The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

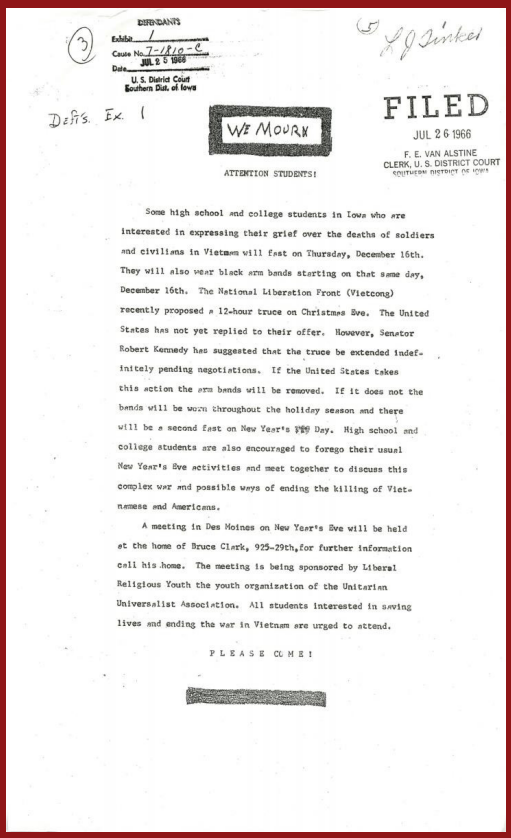
Tinker v. Des Moines Independent Community School District (1969)

What happened in this case?

Three students in Des Moines, Iowa wore black armbands to school to protest the United States' involvement in the Vietnam War. Officials at the school told the students to remove the arm bands; they refused and the students were suspended. The Supreme Court decided that the school could not punish the students for wearing the armbands because this behavior was not disruptive. In a famous line from the case, Justice Abe Fortas wrote that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This case protects students' free speech rights even while at school.

This case and you:

If you're a student, the outcome of Tinker matters to you every day, whether you know it or not! Tinker rebalanced the power of students and school officials. The Supreme Court recognized that schools have a difficult job: they have to ensure students' safety and they have to create a good learning environment. But, the Constitution still covers students at school, and students' ability to speak out about the world around them is just as educational as any curriculum. Tinker strikes a balance by recognizing both of these truths: schools can enforce some order, but students also maintain their rights.



DEFENDANT'S
Exhibit 1
Cause No. 7-1810-C
Date JUL 25 1968
U. S. District Court
Southern Dist. of Iowa

Defts. Ex. 1

WE MOURN

FILED
JUL 26 1966
F. E. VAN ALSTINE
CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

ATTENTION STUDENTS!

Some high school and college students in Iowa who are interested in expressing their grief over the deaths of soldiers and civilians in Vietnam will fast on Thursday, December 16th. They will also wear black arm bands starting on that same day, December 16th. The National Liberation Front (Vietcong) recently proposed a 12-hour truce on Christmas Eve. The United States has not yet replied to their offer. However, Senator Robert Kennedy has suggested that the truce be extended indefinitely pending negotiations. If the United States takes this action the arm bands will be removed. If it does not the bands will be worn throughout the holiday season and there will be a second fast on New Year's Day. High school and college students are also encouraged to forego their usual New Year's Eve activities and meet together to discuss this complex war and possible ways of ending the killing of Vietnamese and Americans.

A meeting in Des Moines on New Year's Eve will be held at the home of Bruce Clark, 925-29th, for further information call his home. The meeting is being sponsored by Liberal Religious Youth the youth organization of the Unitarian Universalist Association. All students interested in saving lives and ending the war in Vietnam are urged to attend.

PLEASE COME!

Questions for discussion:

1. What should be the balance between a school's need to enforce enough order that students can get a good education, and a student's right to free speech?

2. Imagine a friend tells you that they plan to wear a black armband tomorrow to protest an unpopular new federal law that neither of you like. Your friend wants you to join them. Do you? Why or why not?

