

## Day 4: Tinker v. Des Moines Independent Community School District

### Begin lesson

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Begin lesson

#### Teaching notes

Click the "Begin lesson" button to view this lesson. Teaching notes for each slide will appear in this box.

### Before the Lesson

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Before the Lesson

#### Teaching notes

# Anchor Text

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**United States Supreme Court**  
393 U.S. 503  
**TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT**  
Argued: Nov. 12, 1968 --- Decided: Feb. 24, 1969

MR. JUSTICE FORTAS delivered the opinion of the Court.

Petitioners John R. Tinker, 15 years old, and petitioners Christopher Eckhardt, 14 years old, attended high schools in Des Moines, Iowa. Petitioner Mary Beth Tinker, John's sister, was a 13-year-old student in junior high school.

In December 1965, a group of adults and students in Des Moines held a meeting at the Eckhardt home. The group determined to publicize their objections to the hostilities in Vietnam and their support for a truce by wearing black armbands during the holiday season and by fasting on December 16 and New Year's Eve. Petitioners and their parents had previously engaged in similar activities, and they decided to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. On December 14, 1965, they met and adopted a policy that any student wearing an armband to school would be asked to remove it, and if he refused he would be suspended until he returned without the armband. Petitioners were aware of the regulation that the school authorities adopted.

On December 14, Mary Beth and Christopher wore black armbands to their schools. John Tinker wore his armband the next day. They were all sent home and suspended from school until they would come back without their armbands. They did not return to school until after the planned period for wearing armbands had expired—that is, until after New Year's Day.

This complaint was filed in the United States District Court by petitioners, through their fathers, under § 1983 of Title 42 of the United States Code. It prayed for all relief appropriate to redress the violation of constitutional rights of the petitioners.

**Teaching notes**

Download and print copies of the anchor text for each student.

# Student Notes Sheet

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Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Student notes for: Tinker v. Des Moines Independent Community School District**

Dep. II

1. According to the imagery "strangle the free mind" used by Justice Fortas on page 3, what are the responsibilities of the Board of Education to its students?

2. Take note of the repetition of the word "freedom" in the first paragraph on page four. How does "freedom" contribute to the statement that "our history says that it is this sort of freedom from...this kind of oppression...that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in the relatively permissive, often provocative, society?"

3. How does the allusion to Sparta on page 3 contribute to the author's statement that "In our system, state sponsored schools may not be circles of traditionism?"

**Teaching notes**

- This guided notes sheet provides students with the text-dependent questions associated with this lesson, and relevant graphic organizers. You may modify these sheets as needed.
- During class, students can use these sheets to record their responses, notes, or ideas. Use the back to record responses to the focus question.
- Following class, collect student notes to use as a formative assessment.

# Getting Started

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## Getting Started

**Teaching notes**

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## Introduction 1 of 2

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**United States Supreme Court**  
**TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT**  
Argued November 12, 1968 — Decided December 23, 1969

Mrs. JUSTICE FORTAS delivered the opinion of the Court.

Petitioner John F. Tinker, 15 years old, and petitioners Christopher Eckhardt, 14 years old, attended high schools in Des Moines, Iowa. Petitioner Mary Beth Tinker, John's sister, was 11 years old at the time of the events in question.

In December 1965, a group of adults and students in Des Moines held a meeting at the Eckhardt home. The group determined to publicize their objectives to the headlines in "Tribune" and "Daily Iowan" newspapers by wearing black armbands during school hours and by fasting on December 14 and New Year's Eve. Petitioners and their parents had been advised by the school authorities that they were free to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. On December 14, 1965, they met and adopted a policy that any person wearing an armband to school would be asked to remove it, and if he refused he would be suspended and be removed from the school. This policy was adopted without the knowledge of the school authorities adopted.

On December 15, 1965, John and Christopher wore black armbands to their schools. John Tinker's mother arrived the next day. They were all sent home and suspended from school until they would come back without their armbands. They did not return to school until January 1, 1966, the day after New Year's Day.

