

Lesson Title: The Long Life of the U.S. Constitution

Handout #5: Student Rights Cases

*NOTE: Delete suggested answers to questions below before distributing to students.

Tinker v. Des Moines Independent School District (1969)

Issue: Freedom of Speech at School

Bottom Line: You Have the Right To Express Yourself—Up to a Point

Background

In December 1965, John and Mary Beth Tinker and their friend Chris Eckhardt wore black armbands to school in Des Moines, Iowa, to protest the war in Vietnam. School officials told them to remove the armbands, and when they refused, they were suspended (John, 15, from North High; Mary Beth, 13, from Warren Harding Junior High; and Chris, 16, from Roosevelt High). With their parents, they sued the school district, claiming a violation of their First Amendment right of freedom of speech.

Ruling

The Supreme Court sided with the students. Students and teachers don't "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," the Court said. The Court did not, however, grant students an unlimited right to self-expression. It said First Amendment guarantees must be balanced against a school's need to keep order: As long as an act of expression doesn't disrupt classwork or school activities or invade the rights of others, it's acceptable. Regarding the students in this case, "their deviation consisted only in wearing on their sleeve a band of black cloth," the Court said. "They caused discussion outside of the classrooms, but no interference with work and no disorder."

Impact

Lower courts have relied on *Tinker* in rulings on school attire, allowing nose rings and dyed hair, for example, but disallowing a T-shirt displaying a Confederate flag. In 1986, applying the "disruption test" from the *Tinker* case, the Supreme Court upheld the suspension of Matthew Fraser, a 17-year-old senior at Bethel High School in Tacoma, Washington, who gave a school speech containing sexual innuendos (*Bethel School District v. Fraser*). The Court said, "it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse."

More recently, the Supreme Court weighed in on another student expression case, *Morse v. Frederick*, ruling that schools can limit student speech that seems to advocate illegal drug use. The case concerned Joseph Frederick, an 18-year-old senior at Juneau-Douglas High School in Alaska, who was suspended in 2002 for holding a banner that said "Bong Hits 4 Jesus" while standing across the street from the school during the Olympic torch relay.

AMENDMENT 1: CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLY TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

To write and then discuss:

1. There are many forms of “speech” that the Founding Fathers could never have imagined. Name some: (*radio, television, social media, movies, etc.*)

2. Using the Tinker “disruption test” cite some examples of expression at a public school that would not be acceptable: (*walkouts, obscenity, racist/sexist signs or tee shirt slogans, loud music during class time, extremely revealing clothing, etc.*)

3. List some examples of expression in society at large that are not permissible as legal expression: (*yelling “Fire!” in a crowded theater, slander, cross burning, public nudity, etc.*)

New Jersey v. T.L.O. (1985)

Issue: Privacy Rights at School

Bottom Line: Your Belongings Can Be Searched, But Not Arbitrarily

Background

T.L.O. (Terry), a 14-year-old freshman at Piscataway High School in New Jersey, was caught smoking in a school bathroom by a teacher. The principal questioned her and asked to see her purse. Inside was a pack of cigarettes, rolling papers, and a small amount of marijuana. The police were called and Terry admitted to selling drugs at school. Her case went to trial and she was found guilty of possession of marijuana and placed on probation. Terry appealed her conviction, claiming that the search of her purse violated her Fourth Amendment protection against "unreasonable searches and seizures."

Ruling

The Supreme Court ruled in favor of the school. Students have "legitimate expectations of privacy," the Court said, but that must be balanced with the school's responsibility for "maintaining an environment in which learning can take place." The initial search of Terry's purse for cigarettes was reasonable, the Court said, based on the teacher's report that she'd been smoking in the bathroom. The discovery of rolling papers near the cigarettes in her purse created a reasonable suspicion that she possessed marijuana, the Court said, which justified further exploration.

Impact

T.L.O. is the landmark case on search and seizure at school. Basically, school officials may search a student's property if they have a "reasonable suspicion" that a school rule has been broken, or a student has committed or is in the process of committing a crime. These are called "suspicion-based" searches. There are also "suspicion-less searches" in which everyone in a certain group is subject to a search at school.

AMENDMENT FOUR: THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS, AGAINST UNREASONABLE SEARCHES AND SEIZURES, SHALL NOT BE VIOLATED, AND NO WARRANTS SHALL ISSUE, BUT UPON PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION, AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED, AND THE PERSONS OR THINGS TO BE SEIZED.

To write and then discuss:

1. The standard for searching a student is “reasonable suspicion,” while search at large requires “probable cause.” Give some examples of what might comprise reasonable suspicion to search a student: *(smelling marijuana on a student's clothing, drunken behavior, observation by a staff member of a student going into another's backpack, etc.)*

2. Should reports by other students be cause to search? *(very tricky - should be a discussion item, e.g. reports of dangerous items like knives, guns, chains may instigate legal searches, but one student complaining about another needs corroboration to initiate a legal search.)*

Santa Fe Independent School District v. Jane Doe (2000)

Issue: School Prayer

Bottom Line: Public Schools Cannot Sponsor Religious Activity, but They Can Limit It

Background

A Texas school district allowed a student "chaplain," who had been elected by fellow students, to lead a prayer over the public address system before home football games. Several students and their parents anonymously sued the school district, claiming a violation of what's known as the Establishment Clause of the First Amendment, which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Ruling

The Supreme Court ruled that the school district's policy regarding prayer was unconstitutional. Although led by students, the prayers were still a school-sponsored activity, the Court said, and they were coercive because they placed students in the position of having to participate in a religious ceremony. "The Constitution demands that schools not force on students the difficult choice between attending these games and avoiding personally offensive religious rituals," the Court said. The Justices added that "nothing in the Constitution ... prohibits any public school student from voluntarily praying at any time before, during, or after the school day."

Impact

Since the Santa Fe decision, several lower courts have held that student-initiated group prayer is protected under the First Amendment if it is not sponsored by the school. This is generally accepted to mean, for instance, that a group of student athletes could pray together before a game in the locker room, as long as the coach or other school officials are not involved.

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To write and then discuss:

1. Using the Santa Fe ISD standard about the establishment of religion in public schools, name some unacceptable practices on campuses: *(public prayer in classrooms, crèches in classrooms at Christmas [special note: Christmas trees are allowed], denying evolution on Biblical grounds, etc.)*

2. Which examples of “free exercise” of religion must be honored at school: *(wearing a hijab or yarmulke, being excused from class for Muslim prayer – in an appropriate place for it if one is available, religious slogans or symbols on clothing or jewelry, study about world religions, gathering at the flagpole if not sponsored by staff, etc.)*