

First Amendment Recap

“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.”



How does this relate to students?

Discuss: Do students have the same rights under the first amendment?
Or does the school have the right to censor what students publish?



Tinker v. Des Moines Independent Community School District (1969)

This case is important in First Amendment protection of students. In 1965, John and Mary Beth Tinker, ages 15 and 13, protested the Vietnam War by wearing black armbands to school. School officials suspended them, saying the armbands might disrupt the learning environment and cause violence. The students sued the school district because they thought that its actions violated their First Amendment right to symbolic speech.

Tinker v. Des Moines Independent Community School District (1969)

The case moved through the court system to the U.S. Supreme Court, which decided in favor of the students. Tinker is best known for the oft-quoted phrase by Justice Abe Fortas that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”



Tinker v. Des Moines Independent Community School District (1969)

The court found that wearing armbands was “closely akin to ‘pure speech’ ” and therefore protected by the First Amendment. Because school officials had allowed students to wear other controversial symbols and had not shown that the armbands would cause violence, suspension of the students was unconstitutional.

Tinker v. Des Moines Independent Community School District (1969)

The Tinker rule basically says students retain First Amendment rights in school unless school authorities can reasonably show that exercise of free student expression leads to “substantial disruption of or material interference with school activities.”

Hazelwood School District v. Kuhlmeier (1988)



Hazelwood School District v. Kuhlmeier (1988)

This case is very different than Tinker and over the years has restricted students' First Amendment rights at school. In this decision, the Supreme Court gave school officials broad authority to censor all forms of student expression if they can show that the censorship has a "reasonable" educational justification. Hazelwood remains a controversial decision, and some states have since passed a type of anti-Hazelwood legislation.

Hazelwood School District v. Kuhlmeier (1988)

Kathy Kuhlmeier and two other students wrote articles about pregnancy and divorce for their school newspaper. Their teacher submitted page proofs to the principal for approval. The principal objected to the articles because he believed that students described in the article on pregnancy, although not named, could be identified, and that the father discussed in the article on divorce was not allowed to respond to the negative tone of the article. The principal also said the language used was not appropriate for younger students. When the newspaper was printed, two pages of the articles in question and four others approved by the principal were deleted.

What Would You Decide?

We are going to have a “mock trial” activity. In groups of three or four, I will assign you a position on this trial. Each group will come up with three arguments for their side - either protecting the student’s rights to freedom of press, or upholding the right of the principal and administration to censor certain content.

You will be presenting these arguments and we will decide on a “verdict” as a class.



Hazelwood School District v. Kuhlmeier (1988)

The Supreme Court decided that the Hazelwood School District did not violate the students' First Amendment right. It ruled that school officials do not have to tolerate speech inconsistent with the school's mission. The court said this case was different from Tinker because Tinker involved a student's personal expression. This was, instead, a school newspaper and could reasonably be seen to have the "imprimatur" (acceptance) of the school.

The Supreme Court justified this position because the newspaper was part of the curriculum. A faculty member taught it during school hours, students received grades and academic credit, the faculty adviser exercised control over the publication and the principal had to review it.