This complaint was filed in the United States District Court by petitioners, through their attorney, under § 2050 of Title 42 of the United States Code. It prayed for an injunction restraining the respondent school officials and the respondent members of the board of education from suspending or expelling petitioners from school. It also prayed that the court conduct an extraordinary hearing. The District Court dismissed the complaint. A writ of certiorari was granted by the Supreme Court on April 1, 1968, and the case was argued on October 1, 1968. The Supreme Court issued its opinion on December 23, 1969.

Written by  
Supreme Court  
Justice Fortas

**Teaching notes**

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**Pacing:** 5 minutes

**Notes:**

- Hand out copies of the text and the Student Notes Sheet to each student.
- Tell students that you will reread the text closely as you ask them a series of questions.

■ Either as a class or in small groups, have students consider the questions, consulting the text for evidence.

## Introduction 2 of 2

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Name: \_\_\_\_\_ Date: \_\_\_\_\_

Student notes from Tinker v. Des Moines Independent Community School District  
Day 4

1. According to the answer, "strength the free mind" used by Justice Forte on page 3, what are the responsibilities of the Board of Education to its students?

2. This uses one of the meanings of the word "free" in the first paragraph on page four. What does "free" contribute to the sentence that "we hardly see that it is the sort of freedom breeding this kind of openness...that is the basis of our national strength and of the independence and vigor of Americans who grow up free in this relatively permissive, often expatriate society?"

3. How does the allusion to Sparta on page 7 contribute to the author's statement that "in our systems, state-operated schools may not be models of totalitarianism?"

As we explore the text we will be asking and answering questions.

We will find and keep track of evidence from the text to support our ideas about each question.

### Teaching notes

**Pacing:** 5 minutes

**Notes:**

- Hand out copies of the text and the Student Notes Sheet to each student.
- Tell students that you will reread the text closely as you ask them a series of questions.
- Either as a class or in small groups, have students consider the questions, consulting the text for evidence.

## Exploring the Text

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### Teaching notes

## Exploring the Text

# Supporting Question 1

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According to the imagery "strangle the free mind" used by Justice Fortas on page 3, what are the responsibilities of the Boards of Education to their students?

## Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.6

**Purpose:** This question requires the reader to determine how the author's point is strengthened through the use of imagery.

**Answer:** Justice Fortas argues that educational entities, such as schools, should protect constitutional freedoms, not destroy them. He states, "that they are educating the young for citizenship is reason for scrupulous protection of the constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes." By using strong language like "strangle the mind," Fortas is creating a vivid image for the reader with a word that connotes violence to emphasize how wrong this action is. Through imagery, the author strengthens his argument that educational entities are responsible for upholding the right to student free speech and expression.

### Look for students....

- Explaining the responsibilities of the Boards of Education to students
- Citing evidence from the text to support the response
- Explaining how imagery impacts the meaning of the text
- Connecting the imagery with the author's argument by noting how the connotation of the words emphasizes an idea

### Guiding questions and prompts:

- What does the author say is the responsibility of the Boards of Education to their students?
- What does "strangle the free mind" mean literally? Figuratively?
- How does the imagery "strangle the free mind" impact the meaning of that part of the text?
- How does the imagery strengthen the author's argument?

### Additional Notes:

- A glossary of rhetorical devices can be found on <http://literarydevices.net/rhetoric/>

## Supporting Question 2

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Take note of the repetition of the word "fear" in the first paragraph on page four. How does "fear" contribute to the statement that "our history says that it is this sort of hazardous freedom - this kind of openness - that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious, society"?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.6

**Purpose:** The reader will be able to better understand the author's point of view by examining the repetition of the word "fear" and its impact.

