

LIBERTY GAZETTE

HAT'S OFF TO YOU! OR ON! BECAUSE SCHOOL ANNOUNCES NEW HAT POLICY!!!

by Lisa and Aaron

Eastman-Baldwin Junior High has updated its dress code to allow students to wear hats at school, according to Principal P.A. And the student body is *cap-tivated!*

The change comes after students and teachers said the old policy — a complete ban on headwear — was too limiting.

“The community has been requesting more room for self-expression, and we heard what they have to say,” said Principal P.A. “As long as the hats are not disruptive to learning, we are pleased to support this demonstration of symbolic speech at Eastman-Baldwin.”

Symbolic speech means ideas that are communicated without using words: like through actions, gestures, or how people dress. Just like other forms of free speech, it is protected by the First Amendment of the United States Constitution.

For some, this change to Eastman-Baldwin’s dress code took way too long to happen.

“Didn’t the Supreme Court have a ruling about this kind of stuff in the 1960s?” said senior Brandon L. “I can’t believe we’ve had to wait this long to wear the hats we want!”

Brandon was referring to *Tinker vs. Des Moines*, the historic 1969 Supreme Court case. That was when students were suspended for wearing black armbands with peace signs to protest the Vietnam War — a symbolic protest.



With help from the ACLU, the students and their families filed a lawsuit that went all the way to the Supreme Court. The court decided that students don’t lose their right to free speech or expression while they’re at school, so long as student protests don’t disrupt the educational process. It was a big victory for the First Amendment!

Still, even after *Tinker*, schools have been free to set their own dress code policies. That’s why Eastman-Baldwin was previously able to say “no hats allowed.”

But now that the rules have changed, members of the Eastman-Baldwin community can express themselves with whatever beanie, bowler, or beret they choose! And those hats can feature messages and symbols, too — like a peace sign, or a sports team logo.

Even if the hat has a message or symbol on it that others don’t like, the new policy means that the wearer cannot be disciplined more harshly than anyone else, simply because of that message.

The updated policy is a hit among students and staff alike.

“No cap, I’m pro cap,” said Mr. Charles, the newspaper club advisor. “Did I say that right?”

EPISODE 1 STUDY HALL:

Tinker vs. Des Moines: A Fight for First Amendment Rights at School



KEY FACTS

Background

- In December 1965, a group of students at a junior high school in Des Moines, IA made plans to wear black armbands to school as an act of protest against the Vietnam War.
- The school found out about the students' plans. Just before the protest, they passed a rule saying that any student who wore a black armband to school would be asked to remove them — and suspended if they did not comply.
- Mary Beth Tinker, her brother John Tinker, and Christopher Eckardt wore black armbands, acting against the new rule. All three were suspended. Their parents sued the school district.

Arguments for Each Side

- The Tinkers' case argued that wearing the armbands was a form of free speech protected under the First Amendment — and that the school had violated the students' Constitutional rights by suspending them for protesting.
- The school district argued that their actions were reasonable to prevent disruption at the school. They said that public schools are not appropriate settings for protests because they can interfere with student learning and safety.
- **The central questions at the heart of the case:**
 - *Do students have the right to exercise their First Amendment rights to free speech while they are at school?*
 - *Does school have the right to make rules that stop possible disruptions from taking place?*

The Outcome

- The case went all the way to the U.S. Supreme Court, where the justices ruled 7-2 in favor of the students.
- Tinker vs. Des Moines established that a person has the right to exercise free speech while they are at school — as long as the speech does not cause substantial disruption to the school's ability to function.
- Because wearing armbands was a form of silent protest, in the Tinker case, there was no evidence that this use of free speech would have caused a substantial disruption to school.
- However, future cases would need a way to decide what counts as a "substantial disruption." This decision-making process became known as The Tinker Test.

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It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

— JUSTICE ABE FORTAS

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KEY IDEAS

- The Supreme Court considered the wearing of armbands to be symbolic speech — a form of expression that gets ideas across without using words. Symbolic speech is considered a form of free speech.
- Although the Supreme Court ruled in favor of the students, it still gave schools the ability to limit student speech if that speech causes substantial disruption to learning, or if it interferes with the rights of others.
- Determining whether a form of expression is disruptive enough for schools to be allowed to limit it is known as The Tinker Test.

