



SCHOOL VIOLENCE PREVENTION DEMONSTRATION PROGRAM

YOU BE THE EXPERT

By Stephanie Douglas

Lesson Overview

Students become experts on a free speech case, chart components of the case, and share findings with classmates.

Suggested Grade Level

Middle school

Estimated Time to Complete

Two class periods

Objectives

- Students evaluate the *Tinker v. Des Moines* decision.
- Students read for critical information in another free speech case.

Materials Needed

- Readings of cases and graphic organizers (attached)
- Additional resources on cases, i.e. classroom text set or computers for Internet research
- A strategy for dividing students into groups of five
- Chart paper
- Markers

Before the Lesson

Study *Tinker v. Des Moines Community School District* (1969). Students should demonstrate an understanding of the Tinker standard—that this case upheld students’ First Amendment rights as long as their protest did not disrupt the educational process. The case is described in Lesson 23 of *We the People: The Citizen & the Constitution*, middle school text.

Lesson Procedures

1. The teacher assigns and evaluates students’ responses to this statement: “The Supreme Court’s decision in *Tinker v. Des Moines* should be considered a landmark decision because the standards developed in Tinker are being used today in student free speech cases.”
2. The teacher directs students into groups of five and assigns each student a different free speech

case (see handouts)—this can be done by circling which case each student is assigned before handouts are distributed. These groups will be referred to as the “home groups” for the remainder of this lesson. Remember, each student in each group is assigned a different case.

3. Students read cases and complete graphic organizers independently.
4. Students are directed to meet in a second group comprised of all the people who read the same case. This group will be referred to as their “expert group.” The teacher facilitates discussion, additional research, and charting of findings within these groups.
5. Students are directed back to their home group, in which each student is an expert on a different case. Charts are posted. Findings are shared.
6. The teacher debriefs students on the content of all cases and the group process.

Common Core State Standards

English Language Arts Standards, Reading: Informational Text, Grade 6

Integration of Knowledge and Ideas

7. Integrate information presented in different media or formats (e.g., visually, quantitatively) as well as in words to develop a coherent understanding of a topic or issue.
8. Trace and evaluate the argument and specific claims in a text, distinguishing claims that are supported by reasons and evidence from claims that are not.

English Language Arts Standards, Writing, Grade 6

Text Types and Purposes

2. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.
 - Introduce a topic; organize ideas, concepts, and information, using strategies such as definition, classification, comparison/contrast, and cause/effect; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.
 - Develop the topic with relevant facts, definitions, concrete details, quotations, or other information and examples.
 - Use appropriate transitions to clarify the relationships among ideas and concepts.
 - Use precise language and domain-specific vocabulary to inform about or explain the topic.
 - Establish and maintain a formal style.
 - Provide a concluding statement or section that follows from the information or explanation presented.

YOU BE THE EXPERT
INTERNET, SCHOOLS, AND FREE SPEECH

Directions: You have been assigned a case that has been heard in the federal or state courts. Your job is to become an expert on this case. Afterwards, you will teach the key components of the case to your classmates.

First, on a separate sheet of paper, evaluate the following statement. Be sure to answer in paragraph form and include a topic sentence, three specific supporting details, and a conclusion.

“The Supreme Court’s decision in *Tinker v. Des Moines* should be considered a landmark decision because the standards developed in *Tinker* are being used today in student free speech cases.”

Next, complete each section of the chart below to “brief” your assigned case.

Cases

O’Brien v. Westlake City Schools Board of Education (1998)

Beussink v. Woodland R-IV School District (1998)

Emmett v. Kent School District Number 415 (2000)

J.S. v. Bethlehem Area School District (1998)

Beidler v. North Thurston School District Number Three (2000)

Background Facts
Constitutional Question Raised
Was the Tinker standard applied? How?
Court’s Ruling

O'Brien v. Westlake City Schools Board of Education (1998)

Sean O'Brien was a junior at Westlake High School when he created a Web site, raymondsucks.org, which criticized his band teacher. When school officials at Westlake accessed the site from school, the assistant principal suspended Sean for ten days for violating a rule in the Student Conduct Handbook. The handbook stated "students shall not physically assault, vandalize, damage, or attempt to damage the property of a school employee or his/her family or demonstrate physical, written, or verbal disrespect/threat."

