

# Supreme Court Case: Tinker v. Des Moines Independent Community School Dist.

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Mary Beth Tinker and her brother, John, display two black armbands, the objects of the U.S. Supreme Court's agreement to hear arguments on how far public schools may go in limiting the wearing of political symbols. The children, both students at North High School, were suspended from classes along with three other students for wearing the bands to mourn the Vietnam War dead. Photo: Bettmann via Getty Images

*Tinker v. Des Moines Independent Community School District* was a Supreme Court case that was decided on February 24, 1969. In a ruling of 7–2, the court established the free speech and political rights of students in school settings. On the basis of the majority decision, school officials have limited authority to regulate student expression. To do so, they must prove one of two things. They must show that the student expression would interfere with the operations of the school or that it would invade the rights of others. When school officials can support predictions of disruption, they can regulate student expression.

Under U.S. law, schools are considered limited public spaces. As such, students have fewer rights in schools than they do on public streets. In schools, student free-speech rights must be balanced against the obligations of school officials. These include the responsibilities to protect student safety and to deliver a quality education. In general, student free-speech rights extend only to

expressions of a political, economic or social nature that are not part of a school program. To this end, school officials have the authority to regulate student writing in school newspapers, for example. They have far less authority to regulate student discussions in the cafeteria. However, school officials can ban some forms of student expression that are crude or inappropriate. Officials do not have to show that such speech is disruptive since it has little or no educational value.

## **Background**

On December 16, 1965, two students in Iowa wore black armbands to school in protest against the Vietnam War. One student was 13-year-old Mary Beth Tinker. The other was 16-year-old Christopher Eckhardt. The following day, Mary Beth's older brother John wore an armband, too. School officials suspended the students after they refused to remove their armbands. The protests followed a meeting at the Eckhardt house, where the parents of the students discussed ways to show that they did not support the Vietnam War.

On learning of the plan to protest the war, the principals of the Des Moines schools held a meeting. They created a policy specifically prohibiting the wearing of armbands. The new rule said that students who wore armbands in protest against the war would be subject to suspension and could return only after agreeing not to wear the armbands. The three students were suspended from school and did not return until after New Year's Day. The parents of the students filed a lawsuit. They requested a court order against the school board to prevent officials from punishing the students.

The petitioners argued that wearing the armbands in school was within the students' constitutional rights to free speech. The court disagreed and dismissed the case. It ruled that the board operated within its rights in suspending the students. On further review, the Eighth Circuit Court of Appeals upheld the ruling in 1967. The request for an additional review was granted by the U.S. Supreme Court in 1968.

## **Majority Opinion**

The question presented to the U.S. Supreme Court concerned the First Amendment and the Fourteenth Amendment to the U.S. Constitution. It asked whether these amendments allowed school officials to restrict students from wearing symbols of political expression in school when the symbols are not "disruptive." The petitioners argued that the students' wearing of the armbands was protected by the First Amendment, which guarantees the right to free speech. They argued that it was also protected by the Fourteenth Amendment, which guarantees equal protection to all persons under the law. The respondents countered that officials were within their rights to regulate student expression. They argued that regulations were necessary to prevent disruptions in the classroom.

The Supreme Court's majority opinion was written by Justice Abe Fortas. He penned the famous line that neither teachers nor students "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Fortas wrote that the wearing of armbands was akin to "pure speech" and was therefore protected by the Constitution. He added that "undifferentiated fear" of disturbance was not enough to ban student expression. For the school to be justified in banning the armbands, it would need to show that such student expression would interfere with the