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The Shrinking Voice:

Student Free Expression Rights in United States Schools

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Abstract

Freedom of expression is a very important part of a functional, free, and democratic society; yet in American schools, students' right to speak and participate in civics has been increasingly restricted. The United States the Supreme Court (SCOTUS) case *Tinker v. Des Moines* (1969) established strong student-speech rights, stating students do not "shed their constitutional rights . . . at the schoolhouse gate," setting a precedent for student expression as a protected part of a democratic education (506). However, later cases have progressively narrowed and weakened those protections, under the justification of maintaining order and authority in educational settings. These decisions have created a separate and lesser class of rights for students where speech in schools is treated as something that should be controlled rather than something to be developed.

This paper argues that the American legal system has reshaped and diminished student expression by treating youth not as citizens-in-training but as subjects of institutional control. By treating youth expression as disruptive or secondary to school interests, courts have redefined free speech for students as a privilege rather than a constitutional right. This logic is fundamentally backwards as all meaningful forms of free expression are, by nature, disruptive. By analyzing key SCOTUS cases and placing them alongside democratic theory, this paper will show how judicial reasoning has shifted from protecting student voices to prioritizing institutional control, reflecting a broader societal discomfort with youth autonomy and dissent. It further explores how the suppression of student expression damages civic participation, democratic habits, and reshapes how generations understand their role in democracy.

Introduction

Freedom of expression is a foundational pillar of a functional, free, and democratic society; yet in American schools, students' right to speak and participate in civics has been increasingly restricted. The United States Supreme Court (SCOTUS) case *Tinker v. Des Moines* (1969) established strong student-speech rights, stating students do not "shed their constitutional rights . . . at the schoolhouse gate" (506). However, since then, United States courts have created a separate and lesser category of free speech rights for youth, largely narrowing and weakening those protections, under the justification of maintaining order and authority in educational settings, treating student expression as a threat to authority rather than a form of civic participation and learning. By defining disruption as negative, later rulings have misunderstood the purpose of free speech itself and its importance within schools. This legal trend narrows students' constitutional rights, weakens youths' sense of civic engagement, and damages democracy itself.

What follows in this research paper is an examination of how deeply this shift matters. To understand why the legal narrowing of student expression is so consequential, the paper begins with the democratic purpose of educational free expression, drawing from Professor John Dewey's argument that democratic habits develop through active participation, not silence. Next, the erosion of the *Tinker* standard is followed through later SCOTUS decisions that reshaped student expression as something to be controlled. Finally, the civic consequences of limiting student voice are demonstrated through looking at social science research that shows how limiting expression in youth leads to weakened democratic participation in adulthood.

The Democratic Purpose of Educational Free Expression

Disruptive speech is a fundamental requirement of democracy. Disruptions like challenging authority, causing change, and forming political identity and movements are not wrong but needed for democracy. The United States Supreme Court (SCOTUS) has stood by this through the entire history of the United States… except when it comes to students, but students are not separate from this democratic purpose. Scholar John Dewey repeatedly links democracy to learning how to participate in civic and social life. In his book, *Democracy and Education*, he explains that "the devotion of democracy to education is a familiar fact," emphasizing that democratic life depends on educated citizens who know how to participate with others (91). He develops on this further in his other book, *My Pedagogic Creed*, stating that "the only true education comes through the stimulation of the child's powers by the demands of the social situations in which he finds himself," and that "education is a process of living and not a preparation for future living" (3, 7). Taken together, Dewey's ideas show that students learn democracy by practicing it; he is arguing that a successful democracy depends on citizens who have been genuinely educated, and that true education comes from learning how to participate in civic and social life. An education system within a democratic society must therefore encourage student voice, not treat it as a threat. Thus applied, if democracy to be successful requires an educational environment where students practice expression, disagreement, and civic action, then restricting those experiences within schools undermines the very qualities and foundation a democracy needs to survive. This is exactly what the seven majority justices (composed of four democrats and three republicans) who voted yes on *Tinker v. Des Moines* (1969) understood. They recognized that student expression was (and is) an important part of education within the United States democratic society; additionally, one of the two dissenting justices made his dissenting vote solely on the fact that he believed the courts were overstepping in its role by

second-guessing school administrators' decision, but agreed that students do have the right to freedom of expression. For most young people, schools are the first democratic institutions they encounter, which is why it is so vital for them to be able to express their ideas, views, words, and challenge authority as Dewey determines as vital to their development. Dewey's views prove how important and significant SCOTUS' decision in *Tinker* was, recognizing students' rights to expression; and why shifts in later SCOTUS decisions causing suppression of student expression are beyond damaging to democracy in the United States.