As a result of his suspension, Sean's grades plummeted and he failed band. Believing that the suspension was an unconstitutional violation of the Free Speech Clause of the First Amendment, Sean filed a lawsuit against the school district's board of education. U.S. District Court Judge John M. Manos heard the case and agreed with Sean's lawyer who stated that school officials do not have the authority to regulate speech made by students off campus grounds. While admitting that the case may have been different had Sean "hurled obscenities at his teacher face-to-face on school grounds, in front of other students," the judge recognized that "the involvement by the school in punishing the plaintiff for posting an Internet website critical of the defendant . . . raises the ugly specter of Big Brother."

Upon losing the case, school officials expunged Sean's suspension, wrote him a letter of apology for "abridg[ing] students' legitimate exercise of their constitutional rights," and paid Sean \$30,000.

Beussink v. Woodland R-IV School District (1998)

Brandon Buessink, a junior at Woodland High School, added comments to his personal home page that criticized teachers and administrators at his school. When a student showed Brandon's website to a teacher, the teacher was upset by the vulgar language and criticism the site contained. Woodland's principal decided to suspend Brandon for five days due to the "offensive nature" of his site. At the end of the five days, the principal decided to extend Brandon's suspension for ten more days.

Brandon took his case to U.S. District Court, arguing that the First Amendment's protection of free speech meant his suspension was unconstitutional. District Judge Rodney Sippel agreed. In his ruling, Judge Sippel said that school officials did not "show that its action [suspension of Brandon] was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint."

Summarizing his opinion, Judge Sippel concluded, "[T]he public interest is not only served by allowing Beussink's message to be free from censure, but also by giving the students at Woodland High School this opportunity to see the protections of the United States Constitution . . ."

Emmett v. Kent School District Number 415 (2000)

The “Unofficial Kentlake High Home Page,” published by an eighteen-year-old student at that school, allowed visitors to vote on which mock-obituary subject posted on the site should be “next to die.” Shortly after school administrators gained knowledge of the site, a local news station ran a story in which the site was described as containing a “hit list” of people to be killed. While the site contained a disclaimer stating that the site was an independent effort and for entertainment purposes only, school officials immediately placed the site’s author on emergency expulsion. The school’s action was based on a school policy prohibiting “harassment, intimidation, disruption to the educational process, and violation of Kent School District copyright.”

Although the student’s expulsion was quickly converted to a five-day suspension, the student sued in U.S. District Court on First Amendment/freedom of expression grounds. District Court Judge John C. Coughenour admitted in his ruling that student websites “can be an early indication of a student’s violent inclinations.” However, the judge also stated that the student-generated nature of the site, combined with the failure of school officials to present any evidence that “the mock obituaries and voting on this website were intended to threaten anyone . . .” did not meet the standards laid out in preceding student free speech cases.

Upon conclusion of the case, the school district agreed to pay the student one dollar plus attorney’s fees and remove the student’s suspension from school records.

J.S. v. Bethlehem Area School District (1998)

An eighth-grade student in Bethlehem, Pennsylvania was suspended for ten days before being permanently expelled from middle school as a result of the website he published from his personal computer. It contained vulgar and derogatory information about several employees from his middle school, asking questions like, “Why should she [his algebra teacher] die? . . . Take a look at the diagram and reasons I give, then give me \$20 dollars to help pay for the hitman.”

After his expulsion, the student appealed the school board’s decision by taking his case to the Pennsylvania court of common pleas and the Commonwealth Court of Pennsylvania. Claiming a violation of his First Amendment right to free speech, the student and his attorney argued that his expulsion was unconstitutional.

A majority of the Commonwealth Court of Pennsylvania disagreed, stating that the student’s website “materially disrupted the learning environment” because at school-sponsored activities and during school, students were discussing the site. Furthermore, the court ruled that the medical leave taken by the teacher as a result of the website was clear evidence that the boy’s site was distracting.

Beidler v. North Thurston School District Number Three (2000)

While completing his junior year at Timberline High School, Karl Beidler created a website depicting one of Timberline’s assistant principals as a Nazi, drunk, and graffiti artist. After teachers complained about feeling uncomfortable with Beidler in their class and testifying that they found the website “appalling and inappropriate,” the principal placed Beidler on emergency suspension. Beidler was ultimately transferred to an alternative educational program in his school district, but he was allowed to return to Timberline for his senior year.

Beidler took his case to a Washington state trial court and argued that his suspension and placement were unconstitutional under the First Amendment. Specifically, Beidler’s attorney argued that because the website “caused no substantial disruption” and school officials had no “authority to police off-campus or Internet student speech,” the suspension was unconstitutional.

The state trial court agreed with Beidler’s attorney, ruling that the school district had failed to meet Tinker’s standard governing disruptive speech.

Source:

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