

SIMULATION

Student Free Speech - Ben Brewer v. Hamilton High School FACILITATION GUIDE



TIME NEEDED

1-2 class periods

MATERIALS NEEDED

Student Handouts (optional)

Student access to internet

Interactive whiteboard

HANDOUTS

Activities (2 pages; class set)

Mini-Quiz (1 page; class set)

LEARNING OBJECTIVES

- ✓ Describe free speech rights protected by the First Amendment
- ✓ Identify the main arguments put forth in the case of *Tinker v. Des Moines*
- ✓ Describe the role of Supreme Court justices
- ✓ Identify the impact of the Supreme Court's decision on student expression at school and individuals' rights
- ✓ Simulate the development and presentation of a Supreme Court argument

PREPARATION BEFORE CLASS

REVIEW BACKGROUND

Here's some background information to help prepare you to lead your students through this simulation.

SUMMARY

Examine the fictional case of Ben Brewer, a high school student who was suspended for violating the school dress code. Students will assume the roles of Petitioners, Respondents, or Justices as they examine the First Amendment right to free speech and apply the precedent of *Tinker v. Des Moines* to answer the question: Does the Constitution protect Ben's right to wear a band T-shirt to school?

KEY QUESTIONS

- Do you think that speech in school should have limits?
- How should limits be set?
- How did the First Amendment play into this case?

STUDENT ROLES

As students log into the simulation, they are distributed across these five groups:

PETITIONER

The petitioners have brought the case. Students assigned this role argue that the suspension of Ben Brewer was a violation of his freedom of speech. They will be fighting to defend free speech in schools.

JUSTICE (LOOK BACK)

Students assigned to the role of "Look Back" Justices will focus on other relevant cases and similar situations when they prepare their ruling. They will look at how the language in the Constitution was viewed in the case of *Tinker v. Des Moines* and how the details of that case compare to the case of Ben Brewer.

RESPONDENT

The respondents represent the high school administration. Students assigned this role will defend the school's decision to suspend a student who refused to remove a banned T-shirt. They will be fighting to make sure that school administrators can create a space where everyone can learn.

JUSTICE (LOOK CLOSELY)

Students assigned to the "Look Closely" Justice role will focus on the text of the Constitution to interpret the law and shape their rulings. They will consider what the Framers meant when they wrote the words in the First Amendment.

JUSTICE (LOOK AHEAD)

Students assigned to the "Look Ahead" Justice role will focus on the immediate results of how a ruling will impact the future. They will weigh the pros and cons of ruling for Ben or for Hamilton High School. They will also consider what they think is the "right" thing to do in the case.

PREPARATION BEFORE CLASS

SETUP

Prepare to run the simulation in your classroom.

CREATE A SESSION

Create a session for each class period in which you will run the simulation. Go to:

<https://www.voxpop.io/supreme-decision/student-free-speech>

1. **Name** your session. We suggest naming it after the class period.
2. **Enter** your **email address** so we can send you a message with the link to your session.
3. **Save** the email and use it to open the session when the class starts.

Your progress will be saved as you play, so you can run the simulation over multiple days. Just click on the link in the email to re-open it.

DECIDE ON DURATION

A simulation may be completed in one session or across multiple sessions. This guide provides pacing suggestions for one 60-minute or two 40-minute sessions. When you see a range of time options, pace to the lower end for 60 minutes of instruction or the upper end for 80 minutes of instruction.

Note: *If you choose to do the simulation in two sessions, end the first day after Prep for Oral Arguments (page T6). Start day 2 by having students get back into groups and review their preparation from the previous day. You can also revisit the videos if you like. Just hit the Back button at the bottom.*

