

Freedom of expression guarantee for California high school journalists

CALIFORNIA EDUCATION CODE SECTION 48907

Students of the public schools 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, whether or not such publications or other *means of* expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous.

Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

Each governing board of a school district and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

Student editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section.

However, it shall be the responsibility of the journalism advisor or advisors of student publications within each school to supervise the production of the student staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section.

School officials shall have the burden of showing justification without undue delay to any limitation of student expression under this section.

"Official school publications" refers to material produced by students in the journalism, newspaper yearbook, or writing classes and distributed to the student body either free or for a fee.

Nothing in this section shall prohibit or prevent any governing body of a school district from adopting otherwise valid rules and regulations relating to oral communication by students upon the premises of the school.

(Added by Stars. 1983, c. 498, secs. 91, eff. July 28, 1983.)

CALIFORNIA EDUCATION CODE SECTION 48950

Freedom of speech; students' remedies; attorney's fees

- (a) School districts operating one or more high schools and private secondary schools shall not make or enforce any rule subjecting any high school pupil to disciplinary sanctions solely on the basis of conduct that is speech or other communication that, when engaged in outside of the campus is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution.
- (b) Any pupil enrolled in a school that has made or enforced any rule in violation of subdivision (a) may commence a civil action to obtain appropriate injunctive and declaratory relief as determined by the court. Upon motion a court may award attorney's fees to a prevailing plaintiff in a civil action pursuant to this section.
- (c) This section does not apply to any private secondary school that is controlled by a religious organization to the extent that the application of this section would not be consistent with the religious tenets of the organization.
- (d) Nothing in this section prohibits the imposition of discipline for harassment, threats, or intimidation unless constitutionally protected.
- (e) Nothing in this section shall be construed to supersede, or otherwise limit or modify, the provisions of Section 48907.

NEWS MEDIA ACCESS TO PUBLIC SCHOOLS

California Penal Code 627, and its following sections, authorize a school principal to limit access to school grounds to any person defined in Section 627.1 as an "outsider". That section, however, excludes from the definition of "outsider" anyone who comes within the provisions of Evidence Code 1070, which is applicable to persons connected with or employed by newspapers. Thus, under the law no journalist or news photographer is an "outsider" who may be excluded from school grounds. Rather, such individuals have an absolute right of access.