

**Students**

**Freedom of Speech/Expression**

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.

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.

The Board of Education believes 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.

Student expression on district or school Internet web sites and online media shall generally be afforded the same protections as in print 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 incites 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.

The use of "fighting words" or epithets is prohibited in those instances where the 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.

## 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.

### Legal References:

#### Education Code

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

51520 Prohibited solicitations on school premises

#### Board Policy

~~cf. 1113—District and School Web-~~

~~Sitescf. 5131—Conduct~~

~~cf. 5137—Positive School-~~

~~Climatecf. 5144—Discipline~~

~~cf. 5144.1—Suspension and Expulsion/Due Process~~

~~cf. 5144.2—Suspension and Expulsion/Due Process:-~~

~~Studentswith Disabilities~~

~~cf. 5145.7—Sexual Harassment~~

~~cf. 5145.9—Hate Motivated-~~

~~Behavioref. 6142.3—Civic-~~

~~Education~~

~~cf. 6144—Controversial Issues~~

~~cf. 6163.4—Student Use of-~~

~~Technology~~

#### United States Code, Title 20

4071-4074 Equal Access Act

#### California Constitution

Article 1, Section 2 Freedom of speech and expression

#### U.S. Constitution [First Amendment](#)

~~Amendment 1 Freedom of speech and expression~~ **Free exercise, free speech, and establishment clauses**

### Management Resources:

### Court Decisions

Smith v. Novato Unified School District, (2207) 150

Cal.App.4<sup>th</sup> 1439Lavine v. Blaine School District, (2001) 257  
F.3d 981

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

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

Commw. 2000)	90 F.3d 1530 <u>Hazelwood School District v. Kuhlmeier</u> , (1988) 108 S. Ct. 562
<u>Beussink v.</u>	<u>Leeb v. DeLong</u> , (1988) 198 Cal.App3d 47
<u>Woodland R- IV School</u>	<u>Perumal et al. v. Saddleback Valley Unified School District</u> , (1988) 198 Cal.App.3d 64
<u>District</u> , (1998)	<u>Bethel School District No. 403 v. Fraser</u> , (1986) 478 U.S. 675
30 F. Supp. 2d	<u>Bright v. Los Angeles Unified School District</u> , (1976) 134 Cal. Rptr. 639,556 P.2d 1090, 18 Cal. 3d 350
1175(E.D. Mo. 1998	<u>Tinker v. Des Moines Independent Community School District</u> , (1969)393 U.S. 503
<u>Muller v.</u>	<u>CDE LEGAL ADVISORIES</u>
<u>Jefferson</u>	<u>Limitations on Student Expression in School Sponsored</u> <u>Publications</u> , March 4 1988
<u>Lighthouse</u>	<u>WEB SITES</u>
<u>School</u> , (1996) 98	CBSA: <a href="http://www.csba.org">http://www.csba.org</a>
F.3d 1530 <u>Lovell</u>	California Department of Education: <a href="http://www/cde.ca.gov">http://www/cde.ca.gov</a>
<u>v. Poway</u>	
<u>Unified School</u>	
<u>District</u> , (1996)	

CSBA District and County Office of Education Legal Services:  
<https://legalservices.csba.org/#https://legalservices.csba.org/>

Policy

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revised: 05/21/02  
revised: 09/02/08