



# Tinker v. Des Moines and the First Amendment

## What are Your Rights as a Student?



Mariana DeLoera, Teresa Lansford

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<b>Grade Level</b>	11th – 12th Grade	<b>Time Frame</b>	100 minutes
<b>Subject</b>	Social Studies	<b>Duration</b>	2 class periods
<b>Course</b>	U.S. Government		

### Essential Question

Do students check their First Amendment rights at the door when entering school? Are the First Amendment freedoms absolute?

### 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, then they will 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

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

- [CER-Sample-Student-Responses-Tinker-v-Des-Moines-and-the-First-Amendment.docx](#)
- [CER-Sample-Student-Responses-Tinker-v-Des-Moines-and-the-First-Amendment.pdf](#)
- [Claim-Evidence-Reasoning-CER-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.docx](#)
- [Claim-Evidence-Reasoning-CER-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.pdf](#)
- [Claim-Evidence-Reasoning-CER-Tinker-v-Des-Moines-and-the-First-Amendment.docx](#)
- [Claim-Evidence-Reasoning-CER-Tinker-v-Des-Moines-and-the-First-Amendment.pdf](#)
- [Is-Freedom-of-Speech-Absolute-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.docx](#)
- [Is-Freedom-of-Speech-Absolute-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.pdf](#)
- [Is-Freedom-of-Speech-Absolute-Tinker-v-Des-Moines-and-the-First-Amendment.docx](#)
- [Is-Freedom-of-Speech-Absolute-Tinker-v-Des-Moines-and-the-First-Amendment.pdf](#)
- [Lesson-Slides-Tinker-v-Des-Moines-and-the-First-Amendment.pptx](#)
- [T-Chart-Sample-Student-Responses-Tinker-v-Des-Moines-and-the-First-Amendment.docx](#)
- [T-Chart-Sample-Student-Responses-Tinker-v-Des-Moines-and-the-First-Amendment.pdf](#)
- [T-Chart-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.docx](#)
- [T-Chart-Tinker-v-Des-Moines-and-the-First-Amendment - Spanish.pdf](#)
- [T-Chart-Tinker-v-Des-Moines-and-the-First-Amendment.docx](#)
- [T-Chart-Tinker-v-Des-Moines-and-the-First-Amendment.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-and-the-First-Amendment.docx](#)
- [Tinker-v-Des-Moines-1969-Tinker-v-Des-Moines-and-the-First-Amendment.pdf](#)

## Materials

- Lesson Slides (attached)
- *Tinker v. Des Moines* (1969) handout (attached; one per student)
- Claim, Evidence, Reasoning (CER) handout (attached; one per student)
- CER Sample Student Responses (attached; for teacher use)
- Is Freedom of Speech Absolute? handout (attached; one per student)
- T-Chart handout (attached; one per student)
- T-Chart Sample Student Responses (attached; for teacher use)
- Highlighters
- Pens/pencils

20 minutes

## Engage

Introduce the lesson using the attached **Lesson Slides**. Display **slides 3–4** to share the essential questions and lesson objectives as needed. Then, inform students they will participate in a modified [Fiction in the Facts](#) activity as a whole class.

### Teacher's Note: Modifying the Strategy

When typically using the Fiction in the Facts strategy, students are asked to decide which is the fictional statement among a group of facts. For this modified version of the strategy, all of the statements will be factual.

Display **slide 5**. Explain to students that the following slides contain news headlines about recent incidents in which students have faced in-school consequences for what they see as exercising their freedom of expression.

As you go through **slides 6–9**, ask students to guess whether each headline is factual or fictional. Do not inform students that all the statements are factual; they should just take educated guesses at this point.

As you go through the slides, record how many students think each headline is factual versus fictional. Also encourage students to share their initial thoughts on the headlines. For each headline, have a few students from both sides of the vote explain why they think it is factual or fictional. See the note below for ideas on how to encourage students to elaborate on their responses.

### Discussion Questions

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

### Teacher's Note: Recording Responses

You may use a whiteboard to record students' guesses for each headline. Write the number of each headline, 1–4, and keep a tally of how many students believe it is factual and how many believe it is fictional. This also may be done on a large piece of paper or a super sticky easel pad, hung somewhere students can see it. Consider asking a student to help you keep track of the votes.

### Optional Technology Integration

If you wish to incorporate tech tools, consider using [Padlet](#), [Mentimeter](#), or an online whiteboard to collect student responses.

Once the class has discussed each headline and you have a record of how students voted, inform them that all four headlines are factual, describing real incidents that involved students in the United States. Ask students for their initial reactions after learning each headline is factual. Use the following questions to prompt further discussion:

- Are you surprised these are all factual? If so, why?
- Which one are you most surprised is factual?

Have students share out their responses to the questions. If there are any headlines where the majority of the class voted fictional, you may revisit each and ask students how they feel after learning the headline is factual.

Once students have discussed all four headlines related to students' freedom of expression, display **slide 10** and review the essential questions in depth. Inform students these are the questions they will focus on in this lesson.

15 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, place students in small groups to read about the case and learn how it affected students' rights on school grounds.

### Teacher's Note: Scaffolding Vocabulary

In the attached readings that will be used throughout the lesson, *Tinker v. Des Moines (1969)* and **Is Freedom of Speech Absolute?**, 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)

Pass out the attached *Tinker v. Des Moines (1969)* handout. Each student should have their own copy so they can annotate as they read.

