

***Tinker v. Des Moines* / Background •—Answer Key**

As you read the background summary of the case below, look for the **important vocabulary terms**. You can find definitions for these terms on the separate vocabulary handout.

John and Mary Beth Tinker and Christopher Eckhardt attended public school in Des Moines, Iowa in 1965. Their school did not allow students to wear black armbands to **protest** the Vietnam War. However, the students decided to wear armbands to school anyway. John, Mary Beth, and Christopher were suspended from school until they agreed to remove the armbands.

The Tinkers and Eckhardt sued the school district in the U.S. District Court. The families believed that the Des Moines school district **violated** the students' right to free speech under the First Amendment to the U.S. Constitution. Even though the students were not speaking with their voices, they believed that wearing armbands was like speaking. This is called **symbolic speech**.

The District Court sided with the school officials. The Court said that wearing the armbands could **disrupt** learning at the school. Learning without disruption was more important than the free speech of the students.

The Tinkers and Eckhardts **appealed** their case to the next level of courts, the U.S. Court of Appeals for the Eighth Circuit, but the Circuit Court agreed with the District Court. The families then appealed their case to the Supreme Court of the United States. The Court had to answer this basic question: Does the **constitutional** right of free speech protect the symbolic speech of public school students?

In 1968, the Supreme Court of the United States agreed to hear the case of *Tinker v. Des Moines*. They issued their decision in 1969.

Questions to Consider

1. Do you think that the school policy banning armbands was fair? Why or why not?
Student answers will vary. Some students will argue that it was fair because in certain localities, schools place restrictions on the way students dress. The armbands could be viewed as an article of clothing that could be subject to these rules. Others will argue that the policy was unfair in that it put unnecessary or discriminatory restrictions on students. Unlike other articles of clothing, like bandanas, which can be indicative of gang activity, and skimpy clothing, which can be provocative, the armbands did not disrupt or threaten to disrupt the school.
2. The students knew they would be suspended if they wore armbands to school. They decided to wear the armbands anyway. Why do you think they did this?

They ignored the rule because they thought it was unfair. They viewed wearing the armbands as a way of making expressing their objections to the war, and they believed that they would not harm any other students by doing so.

3. The First Amendment says, “Congress shall make no law . . . abridging the freedom of speech.” Do you think that actions, like wearing an armband to protest, are the same as speech? Why or why not?

The Supreme Court of the United States has ruled that certain actions have the same protection as verbal speech because actions can be a way of expressing an opinion. Some students will argue that these reasons are valid on the grounds that, at times, an action is the most effective way to express an opinion—sometimes these actions can make a point more forcefully than words can. As long as these actions do not violate the law or harm or threaten to harm anyone else, they should be allowed. Others will say that they are invalid on the grounds that the Constitution protects free speech and not free action. The government cannot mandate that people feel a certain way or speak a certain way but can regulate their behavior. Actions fall into the category of behavior.

4. Imagine that students in your school wanted to protest the smoking rule. Do you think they should be allowed to wear t-shirts that read “Up with ‘Butts!’”? Why or why not?

Student answers will vary. Some students will argue that students should legally be allowed to protest by wearing T-shirts that read "Up with 'Butts!'" because the message on the T-shirts is a form of speech or expression that is protected by the First Amendment. Others will say that this message is offensive, encourages illegal behavior, and could be disruptive to the learning environment, so it should not be allowed.