

Name: _____

Date: _____

TINKER V. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT by U. S. SUPREME COURT

Guided Notes – Lesson 4

How does the court use constitutional precedent to support the claim that students and teachers do not shed their rights to freedom of speech within the school building?

Objective: *In this lesson you will learn to describe the Supreme Court's use of legal reasoning by analyzing how constitutional precedents are interpreted.*

Steps:

1. Highlight places in the text where a legal precedent is cited.
2. Refer to the footnote and ask yourself: "What does the court interpret this precedent to mean and not mean?"
3. Ask yourself: "How does this constitutional precedent support the court's opinion?"

Page 2, Paragraph 4:

1. Highlight places in the text where a legal precedent is cited.

This has been an unmistakable holding of this court for almost 50 years. In *Meyer v. Nebraska*, 262 U.S. 390 (1923), and *Bartels v. Iowa*, 262 U.S. 404 (1923), this Court in opinions by Mr. Justice McReynolds, held that the Due Process Clause of the Fourteenth Amendment prevents States from forbidding the teaching of a foreign language to young students. Statutes to this effect, the Court held, unconstitutionally interfere with the liberty of the teacher, student

2. Refer to the footnote and ask yourself: "What does the court interpret this precedent to mean and not mean?"

Read the footnote below for the passage above. Use the chart beneath the passage to explain how the precedent is legally interpreted.

FOOTNOTES, Page 2:

² *Hamilton v. Regents of Univ. Of Cal.*, 293 U.S. 245 (1934), is sometimes cited for the broad proposition that the State may attach conditions to attendance at a state university that require individuals to violate their religious convictions... Narrowly viewed, the case turns upon the Court's conclusion that merely requiring a student to participate in school training in military "science" could not conflict with his constitutionally protected freedom of conscience. This decision cannot be taken as establishing that the State may impose and enforce any conditions that it chooses upon attendance at public institutions of learning, however violative they may be of fundamental constitutional guarantees.

This means....	This does not mean...

3. Ask yourself: "How does this constitutional precedent support the court's opinion?"

We know the Supreme Court ruled in favor of the petitioner, Tinker. In this box, explain how the cases mentioned in the footnote above support the court's ruling.

Your Turn!

How does the court use the case of *Hammond v. South Carolina State College* to support the claim that students and teachers do not shed their rights to freedom of speech within the school building?

Steps:

1. Highlight places in the text where a legal precedent is cited.
2. Refer to the footnote and ask yourself: "What does the court interpret this precedent to mean and not mean?"
3. Ask yourself: "How does this constitutional precedent support the court's opinion?"

Page 6, Paragraph 4:

1. Highlight places in the text where a legal precedent is cited.

The principle of these cases is not confined to the supervised and ordained discussion which takes place in the classroom. The principal use to which the schools are dedicated is to accommodate students during prescribed hours for the purpose of certain types of activities. Among those activities is personal intercommunication among the students.⁶ This is not only an inevitable part of the process of attending school; it is also an important part of the educational process. A student's rights, therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on [393 U.S. 503, 513] the campus during the authorized hours, he may express his opinions, even on controversial subjects like the conflict in Vietnam, if he does so without "materially and substantially interfer[ing] with the requirements of appropriate discipline in the operation of the school" and without colliding with the rights of others. *Burnside v. Byars*, supra, at 749. But conduct by the student, in class or out of it, which for any reason - whether it stems from time, place, or type of behavior - materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech. Cf. *Blackwell v. Issaquena County Board of Education*, 363 F.2d 749 (C. A. 5th Cir. 1966).

2. Refer to the footnote and ask yourself: "What does the court interpret this precedent to mean and not mean?"

Read the footnote below for the passage above. Use the chart beneath the passage to explain how the precedent is legally interpreted.

FOOTNOTES, Page 6:

⁶ In *Hammond v. South Carolina State College*, 272 f. Supp. 947 (D. C. S. C. 1967), District Judge Hemphill had before him a case involving the meeting on campus of 300 students to express their views on school practices. He pointed out that a school is not like a hospital or a jail enclosure. Cf. *Cox v. Louisiana*, 379 U.S. 536 (1965); *Adderley v. Florida*, 385 U.S. 39 (1966). It is a public place, and its dedication to specific uses does not imply that the constitutional rights of persons entitled to be there are to be gauged as if the premises were purely private property. Cf. *Edwards v. South Carolina*, 372 U.S. 229 (1963); *Brown v. Louisiana*, 383 U.S. 131 (1966).

This means....	This does not mean...

3. Ask yourself: "How does this constitutional precedent support the court's opinion?"

We know the Supreme Court ruled in favor of the petitioner, Tinker. In this box, explain how the cases mentioned in the footnote above support the court's ruling.

