

## MIDDLETOWN UNIFIED SCHOOL DISTRICT

### **Policy 5145.2: Freedom Of Speech/Expression**

**Adopted Date: 12/13/2023**

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.

#### **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.

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)

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)

#### **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.

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
CA Constitution Article 1, Section 2	<a href="#">Freedom of speech and expression</a>
Ed. Code 48907	<a href="#">Exercise of free expression; time, place and manner rules and regulations</a>
Ed. Code 48950	<a href="#">Speech and other communication</a>
Ed. Code 51520	<a href="#">Prohibited solicitations on school premises</a>
<b>Federal</b>	<b>Description</b>
20 USC 4071-4074	Equal Access Act
U.S. Constitution	<a href="#">Amendment 1; Free exercise, free speech, and establishment clauses</a>
<b>Management Resources</b>	<b>Description</b>
Court Decision	Beussink v. Woodland R-IV School District, (1998) 30 F.Supp. 2d 1175
Court Decision	Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 350
Court Decision	Emmett v. Kirkland School District No. 415, (2000) 92 F.Supp. 2d 1088
Court Decision	J.S. v. Bethlehem Area School District, (2000) 757 A.2d 412 (Pa. Commw. 2000)
Court Decision	Lavine v. Blaine School District, (2001, 9th Cir.) 257 F.3d 981
Court Decision	Leeb v. DeLong, (1988) 198 Cal.App.3d 47
Court Decision	Lovell v. Poway Unified School District, (1996) 90 F.3d 367
Court Decision	Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530
Court Decision	Smith v. Novato Unified School District, (2007) 150 Cal.App.4th 1439
Court Decision	Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562
Court Decision	Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503
Court Decision	Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">California Department of Education</a>
Website	<a href="#">CSBA</a>

## Cross References

Code	Description
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1100	<a href="#"><u>Communication With The Public</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1114	<a href="#"><u>District-Sponsored Social Media</u></a>
1313	<a href="#"><u>Civility</u></a>
1325	<a href="#"><u>Advertising And Promotion</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
4118	<a href="#"><u>Dismissal/Suspension/Disciplinary Action</u></a>
5127	<a href="#"><u>Graduation Ceremonies And Activities</u></a>
5131	<a href="#"><u>Conduct</u></a>
5131.2	<a href="#"><u>Bullying</u></a>
5131.2	<a href="#"><u>Bullying</u></a>
5131.4	<a href="#"><u>Student Disturbances</u></a>
5131.4	<a href="#"><u>Student Disturbances</u></a>
5131.8	<a href="#"><u>Mobile Communication Devices</u></a>
5132	<a href="#"><u>Dress And Grooming</u></a>
5132	<a href="#"><u>Dress And Grooming</u></a>
5136	<a href="#"><u>Gangs</u></a>
5136	<a href="#"><u>Gangs</u></a>
5137	<a href="#"><u>Positive School Climate</u></a>
5144	<a href="#"><u>Discipline</u></a>
5144	<a href="#"><u>Discipline</u></a>
5144.1	<a href="#"><u>Suspension And Expulsion/Due Process</u></a>
5144.1	<a href="#"><u>Suspension And Expulsion/Due Process</u></a>
5144.2	<a href="#"><u>Suspension And Expulsion/Due Process (Students With Disabilities)</u></a>
5145.3	<a href="#"><u>Nondiscrimination/Harassment</u></a>
5145.3	<a href="#"><u>Nondiscrimination/Harassment</u></a>
5145.7	<a href="#"><u>Sexual Harassment</u></a>
5145.7	<a href="#"><u>Sexual Harassment</u></a>
5145.8	<a href="#"><u>Refusal To Harm Or Destroy Animals</u></a>
5145.9	<a href="#"><u>Hate-Motivated Behavior</u></a>
6141.2	<a href="#"><u>Recognition Of Religious Beliefs And Customs</u></a>
6141.2	<a href="#"><u>Recognition Of Religious Beliefs And Customs</u></a>

6142.3	<a href="#"><u>Civic Education</u></a>
6144	<a href="#"><u>Controversial Issues</u></a>
6145.5	<a href="#"><u>Student Organizations And Equal Access</u></a>
6145.5	<a href="#"><u>Student Organizations And Equal Access</u></a>
6145.8	<a href="#"><u>Assemblies And Special Events</u></a>