

**STUDENT FREEDOM OF EXPRESSION
AND EQUAL ACCESS**

It shall be the policy of the Oxnard Union High School District that the students' freedom of expression in the wearing of buttons, badges or insignia, posting materials on designated bulletin boards, distribution of circulars, handbills, leaflets, or other printed materials on school premises, having off-campus personnel speak on campus, and forming student organizations.

A. Printed Materials

1. Students have the right to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges and other insignia.
2. A copy of any printed materials proposed for substantial distribution, general circulation or posting shall be submitted to the principal at least forty-eight (48) hours in advance. Materials shall be identified with the name of student or organization responsible for distribution. Approval or disapproval will be indicated within twenty-four (24) hours. The basis for disapproval shall be:
 - a. That the content expresses or advocates prejudice against racial, ethnic, or religious groups, so as to create a clear and present danger of imminent commission of unlawful acts or disruption of the orderly operation of the school.
 - b. That the content so incites students as to create a clear and present danger of (1) the commission of unlawful acts on school premises; (2) the violation of lawful school regulations; or (3) the substantial disruption of the orderly operation of the school.
 - c. That the content is considered obscene, libelous, or slanderous according to current legal standards.
 - d. That the distribution would significantly conflict with previously scheduled activities.
3. Printed materials may be distributed before school, after school and at lunchtime at approved areas normally frequented by large numbers of students. The principal will designate the places for approved distribution and posting on campus. Distribution is not to interfere with the normal flow of traffic within school corridors and entranceways or prevent students from participating in previously scheduled activities. Printed materials may remain posted for that period of time approved upon application. Those who sponsor distribution or post printed materials accept the responsibility of directing the distribution and cleanup. The removal of posted materials at the completion of the designated period shall be the responsibility of Student Government. Printed materials are not to be left unattended during distribution or abandoned in quantity on campus. No intimidation or coercion is to be used in distribution of any materials. Funds or donations are not to be collected for material distributed.

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B. Off-Campus Speakers

1. Student groups may invite speakers on campus with prior permission of the principal. Speakers shall be knowledgeable on the selected subject. Expression or advocacy of racial, ethnic, or religious prejudice, so as to create a clear and present danger of imminent commission of unlawful acts or the substantial disruption of the orderly operation of the school, libel or slander, according to current legal standards, will not be tolerated. Speakers shall refrain from the use of obscenity and profanity; shall not cause such circumstances as to
2. Permission for an event shall be requested at least forty-eight (48) hours in advance, and the principal will approve or disapprove within twenty-four (24) hours and notify those making the request of the site and time of approved events and, in case of disapproved events, reasons for disapproval. A reasonable amount of time will be allocated to the speaker and the audience for full exchange of ideas. A place should be allocated which will allow free access by all interested students. Attendance at a forum shall be voluntary. The basis for disapproval shall be:
 - a. That the speaker's subject will express or advocate prejudice against racial, ethnic, or religious groups, so as to create a clear and present danger of imminent commission of unlawful acts or substantial disruption of the orderly operation of the school.
 - b. That the activity will so incite students as to create a clear and present danger of the substantial disruption of the orderly operation of the school.
 - c. That the activity will so incite students as to create a clear and present danger of the commission of unlawful activities on school premises.
 - d. That the activity will so incite students as to create a clear and present danger or the violation of lawful school regulations.
 - e. That the speaker or speaker's subject will be obscene, libelous, or slanderous according to current legal standards.
 - f. That the event would significantly conflict with previously scheduled activities

C. Formation of Student organizations

1. Any group of students having a common interest such as political, social, athletic, vocational, service or other proper and lawful purpose may petition for recognition. Any such organization shall have as its purpose the conduct of activities on behalf of the students approved by the school authorities and not in conflict with the authority and responsibility of public school officials. The organization must not duplicate the purpose or activities of any other club on campus. The organization must have open membership. The organization may not deny membership on racial, ethnic, religious, or socio-economic basis.
2. The following is the procedure for organizing a club: (1) Fifteen signatures of interested students must be submitted in writing. (2) A constitution must be presented to the Activities Director. (3) A faculty sponsor must be secured. (4) All the material, after having been approved by the assistant principal responsible student activities, must have the approval of the Student Government and must have the final approval of the principal.

