

## **Students**

### **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. 6142.3 - Civic Education)

(cf. 6144 - Controversial Issues)

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 school 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 but shall be subject to the District's technology use agreement and other restrictions imposed under state and federal law.

(cf. 1113 - District and School Web Sites)

(cf. 6163.4 - Student Use of Technology)

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 are prohibited from engaging in speech that promotes drugs or other illegal activities. Students are prohibited from engaging in speech that constitutes a "true threat" against another. 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 or the violation of school rules. Students are also prohibited from engaging in any form of speech that substantially disrupts school or school related activities or where it is reasonably foreseeable that the speech will cause a substantial disruption at school or a school related activity. (Education Code 48907) This includes expressions of hate speech as defined in BP 5145.9. Student speech in school publications may also be limited if it does not correlate with professional standards of English and journalism.

(cf. 5145.3 – Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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

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 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)

*(cf. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process: Students with Disabilities)*

This policy shall also apply to off-campus speech, including expression on off-campus Internet web sites, when the speech has some nexus to the school or is reasonably foreseeable to reach the school, and the speech substantially disrupts or materially interferes with the school environment or activities, causes an administrator to reasonably forecast that it will cause a substantial disruption of or material interference with the school environment or activities, or collides with the rights of students to be left alone in the school environment. The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

*(cf. 5131 - Conduct)*

*Legal Reference: (next page)*

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

### *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**

*C.R. v. Eugene School District 4J, (9th Cir. 2016) 835 F.3d 1142*

*Wymar v. Douglas County School District, (9th Cir. 2013) 728 F.3d 1062*

*Morse v. Frederick (2007) 551 U.S. 393*

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

*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*

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

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

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

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

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

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

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

### *Management Resources:*

#### **CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES**

*Limitations on Student Expression in School-Sponsored Publications, March 4, 1988*

#### **WEB SITES**

**CSBA:** <http://www.csba.org>

**California Department of Education:** <http://www.cde.ca.gov>

Policy

adopted: February 23, 1999

revised: December 10, 2002

revised: October 28, 2008

revised: March 24, 2020

**VISALIA UNIFIED SCHOOL DISTRICT**

Visalia, California

## **Students**

### **FREEDOM OF SPEECH/EXPRESSION**

#### **School-Sponsored Publications**

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

Official school publications include material produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each principal shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors. Principals or designees shall also ensure that appropriate disclaimers are provided in official school publications to notify recipients that student speech may not reflect the opinions or views of the district or the school, its staff and students.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the principal considers material submitted for publication to violate Education Code 48907, he/she shall notify the student, without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the principal's determination from the Superintendent or designee. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

#### **Distribution of Printed Materials and Petitions by Students**

The principal or designee may provide bulletin boards on which students and student organizations may post materials of general interest. Students also may post or distribute handbills, leaflets, and other printed material, whether produced within or outside of the school. Students may collect signatures on petitions concerning school or nonschool issues.

*(cf. 1325 - Advertising and Promotion)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

Printed materials or petitions may be distributed only:

1. Before or after school or during lunch time

## **Students**

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

2. In locations that do not obstruct the normal flow of traffic within the school or at entrances

No student shall use coercion to induce any other student or person to accept printed matter or to sign a petition. No funds shall be collected for any material distributed.

(cf. 5131 - Conduct)

### **Clothing, Buttons, and Badges**

Buttons, badges, armbands, and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board policy. No employee shall interfere with this practice on the grounds that the message may be controversial or unpopular with students or faculty.

(cf. 5131.4 - Student Disturbances)

(cf. 5132 - Dress and Grooming)

(cf. 5136 - Gangs)

(cf. 5144 - Discipline)

Regulation

approved: February 23, 1999

Revised: December 10, 2002

Revised: October 28, 2008

Revised: February 13, 2020

**VISALIA UNIFIED SCHOOL DISTRICT**

Visalia, California