

LODI UNIFIED SCHOOL DISTRICT

Rule 6145.3

Instruction

Student Publications

Educational Goals: It is the purpose of school newspapers, yearbooks, and literary magazines to further the achievement of three distinct educational goals: 1) to serve the entire community by reporting school activities; 2) to teach students of this district proper writing and other journalistic skills; and 3) to teach students of this district by practical experience, the meaning of "Freedom of Speech" as that term is used in the United States and California Constitutions.

1. In order to meet the first two goals, the following guidelines shall be followed to the extent they do not conflict with the goal of teaching students of this district the meaning of "Freedom of Speech" as that term is used in the United States and California Constitutions.
 - a. A professionally trained advisor and/or a credentialed English teacher shall be provided for each school newspaper, yearbook and literary magazine to teach journalistic performance including but not limited to:
 1. Accurate and impartial news coverage
 2. Complete and objective reporting, including the guarantee of no prior restraint (censorship) as stated in Section 48907
 3. Well-researched, factual information supporting opinion in editorials
 4. A sound and ethical financial program through the advertisements published and, in the case of the yearbook, through effective promotion and sales of the book
 5. Complete and meaningful photographic coverage of the school and its many programs
 6. Good taste and discretion in the use of written and pictorial copy containing possible profanities, vulgarities, and other matters not acceptable to local professional publications
 7. Adequate distribution of the publication to all segments of the student body
 8. Effective evaluation of the publications by the advisors, editors, rating services, and professional journalists
 - b. Students shall be taught proper grammar, form and journalistic style commonly accepted by the media.

- c. Students shall be taught how to convey their ideas and thoughts to others in a creative, journalistic manner.
 - d. Students on the newspaper, yearbook, or literary magazine staffs shall be given an experience duplicating as much as possible that of one who works for a private publisher in the community.
2. In order to teach students of this district by practical experience the meaning of "Freedom of Speech" as that term is used in the United States and California Constitutions, the following guidelines shall be followed:
- a. The school newspaper, yearbook, and literary magazine shall operate under the United States and California Constitutions guaranteeing to each student of the district his/her individual freedom of expression. Only material constituting one or more of the following may be withheld from being published:
 1. Slanderous material. Written or oral defamation of character
 2. Obscenity, according to current legal standards
 3. Invasion of privacy
 4. Expression which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, to violate lawful school regulations, or to disrupt, substantially, the orderly operation of the school
(The above four items shall be referred to hereafter in this policy as "prohibited expression.")
 - b. Whenever a student's individual right of free speech conflicts irreconcilably with the district's goal of teaching proper writing and other journalistic skills, the advisor's duty to teach effective journalism shall prevail.
 - c. In order to provide the students of this district the maximum opportunity to exercise their freedom of speech in the school newspapers, yearbooks, and literary magazines, the school newspapers, yearbooks, and literary magazines shall not be a forum for free speech by anyone other than a student regularly enrolled in schools of this district; nevertheless, commercial advertisements by non-students that represent alcohol, tobacco products, illegal substances, or illegal services shall not be acceptable. Announcements by school officials, and material authored by school district employees or other persons may be published at the discretion of the publication staff and advisor in order to further the primary goals of the publication.

3. In order to give each student of this district an equal opportunity to participate in the above-cited educational goals within the constraints of available financial resources, publication space, and publication time deadlines, the following rules and regulations shall apply to all material submitted for the publication:
 - a. All material must be submitted to one of the editors or to the advisor
 - b. All material must be either typewritten or otherwise neatly written so as to be legible
 - c. All material must be clearly identified by the author and must have the author's name on it
 - d. All material must be submitted sufficiently prior to publication deadlines so as to allow for its publication. Deadlines for submission of material, of at least 72 hours prior to the deadline, shall be made known to the students of the school in a manner reasonably sufficient to inform students who wish to submit material
 - e. All material submitted in the manner prescribed above must be considered by the publication staff for publication. The staff and advisor may copy-read and otherwise edit the material submitted so as to adhere to the constraints of financial resources and/or available publication space so long as the subjective values of the idea or opinion expressed in the material are retained
 - f. Material not used by the end of the school year for valid authorized reasons shall be returned to the writer. Such material may be resubmitted the following school year
 - g. A school yearbook is a memory book, a history of the year, a resource/reference book, and a pictorial representation of contemporary school and community life. It is published only once a year. A school newspaper is a medium for publishing the news, a public forum for discussing current events of interest to students, whether on or off campus, for sharing ideas and opinions on contemporary subjects of general interest in the school community, and is a potential medium for publishing literary art. It is published periodically. A literary magazine is a compilation of original short stories, poems, reflective autobiographical essays,

fiction, art work and photographs that demonstrate/showcase the abilities and talents of students and staff

Procedural Safeguards: Material submitted by a student of the district shall not be refused publication except in the manner provided below:

1. Any member of a publication's staff who has reason to believe that certain material scheduled for the publication should not be published shall at once bring this fact to the attention of the editorial advisory board composed of the top editors of the staff for review
2. The publication's faculty advisor shall review all material scheduled for publication. Whenever it is proposed to refuse to publish certain material scheduled for publication for any reason whatsoever, the publication's faculty advisor shall:
 - a. Contact the editor-in-chief and the student submitting the material for publication and advise the student of:
 1. The proposed refusal and the reasons therefor;
 2. How the material may be acceptable for publication; and
 3. His or her right to have the material published in its original form which is protected by the United States and California Constitutions, as long as it is grammatically and journalistically correct.
 - b. Meet with the student and editorial board to review the matter, if no acceptable resolution is reached
 - c. If the student whose material is scheduled for publication chooses to exercise his/her constitutional right of free speech and have the material published in its original form, the advisor shall immediately notify the school principal if it is suspected that any portion of the material may be a form of prohibited expression
3. The school principal shall immediately:
 - a. Hold meetings, where the principal feels it is necessary, with one or more of the following: the advisor, the publication's staff, the parent or guardian, the student, or other persons who may be involved, to review the matter; and
 - b. Order the material published in its original form; or

