



**Responsible Office:** Office of the General Counsel

## **BOARD POLICY 5150**

### **STUDENT FREEDOM OF SPEECH, FREEDOM OF EXPRESSION, AND RIGHT TO ASSEMBLE**

#### **PURPOSE**

The Board of Trustees ("Board") supports the constitutionally guaranteed right to freedom of speech, freedom of expression, and the right to assemble for all members of the Washoe County School District ("District" or WCSD) community. As schools are a natural venue for a wide variety of expression, the District seeks to strike a balance between encouraging and promoting individual expression by students, to include student publications, and ensuring such activities do not interfere with the District's educational mission or the rights of others. This policy, and any accompanying documents, addresses those ideals by creating guidelines related to student rights and responsibilities.

#### **POLICY**

##### **1. Guiding Principles**

- a. Through this policy, the District seeks to ensure the rights of students are protected with respect to the exercise of free expression, free speech and the right to assemble. Those rights, although not absolute, are addressed in the United States Constitution, the Nevada State Constitution, and Nevada state law.
  - i. "Congress shall make no law...abridging the freedom of speech, or of the press; or the right of people peaceably to assemble, and to petition the government for a redress of grievances." (First Amendment to the U.S. Constitution)
  - ii. "Every citizen may freely speak, write and publish his sentiments on all subjects being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press." (Article 1, Section 9 of the Constitution of the State of Nevada)
- b. Student freedom of speech and/or freedom of expression may not be used to disrupt instruction or to engage in bullying, cyber-bullying, or the intimidation of another person.

- c. Freedom of speech refers to a person's right to express his/her ideas. Freedom of expression refers to an act of seeking, receiving or imparting information or ideas, regardless of the medium used. The terms include, but are not limited to, the spoken word, clothing, gestures, images and video, and posts to social media.
  - d. The right or freedom to assemble refers to the right of students to hold public meetings, form associations, or come together and collectively express, promote, pursue or defend ideas.
  - e. Nothing contained herein should be construed or interpreted to prohibit or in any way to discourage the genuine discussion of issues or use of materials for legitimate academic, educational, or instructional purposes.
2. Guiding Practices
- a. Students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."<sup>1</sup>
  - b. Student speech or expression that is protected by the First Amendment may include distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern. In many cases these activities are also governed by procedures established by Board policy such as distribution of materials to students or political activity at school. Refer to the appropriate policy, regulation or procedure for additional information.
  - c. With the exception of student publications which is addressed in section e of this Policy, the District may take action, to include discipline, when a student, through speech, expression or assembly, causes a substantial disruption to the operation of the District, of a school or school-sponsored event/activity. The District may prohibit expression/speech by a student if:
    - i. It materially and substantially interferes with school activities;
    - ii. It materially and substantially interferes with the rights of other students or staff; or
    - iii. The District can demonstrate reasonable cause to believe that the expression would create substantial interference to the educational mission of the District.

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<sup>1</sup> *Tinker v. Des Moines Independent Community School District*

- d. Students have the constitutional right to peaceably assemble. However, such activities must not interfere with the normal operation of the school. Peaceful demonstrations shall be held in designated places and create no hazards to other students, staff or visitors, block access areas, and occur at designated times that shall not disrupt classes or other school activities.
- e. Student Publications.
  - i. Student publications are materials prepared and issued by students through a curricular, co-curricular, or extra-curricular program. Examples include a school newspaper or yearbook and may extend to displays of artwork when such work is available to the general population. Such publications can be hard copy, electronic or appear in social media; have a District staff member as advisor; and utilize District funds and other resources.
  - ii. Student publications are a valuable tool in establishing and maintaining a culture of free, intellectual, and responsible discussion. Through the use of such publications, students are able to bring concerns to the school community and formulate and express opinion on various issues.
  - iii. Student freedom of speech and/or freedom of expression shall extend to students working as journalists on student publications in their determination of the news, opinions, feature content, advertising content, and other content of the student publications.
  - iv. The District retains the right to exercise control over publications and activities that appear to represent the school and its students. The District/school may limit controversial subjects if the District/school is sponsoring the speech, such as with student publications, if the content would substantially disrupt the ability of the District/school to perform its educational mission or is used to engage in bullying, cyber-bullying, or the intimidation of another person.
  - v. The Board directs the Superintendent to establish written procedures regarding student publications. Such procedures shall include, but not be limited to:
    - 1. The time, place and manner of distribution of student publications.
    - 2. Protection of a student(s) from disciplinary action, to include expulsion or suspension, when he/she engages in freedom of speech or expression in accordance with this policy

related to work on a student publication unless such conduct substantially disrupts the ability of the school to perform its educational mission and the disruption was intentional.

