



Education *for* Change

Public Schools

Freedom of Expression Policy and Procedures

Education Code sections 48907 and 48950 were amended in 2010 to explicitly include charter schools within their reach. Section 48907 requires charter schools to adopt rules and regulations in the form of a written publications code, including reasonable provisions for the time, place and manner of conducting such activities within that school's jurisdiction. This policy is drafted in conformity with section 48907. Section 48950 essentially provides that students may not be disciplined for speech that is constitutionally protected.

Students attending an EFC school have the right to exercise free expression including, but not limited to the use of bulletin boards, distribution of printed materials or petitions, wearing buttons, badges and other insignia and the right of expression in official publications, whether or not the publications or other means of expression are supported financially by EFC or by use of EFC facilities. The Board of Directors ("Board") respects students' rights to express ideas and opinions, take stands and support causes, whether controversial or not, through their speech, their writing, their clothing, and the printed materials they choose to post or distribute.

Student liberties 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 EFC community.

Students will not be disciplined solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may be disciplined for harassments, threats, or intimidation unless constitutionally protected. Education Code § 48950.

Freedom of Expression Procedures

Circulation of Petitions and Other Printed Matter

Students shall be allowed to distribute petitions and other printed matter subject to these procedures.

The time of distribution shall be limited to the half hour before school begins, during the lunch period, and the half hour after school is dismissed.

The manner of distribution shall be such that coercion is not used to induce students to accept the printed matter or to sign petitions. Materials are not to be left undistributed or stacked for pick-up while unattended at any place in the school or on school grounds.

Buttons, Badges and Other Insignia of Symbolic Expression

Students will be permitted to wear buttons, badges, armbands, and other insignia as a form of expression.

Students will be subject to disciplinary action when expressive activities such as the distribution of materials, wearing of buttons or displays, or posting of notices or other materials:

1. Are obscene, libelous or slanderous;
2. Incite students so as to create a clear and present danger of the imminent commission of unlawful acts on school premises or of the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school;
3. Express or advocate racial, ethnic or religious prejudice so as to create a clear and present danger of imminent commission of unlawful acts on school premises or of the violation of lawful school regulations or of the substantial disruption of the orderly operation of the school;
4. Are distributed in violation of the time, place and manner requirements;
5. Are in violation of current federal, state and local laws.

Unofficial EFC Publications

EFC officials may not ban the distribution of non-EFC-sponsored publications on school grounds. Writers and editors of unofficial student publications who violate any state or federal law may be disciplined after distribution. Students distributing or posting any materials that are obscene, libelous or slanderous, or which demonstrably incite students to commit unlawful acts on EFC premises, violate EFC rules, or substantially disrupt the school's orderly operation will be subject to disciplinary action.

The following points apply to unofficial student publications:

1. The school and its employees may disassociate themselves from the material printed inasmuch as it is not an official publication of the school.
2. EFC officials may reasonably regulate the time, place and manner of distribution. This distribution will be limited to:
 - a. One half hour before school begins, during the lunch period, or the half hour after dismissal.
 - b. In locations that do not obstruct the normal flow of traffic within the school or at entrances.
 - c. Without undue noise.
3. No student shall use coercion to induce students or any other persons to accept printed matter or to sign petitions.
4. "Distribution" means dissemination of a publication to students at a time and place of normal school activity, or immediately prior to or subsequent thereto, by means of handing out free copies, selling or offering copies for sale, accepting donations for copies of the publication, or displaying the student publication in areas of the school which are generally frequented by students.

EFC officials cannot:

1. Prohibit the distribution of anonymous literature or require that literature bear the name of the sponsoring organization or author.
2. Ban the distribution of literature because it contains advertising.
3. Create regulations that discriminate against non-EFC-sponsored publications or interfere with the effective distribution of non-sponsored publications provided such publications abide by time, place and manner regulations.

Official EFC Publications

Pupil editors of official EFC publications shall be responsible for assigning and editing the news, editorial and feature content of their publications subject to the limitations identified above. It shall be the responsibility of a journalism advisor(s) of pupil publications within the school to supervise the production of the pupil staff, to maintain professional standards of English and journalism and to maintain the provisions provided in the Education Code relating to student expression.

Other Forms of Student Expression

Forms of student expression may include, but are not limited to speech, debate, assemblies, posters, bulletin board announcements, and the wearing of buttons, badges and armbands. In general, the laws pertaining to all forms of student expression are the same. The rights of students to express their opinions are recognized by law and are not limited to verbal expression. The basic guidelines listed above for publications apply to all forms of student expression. No teacher or administrator shall interfere with such expression on the grounds that the message may be unpopular with students or faculty.

In conforming to state and federal laws, student expression must obey copyright laws; for example, student posters cannot use nationally registered and copyrighted characters such as those from Walt Disney or "Peanuts" publications.

Courts have generally found that schools may impose discipline for conduct off campus when the conduct off-campus poses a threat to the safety, welfare or discipline of other schools. Over the last several years, courts have grappled with disciplining students for fake social media pages mocking administrators and other students, when those pages have been created off-campus. Make sure that if discipline is imposed for this type of behavior, there is an impact that the expression will have on the school's program.

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 school leadership will document the impact the expression had or could be expected to have on the school program.

Distribution of Procedures Governing Student Rights

Site administrators will distribute copies of this Administrative Procedure to all teachers who are advisors of students who produce publications or present public performances. It is the responsibility of the school and site administrators to see that these guidelines are kept up-to-date and accurate.

Appeals

The pupil and an EFC staff member shall attempt to resolve the problem before consulting the administrative staff. If the issue cannot be resolved between the staff member and the pupil, the pupil may appeal the decision to the site administrator, and

then to the Superintendent or his/her designee. As a final step, the pupil may follow EFC's complaint procedures as outlined in the Student/Parent Handbook.