CLASSROOM SETUP

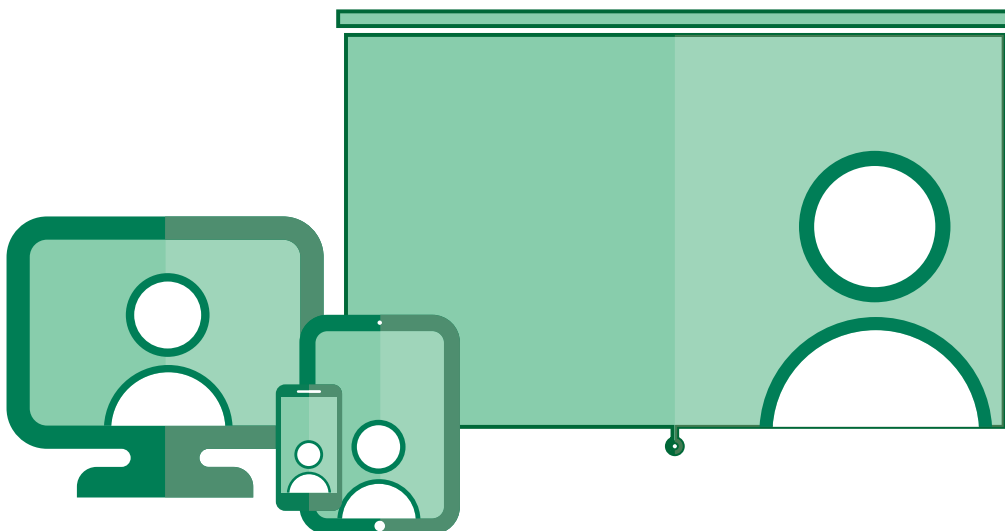
You will be projecting and facilitating the simulation from the main screen in your classroom.

Students should each use an individual device to log in and interact with the simulation. They can use any web-enabled device, including PCs, Chromebooks, tablets, and phones. (Chromebooks/laptops work best).

You can leave desks in their normal configuration, but students will be moving around the class and meeting in groups throughout the simulation. They should carry their device with them when they move.

HANDOUTS

Following this guide are **optional** Extension Pack materials that can be used to prepare students before the simulation, have students record their thoughts on the discussion questions during the simulation, and a mini-quiz you can use as a check for understanding.



FACILITATING THE SIMULATION DURING CLASS

INTRODUCTION

During this phase, students are introduced to Supreme Decision, learn about their role and get into character.



6 minutes total

ASSIGN PROFILES - 2 minutes

1. Before class starts, use the link in your email to open the session you created on your classroom screen.
2. Direct students to log in on their web-enabled device by going to the **URL**.
<https://voxpath.run/sup>
3. Students then enter the 6-character alphanumeric **Code** displayed on the classroom screen. They will be asked to type in a display name to log in.
 - a. If students are returning to a session that's already in progress, they must type their name exactly as they did before. Names are case and punctuation-sensitive.
 - b. Names will be displayed on the classroom screen.
4. As students log in, they will be assigned to **Roles**, and their names will appear on the screen. Ask your students to read their **Brief** (displayed on their devices).
5. Once all students have logged in, you can begin by clicking **Close Roster**.

Note: If students arrive late, you can bring up the **URL** & session **Code** by clicking **Open Roster**.

WELCOME - 4 minutes

1. Play the Welcome video to introduce Supreme Decision to your class. (Each phase of the simulation is accompanied by a video that explains what students need to do.)
2. Then, have your students circle up in their groups and discuss the question displayed on the left side of their screen. Ask one member of each group to share their answer.

PETITIONERS

Why is freedom of speech so important to our democracy?

RESPONDENTS

Why is education so important to our country?

LOOK CLOSELY JUSTICE

Why is it important to pay attention to the words written in the Constitution?

LOOK BACK JUSTICE

Why is it important to pay attention to precedent set in previous cases?

LOOK AHEAD JUSTICE

Why is it important to consider the impact of your ruling?



FACILITATING THE SIMULATION DURING CLASS

BACKGROUND

During this phase, students are introduced to the case and the concept of Judicial Lenses.



5 minutes total



BACKGROUND INTRO - 3 min

1. Play the Background video to explain the case to the class.
2. Use the discussion question at the end to ensure that students understand the basics of the case.
 - Why did Ben get suspended?

Note: Discussion question(s) will appear after each video plays. These class discussions are a good way to review the facts and check for understanding throughout the simulation.

JUDICIAL LENSES - 2 minutes

1. Play the Judicial Lenses video.
2. Use the discussion question at the end to ensure that students understand the basics of the case.
 - What do Justices that Look Closely focus on?
 - What do Justices that Look Back focus on?
 - What do Justices that Look Ahead focus on?



FACILITATING THE SIMULATION DURING CLASS

FACTS

During this phase, students are introduced to the facts of the case.



5-8 minutes total

THE FACTS - 5-8 minutes

1. Play the Facts video, which provides further details on the case, including information on precedent.
2. After the video:
 - The Petitioners and Respondents should work together to identify the facts that support their case.
 - The Justices should identify which facts are most relevant to their Judicial Lenses.

Students have the facts and the following prompts displayed on their screens.

PETITIONERS

As a group, discuss which facts will help you convince which Justices.