### Teacher's Note: Reading in Groups

As students work with their groups to complete the reading and highlighting activity, consider what options work best for students. Give students the option to read the document in their groups silently and highlight as they read, then discuss their findings with their groups.

Alternatively, students may chunk the reading with their classmates, dividing up the paragraphs among group members and reading them out loud. If groups decide to chunk the reading, they should be highlighting and discussing as each person reads a section.

Display **slide 12** and explain the [Why-Lighting](#) strategy to students. Have students work with their groups to read the attached *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?

Continue to display the question on the slide as students complete this activity. Ask students to explain in the margins or on the back of the page why they highlighted each part and/or how it helps them answer the question.

Once all groups have completed the reading and annotations, have each group discuss among themselves and decide which highlighted part stood out the most to them. Then, have groups share out their responses to the class.

25 minutes

## Explain

Once students are familiar with the court case, inform them they will use the [Claim, Evidence, Reasoning \(CER\)](#) strategy to dive deeper into the question of “How did this case help to clarify and extend students’ rights?”

Explain to students that they should use their annotations and notes from the Why-Lighting activity to complete this activity. Then, pass out the attached **Claim, Evidence, Reasoning (CER)** handout. Students should work with their groups to complete the handout, but be sure each student has their own copy.

Display **slide 13** to provide students with instructions on how to complete the CER handout if they are not familiar with this strategy. Inform groups they should be prepared to share out what they wrote once they are done. Each group should choose 1–2 individuals to share out.

See the attached **CER Sample Student Responses** for examples of what students may write on the handout.

After each group has shared, display **slide 14** and explain the court’s ruling more in depth. The ruling and an excerpt from the case decision are included on the slide and in the Notes field for you to use as talking points.

First, explain the Supreme Court’s ruling and 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 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

At this point, students should have a clear understanding of the *Tinker v. Des Moines* case, the Supreme Court's ruling, and how it helped to clarify and extend students' rights. Next, have students focus on the limitations that come with freedom of speech and expression, which also were highlighted in the court's majority opinion.

Display **slide 15**. Inform students that they will use the [Philosophical Chairs](#) strategy to decide whether they agree or disagree with the following statement: "Freedom of speech and expression should be absolute."

### 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.

Designate one side of the room to represent agreement with the statement and another side to represent disagreement. For example, you may tell students, "If you agree with the statement, move to the right side of the room; if you disagree with the statement, move to the left side of the room." You may also consider having one side sit and the other stand, or any other option that works best for students.

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.

Next, pass out the attached **Is Freedom of Speech Absolute?** handout to each student. Have students rejoin their groups from earlier and read the handout together. After all groups have finished reading, pass out the attached **T-Chart** handout to each student. Then, ask students to use the [T-Chart](#) strategy to complete the top portion of the handout as a group.

Regarding the prospect of absolute freedom of speech, student groups should list as many pros and cons as they can. Also let students know if there is a minimum number of pros and cons you would like them to record in the chart. Once groups have had time to fill out the chart, have each group share out a few items from both lists.

After groups have shared out, have students answer the prompt on the bottom of the page individually, using evidence from the *Is Freedom of Speech Absolute?* reading. See the attached **T-Chart Sample Student Responses** for examples of what students may write in their own charts.

Then, share the prompt on slide 15 again and invite students to move if they have changed their minds from agreement to disagreement or vice versa. Whether students move or stay in place, ask for volunteers to share their reasoning. If all students stay in place, ask them if anything from the reading has increased their confidence in their initial opinions.



## Discussion Prompts

The following questions may help to prompt further discussion if you notice the majority of students have selected one side over another.

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?

10 minutes

## Evaluate

Display **slide 16**. At this point, students should understand that they have constitutional protections regarding speech and expression, but that these freedoms are not absolute. To conclude the lesson, evaluate what students have learned by using the [Two-Minute Paper](#) strategy.

The slide contains instructions on how to complete the Two-Minute Paper, along with a [two-minute timer](#) video and student-friendly versions of the lesson's essential questions. This enables students to revisit and reflect on those questions:

- As a student, what are my First Amendment rights regarding expression and speech when on school grounds?
- Are these freedoms absolute?

Give students two minutes to write as much as they can in response to the questions. Have students turn in their responses before they leave.

## Resources

- DSM Magazine. (2019). Rise up, be heard. [Image]. DSM Magazine. <https://dsmmagazine.com/2019/01/08/rise-up-be-heard/>
- K20 Center. (n.d.). Claim, Evidence, Reasoning (CER). Strategies. <https://learn.k20center.ou.edu/strategy/156>
- K20 Center. (n.d.). Fiction in the Facts. Strategies. <https://learn.k20center.ou.edu/strategy/60>
- K20 Center. (n.d.). Mentimeter. Tech Tools. <https://learn.k20center.ou.edu/tech-tool/645>
- K20 Center. (n.d.). Padlet. Tech Tools. <https://learn.k20center.ou.edu/tech-tool/1077>
- K20 Center. (n.d.). Philosophical Chairs. Strategies. <https://learn.k20center.ou.edu/strategy/71>
- K20 Center. (n.d.). T-Chart. Strategies. <https://learn.k20center.ou.edu/strategy/86>
- K20 Center. (n.d.). Two-Minute Paper. Strategies. <https://learn.k20center.ou.edu/strategy/152>
- K20 Center. (n.d.). Why-Lighting. Strategies. <https://learn.k20center.ou.edu/strategy/128>