The Legal Shift

The United States Supreme Court's (SCOTUS) decision in *Tinker v. Des Moines* (1969) established the strongest protections of students' freedom of expression rights in United States history; it affirmed that students still have their First and Fourteenth Amendment rights at school and that schools cannot suppress student speech. Prior to the decision schools primarily functioned under the "in loco parentis" doctrine which set that schools acted in place of parents, and the only major SCOTUS decision setting protections for student expression was *West Virginia State Board of Education v. Barnette* (1943), which prohibited only compelled speech by saying students could not be forced to salute the flag but did not limit censorship of students (Stuart, Dayton 10-11). *Tinker* established the "substantial disruption test" or "*Tinker* test," which sets the standard that in cases regarding student freedom of expression schools may only limit expression if they can show "that engaging in [freedom of expression] would 'materially and substantially interfere with the . . . operations of the school' . . . or impinge upon the rights of other students" and may not to simply "avoid the discomfort and unpleasantries that always accompany an unpopular viewpoint" (509). SCOTUS made it clear that fears, hypothetical concerns, or the desire to avoid controversy do not constitute the restricting of freedom of

expression on students. However, in the decades following, SCOTUS took major steps backward on student freedom of expression.

Decisions such as *Board of Education, Island Trees Union Free School District v. Pico* (1982), *Hazelwood School District v. Kuhlmeier* (1988), and *Morse v. Frederick* (2007) show a shift, greatly weakened the protections previously established, weakening student freedom of expression rights and expanding school authority, narrowing the circumstances in which students can speak and participate freely. A little over a decade after the protective decision, *Pico* was the first sign of SCOTUS' shift, showing their willingness to let schools restrict students, in this instance restricting students' access to ideas based on ideological disagreement or dislike even if no disruption is present. *Tinker* clearly set the standard that you cannot take restrictive actions to simply "avoid . . . discomfort or unpleasant[ness]," it is the core of the "*Tinker* test," but in this decision SCOTUS went against that and allowed the suppression of ideas, not because they were disruptive, but because they were uncomfortable. Then again, in *Hazelwood*, the Court took an even bigger and more significant backstep, directly attaching students' freedom of expression, by saying administrators could censor student journalism based on "legitimate pedagogical concerns." In practice this decision allows for schools to censor student expression if the school believes its related to teaching, curriculum, or the school's mission regardless of it causing a disruption or not. *Hazelwood* effectively over through and went against the rule that student freedom of expression could not be restricted unless it interferes/disrupts the operations of the school or infringes upon the rights of others. It turns the protections from a strict, evidence-based rule, into a broad, subjective, school-controlled decision. *Morse* narrowed student freedom of expression rights even further by allowing schools to restrict expression that appears to promote illegal drug use, again, without evidence of disruption. This decision pushed the restriction to a

whole other level, what is freedom of speech if not to push for changes in systems or laws, and how can you do so if told you cannot support something that is illegal.

From these three decisions combined, there is a plethora of situations that are now restricted that were previously protected under *Tinker*. These are not extreme or hypothetical cases; they represent realistic situations students encounter in ordinary school settings. For example: after *Pico*, a student, politically interested in democratic socialism, would not have the ability to read books regarding it if their school disagreed with those views; after *Hazelwood*, a student, who believes the school curriculum is flawed may not present the idea to their peers; and after *Morse*, a student, in a state where marijuana is not legal, could not wear a shirt supporting the passing of a bill to legalize it (or any substance for that matter). By steadily, strongly, and clearly lowering the threshold of protection regarding students' freedom of expression, SCOTUS has reframed student expression as a thing to be avoided rather than a thing to be embraced and a democratic practice to be learned. SCOTUS has set the stage, and the civic consequences destined to follow are significant.