- For Look Back Justices—Find precedents that support student speech and limit rules administrators can make.
- For Look Closely Justices—Show that Ben’s choice of T-shirt was political and an expression of free speech, not just a fashion choice.
- For Look Ahead Justices—Find facts that show how protecting freedom of speech for students benefits society.

LOOK CLOSELY JUSTICE

Talk with the other Look Closely Justices and discuss which facts you think are the most important. Which facts relate to your focus, **the text of the Constitution?**

LOOK AHEAD JUSTICE

Talk with the other Look Ahead Justices and discuss which facts you think are the most important. Which facts relate to your focus, **outcomes and future situations?**

RESPONDENTS

As a group, discuss which facts will help you convince which Justices.

- For Look Back Justices—Find precedents that support the right of administrators to make rules that protect learning in favor of student speech.
- For Look Closely Justices—Show that Ben was making a fashion choice, not a political statement.
- For Look Ahead Justices—Build arguments that show that limiting student speech maintains productive learning environments.

LOOK BACK JUSTICE

Talk with the other Look Back Justices and discuss which facts you think are the most important. Which facts relate to your focus, **precedent?**

The Facts

Title	Text
Positive Message	Hall of Rejects publicly embrace inclusivity.
Freedom of Speech	The First Amendment says, “Congress shall make no law... abridging the freedom of speech...”
Tinker Test	Tinker v. Des Moines established the “Tinker Test,” which allows schools to restrict speech only if they can prove it will disrupt learning.
Disruptive Speech	Band T-shirts caused multiple disruptive arguments during the previous school year.
Political Speech Protected	In the Tinker case, students were protesting U.S. involvement in Vietnam.
Schools are Public Spaces	Children have nearly all of the same constitutional rights as adults in a public school setting as long as there is not a significant disruption to the education process. Private schools are not funded or run by the government, so they may further limit student rights.

FACILITATING THE SIMULATION DURING CLASS

PREP FOR ORAL ARGUMENTS

During this phase, students will take notes and prepare for Oral Arguments.



15-20 minutes total

PREP FOR ORAL ARGUMENTS INTRO - 1 minute

Play the Prepare for Oral Arguments video to preview the next activity.

PREP FOR ORAL ARGUMENTS - 14-19 minutes

The Petitioners and Respondents should use the relevant facts to write their opening statements and take notes on how to address each Judicial Lens during Oral Arguments. Each team should pick 1-3 students to deliver the opening statement. All students can answer during questioning.

Justices should write questions that challenge the Petitioners and Respondents to justify their arguments and explain their positions. They should also discuss the evidence that each side needs to bring to convince the Justices to rule in their favor.



Prep for Oral Arguments student screen

Students can take notes in the box provided. They can also see their group members' notes. This is on the left side of their screen.

Students also have reference material on the right side of their screen.

Tip: All students should understand their perspective and contribute to writing. Circulate the classroom to check for understanding and prompt participation. Make sure groups know who will be delivering the opening statement. All students should be prepared because they may be called on to answer questions from the Justices.



If you are splitting this lesson over two days, this makes a perfect stopping point. Resume the next class by having students meet in groups for about 6 minutes. Students should use this time to review their oral arguments prep before proceeding.

SIMULATION

FACILITATING THE SIMULATION DURING CLASS

ORAL ARGUMENTS, DELIBERATION, & RULING

During this phase, students will present arguments, deliberate, and rule.



13 minutes total

ORAL ARGUMENTS INTRO - 1 minute

Play the Oral Arguments video to explain the next activity.

Have Justices move their chairs to the front of the room and sit in a line. This will serve as the bench.

ORAL ARGUMENTS - 8 minutes

Each team should pick 1–3 students to deliver the opening statement. All students can answer during questioning.

1. First, Petitioners present their opening statement. Students should stand and present the argument. Ensure they are able to do this without interruption by other students. It may be presented by one or more students. Students may refer to their preparation notes in the student view. Justices should listen to the statements and write down any new questions they would like the Petitioners to answer.
2. Next, Respondents present their opening statement. Students should stand and present the argument. Ensure they are able to do this without interruption by other students. It may be presented by one or more students. Students may refer to their preparation notes in the student view. Justices should listen to the statements and write down any new questions they would like the Respondents to answer.
3. Then, Justices should ask questions to the Petitioners to clarify their arguments. Any student in the Petitioner group can answer the questions.
4. Finally, Justices should ask questions to the Respondents to clarify their arguments. Any student in the Respondent group can answer the questions.