3. Now imagine that you are a school administrator. You notice several students wearing black arm bands. What do you do? Why? How do you think the students will react?

4. The Supreme Court upheld student free speech in this instance because they decided that the black armbands were not disruptive. How would you define disruptive? What are some other examples of student free speech that you believe would not be disruptive?

See full opinion at https://caselaw.findlaw.com/us-supreme-court/393/503.html.

The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

Mahanoy Area School District v. B.L. (2021)

What happened in this case?

B.L. was a high school student who tried out for the varsity cheerleading team, but she made the junior varsity squad instead. Frustrated, she posted a picture to Snapchat - a platform where the posts disappear - in which she cursed at school, softball, and cheerleading using swear words. About 250 people could see her photo, including many classmates and cheerleaders. Some of these teammates showed the coaches, who decided B.L.'s post violated school and team rules. They suspended B.L. and she sued, arguing that this suspension was a violation of her First Amendment rights. The Supreme Court ruled that the high school did not have the right to discipline B.L. because the Snapchat was written off-campus and outside school hours. The Snapchat post did not cause a substantial disruption under the precedent set by *Tinker*.

This case and you:

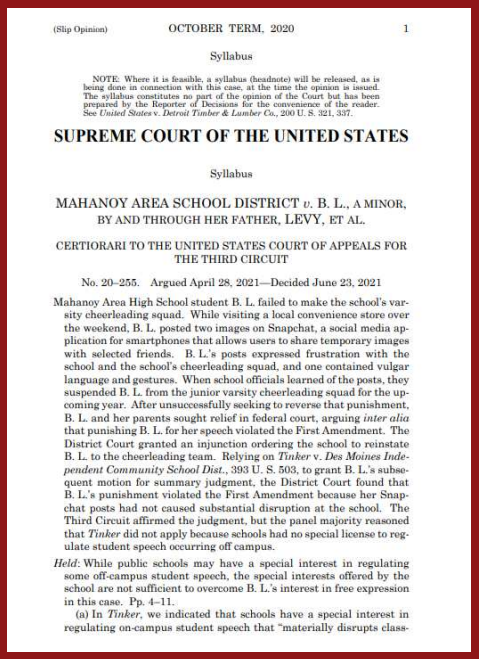
This case adds to *Tinker* in our understanding of the scope of student speech, both at school and off-campus. In addition, this case has an interesting layer of technology, because B.L.'s "speech" was an online post to a limited audience, rather than something specifically associated with the school. Justice Breyer, who wrote the majority opinion in this case, admitted that this was a hard case for the Court. In the end, however, *B.L.* clarifies and protects a student's right to freedom of speech.

Questions for discussion:

1. In an era where students increasingly participate in e-learning, where exactly are the "schoolhouse gates?"

2. Pictures and text sent via Snapchat automatically disappear after 24 hours. Do you think the fleeting nature of a Snap should affect the way courts think about student speech online?

3. Student free speech (especially off-campus) is protected by the First Amendment and affirmed by Supreme Court rulings like *B.L.* However, some speech can be harmful and dangerous, and result in disruptions to the learning environment, bullying, and harassment. What kind of balance do you think schools should strike?



(Slip Opinion) OCTOBER TERM, 2020 1

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MAHANOY AREA SCHOOL DISTRICT *v.* B. L., A MINOR, BY AND THROUGH HER FATHER, LEVY, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 20–255. Argued April 28, 2021—Decided June 23, 2021