Civic Consequences

These legal decisions do not just affect school environments and policy, they shape the democratic habits of entire generations by manipulating how students learn to see their own voice. As Dewey argued, students learn democracy by participating in it, not by being silenced. When courts redefine expression as something "dangerous," schools by process follow, and students internalize that message. Schools are the first government and democratic institutions most young people interact with, and because of that, restricting expression inside them has real and damaging consequences for democratic participation. Students learn democracy through practice, not theory.

There is some strong research that supports this. Studies from the Knight Foundation, University of Turin, and Tufts University's Center for Information and Research on Civic Learning and Engagement (CIRCLE) all show that student voice is directly linked to later civic engagement. The Knights Foundation has strong findings in their national survey, which shows that students who attend schools that support student expression and take classes including the first amendment within the curriculum show greater support for free speech, including speech they disagree with; and students in restrictive schools and who do not take classes including the first amendment within the curriculum show weaker civic trust and are less comfortable participating in public debate (2, 10, 11). This shows that strong democratic beliefs are encouraged by student voice, and when schools restrict and do not encourage speech, students become less confident in their right to speak, and this follows them into their adulthood. In other words, supportive school environments produce adults who believe in open dialogue; restrictive ones produce adults who avoid it. This impacts voting activism, organization, community participation, etc.

This trend appears across other research as well. A study done by researchers at the University of Turin reinforces this pattern. It concludes that students who are encouraged to participate in civics develop stronger civic attitudes and a sense of efficacy, while students who lack these opportunities develop weaker civic attitudes and efficacy (Martini). They show that civic engagement is not a skill by birth, but rather it is built. They argue that students need practice expressing themselves, disagreeing, and participating in debate. They say it is learned through participation, expression, and practice and if schools withhold those opportunities, they are weakening the very skills democracy relies on.

Additionally, research on youth civic engagement confirms that the suppression of student voice has long-term effects beyond the classroom. According to CIRCLE when student voice is limited, we are removing the first stage of democratic development. They emphasize that youth participation in expression is not optional for a healthy democracy, and they say when student voices are ignored or shoved to the side "our democracy is not truly representing all people and not meeting its full potential" (CIRCLE). A democracy relies on people who believe their voices matter, and that starts with students seeing that their voices matter early in life. However, if schools are teaching the opposite, teaching students that their voices are dangerous, students adopt the belief that their role in democracy is passive rather than active. A democracy relies on people who trust their views and who trust that their voices have power. If schools instead teach students that they do not have a voice or that they can be punished for speaking up, democracy becomes weaker with each graduating class.

On a broader more societal level, Professor Aniceto Masferrer in his article "The Decline of Freedom of Expression and Social Vulnerability in Western Democracy," argues that a decline in freedom of expression, from either formal censorship or social-institutional suppression, destroys the foundations of democratic life. Masferrer claims that suppressing freedom of expression "jeopardizes the whole democratic system," because it discourages dissent and weakens individuals' ability for critical thought. If students, who are our future citizens, are systematically in schools, due to The United States Supreme Court's (SCOTUS) trend in decisions regarding student freedom of expression, subjects of and experience suppression during their developmentally important years, the damage may compound across generations eventually crippling democracy. Like Dewey, Masferrer emphasizes that democratic strength depends on individuals who can think critically and voice dissent without fear.

Taken together, these studies show that when youth are able to express themselves, question authority, and participate in civics, they are able to develop stronger and healthier democratic habits that they will carry into adulthood. In contrast, they show that when these opportunities are removed, or the experiences are blocked, the opposite occurs and students learn to associate public expression and controversy as something they are allowed to be punished for or something that is not allowed, and those beliefs will follow them into their roles as voters, civic participants, and community members. The primary concern is that, as courts continue to reframe student expression and disruptions as a threat rather than a democratic necessity, they are shaping schools to produce compliance instead of citizenship. If legal standards established in *Tinker v. Des Moines* (1969) continue to be diminished by a SCOTUS that has lost the understanding of the importance and purpose of free speech itself and its importance within schools and sees student expression as a thing to be avoided rather than a thing to be embraced and a democratic practice to be learned, we risk creating generations of adults who are less willing to speak up, less trusting of democratic institutions, and less capable of participating in their civic duties.

