

**Students**

**FREEDOM OF SPEECH/EXPRESSION**

The Board of Trustees believed that free inquiry and exchange of ideas are essential parts of a democratic education. The Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

**On-Campus Expression**

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on district or school Internet websites and online media shall generally be afforded the same protections as printed media.

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950 and other applicable state and federal laws

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous or slanderous. Students also are prohibited from making any expressions that so incite students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

The use of "fighting words" or epithets is prohibited in those instances where speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of material violates the law. (Education Code 48907)

The Superintendent or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats or intimidation unless constitutionally protected. (Education Code 48950)

**FREEDOM OF SPEECH/EXPRESSION (continued)**

**Off-Campus Expression**

A student shall be subject to discipline for off-campus expression, including expression on off-campus Internet web sites, when such expression poses a threat to the safety of other students, staff or school property, or substantially disrupts the educational program. The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

(cf. 6142.3 – Civic Education)

(cf. 6144 – Controversial Issues)

(cf. 1113 – District and School Web Sites)

(cf. 6163.4 – Student Use of Technology)

(cf. 5145.7 – Sexual Harassment)

(cf. 5145.9 – Hate-Motivated Behavior)

(cf. 5137 – Positive School Climate)

(cf. 5144 – Discipline)

(cf. 5144.1 – Suspension and Expulsion/Due Process)

(cf. 5144.2 – Suspension and Expulsion/Due Process: Students with Disabilities)

(cf. 5131 – Conduct)

Legal Reference:

**EDUCATION CODE**

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

51520 Prohibited solicitations on school premises

**UNITED STATES CODE, TITLE 20**

4071-4074 Equal Access Act

**CALIFORNIA CONSTITUTION**

Article 1, Section 2 Freedom of speech and expression

**U.S. CONSTITUTION**

Amendment 1 Freedom of speech and expression

**COURT DECISIONS**

Smith v. Novato Unified School District, (2007) 150 Cal.App.4th 1439

Lavine v. Blaine School District, (2001) 257 F.3d 981

Emmett v. Kirkland School District No. 415, (2000) 92 F.Supp. 2d 1088

J.S. v. Bethlehem Area School District, (2000) 757 A.2d 412 (Pa. Commw. 2000)

Beussink v. Woodland R-IV School District, (1998) 30 F.Supp. 2d 1175

Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530

Lovell v. Poway Unified School District, (1996) 90 F.3d 367

**FREEDOM OF SPEECH/EXPRESSION (continued)**

Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562

Leeb v. DeLong, (1988) 198 Cal.App.3d 47

Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675

Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 350

Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

Management Resources:

**CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES**

Limitations on Student Expression in School-Sponsored Publications, March 4, 1988

**WEB SITES**

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

(9/89 3/93) 11/01

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## **Students**

### **FREEDOM OF SPEECH/EXPRESSION**

#### **School-Sponsored Publications**

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

Official school publications includes material produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each principal shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the principal considers material submitted for publication to violate Education Code 48907, he/she shall notify the student, without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the principal's determination from the Superintendent or designee. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

To the extent that the principal or designee believes that the school and district should be disassociated from a particular idea or opinion, the principal may require student articles to include disclaimers.

#### **Distribution of Printed Materials and Petitions by Students**

The principal or designee may provide bulletin boards on which students and student organizations may post materials of general interest. Students also may post or distribute handbills, leaflets and other printed material, whether produced within or outside of the school. Students may collect signatures on petitions concerning school or nonschool issues.

Printed materials or petitions may be distributed only:

1. Before or after school or during lunch time

**FREEDOM OF SPEECH/EXPRESSION (continued)**

2. In locations that do not obstruct the normal flow of traffic within school or at entrances

No student shall use coercion to induce students or any other persons to accept printed matter or to sign petitions. No funds shall be collected for any material distributed.

**Clothing, Buttons and Badges**

Buttons, badges, armbands, and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board policy. No employee shall interfere with this practice on the grounds that the message may be controversial or unpopular with students or staff.

- (cf. 1325 - Advertising and Promotion)
- (cf. 6145.5 - Student Organizations and Equal Access)
- (cf. 5131 - Conduct)
- (cf. 5131.4 - Student Disturbances)
- (cf. 5132 - Dress and Grooming)
- (cf. 5136 - Gangs)
- (cf. 5144 – Discipline)

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