Note: You may want to set a time limit for questioning to ensure there is time to debrief. You can use a phrase like, “I am going to allow one more question.” You may also wish to call on students to ensure all voices have been heard.

DELIBERATE & RULE INTRO - 1 minute

Play the Deliberate video to preview the next activity.

DELIBERATION - 2 minute

Justices should discuss the case and evidence in front of the whole class. They should share the evidence and arguments they found convincing.

When all Justices have shared their thoughts, you can advance to the “Ruling” screen.

Note: You may wish to limit the deliberation time or prepare to wrap up this phase to ensure there is time to debrief. You can use a phrase like, “Let’s get final thoughts from two more Justices.” You may also wish to call on students to ensure all voices have been heard.

RULING - 1 minute

Justices should use the voting blocks on their student screens to choose the most convincing side and explain their choice. Their vote will be displayed on the classroom/teacher screen.

Tip: If you want to keep the vote a secret until the end, you can freeze your screen or turn off your display. If you choose to make the vote a secret, you can have the Justices explain their vote on the Results screen.



Justice Voting student screen

SIMULATION

FACILITATING THE SIMULATION DURING CLASS

RESULTS & EPILOGUE

During this phase, students will discuss the results and reflect on the experience.



16-21 minutes total

RESULTS - 1 minute

The vote is locked in when you advance to this phase. The classroom screen will display the Justices who voted for each side. Allow Justices who dissented from the majority opinion to share their reasoning.

EPILOGUE - 15-20 minutes

Ask the students to step out of the simulation to discuss the case and share insights from the experience.

These suggested discussion questions appear on the screen:

- Do you think that speech in school should have limits?
- How should limits be set?
- How did the First Amendment play into this case?

The post-activity discussion gives students time to decompress from the simulation experience.



Results classroom screen

FAQs

Q: How can I see what is on the student screens?

A: Before you use this in your class, you can set up a practice session and open tabs on your computer to log in as a student to preview the experience from the student screen.

Q: Where can I get some extra guidance?

A: At the top right of the teacher/classroom screen, you can open a “tips” menu for each phase of the simulation.

Q: Can I play the videos more than once?

A: Yes! On the left side of the teacher/classroom screen, you have the option to click to replay the video.

Q: What size class does this work for?

A: The minimum class size is 9. There is no maximum, but if your group is larger than 40, it may be more challenging to manage the small groups and get all students involved.

Q: Can my students use other precedents to argue?

A: Absolutely! You can allow students to research or include other relevant cases that are important in your curriculum, but as it stands, the tool gives students all the information they need to be successful.

Student Free Speech - Ben Brewer v. Hamilton High School

Pre-Simulation Activities

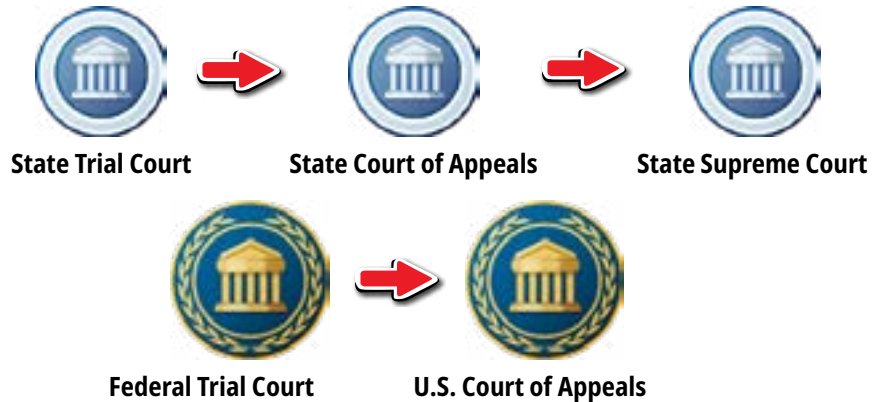
U.S. Supreme Court Basics



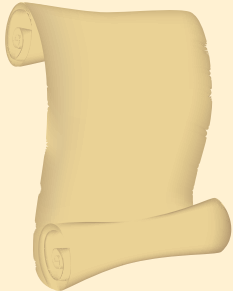
- The highest court in the country
- The nine justices are appointed for life
- Justices apply Constitutional principles to everyday life
- Supreme Court rulings establish **precedent**, or guides that are used in future cases

How Does a Case Get to the Supreme Court?


