



September 28, 2001

Dear Students,

The purpose of this letter is twofold: (1) to inform you of your right to wear the Rock For Life t-shirts in public school and (2) to explain your right to distribute Rock For Life literature in public school. As discussed more fully below, it is your constitutional right to wear Rock For Life t-shirts as well as pass out its literature. Such forms of expression are generally protected by the First Amendment.

By way of introduction, the Thomas More Center for Law & Justice is a national, not-for-profit, public interest law firm based in Ann Arbor, Michigan. We are dedicated to defending and promoting religious freedom, time-honored family values, and the sanctity of human life. We provide our services without charges.

In Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 506 (1969), the Supreme Court of the United States clearly stated that public school students do not lose their constitutional rights of freedom of speech or expression once they pass through the schoolhouse gates. The Supreme Court went on to state that

In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under the Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of a constitutionally valid reason to regulate their speech, students are entitled to freedom of expression of their views.

Tinker, 393 U.S. at 511. Moreover, according to the Supreme Court,

A student's rights [of free speech and expression] . . . do not embrace merely classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during authorized hours, he may express his opinions, even on controversial subjects . . . if he does so without 'materially and substantially interfere(ing) with the requirements of appropriate discipline in the operation of school' and without colliding with the rights of others. But conduct by the student, in class or out of it, which for any reason – whether it stems from time, place or type of behavior – materially disrupts class work or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guarantee of freedom of speech.

Tinker, 393 U.S. at 512-13. Thus according to the Supreme Court, for a public school to justify its prohibition of your freedom of speech and expression, the public school

Must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint. Certainly where there is no finding and no showing that engaging in the forbidden conduct would ‘materially and substantially interfere with the requirements of appropriate discipline in the operation of the school,’ the prohibition cannot be sustained.

Tinker, 393 U.S. at 509. Accordingly, mere speculation by school authorities that there may be substantial disruption or interference is not enough. They must have facts to substantiate their concern.

In summary, then, you may wear the Rock For Life t-shirts and pass out the Rock For Life literature while in public school so long as you do not materially and substantially interfere with the general operation of the school and with the rights of others. With regard to the distribution of literature, in order to avoid claim of material and substantial interference, you should not pass it out during classroom instruction time. Rather, you should distribute the literature during non-instructional time in accordance with the school’s reasonable rules regarding student distribution of literature.

Of course, this letter is not intended to provide you with legal advice concerning a specific case. You should contact a lawyer if you are involved in a specific dispute over the wearing of a Rock For Life t-shirt or over the distribution of Rock For Life literature in public school. If you are unable to obtain an attorney, you may contact us at the phone number below.

If you want more general information about your rights in public school, you may want to read “A Thumbnail Sketch of Religion and the Public School Student,” and “The Equal Access Act: Preventing Discrimination Against Student Religious Groups in Public Secondary Schools,” which are free educational brochures the Thomas More Law Center has prepared.

For more information about those brochures, about the Thomas More Law Center, or about your rights in general, please contact us at 734-827-2001 or at [tmcinfo@thomasmore.org](mailto:tmcinfo@thomasmore.org).

Very truly yours,

THOMAS MORE LAW CENTER



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