Mahanoy Area High School student B. L. failed to make the school's varsity cheerleading squad. While visiting a local convenience store over the weekend, B. L. posted two images on Snapchat, a social media application for smartphones that allows users to share temporary images with selected friends. B. L.'s posts expressed frustration with the school and the school's cheerleading squad, and one contained vulgar language and gestures. When school officials learned of the posts, they suspended B. L. from the junior varsity cheerleading squad for the upcoming year. After unsuccessfully seeking to reverse that punishment, B. L. and her parents sought relief in federal court, arguing *inter alia* that punishing B. L. for her speech violated the First Amendment. The District Court granted an injunction ordering the school to reinstate B. L. to the cheerleading team. Relying on *Tinker* v. *Des Moines Independent Community School Dist.*, 393 U. S. 503, to grant B. L.'s subsequent motion for summary judgment, the District Court found that B. L.'s punishment violated the First Amendment because her Snapchat posts had not caused substantial disruption at the school. The Third Circuit affirmed the judgment, but the panel majority reasoned that *Tinker* did not apply because schools had no special license to regulate student speech occurring off campus.

Held: While public schools may have a special interest in regulating some off-campus student speech, the special interests offered by the school are not sufficient to overcome B. L.'s interest in free expression in this case. Pp. 4–11.

(a) In *Tinker*, we indicated that schools have a special interest in regulating on-campus student speech that "materially disrupts class-

See full opinion at https://caselaw.findlaw.com/us-supreme-court/20-255.html.

The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

New Jersey v. TLO (1985)

What happened in this case?

T.L.O. was a high school student. Officials at her school suspected she had cigarettes and searched her purse. They found cigarettes, along with a small amount of marijuana and a list of students who owed T.L.O. money. T.L.O. was charged with possession of marijuana. T.L.O. argued in New Jersey state court that the items found in her purse should be excluded as evidence in her trial because the search was unlawful and had violated her Fourth Amendment rights.

The state court declined to exclude the evidence, found her guilty, and sentenced her to one year of probation. The U.S. Supreme Court eventually heard the case. It agreed with T.L.O. that the Fourth Amendment's protection against unreasonable searches and seizures extends to public schools, however, the Court also held that school officials may conduct reasonable warrantless searches in some cases. They held that the search of T.L.O.'s purse was reasonable under the circumstances.

This case and you:

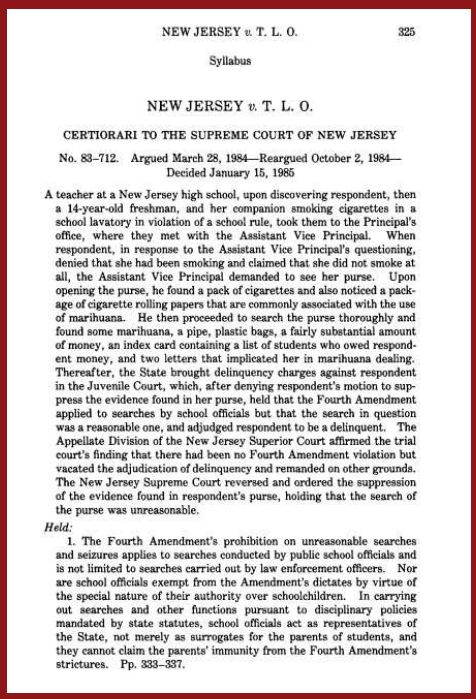
The Supreme Court upheld the Fourth Amendment rights of students on the whole but struck a balance to allow schools the leeway to conduct reasonable warrantless searches. School officials do have to ensure student safety, and sometimes this might require being able to look through a student's belongings - for drugs, weapons, or other items that would seriously threaten the learning environment. The lesson of T.L.O. is that in the context of the search and seizure, students enjoy some fundamental constitutional protections, but their constitutional rights are not as robust on school grounds as they are in other circumstances.

Questions for discussion:

1. The Supreme Court has set a precedent for balancing students' constitutional rights with the needs of schools to ensure safe and effective learning environments. Compare the court's rulings in T.L.O., Tinker, and B.L. How do the Supreme Court's rulings protect the rights of students? How do they uphold the responsibilities of school administrators?

2. Pick a side: pretend you're either a lawyer for New Jersey public schools or a lawyer for T.L.O. What kind of rule would you advocate that the Court adopt? What are strengths and weaknesses of each side's arguments?

