



## STUDENTS

### BOARD POLICY – FREEDOM OF SPEECH AND EXPRESSION

BP 5145.2

The County Board of Education believes that free inquiry and exchange of ideas are essential parts of a democratic education. The County Board and the County Superintendent of Schools respect 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 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. (Education Code 48907)

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.

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 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)

## 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 County Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

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### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### Federal

20 USC 4071-4074

#### Description

Equal Access Act

#### Management Resources

Court Decision

#### Description

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

Court Decision

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

Court Decision

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

Court Decision

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

Court Decision

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

Court Decision

Lavine v. Blaine School District, (2001, 9th Cir.) 257 F.3d 981

Court Decision

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

Court Decision

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

Court Decision

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

Court Decision

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

Court Decision

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

Court Decision

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

Website

[CSBA](#)

Website

[California Department of Education](#)

#### State

CA Constitution Article 1, Section 2

Ed. Code 48907

Ed. Code 48950

Ed. Code 51520

#### Description

[Freedom of speech and expression](#)

Students' exercise of free expression; rules and regulations

Freedom of speech and other communication

Prohibited solicitations on school premises

ADOPTED BY COUNTY BOARD:

July 3, 1975

REVISED:

June 7, 1984

January 6, 1994

April 7, 1994

February 2, 2023