

## Students

### FREEDOM OF SPEECH/EXPRESSION: PUBLICATIONS CODE

Free inquiry and exchange of ideas are essential parts of a democratic education. The Governing Board respects students' rights to express ideas and opinions, take stands, and support causes, whether controversial or not, through their speech, writings, printed materials and/or the wearing of buttons, badges and other insignia.

*(cf. 6144 - Controversial Issues)*

Student freedom 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 school community. Students shall not be disciplined solely on the basis of constitutionally protected speech or other communication.

*(cf. 1325 - Advertising and Promotion)*

*(cf. 5140 - Positive School Climate)*

*(cf. 5150 - Discipline)*

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

The Superintendent or designee shall ensure that due process is followed when resolving disputes regarding student freedom of expression.

*(cf. 6145.3 - Publications)*

Students are prohibited from making any expressions or distributing or posting any materials which are obscene, libelous or slanderous, or which demonstrably incite students to commit unlawful acts on school premises, violate school rules, or substantially disrupt the school's orderly operation. (Education Code 48907)

Conduct by a student, in class or out of it, which for any reason materially disrupts classwork or involves substantial disorder or invasion of the rights of others is not immunized by the constitutional guarantee of free speech. (*Tinker v. Des Moines School District* (1969) 393 U.S. 503)

The use of "fighting words" or epithets is not constitutionally protected where:

- 1 The speech, considered objectively, is abusive and insulting rather than a communication of ideas, and
- 2 The speech is actually used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace. (*Collin v. Smith* (1978) 447 F. Supp. 676, *affd.* (1978) 578 F.2d 1197, *cert. Den.* (1978) 439 U.S. 916)

*(cf. 5140 - Positive School Climate)*

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(continued)

### 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 Board or impartial person(s) appointed by the Board 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.

#### *Legal Reference;*

##### EDUCATION CODE

*48907 Exercise of free expression; rules and regulations*

*48950 Speech and other communication*

*51520 Prohibited solicitations on school premises*

*Perumal et al v. Saddleback Valley Unified School District, (1988) 198 Cal.App.3<sup>rd</sup>*

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

*Collin v. Smith, (1978) 447 F. Supp. 676, affd. (2078 578 F 2d 1197, cert.Den.(1978)*

*439 U.S. 916*