

# Davis Joint USD

## Board Policy

### Freedom Of Speech/Expression

BP 5145.2

#### Students

The Governing Board ~~of Education~~ 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 on-line media shall generally be afforded the same protections as 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. ~~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 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 incite 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 ~~if~~ 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 student expression, including but not limited to student-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. ~~is generally constitutionally protected but shall be subject to discipline when such expression poses a direct threat to the safety of students or school personnel.~~

(cf. 5131 - Conduct)

~~Conduct by a student outside of class which for any reason materially disrupts classwork or involves substantial disorder or invasion of the rights of others is not protected by the constitutional guarantee of free speech.~~

#### 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.App4th 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 (E.D. Mo. 1998)  
Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530  
Lovell v. Poway Unified School District, (1996) 90 F. 3d 1530  
Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562  
Leeb v. DeLong, (1988) 198 Cal.App.3d 47  
~~Perumal et al. v. Saddleback Valley Unified School District, (1988) 198 Cal.App.3d 64~~  
Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675  
~~Collin v. Smith, (1978) 447 F.Supp.676, affd. (1978) 578 F.2d 1197, cert. den. (1978) 439 U.S.-916~~  
Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350  
Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503  
~~Harper v. Poway Unified School District, (2005) 445 F.3d 1166~~

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION ~~CDE~~-LEGAL ADVISORIES  
Limitations on Student Expression in School-Sponsored Publications, March 4, 1988  
WEB SITES  
NSBA PUBLICATIONS  
CSBA: <http://www.csba.org>  
California Department of Education: <http://www.cde.ca.gov>  
~~Digital Discipline: Off-Campus-Student Conduct, the First Amendment and Web Sites, School Law in Review 2001~~

Policy \_\_\_\_\_ DAVIS JOINT UNIFIED SCHOOL DISTRICT  
adopted: April 2, 2009 \_\_\_\_\_ Davis, California  
revised: