



## TINKER V. DES MOINES - LANDMARK SUPRE BEHALF OF STUDENT EXPRESSION



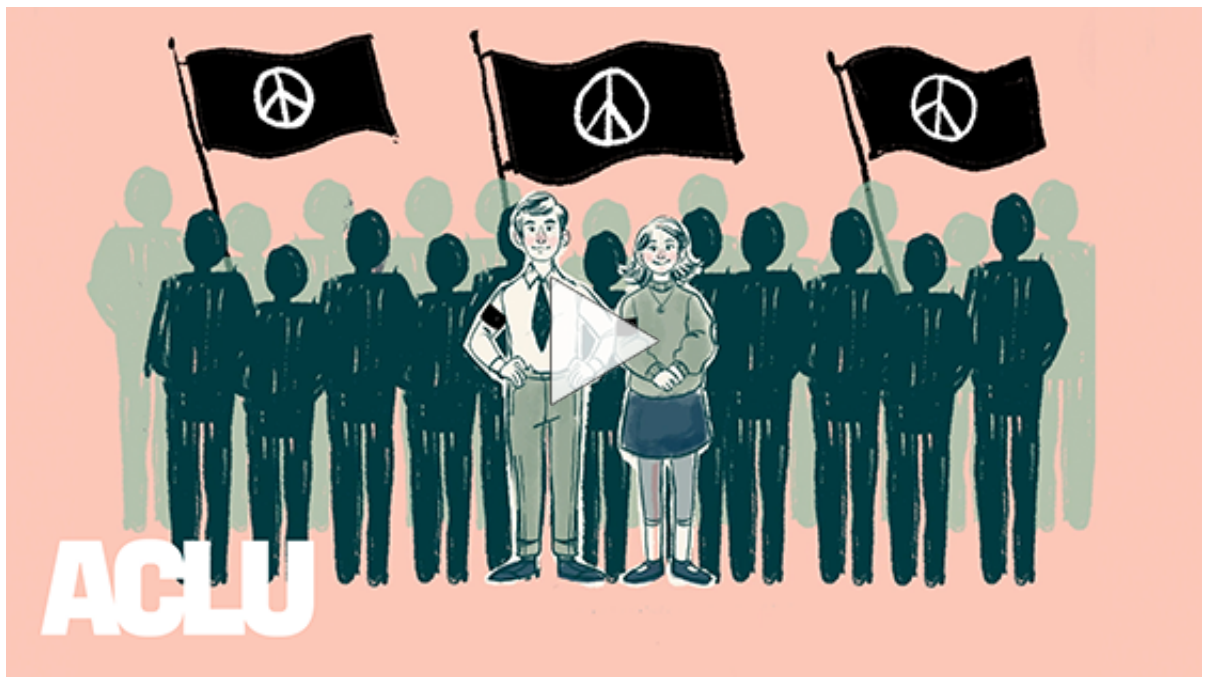
*Tinker v. Des Moines* is a historic Supreme Court ruling from 1969 that cemented students' rights to free speech in public schools.

Mary Beth Tinker was a 13-year-old junior high school student in December 1965 when she and a group of students decided to wear black armbands to school to protest the war in Vietnam. The school board got wind of the protest and passed a preemptive ban. When Mary Beth arrived at school on Dec. 16, she was asked to remove the armband and was then suspended.

Four other students were suspended as well, including her brother John Tinker and Chris Eckhardt. The students were told they could not return to school until they agreed to remove their armbands. The students returned after the Christmas break without armbands, but in protest, they wore black clothing for the remainder of the school year – and filed a First Amendment lawsuit.

Represented by the ACLU, the students and their families embarked on a four-year court battle that culminated in the landmark Supreme Court decision. Dan Johnston, a young lawyer also from Des Moines and just out of law school, argued the case.

On Feb. 24, 1969, the court ruled 7-2 that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”



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The court found that the First Amendment applied to public schools, and school officials could not censor student speech unless it disrupted the educational process. Because wearing a black armband was not disruptive, the court held that the First Amendment protected the right of students to

wear them.

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The court's majority [opinion](#), written by Justice Abe Fortas, went on to affirm the freedom that young people have under the Constitution:

In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students... are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.

There are still limits on what students can do in public schools. Under the ruling, students can't violate rules that aren't targeted at expression – like attendance policies – as long as their school is applying the rules equally, regardless of whether students have broken them to protest or for other reasons. And students can't “materially disrupt” the functioning of their school, though what's considered disruptive can depend on the situation.

## SINCE THEN

*Tinker v. Des Moines Independent Community School District* remains a frequently cited Supreme Court precedent. Thanks to the ruling, over the years the ACLU has successfully defended the right of students to wear an [anti-abortion armband](#), a [pro-LGBT T-shirt](#), and shirts critical of political figures.

Social media has provided even more opportunities for students to make their voices heard – although some schools have attempted to extend their power to punish students for speaking off-campus and outside school hours. While courts have differed on the constitutionality of those punishments, the [ACLU has challenged](#) such overreach.

Since the landmark decision in *Tinker v. Des Moines*, students have protested everything from apartheid in South Africa to a [ban on dancing](#). Students with Black Lives Matter have inspired countless young people and adults by standing up for racial justice. And there were 2018’s [massive student protest](#) that followed the shooting massacre at Marjory Stoneman Douglas High School in Parkland, Florida.

Mary Beth Tinker earned master’s degrees in public health and nursing and had a long career as a nurse. She [continues](#) to educate young people about their rights, speaking frequently to student groups across the country. In 2006, as a tribute to her devotion to the rights of young people, the ACLU National Board of Directors’ Youth Affairs Committee renamed its annual youth affairs award as the “Mary Beth Tinker Youth Involvement Award.”

## **LEARN MORE**

[Mary Beth and John Tinker Write About Their Journey to the Supreme Court – and What It Means Today](#)

[Know Your Rights: Q&A on Students and Free Speech](#)

[Can Schools Punish Students for Protest Walkouts? It Depends.](#)

[Students’ Rights at School: Six Things You Need To Know, From Dress Codes to LGBT Equality](#)

[Full Text of Supreme Court Opinion in \*Tinker v. Des Moines\*](#)

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