

Tinker v. Des Moines and the First Amendment

Individual Rights and Freedoms

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Grade Level	9th – 12th Grade	**Time Frame**	80 minutes
Subject	Social Studies	**Duration**	2 class periods
Course	U.S. Government		

Essential Question

To what extent are students' First Amendment rights protected in school, and are those freedoms ever limited?

Summary

In this lesson, students will explore the protected rights all students have on school grounds based on the precedent set by 1969 Supreme Court case Tinker v. Des Moines. Students will analyze how this court case helped to clarify and extend students' First Amendment freedoms. They will then reflect on how those freedoms come with limitations.

Snapshot

Engage

Students participate in a Fiction in the Facts activity using news headlines about incidents surrounding students' rights on school grounds.

Explore

Students read about Supreme Court case *Tinker v. Des Moines* and pair it with a close reading strategy.

Explain

Students work in groups to complete a Claim, Evidence, and Reasoning (CER) chart to discuss the court's ruling on the case.

Extend

In their groups, students read about the limitations set by the court's ruling and participate in a Philosophical Chairs discussion to present their opinions.

Evaluate

Students reflect on their learning and complete a Two-Minute Paper.

Standards

ACT College and Career Readiness Standards - Reading (6-12)

ARG701: Analyze how one or more sentences in passages offer reasons for or support a claim when the relationship is subtle or complex
ARG702: Identify or infer a central claim in complex passages

Oklahoma Academic Standards (Social Studies: United States Government (9th through 12th grade))

USG.3.10: Analyze historic and contemporary examples of landmark Supreme Court decisions which have addressed and clarified individual rights under the First Amendment, including
USG.3.10D: Tinker v. Des Moines (1969)

Attachments

- Claim, Evidence, Reasoning—Tinker V. Des Moines - Spanish.docx
- Claim, Evidence, Reasoning—Tinker V. Des Moines - Spanish.pdf
- Claim, Evidence, Reasoning—Tinker V. Des Moines .docx
- Claim, Evidence, Reasoning—Tinker V. Des Moines .pdf
- Is Freedom of Speech Absolute—Tinker V. Des Moines - Spanish.docx
- Is Freedom of Speech Absolute—Tinker V. Des Moines - Spanish.pdf
- Is Freedom of Speech Absolute—Tinker V. Des Moines .docx
- Is Freedom of Speech Absolute—Tinker V. Des Moines .pdf
- Lesson Slides—Tinker v Des Moines and the First Amendment.pptx
- T-Chart—Tinker V. Des Moines - Spanish.docx
- T-Chart—Tinker V. Des Moines - Spanish.pdf
- T-Chart—Tinker V. Des Moines.docx
- T-Chart—Tinker V. Des Moines.pdf
- Tinker V. Des Moines 1969—Tinker V. Des Moines and the First Amendment - Spanish.docx
- Tinker V. Des Moines 1969—Tinker V. Des Moines and the First Amendment - Spanish.pdf
- Tinker V. Des Moines 1969—Tinker V. Des Moines.docx
- Tinker V. Des Moines 1969—Tinker V. Des Moines.pdf

Materials

- Lesson Slides (attached)
- Claim, Evidence, Reasoning (CER) handout (attached; one per student)
- Is Freedom of Speech Absolute? handout (attached; one per student)
- T-Chart handout (attached; one per student)
- Tinker v. Des Moines (1969) handout (attached; one per student)
- Highlighters
- Pen/Pencil

10 minutes

Engage

Use the attached **Lesson Slides** to guide the lesson. Display **slide 2-3** to introduce the title and lesson objectives. Move to **slide 4** and introduce the Fiction in the Facts instructional strategy to students.

Explain to students that they will be presented with a series of news headlines. For each headline, they will vote whether they believe the headline is factual or fictional. As they vote on the headlines, invite a few to share their reasoning. The following questions can be used to further the discussion:

- What makes you think this headline is factual/fictional?
- What topics or issues do you think the article might address?
- How does this headline make you feel?

Use **slides 5-8** to have students vote and record their responses for each slide. All headlines are factual; however, students should not be told this information at this point—they should make educated guesses based on what they think.

Once the class has discussed each headline and you have a record of how students voted, move to **slide 9** and inform them that all four headlines are factual, describing real incidents that involved students in the United States. Pose the following questions to students:

- Are you surprised these are all factual? If so, why?

Which one are you most surprised by that is factual? Once students have discussed the questions, display **slide 10** and review the essential question with the class.

20 minutes

Explore

Display **slide 11**. Explain to students that headline 4 is based on the incident that led to 1969 Supreme Court case *Tinker v. Des Moines Independent Community School District*. Ask students if they were surprised when they learned this headline was factual.

Once students have shared their thoughts, explain to students that they are going to read about the court case and learn how it affected students' rights on school grounds.

Pass out the attached ***Tinker v. Des Moines* (1969) handout** and a highlighter to each student.

Display **slide 12** and introduce the Why-Lighting instructional strategy. Students will read the *Tinker v. Des Moines* (1969) handout and highlight or underline important text or passages that will help them answer the following question: *How did this case help to clarify and extend students' rights?*

In the margins or on the back of the page students will explain the "why" of what they have highlighted and/or how it helps them answer the question.

