

STUDENTS

SUBJECT: Freedom of Speech/Expression

Free inquiry and exchange of ideas are essential parts of a democratic education. The County Board of Education and County Superintendent of Schools respect students' rights to express ideas and opinions, take stands on issues, whether controversial or not.
(cf. 6144 - Controversial Issues)

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 County Office of Education or school Internet web sites and on-line media shall generally be afforded the same protections as print media.

(cf. 1113 - Web Sites)

Students' freedom of expression shall be limited only as allowed by law in order to maintain an orderly school environment and to protect the rights, health and safety of all members of the school community.

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)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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

The County Superintendent of Schools 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)

(cf. 5144 - Discipline)

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

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

Off-Campus Expression

Off-campus student expression, including but not limited to student expression on off-campus Internet web sites, is generally constitutionally protected but shall be subject to discipline when such expression poses a direct threat to the safety of other students, school personnel, or school property, or substantially disrupts the educational program. The County Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

(cf. 5131 - Conduct)

Conduct by a student outside of class which for any reason materially disrupts classwork or involves substantial disorder or invasion of the rights of others is not protected by the constitutional guarantee of free speech.

Legal Reference:

EDUCATION CODE

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

51520 Prohibited solicitations on school premises

CALIFORNIA CONSTITUTION

Article 1, Section 2 Freedom of speech and expression

U.S. CONSTITUTION

Amendment 1 Freedom of speech and expression

COURT CASES

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 (E.D. Mo. 1998)

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

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

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

Perumal et al. v. Saddleback Valley Unified School District, (1988) 198 Cal.App.3d 64

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

Collin v. Smith, (1978) 447 F.Supp.676, affd. (1978) 578 F.2d 1197, cert. den. (1978) 439 U.S. 916

Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350

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

Management Resources:

Adopted: 9-20-00

revised: 9-18-02

revised: 11-12-08

CDE LEGAL ADVISORIES

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

NSBA PUBLICATIONS

Digital Discipline: Off-Campus Student Conduct, the First Amendment and Web Sites,
School Law in Review 2001