

# Day 3: 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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### Teaching notes

## Anchor Text

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### 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

Day 3

1. In the cases of *Barnette v. Byron* (page 2), what role did spectators play in the ruling? Be sure to cite strong textual evidence to support your analysis of the text.

2. Repeat the second paragraph on page 2. From the information provided, what is the significance of "spectators in walking 'up and down'?" Be sure to cite strong textual evidence to support your analysis of the text.

3. The author's point "to make about primary First Amendment rights also to 'speak open'" within the cases of *Cl. F. Ford v. Dallas Independent School District* and *Pugliese v. Baltimore* on page 3. What was the message provided in the ruling that expresses and describes the author's point as a form of "speak open"?

## Teaching notes

- This guided notes sheet provides students with a list of the text-dependent questions to be explored in the lesson.
- During class, students may use the sheets 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.

# Getting Started

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Getting Started

## Teaching notes

# Introduction 1 of 2

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Student Notes Sheet

WRITING BY SUPREME COURT JUSTICE FORTAS

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## 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.

# Introduction 2 of 2

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

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

Day 3

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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

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## Exploring the Text

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

## Supporting Question 1

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<p>In the case of <i>Burnside v. Byars</i> (page 2), what role did symbolism play in the ruling? Be sure to cite strong textual evidence to support your analysis of the text.</p>	<b>Teaching notes</b>
	<p><b>Pacing:</b> 5 minutes</p> <p><b>Standard:</b> RI.11-12.1</p> <p><b>Purpose:</b> The purpose of this question is to have the reader identify the role that symbolism played in a previous ruling on student First Amendment rights. This information is a key component in understanding the constitutionality of the petitioners' protest.</p> <p><b>Answer:</b> In the case of <i>Burnside v. Byars</i>, the court stated that "the wearing of symbols like the armbands cannot be prohibited unless it 'materially and substantially interfere[s] with the requirements of appropriate discipline in the operation of the school.'" Therefore, students can exercise their freedom of speech through the use of symbols, if it does not interfere with school discipline.</p> <ul style="list-style-type: none"> <li>▪ Understanding the constitutionality of symbols as forms of expression</li> <li>▪ Identifying symbols as a form of expression cannot interfere with school discipline to be considered constitutional</li> <li>▪ Providing cited information from the text</li> </ul> <p><b>Guiding questions and prompts:</b></p> <ul style="list-style-type: none"> <li>▪ In the case of <i>Burnside v. Byars</i>, what was the ruling on symbols as a form of expression?</li> <li>▪ Symbols as a form of expression can only be prohibited by the school under what circumstance?</li> </ul>

## Supporting Question 2

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Reread the second paragraph on page 2. From the information provided, what is the significance of symbolism in defining "pure speech"? Be sure to cite strong textual evidence to support your analysis of the text.

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.1

**Purpose:** The purpose of this question is for the reader to determine the basic definition of the term "pure speech", which involves symbolism. This definition is important in determining the constitutionality of student expression when considered a form of pure speech.

**Answer:** In similar cases in the past, the court ruled that actions, such the petitioners' wearing an armband as a form of expression is "the type of symbolic act that is within the Free Speech Clause of the First Amendment." This symbolic form of expression is considered a form of "pure speech" because it was "entirely divorced from actually or potentially disruptive conduct by those participating in it."

#### Look for students....

- Recognizing that pure speech can be a symbolic act
- Identifying that pure speech must not create disruption
- Understanding that pure speech is protected under the First Amendment
- Providing cited information from the text

#### Guiding questions and prompts:

- Why, at the District Court level, is the wearing of armbands constitutionally protected?
- Why was the wearing of armbands considered an example of pure speech?

#### Additional Notes:

- Information on Constitutional amendments: <http://www.archives.gov/federal-register/constitution/>

## Supporting Question 3

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The petitioners' protest "involves direct, primary First Amendment rights akin to 'pure speech'" unlike the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer* on page 3. What was the reasoning provided in the ruling that separates and identifies the petitioner's protest as a form of "pure speech"?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.8

**Purpose:** This question will allow the reader to outline the difference between forms of expression that are constitutionally permitted on school grounds and forms of expression that are not. The reader will need this understanding to better comprehend the Supreme Court's final ruling.

**Answer:** Unlike the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*, the petitioners' protest in *Tinker v. Des Moines* is a form of pure speech because "the wearing of an armband for the purpose of expressing certain views is the type of symbolic act that is within the Free Speech Clause of the First Amendment" and "the wearing of armbands in the circumstances of this case was entirely divorced from actually or potentially disruptive conduct by those participating in it. Therefore, because protest was silent and passive and it did not interfere with the school's work or intrude on the rights of other students, "it was closely akin to 'pure speech'."

