.	☐ True ☐ False ☐ Not sure
Students have a First Amendment right to wear clothing that expresses their political or religious beliefs at school	☐ True ☐ False ☐ Not sure
Schools can punish students for speech that occurs outside of school property and outside of school hours.	☐ True ☐ False ☐ Not sure
Schools cannot punish students for speech that occurs on social media.	☐ True ☐ False ☐ Not sure

Utilize the Freedom Forum's Interactive Primer: Is Your Speech Protected by the First Amendment? to review what speech is protected by the First Amendment and what speech isn't. Fill out the chart below. should record what they learned, what they find interesting, and questions they have.			
3 things you learned:			
2 questions you have:			
1 thing you find interesting:			

Watch the Retro Report video “[How Tinker v. Des Moines Established Students’ Free Speech Rights](#)” ([Transcript](#)) and answer the following

What did Mary Beth Tinker want to express by wearing a black armband?	
Why did Tinker’s public school make a rule against students wearing black armbands?	
Tinker v. Des Moines (1969): What did the Supreme Court rule when it sided with the students?	
What did Brandi Levy do and why did her school punish her?	
Mahanoy Area School District v. B.L. (2021): What did the Supreme Court rule when it sided with the student?	
The Supreme Court protected student speech rights in both the Tinker and B.L. cases. What were the fundamental differences between these two cases? What kinds of student speech are now protected?	

Analyze landmark Supreme Court cases relating to student expression by completing the chart below.

Read the “Facts of the Case” section from Oyez’s [Tinker v. Des Moines Independent Community School District](#) (1969) webpage. Then, summarize it in your own words.

Summary:

Read the “Facts of the Case,” “Question,” and “Conclusion,” sections from Oyez’s [Bethel School District No. 403 v. Fraser](#) (1986) webpage. Then, answer the question:

How did Chief Justice Burger distinguish the speech in the Tinker case from Fraser’s speech at the school assembly?

Possible sentence frame: The symbolic speech in the Tinker case was _____ in nature whereas the student speech in the Fraser case was seen as _____.

Read the “Summary” and “Excerpt: Majority Opinion, Justice Byron White” sections from National Constitution Center’s [Hazelwood School District v. Kuhlmeier](#) (1988). Then answer the following.

In your own words, what is this case about?

How did the Supreme Court distinguish the expression in the Tinker case from the student expression in the Spectrum newspaper?

Possible sentence frames:

Mary Beth’s armband was _____ expression.

However, the Spectrum was _____ expression.

According to the Supreme Court, what are some examples of censorship that could be “reasonably related to legitimate pedagogical concerns?”

Read the “Facts of the Case,” “Question,” and “Conclusion,” sections from Oyez’s [Morse v. Frederick](#) (2007) webpage. Then, fill out the chart below.

In your own words, what took place with this case?

How did the Supreme Court distinguish the expression in the Tinker case from the student expression in the Morse case?

Self-Assessment: Indicate which of the following best describes your knowledge at this time:

- ☐ I still **do not know** what free speech/expression rights public school students have.
- ☐ I **know some** of the free speech/expression rights of public school students.
- ☐ I have a **deep understanding** of the free speech/expression rights of public school students.
- ☐ I am **able to explain to others** the free speech/expression rights of public school students.

Reflection:

1. Consider Emily Gold Waldman’s statement: “...part of the mission of schools should be to enable students to engage in... conversations in a productive way. We have a democracy, and so school is an important training ground for that.”
2. Answer the questions below.

What are some obstacles students have to overcome to engage in productive conversations in school?

In your K-12 school experience, in what ways has the school provided or not provided a training ground for democracy?