

# AP US Government and Politics

## Court Case Brief Example

### Case Brief Assignment

**CASE:** Tinker v. Des Moines (1969)

**FACTS:** A group of students in Des Moines decided to wear black armbands in support of a proposed truce in the Vietnam War. The principals of Des Moines school learned of the plan and met to create a policy that stated that any student wearing an armband would be asked to remove it, with refusal to do so resulting in suspension. Two days later multiple students wore their armbands to school and were sent home. Through their parents, the students sued the school district for violating the students' first amendment right of expression. The district court dismissed the case and held that the school district's actions were reasonable to keep school discipline. The U.S. Court of Appeals for the Eighth Circuit affirmed the decision.

**ISSUE:** Were the armbands a form of symbolic speech protected by the First Amendment? If so, did the school district have the power to restrict that speech in the interest of maintaining order in the school?

**HOLDING:** (Vote: 7-2) Yes: The armbands were protected by the First Amendment. The students right to freedom of speech was infringed upon because the armbands represented "pure speech," separate from actions or conduct.

**MAJORITY OPINION REASONING:** (Justice Fortas)

- A. **RULE:** The school district stated that it had banned armbands, limiting freedom of speech, because they could potentially distract and disrupt other students and classes. Justice Fortas stated that the speech regulation at issue in Tinker was "based upon an urgent wish to avoid the controversy which might result from the expression, even by the silent symbol of armbands, of opposition to this Nation's part in the conflagration in Vietnam."
1. Justice Fortas held that the armbands represented "pure speech," entirely separate from the action or conduct of those participating in it.
  - a. In order to justify the suppression of speech, the school officials must have been able to prove that the conduct in question would "materially and substantially interfere" with the operation of the school. They could not do so.
  - b. After investigation, other forms of controversial speech, including campaign buttons, had been permitted in the school. The Court noted that Des Moines had added the rule, banning armbands, after hearing about the protest, thus singling out that particular political symbol.
  - c. The Court found that the school had acted to avoid "the discomfort and unpleasantness that always accompany an unpopular viewpoint."
2. The Court also held that the students did not lose their First Amendment rights to freedom of speech when they stepped onto school property.
  - a. "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate..."
  - B. **APPLICATION:** Here the Des Moines school violated the students' first amendment right to freedom of speech, because it thwarted the students from expressing themselves on school campus without causing a disturbance.

**CONCURRING OPINION REASONING:**

1. (Stewart): Justice Stewart concurred with the majority while adding that children are not necessarily guaranteed the full extent of First Amendment rights.
2. (White): Justice White wrote a separate concurring opinion in which he noted that the majority's opinion relies on a distinction between communication through words and communication through action. So because Tinker and the group were communicating through action, their speech was protected.

**DISSENTING OPINION REASONING:**

1. (Black): Justice Black argued that the First Amendment does not provide the right to express any opinion at any time. He said because of the disturbances caused by the armbands the school district was within its rights to discipline the students. "I repeat that if the time has come when pupils of state-supported schools, kindergartens, grammar schools, or high schools, can defy and flout orders of school officials to keep their minds on their own schoolwork, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary."
2. (Harlan): Justice Harlan argued that school officials should be afforded wide authority to maintain order unless their actions can be proven to stem from a motivation other than a legitimate school interest