Tinker v. Des Moines Independent School District (1969)
Issue: Freedom of Speech at School
Bottom Line: You Have the Right To Express Yourself—Up to a Point

Background
In December 1965, John and Mary Beth Tinker and their friend Chris Eckhardt wore black armbands to school in Des Moines, Iowa, to protest the war in Vietnam. School officials told them to remove the armbands, and when they refused, they were suspended (John, 15, from North High; Mary Beth, 13, from Warren Harding Junior High; and Chris, 16, from Roosevelt High). With their parents, they sued the school district, claiming a violation of their First Amendment right of freedom of speech.

Ruling
The Supreme Court sided with the students. Students and teachers don't "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," the Court said.

The Court did not, however, grant students an unlimited right to self-expression. It said First Amendment guarantees must be balanced against a school's need to keep order: As long as an act of expression doesn't disrupt classwork or school activities or invade the rights of others, it's acceptable. Regarding the students in this case, "their deviation consisted only in wearing on their sleeve a band of black cloth," the Court said. "They caused discussion outside of the classrooms, but no interference with work and no disorder."

Impact
In 1986, applying the "disruption test" from the Tinker case, the Supreme Court upheld the suspension of Matthew Fraser, a 17-year-old senior at Bethel High School in Tacoma, Washington, who gave a school speech containing sexual innuendos (Bethel School District v. Fraser). The Court said "it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse."

Lower courts have relied on Tinker in rulings on school attire, allowing nose rings and dyed hair, for example, but disallowing a T-shirt displaying a Confederate flag.

In June, the Supreme Court weighed in on another student expression case, Frederick v. Morse, ruling that schools can limit student speech that seems to advocate illegal drug use. The case concerned Joseph Frederick, an 18-year-old senior at Juneau-Douglas High School in Alaska, who was suspended in 2002 for holding a banner that said "Bong Hits 4 Jesus" while standing across the street from the school during the Olympic torch relay.

New Jersey v. T.L.O. (1985)
Issue: Privacy Rights at School
Bottom Line: Your Belongings Can Be Searched, But Not Arbitrarily

Background
T.L.O. (Terry), a 14-year-old freshman at Piscataway High School in New Jersey, was caught smoking in a school bathroom by a teacher. The principal questioned her and asked to see her purse. Inside was a pack of cigarettes, rolling papers, and a small amount of marijuana. The police were called and Terry admitted selling drugs at school.

Her case went to trial and she was found guilty of possession of marijuana and placed on probation. Terry appealed her conviction, claiming that the search of her purse violated her Fourth Amendment protection against "unreasonable searches and seizures."

Ruling
The Supreme Court ruled in favor of the school. Students have "legitimate expectations of privacy," the Court said, but that must be balanced with the school's responsibility for "maintaining an environment in which learning can take place." The initial search of Terry's purse for cigarettes was reasonable, the Court said, based on the teacher's report that she'd been smoking in the bathroom. The discovery of rolling papers near the cigarettes in her purse created a reasonable suspicion that she possessed marijuana, the Court said, which justified further exploration.

Impact
T.L.O. is the landmark case on search and seizure at school. Basically, school officials may search a student's property if they have a "reasonable suspicion" that a school rule has been broken, or a student has committed or is in the process of committing a crime. These are called "suspicion-based" searches. There are also "suspicionless searches" in which everyone in a certain group is subject to a search at school. [See Vernonia v. Acton in Part 2 of this article in the next issue of Upfront.]

Ingraham v. Wright (1977)
Issue: School Discipline
Bottom Line: Teachers Can Use Corporal Punishment, If Your Locality Allows It

Background
James Ingraham, a 14-year-old eighth-grader at Drew Junior High School in Miami, was taken to the principal's office after a teacher accused him of being rowdy in the school auditorium. The principal decided to give him five swats with a paddle, but James said that he hadn't done anything wrong and refused to be punished. He was subsequently held down while the principal gave him 20 swats.

While corporal punishment was permitted in the school district, James suffered bruises that kept him out of school for 10 days and he had to seek medical attention. James and his mother sued the principal and other school officials, claiming the paddling violated Eighth Amendment protections against "cruel and unusual punishments."

Ruling
The Supreme Court ruled against James. The Court said that reasonable physical discipline at school doesn't violate the Constitution. The Eighth Amendment, the Justices said, was designed to protect convicted criminals from excessive punishment at the hands of the government—not schoolchildren who misbehave.

The Court, however, did direct teachers and principals to be cautious and use restraint when deciding whether to administer corporal punishment to students. The Justices suggested that school officials consider the seriousness of a student's offense, the student's attitude and past behavior, the age and physical condition of the student, and the availability of a less severe but equally effective means of discipline.