3. How do you think the case would have proceeded if school officials had only found legal items in T.L.O.'s purse? Should it make a difference whether searches turn up items students shouldn't have at school - or is the problem that students are being searched in the first place?



NEW JERSEY v. T. L. O. 325

Syllabus

NEW JERSEY v. T. L. O.

CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

No. 83–712. Argued March 28, 1984—Reargued October 2, 1984—Decided January 15, 1985

A teacher at a New Jersey high school, upon discovering respondent, then a 14-year-old freshman, and her companion smoking cigarettes in a school lavatory in violation of a school rule, took them to the Principal's office, where they met with the Assistant Vice Principal. When respondent, in response to the Assistant Vice Principal's questioning, denied that she had been smoking and claimed that she did not smoke at all, the Assistant Vice Principal demanded to see her purse. Upon opening the purse, he found a pack of cigarettes and also noticed a package of cigarette rolling papers that are commonly associated with the use of marihuana. He then proceeded to search the purse thoroughly and found some marihuana, a pipe, plastic bags, a fairly substantial amount of money, an index card containing a list of students who owed respondent money, and two letters that implicated her in marihuana dealing. Thereafter, the State brought delinquency charges against respondent in the Juvenile Court, which, after denying respondent's motion to suppress the evidence found in her purse, held that the Fourth Amendment applied to searches by school officials but that the search in question was a reasonable one, and adjudged respondent to be a delinquent. The Appellate Division of the New Jersey Superior Court affirmed the trial court's finding that there had been no Fourth Amendment violation but vacated the adjudication of delinquency and remanded on other grounds. The New Jersey Supreme Court reversed and ordered the suppression of the evidence found in respondent's purse, holding that the search of the purse was unreasonable.

Held:

1. The Fourth Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by public school officials and is not limited to searches carried out by law enforcement officers. Nor are school officials exempt from the Amendment's dictates by virtue of the special nature of their authority over schoolchildren. In carrying out searches and other functions pursuant to disciplinary policies mandated by state statutes, school officials act as representatives of the State, not merely as surrogates for the parents of students, and they cannot claim the parents' immunity from the Fourth Amendment's strictures. Pp. 333–337.

See full opinion at https://caselaw.findlaw.com/us-supreme-court/469/325.html.

The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

Santa Fe Independent School District v. Doe (2000)

What happened in this case?

The Santa Fe Independent School District revised its school-prayer policy several times in response to an earlier lawsuit. The one eventually adopted permitted only student-led, student-initiated prayer. This was a change from an earlier policy, where students elected a chaplain to deliver the prayer. The Supreme Court, evaluating the student-led, student-initiated plan, concluded this nevertheless violated the First Amendment. Prayers before football games were public speech, occurring on government property, at a school-sponsored event, and by school policy. All of these factors combine to indicate both actual and perceived government endorsement of prayer at the school events. This means the policy violates the Establishment Clause of the First Amendment.

This case and you:

Because of this case, we understand that public, school-organized prayer violates the First Amendment. Students can still meet and pray on school grounds, so long as their meetings are private and they do not force their classmates to join. For Justice Stevens, who wrote the majority opinion in this case, it was very relevant that the school here had an official policy, that the prayers were so public and so organized, and so integrated into the school events.

Questions for discussion:

1. What is the Establishment Clause? Do you agree with the Supreme Court's ruling that school policy regulating school prayer violates the Establishment Clause? Why or why not?

2. In an earlier ruling by the district court, a judge ruled that school prayers need to be "nonsectarian and nonproselytizing." What do those words mean? Do you think those conditions are relevant to the question of whether public prayer violates the Establishment Clause?

3. Suppose you are a member of a religious minority or do not practice a religion. If a prayer was offered by a student of another religious belief at an assembly or football game, how would that make you feel? Would it make a difference if the prayer was "nonsectarian"?