- Most cases reach the Court on **appeal**. An appeal is a request for a higher court to reverse the decision of a lower court.
- Most appeals come from federal courts. It can also come from state courts if the case involves federal law.



1. Petition the Court-
A party who loses can appeal their case to the Supreme Court by petitioning the Court to review the lower court's decision.



2. Justices Review-
The Justices review the petition.



3. Justices Vote-
Four Justices must vote to accept a case to be granted review.

Answer the following questions based on the image.

1. How do most cases come to the Supreme Court?

2. Why do you think very few cases make it to the Supreme Court?

Student Free Speech - Ben Brewer v. Hamilton High School

During Simulation

Discussion Questions Note Catcher. Use this note catcher to record your thoughts about the discussion questions presented during the simulation.

1. Circle the question your group discussed and answer on the lines below.

PETITIONER

Why is freedom of speech so important to our democracy?

RESPONDENT

Why is education so important to our country?

JUSTICE (LOOK CLOSELY)

Why is it important to pay attention to the words written in the Constitution?

JUSTICE (LOOK BACK)

Why is it important to pay attention to precedent set in previous cases?

JUSTICE (LOOK AHEAD)

Why is it important to consider the impact of your ruling?

2. Why did Ben get suspended?

3. What do Justices that Look Closely focus on?

4. What do Justices that Look Back focus on?

5. What do Justices that Look Ahead focus on?

6. Which facts are most important to your group and why?

Post- Simulation Activity

1. Do you think that speech in school should have limits? Explain.

2. How should free speech limits be set?

3. How did the First Amendment play into this case?

Student Free Speech - Ben Brewer v. Hamilton High School

Mini Quiz

Supreme Court True or False. For each question, mark if it is true or false.

	True	False
1. Precedent is a ruling that may serve as an example or guide to be followed in the future.		
2. The Respondent is the party that asks the Supreme Court to hear a case.		
3. There are nine Justices on the Supreme Court.		
4. Most Supreme Court cases are heard as an appeal from a lower court.		
5. The Supreme Court must hear all cases that are brought to them.		

Supreme Connections. Select the best answer for each question.

- | | | |
|--|---|---|
| <p>6. If you were arguing a case before the Supreme Court, which perspectives are important to consider to help you win your case?</p> <ul style="list-style-type: none"> a. Petitioner’s arguments b. Respondent’s arguments c. Justices perspectives d. All of the above | <p>7. Which of the following is NOT something that Justices consider when making a ruling?</p> <ul style="list-style-type: none"> a. precedent b. the text of the Constitution c. the organization of the lawyers d. the impact of their ruling | <p>8. Which of the following is the precedent that says that school administrators can limit free speech if it causes “substantial disruption?”</p> <ul style="list-style-type: none"> a. Ben Brewer Clause b. First Amendment c. Tinker Test d. Hall of Rejects Rule |
|--|---|---|

Reviewing the Case. Answer each question in complete sentences.

9. Why would the Supreme Court have to know if a student case took place in a public school?

10. Explain two ways that the case of Tinker v. Des Moines relates to the fictional case of Ben Brewer.

Student Free Speech - Ben Brewer v. Hamilton High School

Pre-Simulation Activities

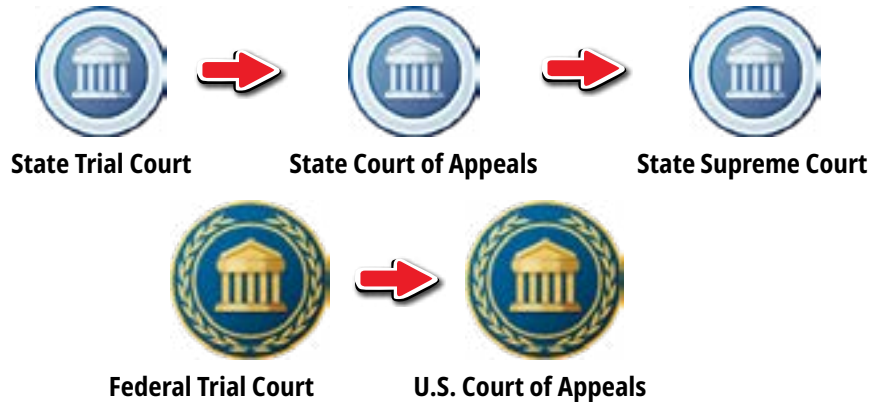
U.S. Supreme Court Basics



- The highest court in the country
- The nine justices are appointed for life
- Justices apply Constitutional principles to everyday life
- Supreme Court rulings establish **precedent**, or guides that are used in future cases

How Does a Case Get to the Supreme Court?