Impact
The Court left the question of whether to allow corporal punishment up to states and local districts, which traditionally set most education policies. Twenty-two states currently permit corporal punishment in public schools, and 28 have banned the practice.

Santa Fe Independent School District v. Jane Doe (2000)
Issue: School Prayer
Bottom Line: Public schools Cannot Sponsor Religious Activity

Background
A Texas school district allowed a student "chaplain," who had been elected by fellow students, to lead a prayer over the public address system before home football games. Several students and their parents anonymously sued the school district, claiming a violation of what's known as the Establishment Clause of the First Amendment, which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Ruling
The Supreme Court ruled that the school district's policy regarding prayer was unconstitutional. Although led by students, the prayers were still a school-sponsored activity, the Court said, and they were coercive because they placed students in the position of having to participate in a religious ceremony.

"The Constitution demands that schools not force on students the difficult choice between attending these games and avoiding personally offensive religious rituals," the Court said. The Justices added that "nothing in the Constitution ... prohibits any public school student from voluntarily praying at any time before, during, or after the school day." Impact

Since the Santa Fe decision, several lower courts have held that student-initiated group prayer is protected under the First Amendment if it is not sponsored by the school. This is generally accepted to mean, for instance, that a group of student athletes could pray together before a game in the locker room, as long as the coach or other school officials are not involved.

Kent v. United States (1966)
Issue: Juveniles and Serious Crime
Bottom Line: Teens Can Be Tried as Adults

Background
Morris Kent, 16, who had been on probation since he was 14 for burglary and theft, was arrested and charged with three home burglaries, three robberies, and two counts of rape in Washington, D.C. Because of the seriousness of the charges and Morris's previous criminal history, the prosecutor moved to try Morris in adult court.

Morris's lawyer wanted the case to stay in juvenile court where the penalties were much less severe. He had planned to argue that Morris had a mental illness that should be taken into account when deciding where he would be tried. Without a hearing, the judge sided with the prosecutor and sent Morris to adult court, where he was found guilty and sentenced to 30 to 90 years in prison. Morris appealed, arguing that the case should have remained in juvenile court.

Ruling
The Supreme Court ruled against Morris, and said that a minor can be tried and punished as an adult. However, the Justices said that in deciding whether to remove a case from juvenile court, judges must weigh a variety of factors, including the seriousness of the crime; the juvenile's age; and the defendant's criminal background and mental state.

Impact
How the courts treat juveniles in the legal system varies from state to state. In many states, those under 18 can be tried as adults for crimes such as murder, sexual assault, or possession or sale of drugs, with punishments that range up to life in prison without the possibility of parole. In 2005, the Supreme Court abolished the death penalty for juvenile offenders, saying it violated the Eighth Amendment's protection against "cruel and unusual punishments."

Hazelwood School District v. Kuhlmeier (1988)
Issue: Student Journalism and the First Amendment
Bottom Line: Schools Can Censor Student Newspapers

Background
Cathy Kuhlmeier, Leslie Smart, and Leanne Tippett, juniors at Hazelwood East High School in St. Louis, Missouri, helped write and edit the school paper, the Spectrum, as part of a journalism class. An issue of the paper was to include articles about the impact of divorce on students and teen pregnancy. The school's principal refused to publish the two stories, saying they were too sensitive for younger students and contained too many personal details. The girls went to court claiming their First Amendment right to freedom of expression had been violated.

Ruling
The Supreme Court ruled against the girls. A school newspaper isn't a public forum in which anyone can voice an opinion, the Court said, but rather a supervised learning experience for students interested in journalism. "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities," the Court said, "so long as their actions are reasonably related to legitimate [educational] concerns."

Impact
Schools may censor newspapers and restrict other forms of student expression, including theatrical productions, yearbooks, creative writing assignments, and campaign and graduation speeches. But the Court's ruling in Hazelwood encourages schools to look closely at a student activity before imposing any restrictions and to balance the goal of maintaining high standards for student speech with students' right to free expression.

Vernonia School District v. Acton (1995)
Issue: Student Athletes and Drug Testing
Bottom Line: Schools Can Require It

Background
James Acton, a 12-year-old seventh-grader at Washington Grade School in Vernonia, Oregon, wanted to try out for the football team. His school required all student athletes to take drug tests at the beginning of the season and on a random basis during the school year. James's parents refused to let him be tested because, they said, there was no evidence that he used drugs or alcohol. The school suspended James from sports for the season. He and his parents sued the school district, arguing that mandatory drug testing without suspicion of illegal activity constituted an unreasonable search under the Fourth Amendment.

Ruling
The Supreme Court ruled in favor of the school district. Schools must balance students' right to privacy against the need to make school campuses safe and keep student athletes away from drugs, the Court said. The drug-testing policy, which required students to provide a urine sample, involved only a limited invasion of privacy, according to the Justices: "Students who voluntarily participate in school athletics have reason to expect intrusions upon normal rights and privileges, including privacy."

