

STUDENT PERSONAL EXPRESSION

The Board of Education recognizes the importance and value of student personal expression and recognizes that students do not shed their ~~first amendment right of free expression constitutional rights to freedom of speech or expression~~ at the schoolhouse gate. *(see the Tinker v. Des Moines case)* As in broader American society, the Board also understands that there is a balancing of an individual's rights under the First Amendment with the rights of the community. Student personal expression in this context refers to student verbal and written communication using any medium (paper, e-mail; social media or website postings, etc.) including, but not limited to, poetry, prose, art, video and music composition that is intended to be shared with the broader school community, or other actions taken to express viewpoints such as demonstrating or protesting.

Although students generally retain their right to free expression in school, that right is not unfettered. School officials may regulate expression as to time, place and manner. ~~Students' expression which causes a substantial disruption or which materially interferes with school activities or rights of others or might reasonably lead the school administration to forecast substantial disruption of or material interference with school activities, is not constitutionally protected speech.~~ Students' expression which either is forecasted to cause or actually causes a substantial disruption and/or which materially interferes with school activities or rights of others is not constitutionally protected speech. Moreover, personal expression which involves threats or bullying/harassment of students and is directly connected to school or its activities is also not constitutionally protected speech.

Distribution of Materials

When students wish to personally express themselves in the broader school community by distributing materials, they must seek prior approval from the building principal or ~~his/her~~their designee. The building principal or ~~his/her~~their designee will render ~~his/her~~ a decision within two school days of receiving the request. The building principal shall give due consideration to the constitutionally protected right of freedom of expression, the maintenance of the normal operation of school and its activities, the protection of persons and property and the need to assist students in learning appropriate ways to exercise their rights. Unless such student expression takes place within the confines of a school-sponsored event/activity (see policy 5220 for guidance on School-Sponsored Student Expression), authorization will be granted if:

- The material is distributed as directed by the Principal or designee in such a manner as to not materially or substantially interfere with the rights of others or substantially disrupt the normal operation of the school;
- The material is not considered to be obscene, lewd, indecent, libelous, an invasion of the privacy of other individuals, or an expression that attacks a person's character, family, or actual or perceived race (including traits historically associated with race, including, but not limited to, hair texture and protective hairstyles such as but not limited to braids, locks, and twists), color, religion, religious practice, age, weight, sex, ethnic group, national origin, physical appearance, sexual orientation, gender (including gender identity or gender expression) or disabling condition.
- The material is free from advertisements or promotion of cigarettes, e-cigarettes, liquor, illegal or illicit drugs, or drug paraphernalia or other products or services harmful to minors

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and/or not permitted to minors by law or advocating breaking laws and school policies and/or regulations.

Procedural Due Process

~~If a student(s) seeks~~ Students seeking to distribute material within school buildings or at school events, ~~he/she~~ must present such material for prior review by the Building Principal who must make a decision regarding distribution within two (2) school days of receipt of the request and provide the reason for the denial in writing. The aggrieved student(s) may, within two (2) school days, appeal in writing to the Superintendent of Schools. The Superintendent of Schools must issue a written decision within two (2) school days after receiving the appeal.

Off-Campus Student Expression

Generally, school administrative authority regarding student expression does not extend beyond school grounds or school-sponsored functions. However, with today's technologies, the line between off and on campus expression can be blurred. ~~Students are advised that if off-campus personal expression substantially disrupts or materially interferes with school activities or might reasonably lead the school administration to forecast substantial disruption of or material interference with school activities or interrupts another individual's access to school, such as when the speech is threatening in nature, they may be subject to discipline under the Code of Conduct~~ The First Amendment does not protect students from engaging in off campus personal expression which is forecasted to cause or actually causes substantial disruption or material interference with school activities or interrupts another individual's access to school, such as threatening or bullying/harassing of others in the school community. Such conduct may subject the student to discipline under the Code of Conduct.

Student Demonstrations and Protests

Students maintain their constitutional right while they are in school, or at school sponsored events, to peacefully assemble. However, the district may take reasonable actions to maintain a safe and functioning learning environment, to ensure that the school environment is not materially disrupted. Accordingly, school officials maintain the authority to limit student demonstrations which result in materially disrupting the operation of the schools' educational process. In addition, the school may deem student absences from school or class to demonstrate or protest to be unexcused under the district's Attendance policy (#5100), and those absences may result in consequences under that policy.

The district may also plan and host its own events to address issues of student and school concern.

Violation of Policy

Students who violate this policy will be subject to the appropriate disciplinary action, which may include short or long-term suspension, in accordance with the Code of Conduct.

Cross-ref: 5300, Code of Conduct
0115, Student Harassment, ~~Hazing~~ and Bullying Prevention and Intervention
4526, Computer Use in Instruction
5220, School-Sponsored Student Expression

Ref: *Mahanoy Area School District v. B.L.*, 594 U.S. ____ (2021)

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 Morse v. Frederick, 127 S Ct 2618 (2007)

Bethel School District v. Fraser, 478 US 675 (1986)

Tinker v. DesMoines Independent Community School Dist., 393 US 503, (1969) (limits on student free speech rights in school setting)

Eisner v. Stamford Board of Educ., 314 F Supp 832, modf'd 440 F2nd 803 (1971)

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