KEY WORDS

- **Disruption:** A situation in which something is prevented from continuing in its usual way.
- **Protest:** Something that you do to show publicly that you think that something is wrong and unfair, or to support something.
- **Substantial:** Major, serious, or considerable.
- **Sued:** Made a legal claim against someone because they harmed you in some way.
- **Suspended:** Being made to leave school for a short time because you have broken the rules.
- **Symbolic Speech:** A form of expression through action, that doesn't use words.
- **Tinker Test:** The way courts decide whether student speech causes a substantial to learning.
- **Vietnam War:** A war between the United States and Vietnam, a country in southwest Asia, that took place from 1955-1975.
- **Violated:** Acted against an official agreement, law, or principle.

SOURCES

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EPISODE 1 STUDY HALL:

First Amendment FAQs



1. What is the First Amendment?

The First Amendment is one of the most important parts of the Constitution, the United States' founding document.

The Constitution lays out how our system of government works: how it is organized, what its rules are, and how the Constitution itself can be changed. These changes are known as "Amendments." And the First Amendment is — you guessed it! — the very first change made to the Constitution after it was approved in 1789.

It says:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

And here are the five "freedoms" it protects:

- **Disruption:** A situation in which something is prevented from continuing in its usual way.
- **Protest:** Something that you do to show publicly that you think that something is wrong and unfair, or to support something.
- **Substantial:** Major, serious, or considerable.
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2. What is Freedom of Expression?

The term "freedom of expression" does not appear in the U.S. Constitution. Rather, it is a term we use to collectively refer to the freedoms protected by the First Amendment — freedoms that allow us to express ourselves, our opinions, and our beliefs without government interference.

EPISODE 1 STUDY HALL:

First Amendment FAQs



3. If we have the right to express ourselves freely, that means we can say or do anything we want... right?!

Not exactly. The First Amendment was designed to protect an individual from the government silencing or censoring them. It does not mean that a person has the freedom to say or do anything that they want, whenever they want, without consequence.

Sometimes, the limits of free speech are clear. Intentionally spreading falsehoods about someone in a way that harms their reputation, for example, is illegal (it's called "defamation"). Different private institutions — like workplaces, social media platforms, and even private schools — may be able to enforce their own rules of conduct around acceptable speech, activity, and behavior.

Other times, determining precisely what qualifies as "freedom of expression" or "freedom of speech" can be complicated. These debates often end up before the Supreme Court — the highest court in the United States, with the final say on legal questions. When a free speech issue goes all the way up to the Supreme Court, it's up to the nine Supreme Court justices to decide if, or how, First Amendment protections apply.

In all cases, words are powerful. So think about how you use them!

4. Do I have First Amendment rights at school?

Yes — with some conditions. The landmark Supreme Court case *Tinker vs. Des Moines* established that you do not lose your right to free speech when you are on school grounds. That means you have the right to speak out, hand out flyers and petitions, and wear expressive clothing in school — as long as by doing so, you are not disrupting the school's normal functions or violating viewpoint-neutral school policies.

But what is a "viewpoint-neutral" policy? And what counts as being "disruptive"? That's where things get tricky.

In a viewpoint-neutral policy, the "viewpoint" is the particular message that's being expressed. A viewpoint-neutral policy doesn't regulate just one side of a hot-button debate, but treats all viewpoints equally. So, for example, if your school has a "no sports logos" dress code, it doesn't matter if you're wearing a Yankees jersey or a Red Sox cap — your school isn't taking sides in that historic sports rivalry! It just cares that you're wearing something with a sports logo in the first place. That's a viewpoint-neutral policy.

As far as what counts as being "disruptive," that's a little less cut-and-dry. It depends on the context of what's going on. But a school disagreeing with your position or thinking your speech is controversial, or in "bad taste," is not enough to qualify.