**Answer:** The word "fear" is repeated

to argue that the school authorities fear of disturbance is not protected constitutionally: "...based upon their fear of a disturbance from the wearing of the armbands. But, in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression...Any variation from the majority's opinion may inspire fear." Justice Fortas argues that testing our fears and engaging in controversial topics is the basis of our nation's strength and the independence and energy of Americans. Therefore, the repetition of the word "fear" contributes to Justice Fortas's argument that fear alone is not a substantial reason for prohibiting the protest; the school authorities, instead, should uphold the protest as being a right of an American citizen.

### Look for students....

- Discussing why the word "fear" was repeated in the ruling for emphasis
- Citing Justice Fortas's statement
- Connecting the repetition of the word "fear" with the impact Justice Fortas's argument

### Guiding questions and prompts:

- Why was the word "fear" repeated in this section?
- Explain Justice Fortas's statement into your own words.
- How does the repetition of the word "fear" contribute to the strength of Justice Fortas's argument?

## Supporting Question 3

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How does the allusion to Sparta on page 5 contribute to the author's statement that "in our system, state-operated schools may not be enclaves of totalitarianism"?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.6

**Purpose:** This question will deepen the reader's understanding of the author's point of view by closely reading and analyzing an allusion.

**Answer:** Sparta did not value

individualism; instead, the people were made to become ideal citizens through a shared and regimented education and training: "In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven barracks and entrusted their subsequent education and training to official guardians." This system was "approved by men of great genius," but is contrary to the U.S. Constitution as "it hardly will be affirmed that any legislature could impose such restrictions upon the people of a State without doing violence to both letter and spirit of the Constitution." Justice Fortas's argument is that schools cannot operate in a totalitarian form, controlling students completely, because this is counter to the ideals of a democratic society.

### Look for students....

- Explaining the approach to education in Spartan society and why Sparta does not align with American society
- Citing evidence like Justice Fortas's statement that supports the idea that Sparta's approach does not align with American principles.
- Reasoning how the idea presented in the allusion is contrary to the Constitution.

### Guiding questions and prompts:

- What is the Spartan approach to education? How is it different from American Constitutional principles?
- What does the following statement mean? "In order to submerge the individual and develop ideal citizens, Sparta assembled the males at seven barracks and entrusted their subsequent education and training to official guardians."?
- Connect the last statement to the following one. "It hardly will be affirmed that any legislature could impose such restrictions upon the people of a State without doing violence to both letter and spirit of the Constitution." what point is Justice Fortas making?
- How is the allusion to Sparta connected to Justice Fortas's opinion?

**Additional Notes:**

- The History of Spartan civilization can be found on  
<http://www.history.com/topics/ancient-history/sparta>
- Extension activity: Students can further research the way in which Sparta ruled its people.

## Supporting Question 4

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What is the meaning of the metaphor "marketplace of ideas" as stated on page 6? How does Justice Fortas use and refine the meaning of this phrase?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.4

**Purpose:** The reader will explore how the metaphor "marketplace of ideas" is used and refined by the author. In doing so, the reader will gain a deeper understanding of the author's point of view.

**Answer:** A metaphor is used to refer to the classroom as a "marketplace of ideas," meaning the classroom is where a free exchange of ideas should take place between students. The ruling states that "[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools." The ruling goes on to argue that "[t]he Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues, [rather] than through any kind of authoritative direction.'" Shelton v. Tucker places the highest value on students exchanging ideas with one another in pursuit of truth, which is a critical underpinning of democratic society.

Justice Fortas refines the definition of "marketplace of ideas" to support the ruling in "Tinker vs. Des. Moines." Fortas extends the principle by arguing, "A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during authorized hours." Fortas adds that students should engage in difficult discussions so long as the controversial topics in these exchanges are not a disturbance: "...he may express his opinions, even on controversial subjects like the conflict in Vietnam if he does so without 'materially and substantially interfering with the requirements of appropriate discipline in the operation of the school' and without colliding with the rights of others."