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D. Appeals

The following procedures shall be used to address disputes regarding student freedom of expression:

1. The student and faculty member shall first attempt to resolve the problem by themselves.
2. If the student and faculty member are unable to resolve the dispute, the student and/or faculty member may bring the matter to the principal or designee, who shall hear both sides and strive to resolve the dispute as quickly as possible.
3. If the principal or designee is unable to resolve the dispute, the student and/or faculty member may bring the matter to the Superintendent or designee, who shall hear both sides and strive to resolve the dispute as quickly as possible.
4. If the Superintendent or designee is unable to resolve the dispute, the student and/or faculty member may ask for a hearing to determine whether a deprivation of freedom of expression was justified under the above regulations. This hearing shall be held before the Governing Board or impartial person(s) as designated by the Superintendent or designee as soon as possible after it is requested. Both sides shall be given an opportunity to demonstrate that Board policy and administrative regulations were properly applied.

(cf. 1321 - Solicitation of Funds from and by Students)

(cf. 1325 - Advertising and Promotion)

(cf. 1330 - Use of School Facilities)

(cf. 3452 - Student Activity Funds)

(cf. 3515.2 - Disruptions)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

Legal Reference:

EDUCATION CODE

52 Designation of secondary schools

53 Designation of high schools

200-263.3 Prohibition of discrimination on the basis of sex especially:

221.5 Equal opportunity without regard to sex

221.7 School sponsored athletic programs; prohibited sex discrimination

32050-32051 Hazing

48930-48938 Student organizations

48950 Freedom of speech 49020 Athletic programs: Legislative intent

49021 Equal opportunity for male and female students

49022 Apportionment of funds for male and female students

49023 Expenditure of public funds: prohibited sex discrimination

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CODE OF REGULATIONS, TITLE 5

2 Definitions

5531 Supervision of extracurricular activities of pupils

PENAL CODE

627-627.10 Access to school premises

UNITED STATES CODE, TITLE 20

4071 -1074 The Equal Access Act

COURT DECISIONS

Ceniceros v. Board of Trustees of the San Diego School District, (1995) 66F.3d 1535

Board of Education of Westside Community School District v. Mergens By and Through Mergens
(1989, 8th Cir.) 867 F.2d 1076, affd. (1990) 496 U.S. 226

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

Student Coalition for Peace v. Lower Merion School District Board of Directors, (1985) 776 F.2d 431

Hartzell v. Connell, (1984) 35 Cal. 3d 899

ADOPTED: 11 /22/77

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EQUAL ACCESS

Background

On June 4, 1990, the United States Supreme Court rendered a decision upholding and clarifying the validity of the Federal Equal Access Act. The decision was based upon the case of the Board of Education of Westside Community Schools v. Mergens.

Key Concept: *If a public secondary school allows one or more non-curriculum-related groups to meet on school premises during non-instructional time, any other student-initiated group also must be allowed to meet in a "limited open forum" without regard to its religious, political or philosophical views. By ruling that this law does not violate the first amendment's ban on state establishment of religion, the Supreme Court has clearly protected students' rights to hold religious club meetings.*

Administrative Procedures

- A. Since the OUHSD allows schools to sponsor student groups not directly tied to the curriculum, student-initiated groups not sponsored by the school or district have the right to meet on school premises during non-instructional time before and after school and during lunch periods.
- B. The Equal Access Act prohibits the district from discriminating on the basis of meeting content. However, the meeting must not materially or substantially interfere with the orderly conduct of educational activities within the school. To maintain order and protect students and staff, school officials may deny the use of facilities to any groups that threaten to disrupt the school program or threaten the health and safety of students and staff.
- C. School officials are not required to permit any and all outsiders to use its facilities or even to permit student groups indiscriminately to invite outsiders to its activities. However, the Equal Access Act does allow student groups to invite non-students onto school property; the persons so invited must not direct, conduct, control or regularly attend such activities.
- D. School officials shall ensure that student meetings are voluntary, with no direction, control, or regular attendance by non-school persons.
- E. Students are required to leave the meeting place clean, orderly, and in a secure condition after their meetings.
- F. School staff shall not promote or participate in these meetings, but may be assigned voluntarily to observe them for purposes of maintaining order and protecting student safety. Employees or agents of the school may be present at such meetings only in a non-participatory capacity.
- G. Meetings held within the limited open forum shall entail no expenditure of public funds beyond the incidental cost of providing the meeting space.

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H. Students will be allowed to include announcements of the group's activities in the school bulletin. Any announcement of meetings shall clearly state that the group is not sponsored by the school or school staff.

Key legal references: The Equal Access Act, 20 U.S.C. Section 4071-4079. (1984)

Board of Education of Westside Community Schools v. Mergens, United States Supreme Court Decision--June 4, 1990

California Education Code

48930-48938 Student Organizations

5145.2 Freedom of Speech/Expression

ADOPTED: 12/15/99