4. Where have you encountered prayer in public life? How do you feel about it?

Cite as: 530 U. S. ____ (2000) 1

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 99–62

SANTA FE INDEPENDENT SCHOOL DISTRICT, PETITIONER *v.* JANE DOE, INDIVIDUALLY AND AS NEXT FRIEND FOR HER MINOR CHILDREN, JANE AND JOHN DOE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[June 19, 2000]

JUSTICE STEVENS delivered the opinion of the Court.

Prior to 1995, the Santa Fe High School student who occupied the school's elective office of student council chaplain delivered a prayer over the public address system before each varsity football game for the entire season. This practice, along with others, was challenged in District Court as a violation of the Establishment Clause of the First Amendment. While these proceedings were pending in the District Court, the school district adopted a different policy that permits, but does not require, prayer initiated and led by a student at all home games. The District Court entered an order modifying that policy to permit only nonsectarian, nonproselytizing prayer. The Court of Appeals held that, even as modified by the District Court, the football prayer policy was invalid. We granted the school district's petition for certiorari to review that holding.

See full opinion at https://caselaw.findlaw.com/us-supreme-court/530/290.html.

The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

Hazelwood School District v. Kuhlmeier (1988)

What happened in this case?

Students in a journalism class at Hazelwood East High School published the *Spectrum*, a student-run and -edited newspaper. In one issue, the students wrote stories about their peers' experiences with teen pregnancy and the impact of divorce - but the principal deleted these stories from the issue without telling them. The students sued, arguing the principal violated their First Amendment rights.

The Supreme Court concluded the principal did not violate the students' free speech rights. The Court reasoned that the newspaper was sponsored by the school, so the school had a legitimate interest in preventing the publication of material it deemed inappropriate. The student newspaper was not a public forum for everyone to share views; rather, it was a limited forum where journalism students shared articles, subjected to the school's editing, to meet the requirements of their class.

This case and you:

The adults at your school can exert more control over your school's student newspaper than you might have thought! The Court in this case explained that school publications are different from, for example, newspapers out in the broader world. The point of a school publication is more limited and, because it bears the school's name and fulfills part of its educational mission, the school can exercise more control over its content - so long as their actions are "reasonably related to legitimate and pedagogical concerns."

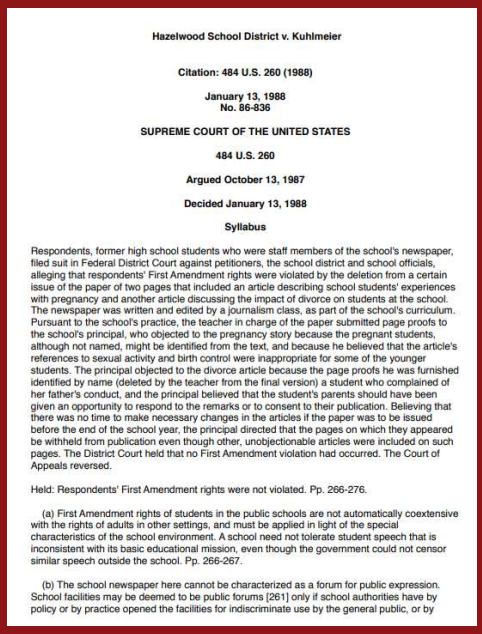
Questions for discussion:

1. Compare the outcome in this case to *Tinker* and *B.L.* How is the ruling similar to, and different from, these other Supreme Court rulings?

2. Weigh the pros and cons. What parts of this ruling make sense, and what parts do you think the Court got wrong?

3. Take a side. Argue for the students, and then argue for the school district. Why should the students get to publish what they want, and why should the school be able to block articles it finds inappropriate?

4. How will this case need to evolve in a digital society? Maybe the school can block the publication in a paper edition, but what would it look like to prevent students from publishing - or circulating material - online? In that way, how is this case like *B.L.*?



