

STUDENT EXPRESSION: *TINKER v. DES MOINES SCHOOL DISTRICT*, 393 U.S. 503 (1969)

The Facts

A group of students decided to wear black armbands to school as a protest against United States participation in the Vietnam War. When principals of the Des Moines public schools heard of the plan, they immediately adopted a policy prohibiting the wearing of armbands during school hours.

Although they knew about the policy, seven students wore the armbands anyway. When they attended classes, there were no serious disruptions of school activities, nor were there any demonstrations. However, some angry remarks were directed at those wearing the armbands.

In the afternoon, the principal told the students to remove the armbands but they refused and were suspended. Mr. Tinker, a parent of two of the protesting students, sued the school system, claiming his children were denied the right of free expression.

Issues for Discussion

1. Should court uphold the suspension of students who deliberately violate school rules? Or should the First Amendment protect political protests by students in public schools?
2. When should student expression not be protected? Should a student have the right to make a speech against American foreign policy in math class? In the cafeteria? In the hallways? At a school basketball game?
3. How would your decision be affected if students in favor of the Vietnam War caused a disruption in school because they protesting students wore the armbands?

Decision of the United States Supreme Court

The wearing of armbands to express opposition to the Vietnam War is a form of expression protected by the First Amendment.

Reasoning of the Court

The Court first decided that students and teacher had a right of free expression in school. It ruled that the wearing of armbands by the students was a form of symbolic speech entitled to constitutional protection. Also, the Court noted that the principals' new rule was aimed at prohibiting the students from expressing their views. Therefore, the rule violated the students' right to freedom of expression.

Although the Court recognized that free speech in school may cause problems, it wrote that "any word spoken on the campus that deviates from the views of another person may start an argument of cause a disturbance. But our Constitution says we must take this risk; and our history says it is this sort of hazardous freedom - this kind of openness - that is the basis of our national strength..." The Court added: "In our system, state operated schools may not be enclaves of totalitarianism... Students in school as well as out of school are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State." However, the Court said if students' expressive conduct substantially disrupted the operation of the school or interfered with the rights of others, then such conduct could be prohibited. Since the wearing of armbands caused no substantial disruption, the students' symbolic protest was protected by the First Amendment.

Justice Black dissented on the grounds that the school authorities should have the power to determine disciplinary regulations for the schools. He found that the policy against wearing armbands was a reasonable school policy to prevent disruptive and distracting activities.