3. Protection of a District staff member acting as an advisor for a student publication from discipline, to include dismissal, suspension, or retaliation, when he/she acts to take responsible and appropriate action to protect a student engaged in protected free speech or expression related to the student publication.
  4. A disclaimer to be included in all student publications that such content is not necessarily endorsed by the District/school.
- vi. See Administrative Regulation 5150, Student Publications, (pending) for additional information and procedures.
- f. Student Dress.
- i. The District has established guidelines related to student dress (see the Parent/Student Handbook). Those dress requirements are not an attempt to silence free expression but to create a productive, uninterrupted, and safe learning environment.
  - ii. The District does not seek to restrict or ban a student's wearing of religious clothing, with the exception of unprotected speech.
- g. Technology and Social Media.
- i. Students have the right to express themselves online, whether they are writing e-mails, posting to a blog, updating a homepage, or talking in a chat-room. However, students are responsible for their actions as they affect others, particularly if they cause a disruption to the learning environment of other students.
  - ii. The District may monitor and censor content or messages sent during school hours, using a District internet connection, to include guest wireless access, using a school computer or other technology, and/or using a District email address.
- h. Religion.
- i. Students have the right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. Students shall not be

required, encouraged, or coerced to engage in or refrain from such prayer or meditation during any school activity.

- ii. Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions or viewpoint.
  - iii. Students may organize prayer groups, religious clubs, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression.
- i. Patriotic Observances. The District may officially encourage students to express patriotism for the United States by reciting historical documents or singing official anthems that contain religious references. While students shall not be compelled to participate in patriotic observances, students not participating are expected to be orderly and respectful.

## **DEFINITIONS**

1. Unprotected speech may include, but is not necessarily limited to:
  - a. obscenity, fighting words, defamation (includes libel and slander), child pornography, perjury, blackmail, incitement to imminent lawless action, true threats, solicitations to commit crimes, and speech which is vulgar or profane.
  - b. any article or apparel which displays obscene words, pictures, or designs;
  - c. speech which is sexually suggestive, or has a pro-alcohol, tobacco and/or controlled or illegal substances message;
  - d. clothing or items that symbolize gang-related behavior;
  - e. speech which does not comply with the District's policies and regulations, interferes with the educational process and/or poses a threat to the safety of students or other individuals.
2. The term "student publication" refers to a publication run by students of the school through a curricular, co-curricular, or extra-curricular program such as Newspaper or Yearbook. Such publications can be hard copy, electronic or appear in social media; have a District staff member as advisor; and utilize District funds and other resources.

3. "Social media" includes web-based, interactive communication between individuals, organizations, or communities, which includes but is not limited to web logs (e.g. blogs, electronic forums such as chat rooms, video-sharing websites (e.g. YouTube, Vimeo), editorial comments posted on the internet, and social networking sites including, but not limited to Facebook, Twitter, Google+, Instagram, LinkedIn, Wikispace, and Edmodo.

### **DESIRED OUTCOMES**

1. Through this policy, the Board of Trustees, Superintendent and District encourage student voice by creating a standard for speech and expression while maintaining a safe and respectful learning environment.

### **IMPLEMENTATION GUIDELINES & ASSOCIATED DOCUMENTS**

1. This policy reflects the goals of the District's Strategic Plan and aligns/complies with the following governing documents of the District, to include:
  - a. Administrative Procedure 5101, Guidelines for Regulating Speech Through Clothing
  - b. Board Policy 5310, Student Voice
  - c. Board Policy 5100, Student Behavior
  - d. Board Policy 1140, Distribution and Display of Information and Non-School Materials
  - e. Board Policy 1310, Political Activity in Schools
  - f. Board Policy 7200, 21<sup>st</sup> Century and Digital Learning
2. This policy complies with Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) to include:
  - a. Chapter 388, System of Public Instruction, and specifically:
    - i. NRS 388.077 Right of pupils to constitutional expression; limitation; resolution of complaint by pupil of violation of right.
  - b. Chapter 392, Pupils
3. This policy complies with federal laws and regulations to include:
  - a. U.S. Constitution
  - b. Family Educational Right to Privacy Act (FERPA)

**REVIEW AND REPORTING**

1. This document shall be reviewed as part of the bi-annual review and reporting process, following each regular session of the Nevada Legislature. The Board of Trustees shall receive notification of any required changes to the policy as well as an audit of the accompanying governing documents.
2. Administrative regulations, and/or other associated documents, will be developed as necessary for the consistent administration of this policy.

**REVISION HISTORY**

Date	Revision	Modification
9/12/2017	1.0	Adopted