Display **slide 13** with the K20 Center 15 minutes timer and the question. Allow students to work until the end of the timer.

Once students have completed the reading and annotations, have students turn to their Elbow Partners and discuss which highlighted part stood out the most to them, and why. Then, invite a few to share their responses with the class.

Teacher's Note: Scaffolding Vocabulary

In the attached readings that will be used throughout the lesson, **Is Freedom of Speech Absolute?** and ***Tinker v. Des Moines* (1969)**, students might be introduced to new vocabulary regarding the Supreme Court. You may need to take some time to explain or refresh students on the following vocabulary.

- *Supreme Court*: highest federal court; part of the judicial branch
- *Supreme Court Justices*: members who serve on the Supreme Court and are appointed by the president
- *Majority Opinion*: judicial opinion held by more than half of the judges deciding a case; is considered the decision of the court
- *Dissenting Opinion*: judicial opinion held by one or more judges who disagree with the majority opinion; explains why the judge(s) disagree(s)

15 minutes

Explain

Display **slide 14** and distribute a copy of the attached **Claim, Evidence, Reasoning (CER) handout** to each student. Inform them they will use the Claim, Evidence, Reasoning (CER) instructional strategy to dive deeper into the following question: *How did this case help to clarify and extend students' rights?*

Students should use their annotations and notes from the Why-Lighting activity to help them complete the C-E-R.

Once students have had time to work, as a class, discuss what claims students have developed and their reasonings behind it. After a few students have shared, use **slide 15** to explain the court's ruling more in depth.

Discuss the Supreme Court's ruling and explain how it favored the students in a 7–2 decision. This meant it overturned the earlier ruling in the lower courts (which had upheld the Des Moines schools' ban on students' armbands). Then, explain how the court concluded that prohibiting students from wearing the armbands at school violated their First Amendment rights. You may also want to review the majority opinion excerpts from the *Tinker v. Des Moines* (1969) reading to provide reasons that explain why the court ruled in favor of the students.

Teacher's Note: Discussing the Ruling

Make sure students have a clear understanding that the Supreme Court ruled in favor of the students before you move on to the next section. Clearly delineate the process for students by explaining that, after the students' case reached the highest court system, both sides (with Tinker being the students' side) presented their arguments, with the majority of the court ultimately favoring the students. Be sure to emphasize that this court case played a significant role in extending students' rights.

30 minutes

Extend

Now that students have a shared understanding of how the *Tinker V. Des Moines* Supreme Court Case ruling helped clarify and extend students rights, explain that those rights are not always absolute.

Display **slide 16** and introduce the Philosophical Chairs instructional strategy and pose the following statement to students: *Freedom of speech and expression should be absolute/unlimited.*

Instruct students to decide if they agree or disagree with the statement. If they agree, they will move to one side of the room; if they disagree, they will move to the opposite side. An optional modification would be to have students stand/sit rather than move.

Teacher's Note: Defining "Absolute"

Before you have students decide which side they agree with, make sure they have a clear understanding of the word "absolute" in this context. You may provide the class with the definition of "absolute" and give an example. Alternatively, you may have the class come up with a working definition by asking students what they think the word means, then solidifying the definition while including student input.

Absolute: having no restrictions, exceptions, or qualifications.

Once students have made their choice and moved accordingly, invite a few students on each side to take turns sharing their reasoning with the class. Encourage students to use agreement and disagreement statements as shown on the slide.

Instruct students to return to their seats and form small groups of 3-4. Move to **slide 17** and distribute the attached **Is Freedom of Speech Absolute** and **T-Chart** handouts to each student. In their groups, students will read the handout and complete the T-Chart pros and cons list. Explain to students that the last section should be answered independently.

Once groups have completed their handouts, ask different groups to share items on their pros and cons list. Following the discussion, transition to **slide 18** and have students once again vote on whether they agree or disagree with the statement, "*Freedom of speech and expression should be absolute.*" If anyone has changed their position, invite them to share their reasoning as to why and what swayed their opinion.

Discussion Prompts

These questions may help to prompt further discussion if you notice the majority of students have selected one side over another. The following questions are on **slide 19**. If you wish to use it, unhide the slide.

If all agree...

- Why do you believe freedom of speech and expression should be absolute?
- Why is freedom of speech important to you?
- What might be some consequences of allowing absolute freedom of speech?

If all disagree...

- Why do you believe freedom of speech and expression should come with some restrictions?
- What might be some consequences of making freedom of speech conditional?

5 minutes

Evaluate

Display **slide 20** with the Two-Minute Paper instructional strategy. At this point, students should have an understanding that they have constitutional protections regarding speech and expression, but that these freedoms are not absolute.

To evaluate their learning, students will respond to the essential questions in two-minutes.

To what extent are students' First Amendment rights protected in school, and are those freedoms ever limited?

Instruct students to turn in their responses before they leave.

Resources

- American Civil Liberties Union. (n.d.). *Tinker v. Des Moines* - Landmark Supreme Court ruling on behalf of student expression. https://www.aclu.org/documents/tinker-v-des-moines-landmark-supreme-court-ruling-behalf-student-expression
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