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- Do Now: Take out your legal opinions. Discuss your opinions with your group. Focus on your reasoning.



# Are students protected by the First Amendment?

Morse vs. Frederick (2007)

# The First Amendment and Free Speech

- “Congress shall make no law...abridging the freedom of speech.”
- Applies to all levels of government
- The First Amendment is not absolute.



# The *Tinker* standard

- The *Tinker* case established that students and teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”
- School are allowed “to forbid conduct that would “materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.”





# Fraser's "Firm" Standard

- The Court found that it was appropriate for the school to prohibit the use of vulgar and offensive language. Chief Justice Burger distinguished between political speech which the Court previously had protected in *Tinker v. Des Moines Independent Community School District* (1969) and the supposed sexual content of Fraser's message at the assembly. Burger concluded that the First Amendment did not prohibit schools from prohibiting vulgar and lewd speech since such discourse was inconsistent with the "fundamental values of public school education."

# Morse vs Frederick (2007)





## Key question for the court

- Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal drugs at school-supervised events?

# How did this case get to the Supreme Court?

- January 2002: Frederick shows his banner and is suspended from school. The School board upholds his suspension.
- April 2002: Frederick appeals his case to the Alaska District Court saying his Civil Rights were violated. They uphold his suspension.
- 2006: Frederick appeals the last decision to the 9<sup>th</sup> Circuit Federal Court who overturn the District Court and sides with Frederick. They say that his suspension violated his Civil Rights.
- 2007: Morse appeals the last decision and the Supreme Court decides to hear the case.