### Look for students....

- Understanding that the petitioners' actions were considered a form of pure speech, unlike the students in the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*.
- Identifying that the petitioners' protest is pure speech because it was silent and passive
- Identifying that the petitioners' protest is pure speech because it did not interfere with the school's work or intrude on the rights of other students

### Guiding questions and prompts:

- How are the petitioner's actions different from that of the students in the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*?
- How are the petitioners expression of opinion described by the Supreme Court?
- According to the ruling, what were the results of the protest on the school and other students, defining the protest as a form of pure speech?

### Additional Notes:

- The text does not provide any additional information on the cases of *Cf. Ferrell v. Dallas Independent School District* and *Pugsley v. Sellmeyer*. Therefore, the teacher or students can further research the cases and why student dress and grooming are not considered forms of "pure speech."
- This article addresses the issue of student dress and grooming as a form of expression:  
<http://www.nationalforum.com/Electronic%20Journal%20Volumes/Lunenburg,%20Fred%20C.%20Can%20Schools%20Regulate%20Stude>

## Supporting Question 4

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On page 5, how does the role of a symbol further strengthen the court's rule in favor of the petitioners?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.6

**Purpose:** The reader will see the effectiveness of symbolism in the Supreme Court's ruling in favor of the petitioners.

**Answer:** The court found that the school authorities did not prohibit all symbols of controversial significance. In the past, "students in some of the school wore buttons relating to national political campaigns, and some even wore the Iron Cross,

traditionally a symbol of Nazism." Although students have worn controversial symbols in the past, the school chose to single out the wearing of armbands for prohibition. The court found that prohibiting one form of symbolic expression is not constitutional stating "clearly, the prohibition of expression of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible."

#### Look for students...

- Recognizing that the school authorities did not prohibit symbols similar to the wearing of armbands
- Identifying the examples of students who also wore symbolic forms of expression
- Understanding that prohibiting the wearing of armbands when other forms were overlooked is not constitutional
- Understanding the reasoning behind the Supreme Court's argument

#### Guiding questions and prompts:

- Why was the prohibition of the petitioners' armbands unfair?
- What were the other forms of controversial and symbolic expression allowed in the past by the school?
- Why was the prohibition of the armbands considered unconstitutional?

## Focus Question

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Focus Question

### Teaching notes

## Focus Question

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How do the ideas of symbolism and “pure speech” interact over the course of the text to support the constitutionality of the petitioners’ protest?

### Teaching notes

**Pacing:** 5 minutes

**Standard:** RI.11-12.2

**Purpose:** In the case of Tinker v. Des Moines, the constitutionality of the petitioners’ protest is supported by the interaction of two complex ideas: symbolism and “pure speech.”

First, Justice Fortas identifies the petitioners’ actions as being a symbolic act. The ruling references the case of Burnside v. Byars which stated that the “the wearing of symbols like the armbands cannot be prohibited unless it ‘materially and substantially interfere[s] with the requirements of appropriate discipline in the operation of the school.’”

The complex idea of symbolism is then tied into the definition of “pure speech,” a form of symbolic expression “entirely divorced from actually or potentially disruptive conduct by those participating in it.” The case Cf. Ferrell v. Dallas Independent School District and Pugsley v. Sellmeyer is referenced as an example of behavior that is not considered “pure speech.” Student clothing, hair style, and behavior are deemed potentially disruptive to the learning environment of the school. The petitioner’s protest was a form of “pure speech” since it did not create a disturbance.

The complex ideas of symbolism and “pure speech” interacted with one another throughout the text to argue that if an expression is a silent, passive act that does not create a disruption to the school environment, then the expression is a symbolic act of “pure speech” that is constitutionally protected.

#### Look for students....

- Identifying the role of symbolism in the ruling of Burnside v. Byars
- Defining “pure speech”
- Explaining why the petitioners’ protest is different from the cases of Cf. Ferrell v. Dallas Independent School District and Pugsley v. Sellmeyer
- Summarizing the final ruling that includes the concepts of symbolism and “pure speech”

## After the Lesson

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### After the Lesson

### Teaching notes

## Comprehension Skill Video

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**Core Lesson** Ask, “How do these ideas interact across the text?”

Symbol	Pure Speech
The wearing of a symbol is constitutionally protected.	The problem posed by the present case does not relate to the regulation of the content of speech or the type of clothing, hair style, or appearance worn by students. It does not concern disruptive action or even group action. Our problem involves direct and immediate rights akin to those of school officials themselves and brought about for a silent, passive opinion, unaccompanied by any disturbance on the part of students. Accordingly, this case does not reach or arise from intrusions upon the rights of other students.

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Visit <https://haywood.lzill.co/r/44099>

### 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.

