

Day 2: Tinker v. Des Moines Independent Community School District

Begin lesson

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	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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<p style="text-align: center;">United States Supreme Court 393 U.S. 503 TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT 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, 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>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 style="text-align: center;">Teaching notes</h2> <p style="text-align: center;">Download and print copies of the anchor text for each student.</p>
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Student Notes Sheet

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<p style="text-align: center;"></p> <p>Name: _____ Date: _____</p> <p>Student notes for: Tinker v. Des Moines Independent Community School District</p> <p>Day: 2</p> <p>1. On page 2, the court states, "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Outline and evaluate the reasoning provided in the cases of <i>Meyer v. Nebraska</i> and <i>Barnes v. Iowa</i> (page 2) and <i>West Virginia v. Barnette</i> (page 3). How do the rulings in these cases uphold Justice Fortas's argument?</p> <p>2. The court also addresses the "need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools." Outline and evaluate the reasoning provided in the cases of <i>CF Federal v. Dallas Independent School District</i> and <i>Pughey v. Schreiber</i> (page 3). How do the rulings uphold the constitutional rights of the school district?</p> <p>3. In the District Court's ruling of the case on page 4, the 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." How does the Supreme Court challenge the District Court's ruling? Be sure to analyze the information provided in footnote 3 and the context in which the footnote was provided.</p>	<h2 style="text-align: center;">Teaching notes</h2> <ul style="list-style-type: none"> ■ This guided notes sheet provides students with a list of the text-dependent questions to be explored in the lesson along with supporting graphic organizers, as necessary. During class students may use the sheets as directed by you to record their responses, notes, or ideas. These sheets may be modified to meet the needs of each learner. ■ Space is also provided on the back for recording responses to the focus question. ■ Following class, collect student notes and use as a formative assessment.
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Getting Started

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<h2 style="font-size: 2em;">Getting Started</h2>	<h3>Teaching notes</h3>
	Empty space for notes

Introduction 1 of 2

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<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p style="text-align: center; font-size: 0.8em;">United States Supreme Court 376 U.S. 519 TINKER v. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT Argued Nov. 12, 1963 — Decided Feb. 16, 1968</p> <p>MRS. JUSTICE FORTAS delivered the opinion of the Court.</p> <p>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>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 violation and their support for a strike to wearing black armbands during the holiday season and by fasting on December 14 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>The principals of the Des Moines schools became aware of the plan to wear armbands on December 14, 1965. They sent advance notice that any student wearing an armband to school would be asked to remove it, and if he refused the refusal would be considered sufficient to warrant suspension. Petitioner's were aware of the regulations 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 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 it sought monetary damages. After an unsuccessful hearing in the District Court, petitioner's sought summary judgment [505] the constitutionality of the school authorities' action in the present case is to be resolved in order to prevent disturbance of school discipline. 222 F.Supp. 971 (1964). The court referred to but expressly declined to follow the Fifth Circuit's holding in a similar case that wearing of armbands like the armbands caused by prohibited action.</p> </div> <div style="text-align: center; color: green; font-size: 1.2em; margin-top: 10px;"> <p>Written by Supreme Court Justice Fortas</p> </div>	<h3>Teaching notes</h3> <p>Pacing: 5 minutes</p> <p>Notes:</p> <ul style="list-style-type: none"> ■ 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.
	<ul style="list-style-type: none"> ■ 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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 <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>
<ul style="list-style-type: none">Either as a class or in small groups, have students consider the questions, consulting the text for evidence.	<p>Pacing: 5 minutes</p> <p>Notes:</p> <ul style="list-style-type: none">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.

Exploring the Text

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<h2>Exploring the Text</h2>	<h3>Teaching notes</h3>

Supporting Question 1

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On page 2, the court states, "First Amendment rights, applied in the light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." How do the rulings in the cases of Meyer v. Nebraska, Bartels v. Iowa (page 2), and West Virginia v. Barnette (page 3) uphold Justice Fortas's argument?

Teaching notes

Pacing: 5 minutes

Standard: RI.11-12.8

Purpose: Understanding how previous court decisions impact future rulings is crucial. The reader will see how a Supreme Court justice uses past decisions to support and help strengthen the final ruling.

