**Students** BP 5145.2(a)

**FREEDOM OF SPEECH/EXPRESSION**

The Governing Board 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.

*(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 College and Career Advantage (CCA) or school Internet web sites and on-line media shall generally be afforded the same protections as print media.

*(cf. 1113 - ROP and School 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)*

The use of "fighting words" or epithets is prohibited if 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.

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 Executive Director or designee shall not discipline any 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. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

 BP 5145.2(b)

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

**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 students or school personnel.

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*

*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*

*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*

*Harper v. Poway Unified School District, (2005) 445 F.3d 1166*

*Management Resources:*

*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*

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