The Court noted that all students surrender some privacy rights while at school: They must follow school rules and submit to school discipline. But student athletes have even fewer privacy rights, the Justices said, and must follow rules that don't apply to other students. Joining a team usually requires getting a physical exam, obtaining insurance coverage, and maintaining a minimum grade point average. And athletes must be willing to shower and change in locker rooms, further reducing their privacy. "School sports are not for the bashful," the Court said.

Impact
More recently, the Court has ruled in favor of school policies requiring random drug testing for all extracurricular activities (Board of Education v. Earls, 2002).

West Side Community Schools v. Mergens (1990)
Issue: Student Clubs
Bottom Line: Public Schools That Allow Student-Interest Clubs Cannot Exclude Religious or Political Ones

Background
Bridget Mergens was a senior at Westside High School in Omaha, Nebraska. She asked her homeroom teacher, who was also the school's principal, for permission to start an after-school Christian club. Westside High already had about 30 clubs, including a chess club and a scuba-diving club. The principal denied Bridget's request, telling her that a religious club would be illegal in a public school.

The year before, in 1984, Congress had addressed this issue in the Equal Access Act, which required public schools to allow religious and political clubs if they let students form other kinds of student-interest clubs. When Bridget challenged the principal's decision, her lawsuit became the Supreme Court's test case for deciding whether the Equal Access Act was constitutional under what is known as the Establishment Clause of the First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Ruling
The Supreme Court ruled in favor of Bridget. Allowing students to meet on campus to discuss religion after school did not amount to state sponsorship of religion, the Court said: "We think that secondary-school students are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits."

Impact
If a public school allows only clubs tied to the school curriculum—a French club related to French classes, for instance—it can exclude clubs that don't connect to its educational mission. But once a school allows student-interest clubs—such as a scuba-diving club, environmental club, or jazz club—it cannot exclude religious clubs, political clubs, gay-lesbian clubs, or other groups.

If the club is religious in nature, however, the school must refrain from active involvement or sponsorship, so that it doesn't run afoul of the Establishment Clause, the Court said.

Grutter v. Bollinger (2003)
Issue: Affirmative Action in College
Bottom Line: Colleges Can Use Race as a Factor in Admissions

Background
In 1997, Barbara Grutter, a white Michigan resident, was denied admission to the University of Michigan Law School. Grutter, who had a 3.8 undergraduate grade point average and good standardized test scores, sued the university over the law school's affirmative action policy, which considered race as a factor in admissions. Michigan and many other universities use affirmative action to increase the number of minority students admitted. Grutter claimed that Michigan admitted less-qualified minority applicants in violation of federal civil rights laws and the Fourteenth Amendment, which guarantees citizens "equal protection" under the law.

Ruling
The Supreme Court upheld the use of affirmative action in higher education. "Student-body diversity is a compelling state interest that can justify the use of race in university admissions," the Court said. But the Court emphasized that the University of Michigan's policy was acceptable because the school conducted a thorough review of each applicant's qualifications and did not use a racial quota system—meaning it did not set aside a specific number of offers for minority applicants.

Impact
Affirmative action, which has its origins in a 1961 executive order issued by President John F. Kennedy, continues to be a contentious issue, with critics charging that it amounts to reverse discrimination. Since 1996, voters in three states—California, Washington, and, most recently, Michigan—have approved laws banning affirmative action in public education, in state government hiring, and the awarding of state contracts. (At Upfrontmagazine.com: a look at the Court's decision in June limiting the use of race in public school integration plans.)

DeShaney v. Winnebago County Social Services (1989)
Issue: Constitutional Rights at Home
Bottom Line: The Constitution Doesn't Protect Kids from Their Parents

Background
Four-year-old Joshua DeShaney lived with his father, who physically abused him, in Neenah, Wisconsin. At one point, the State Department of Social Services took custody of Joshua but returned him after three days. Later, Joshua was hospitalized with bruises all over his body and severe brain damage. He survived, but was permanently paralyzed and mentally disabled. His father was convicted of child abuse and sent to prison. Joshua's mother sued the Department of Social Services for returning him to his father. She argued that the department had a duty to protect her son under the Fourteenth Amendment, which forbids the state from depriving "any person of life, liberty, or property, without due process of law."

Ruling
The Court ruled against Joshua and his mother. It said essentially that the Constitution does not protect children from their parents and that therefore the government was not at fault in Joshua's abuse.

Impact
The Supreme Court has consistently respected parents' rights to discipline their children. But even though the government isn't required under the Constitution to protect children, all states assume this responsibility through child protection laws. The Supreme Court has generally deferred to state and local governments to enforce these laws and to intervene in cases of mistreatment.