

# Santa Barbara Unified School District Board Policy

**BP 5145.2**

## **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)*

#### **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.

*(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 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)

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

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)

### **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 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:*

##### 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

*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>

SANTA BARBARA UNIFIED SCHOOL DISTRICT  
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