### Look for students....

- Explaining the meaning of the metaphor of the classroom as a "marketplace of ideas"
- Citing the school's responsibility toward its students regarding an exchange of ideas. citing Shelton v. Tucker as the basis for this point.
- Tracking how Justice Fortas refines the concept by adding "controversial subjects" and defining what disruption means as the ruling unfolds

- Citing the evidence Justice Fortas provides to add to the idea of the classroom as a "marketplace of ideas."

**Guiding questions and prompts:**

- What is the literal meaning of a "marketplace of ideas" ?
- What does the metaphor of the classroom as a "marketplace of ideas" mean?
- According to Shelton v. Tucker, what is the responsibility of the school to its students?
- How does Justice Fortas extend the concept of the classroom as a "marketplace of ideas"?

## Focus Question

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<h2>Focus Question</h2>	<p><b>Teaching notes</b></p>
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# Focus Question

Card 14 of 16

In "Tinker v. Des Moines Independent Community School District," how does Justice Fortas's use of rhetoric contribute to the power of the text?

## Teaching notes

**Pacing:** 10 minutes

**Standard:** RI.11-12.6

how these devices contribute to the author's point of view.

**Answer:** Justice Fortas establishes his point of view of the classroom as a "marketplace of ideas" throughout the text through the use of rhetorical devices. Through the metaphor that educational entities, such as schools, should not "strangle the free mind," the author argues that Boards of Education are responsible for encouraging the practice of free thought. Next, through the repetition of the word 'fear' he highlights the school authorities' motive behind the policy, arguing that testing our fears and engaging in controversial topics is the basis of our nation's strength and the independence and energy of Americans. Additionally, Justice Fortas makes an allusion to Sparta, a totalitarian system of rule supported by a controlled educational experience, to prove that schools should not be run in a Spartan fashion. Instead, the U.S. Constitution promotes an education of free thought in pursuit of truth. Lastly, Fortas uses a metaphor to compare the classroom to a "marketplace of ideas." Fortas argues that not only are schools responsible for protecting the constitutional freedoms of their students, but schools must also protect those freedoms outside of the classroom and allow the discussion of controversial topics, as long as the students engaging in the conversation do not cause a disturbance to the school or collide with the rights of others. Through the rhetorical devices of imagery, repetition, allusion, and metaphor, Justice Fortas strengthens his ruling for the petitioners as the school is responsible for protecting and encouraging the exercise of student First Amendment rights.

### Look for students....

- Discussing the metaphor "strangle the free mind" and how it adds to the author's argument
- Recognizing the effectiveness of repetition to strengthen an argument

- Connecting the allusion to Sparta with the argument
- Understanding how Justice Fortas refined the metaphor "marketplace of ideas" and how it contributed to his ruling
- Referring to rhetoric as a means for supporting an argument should be clear

## After the Lesson

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## After the Lesson

### Teaching notes

## Comprehension Skill Video

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**Core Lesson** Ask, "What is the effect of this device?"

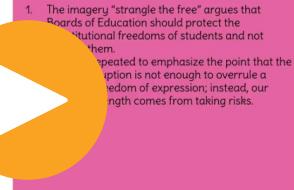
The District Court concluded that the action of the school authorities was reasonable because it was based upon their fear of a disturbance from the wearing of armbands. But, in our system undifferentiated fear or apprehension of disturbance is not enough to overcome the right of freedom of expression. A variation from the majority's opinion inspire fear. Our history says that sort of hazardous freedom - this kind of openness - that is the basis of our strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious, society. Page 4

**Effect of Rhetorical Devices**

1. The imagery "strangle the free" argues that Boards of Education should protect the educational freedoms of students and not them.

Repeated to emphasize the point that the option is not enough to overrule a freedom of expression; instead, our strength comes from taking risks.

Visit <https://haywood.lzill.co/r/48472>



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### Teaching notes

Use this video as an intervention tool for students who struggle to answer the focus question. The video uses a metacognitive approach to model the targeted reading comprehension skills.