Hazelwood School District v. Kuhlmeier

Citation: 484 U.S. 260 (1988)

January 13, 1988
No. 86-836

SUPREME COURT OF THE UNITED STATES

484 U.S. 260

Argued October 13, 1987

Decided January 13, 1988

Syllabus

Respondents, former high school students who were staff members of the school's newspaper, filed suit in Federal District Court against petitioners, the school district and school officials, alleging that respondents' First Amendment rights were violated by the deletion from a certain issue of the paper of two pages that included an article describing school students' experiences with pregnancy and another article discussing the impact of divorce on students at the school. The newspaper was written and edited by a journalism class, as part of the school's curriculum. Pursuant to the school's practice, the teacher in charge of the paper submitted page proofs to the school's principal, who objected to the pregnancy story because the pregnant students, although not named, might be identified from the text, and because he believed that the article's references to sexual activity and birth control were inappropriate for some of the younger students. The principal objected to the divorce article because the page proofs he was furnished identified by name (deleted by the teacher from the final version) a student who complained of her father's conduct, and the principal believed that the student's parents should have been given an opportunity to respond to the remarks or to consent to their publication. Believing that there was no time to make necessary changes in the articles if the paper was to be issued before the end of the school year, the principal directed that the pages on which they appeared be withheld from publication even though other, unobjectionable articles were included on such pages. The District Court held that no First Amendment violation had occurred. The Court of Appeals reversed.

Held: Respondents' First Amendment rights were not violated. Pp. 266-276.

(a) First Amendment rights of students in the public schools are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment. A school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school. Pp. 266-267.

(b) The school newspaper here cannot be characterized as a forum for public expression. School facilities may be deemed to be public forums [261] only if school authorities have by policy or by practice opened the facilities for indiscriminate use by the general public, or by

See full opinion at https://caselaw.findlaw.com/us-supreme-court/484/260.html.

The Bill of Rights and You: Student Supreme Court Cases of Interest!

Presented by the United States District Court for the Southern District of Indiana

Supreme Court Wrap-Up

Student Cases

When making a ruling on a case, one factor considered by the U.S. Supreme Court is precedent. The term precedent refers to a court decision that is considered an authority for deciding future cases involving similar facts or legal issues. In many cases, the U.S. Supreme Court follows precedent set by past cases. However, when the U.S. Supreme Court decides not to follow precedent, it is typically because an applicable federal law has changed or been repealed, it decides that a precedent is incorrect, or changes to society have rendered the precedent inapplicable.

In the Supreme Court cases we have reviewed, you will notice that, despite the fact that some of these cases are decades old, they remain applicable precedent for U.S. Supreme Court decisions. All of these cases contribute to our understanding of a student's constitutional rights and how far they can claim those rights while at school, or participating in school-sponsored activities. The Supreme Court has consistently ruled that school administrators have a vested interest in maintaining order and a safe learning environment, and can thus impose reasonable restrictions. But what exactly is "reasonable" and how do we consider these cases together to come up with criteria for what students can, and can't, do in school? Use the discussion questions below to map out your conclusions.

Questions for discussion:

1. What do all of these cases have in common? How do they increase our understanding of student rights?

2. Have you witnessed instances at school when you believe a student's rights were violated? Based on the rulings you've just reviewed, do you think the Supreme Court would rule in favor of the student, or administrators?

3. Do you agree, or disagree, that students give up some rights at school in exchange for a safe and effective learning environment? If you were a Supreme Court justice, what precedent would you keep, and what would you reconsider? Why?

4. Define "reasonable" restrictions of student rights at school. Make a list of examples of reasonable restrictions and another of student rights that should be upheld. Now, review the Supreme Court cases involving student rights and apply the criteria in the rulings to your lists. Would the Supreme Court agree, or disagree, with your characterization of reasonable restrictions and student rights?

More student resources, activities, and field trip opportunities can be found on our website at https://www.insd.uscourts.gov/educational-resources.

Contact Us
By email:
tours@insd.uscourts.gov

By phone:
Mary Giorgio
Public Outreach Coordinator
317-229-3711