- Most cases reach the Court on **appeal**. An appeal is a request for a higher court to reverse the decision of a lower court.
- Most appeals come from federal courts. It can also come from state courts if the case involves federal law.



1. Petition the Court-
A party who loses can appeal their case to the Supreme Court by petitioning the Court to review the lower court's decision.

2. Justices Review-
The Justices review the petition.

3. Justices Vote-
Four Justices must vote to accept a case to be granted review.

Answer the following questions based on the image.

1. How do most cases come to the Supreme Court?
Most cases come as an appeal from a lower court.

2. Why do you think very few cases make it to the Supreme Court?
Answers will vary but could include: many cases are resolved in lower courts, 4 justices have to agree to hear a case.

Student Free Speech - Ben Brewer v. Hamilton High School

During Simulation

Discussion Questions Note Catcher. Use this note catcher to record your thoughts about the discussion questions presented during the simulation.

1. Circle the question your group discussed and answer on the lines below.

PETITIONER	RESPONDENT	JUSTICE (LOOK CLOSELY)	JUSTICE (LOOK BACK)	JUSTICE (LOOK AHEAD)
Why is freedom of speech so important to our democracy?	Why is education so important to our country?	Why is it important to pay attention to the words written in the Constitution?	Why is it important to pay attention to precedent set in previous cases?	Why is it important to consider the impact of your ruling?

Answers will vary. Look for students to respond based on their assigned role.

2. Why did Ben get suspended?

He wore a band shirt to school and wearing band shirts is against the dress code. He refused to turn it inside out when the Principal saw him.

3. What do Justices that Look Closely focus on?

The Constitution

4. What do Justices that Look Back focus on?

precedent

5. What do Justices that Look Ahead focus on?

impact of ruling on the future

6. Which facts are most important to your group and why?

Answers will vary. Look for students to align their chosen facts to their assigned role.

Post- Simulation Activity

1. Do you think that speech in school should have limits? Explain.

Answers will vary. Look for students to explain and justify their opinion.

2. How should free speech limits be set?

Answers will vary. Look for students to explain and justify their opinion.

3. How did the First Amendment play into this case?

Sample Answer: The Constitution protects student free speech as long as it expresses a political opinion and is not substantially disruptive.

Student Free Speech - Ben Brewer v. Hamilton High School

Mini Quiz

Supreme Court True or False. For each question, mark if it is true or false.

	True	False
1. Precedent is a ruling that may serve as an example or guide to be followed in the future.	X	
2. The Respondent is the party that asks the Supreme Court to hear a case.		X
3. There are nine Justices on the Supreme Court.	X	
4. Most Supreme Court cases are heard as an appeal from a lower court.	X	
5. The Supreme Court must hear all cases that are brought to them.		X

Supreme Connections. Select the best answer for each question.

- 6. If you were arguing a case before the Supreme Court, which perspectives are important to consider to help you win your case?
 - a. Petitioner's arguments
 - b. Respondent's arguments
 - c. Justices perspectives
 - d. All of the above
- 7. Which of the following is NOT something that Justices consider when making a ruling?
 - a. precedent
 - b. the text of the Constitution
 - c. the organization of the lawyers
 - d. the impact of their ruling
- 8. Which of the following is the precedent that says that school administrators can limit free speech if it causes "substantial disruption?"
 - a. Ben Brewer Clause
 - b. First Amendment
 - c. Tinker Test
 - d. Hall of Rejects Rule

Reviewing the Case. Answer each question in complete sentences.

9. Why would the Supreme Court have to know if a student case took place in a public school?
Answers will vary. Sample response: Children have nearly all of the same constitutional rights as adults in a public school setting as long as there is not a significant disruption to the education process. Private schools are not funded or run by the government, so they may further limit student rights.

10. Explain two ways that the case of Tinker v. Des Moines relates to the fictional case of Ben Brewer.
Answers will vary. Look for students to connect concepts from Tinker vs. Des Moines with the fictional case of Ben Brewer. For example, students could explain that clothing can be considered free speech if it conveys a political message. In Tinker v. Des Moines, the students were protesting U.S. involvement in Vietnam. In the case of Ben Brewer, his shirt could be a political statement on inclusivity. Students may also connect the precedent that speech can only be restricted in schools if it causes a substantial disruption (Tinker Test).
