

The Meaning Of Free Speech As Described In The US Constitution

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Constitutional Foundations of Free Speech

In the First Amendment to the US Constitution, the law states clearly that Congress shall not make a law that advocates the formation of a religion or that restricts the freedom of exercise while cutting the liberty to free speech of the people or against the press. It further states that Congress shall not prohibit the right of citizens to gather and to appeal against the government seeking a remedy to the common grievances (Taylor Bell v Itawamba 5). From this statement, it is clear that the right to free speech protects some essential freedoms, such as freedom of any religious affiliation, freedom of the press, freedom of petition, and freedom of assembly. This is what is meant by free speech as described in the US Constitution.

However, the concept of free speech is increasingly becoming more difficult to understand in this era of technology, mainly due to internet influence, which has made it challenging to determine the form of expression that is protected under the Constitution. In the case of a student of Itawamba County School, Taylor Bell, against the school board, the complainant prosecutes the school board against the violation of Bell's freedom of expression (Taylor Bell v Itawamba 11). Bell articulated his views through a rap song about the alleged seduction of male teachers towards female students. Bells petitioned against the school's decision to apply punitive measures to him for what the board terms the disruption of school activities through his song, while the defendant believes that his right to free speech is being gagged because he posted the song to the public while at home.

During the determination of Bell's case, the Supreme Court noted the internet has impaired the legal validity of the difference between student speech within the campus and outside the university. This provides a loophole for school authorities to extend their disciplinary measures aimed at controlling the freedom of speech for campus students even when students are not within the school compound. According to Morse, 551 US at 424 and Alito, J, it is contrary to the law for parents to use their authority to dictate how children express themselves or what they listen from their boards in their learning institutions (Taylor Bell v Itawamba 17). Further, Shanley, 462 F.2d at 964 expects the parents of high school senior students to treat the action of a school board as a misuse of their power to regulate student speech by exercising control over how students should express themselves when out of the school compound. The Supreme Court, therefore, finds any school board guilty of the illegal, wrongful conduct of the First Amendment by violating student-protected speech out of school.

Off-Campus Student Speech and the Taylor Bell Case

The case of Taylor Bell represents the true meaning of the idea of free speech according to the Supreme Court ruling in the sense that he created and posted rap videos during non-school hours. The subsequent actions by the school authorities to deny students access to the video within the school compound meant that the song did not cause considerable disruption to the normal learning process (Taylor Bell v Itawamba 26). The consequences of Bell's action could not be foreseen, and therefore, the complainant was completely vindicated of any wrongdoing. The nature of the song was also rhetoric in view, meaning it could be interpreted in various meanings and, therefore, did not pose a genuine threat to the school staff.

The use of the internet, however, presents different judgements on the extent of student-protected speech. Another Supreme Court judgement on student speech involved a high school junior, Mary Beth Tinker, who, alongside fellow students, was banned from wearing an armband that was black while they were protesting the Vietnam War. The critical ruling on what is popularly known as Tinker vs. Moines concluded that students were still entitled to their constitutional rights even within the school compound (Tinker v. Des Moines School 6). The ruling further noted that the First Amendment is also applicable to public schools, and, therefore, school authorities should not restrict student speech unless it affects the learning process in a contrary manner. The court, therefore, ruled that it was not offensive for the Tinker and her fellow students to wear armbands within the school compound because it does not necessarily disrupt the learning process, the First Amendment protects their right to wear an armband as a form of expression.

Tinker remains the most cited case in many student speech rights jurisdictions as the precedent during the determination of student cases concerning infringement of the right to free speech in varying conditions. It proved that teenagers, with their creativity and curiosity, are key influencers in determining the ability of society to uphold the essentials of the First Amendment (Tinker v. Des Moines School, 6). The right to freedom of speech remains mandatory in the regulation of student speech by the authorities presiding over the learning institutions, provided the student does not disrupt the normal learning process or compromise fellow student's rights.

School Authority and the Doninger Decision

Another landmark ruling by the Court of Appeal is the Doninger v. Niehoff 2nd Circuit, dated 25th April 2011, where a student was disqualified from contesting for an elective position as a class secretary because of posting a false message on a weblog during non-school hours. The student named Avery Doninger was suspended by the board at the Lewis Mills High School (Doninger v. Niehoff 3). In the ruling, the court noted that the school authorities respected the student's rights according to the First Amendment by disqualifying her from the elective position as a class secretary. The court further

stated that Avery Doninger's behaviour was critical given her intention to be elected as a class secretary who was supposed to coordinate with the school authorities in executing her duties (Doninger v. Niehoff 3). This provides another example of how the courts offer various rulings on the extent of protection of student speech on the Internet.

The court ruling on the case that was filed by a student named Kowalski against his school, Berkeley County Schools, is another case study that further elaborates the meaning of free speech. Kowalski was suspended for developing a blog post and posting on a social media platform, Myspace, which was intended to ridicule a fellow student in the same school. The court of appeal upheld the ruling of the district court, which ruled in favour of the authorities at the Berkeley County [School District](#) (Taylor Bell v Itawamba 35). The court ruled that the student infringed on another person's right by subjecting her fellow student to online harassment during non-school hours. The court termed this behaviour by Kowalski as an internet assault on a fellow student, which, although done outside the school compound from home, was directly connected to the school environment. This judgement illustrates the extent to which the school board should exercise their powers in controlling student speech. The nature of the speech dictates the legality of decisions made by the authorities towards regulating student speech, considering the First Amendment (Taylor Bell v Itawamba 53). Schools have a duty, therefore, to safeguard the students rights against bullying and harassment regardless of the location of the student, whether in school or at home at the time of the violation of such a right.

In another related to student speech, two students who are twin brothers, the Wilsons, were suspended by the Lee's Summit R-7 School for 180 days for developing a website and posting a racist post that targeted black students as well as sexist remarks about fellow female students. The district court ruled in favour of the complainants, who noted that the authorities at the school violated the student's rights to freedom by suspending the two students. The school board later appealed the ruling, and the court of appeal nullified the ruling by the district and ruled in favour of the defendant (Taylor Bell v Itawamba 25). The court of appeal argued that the student's speech was deservedly punishable according to an analysis of the Tinker, and the consequences of their action could be easily predetermined. Their posts lacked full immunity from the First Amendment, and therefore, the defendants could not succeed based on the merits set by the Tinker ruling. The blog post caused considerable disruption to the normal learning process and, as such, was subject to punitive measures.

The Tinker Standard and Limits of Student Speech

Most of the cases related to student speech in courts are determined by Tinker's measure of substantial disruption policy. The school board, in the exercise of its powers, must take into consideration Tinker's policy in disseminating reasonable decision-making on the consequence of students' speech (Taylor Bell v Itawamba 5). The Tinker policy catalogues and classifies the extent of disruption that various student speeches might inflict on the normal educational process, which is related only to on-campus conduct. Bell's case is off-campus conduct and, therefore, cannot be

determined based on Tinker's policy.

The various examples that have been put forward in this context explain the multiple ways that free speech may be interpreted, especially when used on the internet. Students have reserved the right to freedom of wearing armbands within the school compound in protest of any form of war. The basis of this right is founded on the judgement of the case of Tinker v. Moines and remains the leading citing reference in the determination of similar cases. Freedom of speech does not include an action that attempts to disrupt the primary learning processes within the school environment. The student also loses the right to freedom of expression when he or she infringes on another student's rights or even a member of the support and teaching staff and should suffer the consequence of his or her actions.

Works Cited

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