Answer: Justice Fortas argues students and teachers do not lose their rights to freedom of speech when they walk onto school property. As support for his argument, he provides previous Supreme Court opinions. In the cases of Meyer v. Nebraska and Bartels v. Iowa, Justice McReynolds ruled that "the Due Process Clause of the Fourteenth Amendment prevents States from forbidding the teaching of a foreign language to young students" as it unconstitutionally interferes with the freedoms of the teacher, student, and parent. In the case of West Virginia v. Barnette, Justice Jackson ruled that "under the First Amendment, the student in public school may not be compelled to salute the flag" as it impinges upon the students' constitutional freedoms. Therefore, the past rulings that Justice Fortas references provide strength to his argument that students and teachers have full constitutional rights, even on school grounds.

Look for students....

- Paraphrasing the argument made by Justice Fortas
- Understanding and explaining the previous court rulings
- Connecting the previous rulings to Justice Fortas's argument

Guiding questions and prompts:

- Ask, "What is the argument that Justice Fortas is making when he states, 'It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate?' Paraphrase the argument into your own words."
- Ask, "In the cases of Meyer v. Nebraska and Bartels v. Iowa, what was Justice McReynolds's ruling concerning student rights on school property?"
- Ask, "In the case of West Virginia v. Barnette, what was Justice Jackson's ruling concerning student rights on school property?"

- Ask, "How do the previous Supreme Court rulings strengthen Justice Fortas's argument?"

Supporting Question 2

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The court also addresses the “need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools” where “students in the exercise of First Amendment rights collide with the rules of the school authorities.” How do the rulings of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer* (page 3) uphold the constitutional rights of the school district?

Teaching notes

Pacing: 5 minutes

Standard: RI.11-12.8

Purpose: This question builds on the analysis in the previous question, allowing the reader to further understand how a Supreme Court justice builds an argument.

Answer:

- Justice Fortas recognizes the need for schools to control conduct in schools and references cases in which the Supreme Court ruled in favor of the school districts. The cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer* are different from the present case because “[t]he problem posed by the present case does not relate to regulation of the length of skirts or the type of clothing, to hairstyle, or deportment.” The case allows school officials to regulate student clothing, hairstyles, and behavior as it can cause a disruption to the school environment. These rulings uphold the constitutional rights of the school district by allowing them to regulate student behavior if it will disrupt school discipline.

Look for students....

- Paraphrasing the argument made by Justice Fortas
- Understanding and explaining the previous court rulings
- Connecting the previous rulings to Justice Fortas's argument

Guiding questions and prompts:

- Ask, "What is the argument that Justice Fortas is making when he states that there is a 'need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools?' Paraphrase the argument into your own words."
- Ask, "In the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*, what was Justice McReynolds's ruling concerning student rights on school property?"
- Ask, "How do these previous Supreme Court rulings strengthen Justice Fortas's argument?"

Additional Notes:

- Extension Activity: Justice Fortas does not go into much detail about the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*. Therefore, students can research the case further to find more details on the ruling.

Supporting Question 3

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In the District Court's ruling of the case on page 4, the 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." How does the Supreme Court challenge the District Court's ruling and support its argument that "in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression"? Analyze the information provided in footnote 3 to further

information provided in the footnote of the text.

Answer: The Supreme Court challenged the District Court's ruling by arguing that prohibiting student expression based upon a fear of disturbance is not constitutional. Instead, the petitioner's protest must "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." Footnote 3 proves that the fear of disturbance was not substantial. The school authorities felt that the protest "may evolve into something which would be difficult to control" and that "the schools are no place for demonstrations. However, these fears are not constitutionally sound reasons to prohibit the petitioners' protest, as the protest did not create an actual disturbance.

Look for students....

- Identifying the reason why the Supreme Court did not uphold the District Court's ruling
- Citing information from footnote 3 to support the Supreme Court's ruling

Guiding questions and prompts:

- Ask, "On page 4, what quote did the Supreme Court use as support to argue against the District Court's ruling?"
- Ask, "Read footnote 3 carefully and paraphrase the testimony of the school authorities. How does the testimony in the footnote strengthen the Supreme Court's argument?"

