

LAW DAY ★ 2019



According to the United States Supreme Court, students do not “shed their constitutional rights when they enter the schoolhouse door,” *Tinker v. Des Moines* (1969). At the same time, free speech among students requires a balance between a student’s constitutional rights and maintaining legitimate educational objections. Since *Tinker* was decided, the Supreme Court has had many opportunities to consider the First Amendment protections afforded students, even those involving student journalists. The Supreme Court has held in that regard that schools have the right to censor materials in student newspapers that concern sensitive subjects such as teen pregnancy. In the 2007 case of *Frederick v. Morse*, the Supreme Court determined that schools had the right to discipline students who present messages that conflict with antidrug policies regardless if the message disrupts school activities and learning. From these cases, and others, it is clear that students’ First Amendment rights are a subject of much debate.

For thought and discussion: How expansive should the courts construe student First Amendment rights in school? Should the rules be different for different age groups, such as high school or college?

ACTIVITIES:

1. Discuss as a class the question of “Why it is important to protect speech, even if that speech is unpopular?” Also discuss “When is ‘speech’ not ‘free speech?’”
2. Ask students to read and discuss the landmark cases *Tinker v. Des Moines Independent Community School* (1969) and *Bethel School District v. Fraser* (1968) regarding students’ right to nondisruptive, passive, symbolic speech which cannot be censored just because it makes other students uncomfortable. Ask students to discuss the differences between the speech in these cases. Should these protections on student speech be expanded or restricted in today’s climate?
3. Choose one student to make the claim “Public school students should have the right to criticize school policies on social media.” Separate the class into two groups – those who support this right and those who don’t. Have one student from each side explain their point with a statement. Have another student from the other position take a stand against the statement. Then, one at a time, let other students make additional statements to support or disagree with the statements. Students are encouraged to switch sides as they are swayed. Continue as long as time allows or if the conversation remains productive.