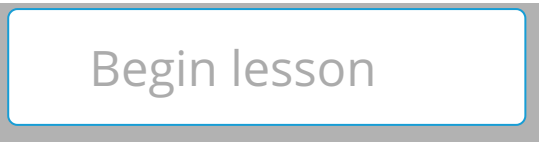


# Day 5: Tinker v. Des Moines Independent Community School District

---

## Begin lesson

Card 1 of 11

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

## Before the Lesson

Card 2 of 11

<b>Before the Lesson</b>	<b>Teaching notes</b>


# Anchor Text

Card 3 of 11

<p style="text-align: center;">United States Supreme Court 393 U.S. 503 <b>TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT</b> Argued: Nov. 12, 1968. --- Decided: Feb 24, 1969</p> <p>MR. JUSTICE FORTAS delivered the opinion of the Court.</p> <p>Petitioner John F. Tinker, 15 years old, and petitioner Christopher Eckhardt, 16 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.</p> <p>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.</p> <p>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.</p> <p>On December 16, 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.</p> <p>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 an injunction</p>	<h2>Teaching notes</h2> <p>Download and print copies of the anchor text for each student.</p>
---	---

# Student Notes Sheet

Card 4 of 11

<p style="text-align: center;"> LearnZillion</p> <p>Name: _____ Date: _____</p> <p>Student notes for: Tinker v. Des Moines Independent Community School District</p> <p>Day: 5</p> <p><b>Calculating question:</b> How does the legal reasoning provided in the United States Supreme Court ruling of <i>Tinker v. Des Moines</i> amount for a public student that is a person and constitutionally sound?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<h2>Teaching notes</h2> <ul style="list-style-type: none"><li>■ 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.</li><li>■ 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.</li></ul>
--	---

# Getting Started

Card 5 of 11

<h2>Getting Started</h2>	<h3>Teaching notes</h3>
--------------------------	-------------------------

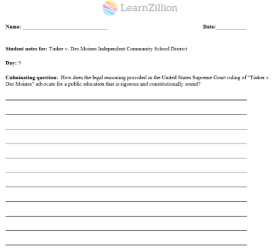
# Introduction 1 of 2

Card 6 of 11

<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p style="font-size: 8px; margin: 0;">United States Supreme Court 375 U.S. 503 <b>TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT</b> Argued Nov. 12, 1963 — Decided Feb. 24, 1968</p> <p style="font-size: 8px; margin: 0;">MR. JUSTICE FORTAS delivered the opinion of the Court.</p> <p style="font-size: 8px; margin: 0;">Petitioner John F. Tinker, 15 years old, and petitioner 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.</p> <p style="font-size: 8px; margin: 0;">In December 1965, a group of adults and students in Des Moines held a meeting at the public library. The group discussed the possible consequences to the teachers in providing and their support for a strike to wearing black armbands during the holiday season and by fasting on December 16 and New Year's Day. Petitioner's and their parents had previously engaged in similar activities, and they decided to participate in the program.</p> <p style="font-size: 8px; margin: 0;">The principals of the Des Moines schools became aware of the plan to wear armbands on December 15, 1965. They sent an advisory notice that evening warning an armband to be worn around the neck to receive it, and if the refusal to comply with the order without the armband, petitioner were aware of the regulations that the school authorities adopted.</p> <p style="font-size: 8px; margin: 0;">On December 16, 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.</p> <p style="font-size: 8px; margin: 0;">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 sought first an injunction restraining the respondent school officials and the respondent members of the board of directors of the school district from disciplining the petitioners, and sought monetary damages. After an unsuccessful hearing in the District Court, petitioner's appeal was granted. [1965] The constitutionality of the school authorities' action on the ground that it was necessary to order a general observance of their discipline. 222 F. Supp. 171. [1966] The court referred to his expressly declined to follow the Fifth Circuit's holding in a similar case that the wearing of armbands like the armbands caused no prohibited action.</p> </div> <p style="color: green; font-weight: bold; margin-top: 10px;">Written by Supreme Court Justice Fortas</p>	<h3>Teaching notes</h3> <p><b>Pacing:</b> 5 minutes</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>■ Hand out copies of the text and the Student Notes Sheet to each student.</li> <li>■ Tell students that they will be composing a written response to a question.</li> </ul> <p>■ Have students work independently on the writing assignment.</p>
--	---

# Introduction 2 of 2

Card 7 of 11

 <p>As we explore the text we will be asking and answering questions.</p> <p>We will find and keep track of evidence from the text to support our ideas about each question.</p>	<h3>Teaching notes</h3> <p><b>Pacing:</b> 5 minutes</p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>▪ Hand out copies of the text and the Student Notes Sheet to each student.</li><li>▪ Tell students that they will be composing a written response to a question.</li></ul> <ul style="list-style-type: none"><li>▪ Have students work independently on the writing assignment.</li></ul>
---	---

# Focus Question

Card 8 of 11

<h2>Focus Question</h2>	<h3>Teaching notes</h3>
-------------------------	-------------------------

## Focus Question

Card 9 of 11

How does the legal reasoning provided in the United States Supreme Court's ruling of "Tinker v. Des Moines Independent Community School District" advocate for a public education that is rigorous and constitutionally sound?