Conclusion

Democracy depends on expression, yet student expression continues to be framed as a risk. Throughout these pages, what is demonstrated is a widening gap that is becoming increasingly pronounced between the democratic purpose of speech and the way student expression is legally treated. Across the democratic theory reviewed, free expression in schools is understood as essential to democracy and civics, yet the United States legal system is moving in the opposite direction. Looked at in order, the democratic purpose of expression, the legal shift

following *Tinker v. Des Moines* (1969), and the consequences that follow, a clear pattern and connection emerge, and important questions about the future of democratic participation arise.

Dewey argued that education and democracy are inseparable because students learn civic engagement through active participation. His philosophy, that disagreement is not chaos nor an obstacle to education but is actually required for a true education system, highlights the reason that restricting student expression contradicts the very purpose of education within a democracy. Modern jurisprudence, however, increasingly treats disruption as harmful rather than educational.

The path from *Tinker* to the present is not simply a legal shift, it is a shift in what the United States chooses to teach its youngest citizens about democracy. It shapes civic identity by teaching students whether their voices matter. When the United States Supreme Court (SCOTUS) protected student expression in *Tinker*, it recognized that schools are where democratic habits are learned, practiced, and reinforced. But the later SCOTUS decisions in *Board of Education, Island Trees Union Free School District v. Pico* (1982), *Hazelwood School District v. Kuhlmeier* (1988), and *Morse v. Frederick* (2007) show a consistent misunderstanding of disruption and the democratic purpose of free speech. Leading to now, United States courts have created a separate and lesser category of free speech rights for youth. Each ruling narrowed the definition of allowable speech and reframed "disruption" as something dangerous rather than something required for democracy. The rulings together mark a departure from the constitutional principles articulated in *Tinker*, replacing them with standards that put administrative control and authority over civic development.

The studies observed show that when young people are allowed and given the opportunity to express themselves positive democratic habits are built, but when those

opportunities are restricted, civic confidence declines and bad habits are built. Democracies rely on citizens who see disagreement as healthy, not dangerous. If schools frame debate as risky, students internalize that message and learn that silence is safer than participation, carrying that lesson with them into adulthood. When the democratic spaces of childhood treat expression as a threat, the long-term result is a public less prepared and willing to participate civically, question authority, or hold government accountable. If the legal trend continues to stay on the same trajectory, the effects will grow generation to generation, reducing democratic capacity of future citizens till there is nothing more to reduce.

Restoring the constitutional meaning of student expression requires recognizing the constitution itself and the democracy built on it cannot survive without it. A quick change back to the standards of *Tinker* are needed. Schools must be designed as civic institutions and within them expression must be treated as an educational tool, not a liability. Educational environments must be structured to allow students to practice forms of expression that democratic life demands. Strengthening protections for student speech would directly support the development of involved citizens capable of critical thought, civic responsibility, and public participation. Meaningful steps toward reversing this trend are possible but require acceptance of expression within education and understanding that expression within education is fundamentally needed. Recalibrating student-speech protections cannot be done without correcting the departures from *Tinker* that have accumulated across later rulings. At the policy level, to reinforce healthy democratic habits the courts once recognized as essential and to align educational practice with the constitutional principles *Tinker* sought to protect, civics education that includes the First Amendment and meaningful opportunities for student participation should be adopted.

In the end, the debates over student expression are far more than just competing interpretations of school authority. They show the level democracy relies on education and on citizens who have been allowed to practice civics from a young age. Schools once served as the place where that practice was meant to happen. The legal trend away from those principles, combined with the research on civic effects of suppressed student voice, shows how quickly democratic habits can erode when expression is treated as a liability rather than a necessity. If the current path continues, the cost will not be limited to classrooms, it will bleed its way into civic participation for generations. Safeguarding student expression is inseparable from safeguarding democracy itself… this is not just about schools, it is about the future of democracy.

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