FREEDOM OF SPEECH/EXPRESSION BP 5145.2

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. Additionally, the Board is committed to providing a welcoming, safe, and supportive school environment that protects students from discrimination, harassment, intimidation, and bullying, or other types of expression prohibited by law.

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 use of official district or school websites or social media accounts identified and made available for such purposes; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official school publications. (Education Code 48907)

Students' freedom of expression shall be restricted only as established by this Board policy, the accompanying administration regulation, Education Code 234.1, 48907, and 48950, and other applicable state and federal laws. Such restrictions include, but are not limited to, prohibitions against students making any expressions or distributing or posting any materials that:

1. Are obscene, libelous, or slanderous

2. Are discriminatory, harassing, intimidating, or bullying

3. Are likely to immediately incite action on district property or during district-sponsored programs or activities that is unlawful or that violates Board policies, administrative regulations, or other district or school rules

4. Substantially disrupt the orderly operation of the district

Additionally, the use of "fighting words" or epithets is prohibited where they are abusive and insulting, ~~merely offensive or provocative,~~ and they are likely to create an actual danger that will cause a breach of the peace.

District staff shall not prohibit or prevent the distribution of, or otherwise censor, material prepared for official school publications except insofar as the content of the material violates this Board policy and the accompanying administrative regulation. (Education Code 48907)

Off-campus student expression, such as electronic expression via a personal device or online expression via a personal social media account, may subject a student to discipline when such expression poses a threat to the safety of other district students, staff, or property, or does or is likely to substantially disrupt the district's educational program. As necessary, the Superintendent or designee shall document the actual or expected impact of the expression.

Student expression that violates this Board policy or the accompanying administrative regulation may be subject to discipline in accordance with Board Policy/Administrative Regulation 5144 - Discipline, Board Policy/Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities).

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 Governing Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	***Description***
CA Constitution Article 1, Section 2	*Freedom of speech and expression*
Ed. Code 234-234.5	*Safe Place to Learn Act*
Ed. Code 48205	*Excused absences*
Ed. Code 48907	*Exercise of free expression; time, place, and manner rules and regulations*
Ed. Code 48950	*Speech and other communication*
Ed. Code 51520	*Prohibited solicitations on school premises*
Federal	***Description***
20 USC 4071-4074	*Equal Access Act*
U.S. Constitution, First Amendment	*Free exercise, free speech, and establishment clauses*
Management Resources	***Description***
Court Decision	*Dariano v. Morgan Hill Unified School District (2014) 767 F.3d 764*
Court Decision	*Chandler v. McMinnville School District (1992) 978 F.2d 524*
Court Decision	*Mahanoy Area School District v. B.L. (2021) 594 U.S. 180*
Court Decision	*Beussink v. Woodland R-IV School District (1998) 30 F.Supp. 2d 1175*
Court Decision	*Bright v. Los Angeles Unified School District (1976) 18 Cal. 3d 350*

Court Decision	*Emmett v. Kirkland School District No. 415 (2000) 92 F.Supp. 2d 1088*
Court Decision	*J.S. v. Bethlehem Area School District (2000) 757 A.2d 412 (Pa. Commw. 2000)*
Court Decision	*Lavine v. Blaine School District (2001, 9th Cir.) 257 F.3d 981*
Court Decision	*Leeb v. DeLong (1988) 198 Cal.App.3d 47*
Court Decision	*Lovell v. Poway Unified School District (1996) 90 F.3d 367*
Court Decision	*Muller v. Jefferson Lighthouse School (1996) 98 F.3d 1530*
Court Decision	*Smith v. Novato Unified School District (2007) 150 Cal.App.4th 1439*
Court Decision	*Hazelwood School District v. Kuhlmeier (1988) 108 S. Ct. 562*
Court Decision	*Harper v. Poway Unified School District (2006) 445 F.3d 1166*
Court Decision	*Tinker v. Des Moines Independent Community School District (1969) 393 U.S. 503*
Court Decision	*Bethel School District No. 403 v. Fraser (1986) 478 U.S. 675*
Website	*CSBA District and County Office of Education Legal Services*
Website	*California Department of Education*
Website	*CSBA*

Cross References

Policy	***Description***
1100	*Communication With The Public*
1114	*District-Sponsored Social Media*
1114	*District-Sponsored Social Media*
1313	*Civility*
1325	*Advertising And Promotion*
4118	*Dismissal/Suspension/Disciplinary Action*
4118	*Dismissal/Suspension/Disciplinary Action*
5113	*Absences And Excuses*
5113	*Absences And Excuses*
5127	*Graduation Ceremonies And Activities*
5131	*Conduct*
5131.2	*Bullying*
5131.2	*Bullying*
5131.4	*Student Disturbances*
5131.4	*Student Disturbances*
5131.8	*Mobile Communication Devices*

5132	*Dress And Grooming*
5132	*Dress And Grooming*
5136	*Gangs*
5136	*Gangs*
5137	*Positive School Climate*
5144	*Discipline*
5144	*Discipline*
5144.1	*Suspension And Expulsion/Due Process*
5144.1	*Suspension And Expulsion/Due Process*
5144.2	*Suspension And Expulsion/Due Process (Students With Disabilities)*
5145.3	*Nondiscrimination/Harassment*
5145.3	*Nondiscrimination/Harassment*
5145.7	*Sexual Harassment*
5145.7	*Sexual Harassment*
5145.8	*Refusal To Harm Or Destroy Animals*
5145.9	*Hate-Motivated Behavior*
6141.2	*Recognition Of Religious Beliefs And Customs*
6141.2	*Recognition Of Religious Beliefs And Customs*
6142.3	*Civic Education*
6144	*Controversial Issues*
6145.5	*Student Organizations And Equal Access*
6145.5	*Student Organizations And Equal Access*
6145.8	*Assemblies And Special Events*

Policy **PASADENA UNIFIED SCHOOL DISTRICT**
Adopted: November 14, 1995 Pasadena, California
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