### Teaching notes

**Pacing:** 45 minutes

**Standard:** RI.11-12.8

**Purpose:** Students must understand why the Supreme Court ruled in favor of the petitioners and how that affects the public sector. Students will have to connect how the ruling is developed in the text, the legal

reasoning Justice Fortas provides to validate each part of the argument, and the constitutional principles that ground his reasoning. Ultimately, students will assess the strength of the argument and the impact of the ruling.

### Answer:

The legal reasoning in "Tinker v. Des Moines Independent Community School District" advocates for a public education that is rigorous and constitutionally sound by bolstering the final ruling that the petitioners' protest was not disruptive, therefore, it is protected under the students' constitutional First Amendment rights. The author develops the ruling by making an argument, providing solid reasoning for the argument, and then substantiating the argument with constitutional principles. The final ruling of "Tinker v. Des Moines Independent Community School District" sets a precedent that the public education system, as its legal and moral obligation, must protect the First Amendment rights of students, as long as student expression does not disrupt the learning environment.

The first argument Fortas makes is that students do not lose their constitutional rights on school grounds: "First Amendment rights... are available to teachers and students." He reasons that "there is here no evidence whatever of the petitioners' interference... with the schools' work or of collision with the rights of other students." Therefore, because the petitioners' protest did not interfere with the function of school, it is protected. Fortas interpreted the case of *West Virginia v. Barnette* which states that "The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures - Boards of Education not excepted." Fortas concludes that student protests are constitutionally protected as long as they do not create a disturbance; the petitioners' protest, as a result, should not have been prohibited by school authorities.

The next element of the argument is that a school's fear of disturbance is not a valid reason for prohibiting student expression: "in our system, undifferentiated fear or

apprehension of disturbance is not enough to overcome the right to freedom of expression." Justice Fortas reasons that the school's fear was unsubstantiated: "our independent examination of the record fails to yield evidence that the school authorities had reason to anticipate that the wearing of armbands would substantially interfere with the work of the school or impinge upon the rights of other students." As constitutional support, Fortas refers to the case of *Burnside v. Byars* which states that "where there is no finding and no showing that engaging in the forbidden conduct would 'materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,' the prohibition cannot be sustained." Therefore, Fortas proves that the fear of disturbance does not allow schools to prohibit student protest making the petitioners' silent and passive protest constitutional.

Lastly, the author argues that public schools do not have absolute authority over their students and must respect their rights: "School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect." Justice Fortas, in regards to the petitioners, states that the petitioner's rights were not respected as their non-disruptive protest was prohibited: "In the circumstances of the present case, the prohibition of the silent, passive, 'witness of the armbands,' as one of the children call it is no less offensive to the Constitution's guarantees." Fortas, once again, supports his argument through the case of *Burnside v. Byars* which states "In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views." As a result, the school authorities, who are responsible for protecting student rights, did not fulfill their legal obligation to the petitioners when they prohibited the non-disruptive protest of wearing armbands.

The final ruling of "Tinker v. Des Moines Independent Community School District" sets a precedent that the public education system must protect the First Amendment rights of students as long as student expression does not disrupt the learning environment. Justice Fortas provided legal reasoning through his argument, reasons, and constitutional support. In doing so, the ruling confirmed that the actions of the student petitioners are upheld by the constitution and their First Amendment rights. Justice Fortas never mentions the Vietnam War in his ruling, never passing judgment on the content of the protest; instead, he stays completely focused on how the constitution supports protest as a basic American right of free speech even in schools. This right is one that all students are entitled to as a part of the United States public education system, responsible for providing a rigorous and constitutionally sound education for its students.

**Look for students....**

- Identifying the final ruling that the petitioner's protest was constitutional because it was a form of pure speech that did not create a disturbance
- Connecting the argument that students do not lose their constitutional rights on school grounds, to the reasoning that the student protest did not interfere with the school environment, and to the constitutional principle of *West Virginia v. Barnette* that the citizen is protected from public schools
- Tracking the development of the argument that a fear of disturbance does not overcome student rights, the reasoning that the school authorities did not have valid reasons to fear a disturbance, and the constitutional principle of *Burnside v. Byars* that student expression cannot be prohibited unless there is an actual disruption
- Discussing how the argument is strengthened by the legal idea that public schools do not have absolute authority over students, the reasoning that the school prohibited a protest within the rights of the students, and the constitutional principle of *Burnside v. Byars*, which states that States must respect student constitutional rights
- Articulating the impact of this ruling on the public education system

## After the lesson

Card 10 of 11

<h1>After the lesson</h1>	<b>Teaching notes</b>

# Comprehension Skill Video

Card 11 of 11

<p><b>Core Lesson</b> Reread the text and your notes asking “How is the argument constructed across the text?”</p> <p><b>Notes from Close Reading</b></p> <ul style="list-style-type: none"><li>● The Supreme Court ruled in favor of the petitioners because their protest is protected under First Amendment rights and it does not cause a disturbance.</li><li>● Student's First Amendment rights are protected as long as they do not create a disturbance.</li><li>● The petitioner's protest was protected because it was silent and it is protected.</li><li>● Justice Fortas uses rhetoric to argue that school officials are responsible for allowing students to exchange their ideas, which is controversial in nature, with one another on school grounds, as long as it is not creating a disturbance.</li></ul> <p>LearnZillion</p> <p>Visit <a href="https://haywood.lzill.co/r/48479">https://haywood.lzill.co/r/48479</a></p>	<p><b>Teaching notes</b></p> <p>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.</p>
---	--