

Supreme Court Cases

Section 1



READING FOCUS

Your freedom of expression—the right to practice your religious beliefs; to hold, express, and publish ideas and opinions; to gather with others; and to ask the government to correct its mistakes—is the cornerstone of our democracy. Through its power to interpret the Constitution, the Supreme Court can expand or limit your rights.

Key Terms

freedom of expression the right of citizens to hold, explore, exchange, express, and debate ideas

redress of grievances to remove the cause of a complaint and make things right

right of assembly the right to form and join groups to gather for any peaceful and lawful purpose

Taking Notes

As you read the summaries, use your Student Casebook to take notes on the section.

Case Study Summary

STUDENTS' RIGHT OF EXPRESSION

In 1965 despite their school's ban on armbands, John and Mary Beth Tinker and other students wore black armbands to school to protest the Vietnam War. When the students were suspended, their families sued the school district, claiming that the teenagers' First Amendment right to free expression had been violated. The district countered that the school had reasonably used its power to preserve order.

The case, *Tinker v. Des Moines School District*, was eventually appealed to the Supreme Court. In 1969 the Court reversed the lower courts' rulings, deciding in favor of the students. In the 7–2 majority opinion, justices explained that although schools had the right to maintain order, the expression in question did not substantially interfere with school operation—a standard that has become known as the Tinker test and is still used in free-expression cases involving public-school students. In the decades since the *Tinker* case, though, the Court has ruled against students in cases involving vulgar speech, school-newspaper censorship, and off-campus expression.

Explain the Tinker test in your own words.

What You Need to Know Summary

FREEDOM OF RELIGION

Freedom of expression is the right of American citizens to hold, explore, exchange, express, and debate ideas. This freedom is guaranteed within the First Amendment. The First Amendment also contains the establishment clause and the free exercise clause when it states that “Congress shall make no law respecting an establishment of religion or the free exercise thereof.”

These two clauses have been at the center of many controversial Supreme Court decisions. The establishment clause is most often cited in cases involving the separation of church and state. In 1962 the Court banned a prayer required in public schools, soon following that decision with others that declared certain required prayers and periods of silent meditation illegal—including prayer before school athletic events. The Court has not banned private, voluntary school prayer, however, requiring public schools to allow students to form private religious groups with the stipulation that school employees may not take part. The Court has also ruled that teaching about the religion or the Bible is constitutional, as long as the instruction itself is nonreligious in nature.

While the free exercise clause allows people to believe whatever they want, it does not allow them to *express* their beliefs however they want. The Supreme Court has developed and employs the “compelling interest test,” which requires the government to have a compelling reason for banning a religious practice to protect society. This test has been used to decide cases involving polygamy—ruled illegal—and the right to wear religious headwear in the military while on duty—also ruled illegal—as well as many other cases in which the Court declared that what society gained from making a person follow a law was less important than that person’s religious freedom.

Which part of the Constitution protects freedom of expression?

What does the free-exercise clause *not* allow people to do?

FREEDOM OF SPEECH

Although the First Amendment states that “Congress shall make no law . . . abridging freedom of speech,” the Supreme Court has deemed some speech unprotected over the years, including speech with

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little or no social value, speech that may inspire violence, speech that defames a person orally (slander) or in print (libel), and speech that is lewd.

Furthermore, the Court has ruled that schools can control the time, place, and content of student expression. The Court and American schools continue to carefully use the Tinker test when considering whether to ban student political speech. The Court has been less open-minded when it comes to vulgar and obscene speech, ruling that it is contrary to a school's mission of teaching socially acceptable behavior. While the Court has not yet ruled on speech codes, it has declared that cyberspeech—speech on the Internet—has the same protections as printed materials. The lower courts have heard several cases involving cyberspeech and have ruled both for and against a school's right to suspend a student for criticizing school officials online.

FREEDOM OF PETITION AND ASSEMBLY

The freedom of petition—the right to ask the government for a **redress of grievances**, or to remove the cause of a complaint and make things right—and the **right of assembly**, or the right to gather for any peaceful and lawful purpose, are additional guarantees included in the First Amendment. However, the Supreme Court has ruled that the government may sometimes regulate the time, place, and behavior of assemblies on public property, as well as the kinds of groups to which a person may belong.

When can the government regulate assemblies?

STUDENT ASSEMBLY

Freedom of assembly is also sometimes limited in schools. The Supreme Court has ruled that schools have the right to regulate the time, place, and manner of student gatherings; set restrictions on student clubs; and, in some instances, deny students permission to form a new club. Furthermore, the Court holds that schools cannot discriminate against clubs because of their religious or philosophical viewpoints.

Simulation

Use your Student Casebook to help you complete the simulation.