Tinker v. Des Moines / The Student Voice Editorial Staff Reacts—Answer Key

Directions:

The Supreme Court of the United States has just issued its ruling in the case of *Tinker v. Des Moines*. You are an editor for *The Student Voice,* your school newspaper. You believe that students in your school should understand the Court's decision on the issue of symbolic student speech. Therefore, you decide to dedicate an issue of *The Student Voice* to addressing this topic.

1. After soliciting editorials from the student body, your job is to choose two editorials to print from the four below by determining the accuracy of their information. One editorial should explain and support the Court's ruling and the other should explain how the Court "got it wrong."
2. Answer the following questions for each editorial to help you decide:
   - Does this editorial support or attack the Court's ruling in *Tinker*?
   - What does the author think the Court's ruling means?
   - Compare the author's understanding of the Court's ruling with the majority and dissenting opinions. Is the author providing an accurate explanation of the Court's decision? Why or why not?
3. Answer the **Questions to Consider** (page 3).

Editorial #1: "Power to the People!"

Last week, the Supreme Court of the United States (a.k.a. "The Court of Last Resort") finally got it right in the case of *Tinker v. Des Moines*. In this case, involving students' protests against American involvement in the Vietnam War, the Court at last realized that school officials couldn't tell students what to do. The Court, in its ruling, basically stated that, since schools are supported by the public's tax money, school officials are actually the employees of students and their parents. Therefore, as employees, school officials cannot force either students or their parents to "behave" and "follow school rules" without violating the First Amendment of the Constitution. When acknowledging that both middle and high school students could wear black armbands to advertise their opinion on American foreign policy, the Court agreed that students have virtually limitless rights to protest anything they don't like, even if the protests upset a few other students or teachers.

Does this editorial support or attack the Court's ruling in *Tinker*?
This editorial supports the Court's ruling in Tinker.

What does the author think the Court's ruling means?
The author thinks the Court's ruling means that students' rights are unlimited even if their actions violate school rules.

Is the author providing an accurate explanation of the Court's decision? Why or why not?
The author has not given an accurate explanation of the Court's decision. In the majority opinion, the Court said that school administrators might limit students' free speech if the conduct causes "material and substantial interference with schoolwork or discipline." In the dissenting opinion, Justice Black says, "It is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases . . ." He, too, would disagree with this editorial.

Editorial #2: "Teaching the Values of Democracy"

Last week the Supreme Court of the United States restated, through the case of *Tinker v. Des Moines,* that freedom of speech means exactly that. The Court's interpretation of the First Amendment to the Constitution was right on the mark in *Tinker,* it ruled: "The 14th Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted . . . . [As] they are educating the young for citizenship [they must offer] scrupulous protection of Constitutional freedoms of the individual . . . [in order] not to . . . teach youth to discount important principles of our government as mere platitudes . . . . " As much as teachers might want their classrooms to be fully controlled and directed by them, the Court has taught an important lesson to all American educators: students are citizens too, and the best way to teach citizenship is to recognize and encourage it.

Does this editorial support or attack the Court's ruling in *Tinker*?
This editorial supports the Court's ruling in *Tinker*.

What does the author think the Court's ruling means?
The author thinks the Court's ruling means that students have the same free speech rights as adults. If we want students to grow up to be good citizens, we should recognize those rights.

Is the author providing an accurate explanation of the Court's decision? Why or why not?
What the author says about the majority opinion is mostly correct, but he gives an incomplete picture. The Court did say that there are times when school officials can restrict students' speech, for instance, when that speech causes "material and substantial interference with schoolwork or discipline." In the minority opinion, Justice Black mentions that adults' free speech rights are regulated as to the time, place and manner. Students are subject to these same restrictions, which the author has not mentioned.

Editorial #3: "Apple Anyone?"

Imagine this. A student in social studies class decides to make public the fact that he hates women. During a debate on the role of women in the military, he "goes off," calling women (in general) obscene names. Enraged, he begins to recount the biblical tale of Adam and Eve and says that sin in the world exists only because of Eve's faults. Furthermore, he says, because woman brought sin into the world, women should be removed for reasons of world purification. Can he do this?

According to the Court's recent ruling in the case of *Tinker v. Des Moines*, the answer is "yes!" If the student attended an all-male high school and no evidence existed that his statements might "substantially interfere with the work of the school or impinge upon the rights of other students," the student is free to spout such nonsense. In this ruling, the Court said that, "without evidence that a student's political comments might lead to imminent disruption" he might express himself as he wishes. Absurd, isn't it?

Oh, by the way: apple, anyone?

Does this editorial support or attack the Court's ruling in *Tinker*?
This editorial attacks the Court's ruling in *Tinker*.

What does the author think the Court's ruling means?
The author thinks the Court's ruling means that students can say anything they want as long as their words do not substantially interfere with the work of the school or impinge upon the rights of other students.

Is the author providing an accurate explanation of the Court's decision? Why or why not?
The author has not given an accurate picture of the majority opinion. The author does not mention the part of the Court's ruling that says speech that causes "material and substantial interference with schoolwork or discipline" is not protected. The example given would probably not be protected speech because the speaker used profanity in violation of school rules. The author does not mention anything about the dissenting opinion.

Editorial #4: "Free Speech is a Myth"

Justice Black, in his minority opinion for *Tinker v. Des Moines*, says, "It is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he pleases." Unfortunately for Justice Black, the majority of the Court disagreed. In a decision upholding the right of students to wear black armbands protesting American involvement in the Vietnam War, the Court held that without evidence that a student's political comments might lead to imminent disruption, they can express themselves as they wish. The problem with the Court's reasoning in this case is that there was evidence that the armbands caused disruption in school. "[D]etailed

testimony by some of them shows their armbands caused comments, warnings by other students, the poking of fun at them, and a warning by an older football player that other, non-protesting students had better let them alone." This is clearly a case of imminent disruption and should therefore be prohibited by schools in order to ensure a safe and protective environment for students. Otherwise, what speech will be considered disruptive enough?

Does this editorial support or attack the Court's ruling in *Tinker*?
This editorial attacks the Court's ruling in *Tinker*.

What does the author think the Court's ruling means?
The author thinks the Court's ruling means that students can express any political opinion as long as their words do not cause an imminent disruption.

Is the author providing an accurate explanation of the Court's decision? Why or why not?
The author has given an accurate explanation of both the majority and dissenting opinions. The author agrees with the dissent that "It is a myth to say that any person has a constitutional right to say what he pleases, where he pleases, and when he please" and takes issue with whether or not the armbands caused a disruption in school. The author thinks that wearing them was, in fact, disruptive, as evidenced by the comments and warnings that were exchanged.

Questions to Consider

1. Which two editorials should be printed and why?
   Support — While #2 paints an incomplete picture, it is better than #1, which is inaccurate.

   Attack — #4 clearly understands both the majority and dissenting opinions. While #3 gives an example that is relevant to the students and would be easily understood by them, it is not totally accurate.
2. Which two editorials will you choose not to print and why?
   Student answers will vary.
3. Which editorial is closest to your reaction to the decision?
   Student answers will vary.