- c. If the principal suspects the material to be a form of prohibited expression, he/she shall notify the superintendent or designee.
4. The superintendent or designee shall immediately:
 - a. Review the matter with the assistance of Counsel; and
 - b. Order the material published in its original form; or
 - (1) If the material is alleged to be obscene or is expression which so incites students as to create a clear and present danger of the commission of unlawful school regulations, or to disrupt substantially, the orderly operation of the school, the superintendent shall submit the matter to the Board of Education. The Board of Education shall review the matter with the assistance of Counsel and either order the material to be published in its original form or refuse to publish the material. The matter shall be decided at the board's next regular meeting held after the superintendent or designee decides to submit the matter to the board provided that sufficient time is available to include the matter as an agenda item on the legally required meeting agenda for the next regular meeting, or sufficient time is available to issue an addendum for the regular board meeting.

In the event sufficient time is not available and the next regular meeting is not scheduled within 14 days; or, exigencies exist which necessitate a resolution of the matter in order to prevent an impairment of the student's right of free speech, then, a special board meeting shall be called within 14 days.
 - (2) If any portion of the material is alleged to be libelous or an invasion of privacy, the superintendent shall submit the matter to a standing committee consisting of the superintendent or designee, publications advisor, a representative of the editorial board, and two board members selected by the board to serve on the committee. The standing committee shall immediately review the matter with the assistance of Counsel and either order the material published in its original form or refuse to publish the material.
5. The following terms as used in the above-described procedure shall mean:

- a. "Immediately" means within twenty-four hours, excluding all days during which school is not in session, provided that exigencies do not exist which necessitate an earlier resolution of the matter in order to prevent an impairment of the student's right of free speech. If an exigency exists, "immediately" means a reasonable amount of time less than twenty-four hours which will not impair the student's right of free speech. If an action required to be taken or made within twenty-four hours is not taken or made, the student submitting the material for publication, the student's parent, guardian or legal representative may submit the matter to the next authority line.
- b. "Review the matter" means to ascertain all relevant facts and determine whether the material submitted for publication is free speech protected by the United States or California Constitutions. Factual issues in dispute shall be resolved by the reviewer after talking to individuals with first hand knowledge of the facts to the extent time limitations permit. Only the items termed as prohibited expression in Part A, Paragraph 2a, above, are not protected free speech.
- c. Factors to be used in determining whether the material submitted is any of the above types of unprotected speech include the following:
 - (1) Libel:
 - (a) Is the material false?
 - (b) Does the material tend to bring any person into public hatred, contempt, or ridicule, or cause him to be shunned or avoided, or injure him/her in his/her business or profession?

If the answer to each of the above two questions is "yes," the material is likely to be libelous. However, if the material is any of the following, it probably is privileged and protected free speech:

 - (i) A fair and true report of a judicial, legislative, or other public official proceeding or anything said in the course thereof.
 - (ii) A fair and true report of a verified charge or complaint made by any person to a public official, upon which complaint warrant is issued.
 - (iii) A fair and true report of the proceedings of a public meeting which was lawfully convened for a lawful purpose and open to the public.
 - (iv) A fair and true report for the public benefit.
 - (v) A report about a public official or public figure of the school or commonly known in the school community which is not being published with

knowledge that it is false or with reckless disregard of whether it is false or not.

- (2) Obscenity:
- (a) Would the average student who is likely to witness the material, applying contemporary standards of the local community, find that the material, taken as a whole, appeals to her/his prurient interest; i.e., a shameful or morbid interest in nudity, sex, or excretion?
 - (b) Does the material depict or describe, in a patently offensive way, sexual conduct?

If the answer to either or both of the questions posed in (2) (a) or (b) above is “yes” and the material taken as a whole lacks serious literary, artistic, political, or scientific value, it is probable that the material is not protected free speech.

- (3) Slanderous material or invasion of privacy:
- (a) Is the material of social value to the receivers?
 - (b) What is the depth of the material’s intrusion into ostensibly private affairs?
 - (c) Has the party whose privacy is being impinged voluntarily acceded to a position of public notoriety?

The social value of the material to the receivers is balanced against the individual’s right not to have ostensibly private affairs disclosed. One who voluntarily accedes to a position of public notoriety, including public employment, must expect a greater impingement of her/his privacy than one who has not. If the social value outweighs the individual’s right not to have ostensibly private affairs disclosed, the material is probably protected free speech.

- (4) “Expression which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, to violate lawful school regulations, or to disrupt, substantially, the orderly operation of the school”:
- (a) Is it imminent that the expression will cause conduct of a physical nature to be taken?
 - (b) Will the conduct of a physical nature be unlawful or a violation of lawful school regulations?
 - (c) Will the conduct of a physical nature occur on or adjacent to school premises?
 - (d) Will the physical action be substantial?

- (e) Is it impossible to take preventive measures so that the physical action will not be substantial?
- (f) Is it unreasonable to permit the conduct of a physical nature to occur and subsequently discipline the parties involved rather than prevent the publication of the material? If the answer to each of the above questions is "yes," it is probable that the material is not protected free speech.

Rule

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