Teaching notes

Pacing: 5 minutes

Standard: RI.11-12.1

Purpose: The goal of this question is to have the reader analyze the way in which the federal court overrules and argues against a district court. Students will learn to closely read the text while seeing the importance of

Supporting Question 4

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In footnote at the bottom of page 6, Justice Fortas references the case of Hammond v. South Carolina State College to strengthen his argument that "we do not confine the permissible exercise of First Amendment rights...to supervised and ordained discussion in a school classroom." How does Justice Fortas use the simile "school is not like a hospital or jail enclosure" to contribute to the discourse on student First Amendment rights?

Teaching notes

Pacing: 5 minutes

Standard: RI.11-12.6

Purpose: The readers are being asked to determine the author's point of view by analyzing a simile given in the text.

Answer:

- In the footnote at the bottom of page 6, a District judge who "had before him a case involving a meeting on campus of 300 students to express their view on school practices" ruled in favor of students who met on campus to protest. District Judge Hemphill ruled that schools are public places and not private property, and "it's dedication to specific uses does not imply that the constitutional rights of persons entitled to be there are gauged as if the premises were purely private property." The simile "'school is not like a hospital or jail enclosure" contributes to the discourse on student First Amendment rights by reinforcing the idea that students are entitled to their constitutional rights, even when on school grounds.

Look for students....

- Understanding the details of the court case
- Applying the simile to the definition of First Amendment rights
- Making connections between the court cases with the simile

Guiding questions and prompts:

- Say, "Identify the conflict that existed in the case of Hammond v. South Carolina State College."
- Ask, "Who did District Judge Hemphill rule in favor of in the case of Hammond v. South Carolina State College?"
- Ask, "What argument was being made with the simile "school is not like a hospital or jail enclosure"?"
- Ask, "How does this simile strengthen Justice Fortas's argument on student First Amendment rights?"

Additional Notes:

- Extension Activity: Many details about the case of Hammond v. South Carolina State College are not provided. Therefore, students can research the case further to find the details behind the ruling.

Focus Question

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<h1>Focus Question</h1>	Teaching notes

Focus Question

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How are First Amendment rights defined and refined over the course of the text to strengthen Justice Fortas's ruling?

Teaching notes

Pacing: 20 minutes

Standard: RI.11-12.4

Purpose: This focus question will deepen the reader's understanding of First Amendment rights, the amendment that is at the core of the conflict. The court ruling outlines situations in which students exercise

First Amendment rights that conflict with the rules of a school. The reader will look at each unique ruling and how it contributes to Justice Fortas's final ruling in *Tinker v. Des Moines*, a ruling that ultimately adds to the definition of student First Amendment rights in a school setting.

Answer: Justice Fortas defines and refines First Amendment rights over the course of the text to strengthen the court's ruling by clarifying "First Amendment" in the context of this case. First, he argues that students do not lose their constitutional rights when on school property. Students, however, cannot exercise their First Amendment rights if doing so disrupts the learning environment of that school. The District Court ruled in favor of the school authorities because they acted upon a fear of disturbance from the wearing of armbands; however, the Supreme Court said that a fear of disturbance is not a sufficient argument to overrule student constitutional rights. Lastly, the rights of students are not just confined to a supervised classroom, but available on all settings of the school. Therefore, the ruling in favor of the petitioners was strengthened because the students had every right to protest as it did not cause a disturbance.

Look for students....

- Defining First Amendment Rights
- Tracing how Justice Fortas refined the definition of First Amendment rights throughout the text

Additional Notes:

- This text will be difficult for struggling learners or ELL students, as it is very dense and has complex ideas. Use the comprehension skill videos throughout the lessons and allow them to discuss the text in groups before giving answers to the whole class.
- While discussing the supporting questions throughout the day is critical to ensure that all students are grasping the most critical ideas, make sure that they leave the classroom

with a written product based off this central question. On the student notes sheet, there is space for students to compose their final thoughts in answer to this question at the end of the class.

After the Lesson

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<h1>After the Lesson</h1>	Teaching notes

Comprehension Skill Video

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 <p>Core Lesson Ask, "How is the meaning of the term refined across the text?"</p> <p>Visit https://haywood.lzill.co/r/44085</p>	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.