

STUDENT SPEECH

The Board of Education recognizes the importance and value of student expression and encourages student expression in its many forms. However, in order to ensure that student expression does not substantially interfere with the work of the District or impinge upon the rights of other students, the Board recognizes that a student's right to expression must be balanced against the rights of the school community. In an effort to ensure this balance, the Board encourages students to express their thoughts and opinions at reasonable times and places and expressly reserves the right to exercise review of both school-sponsored student expression as well as student personal expression, when such expression is disseminated in or through the Yonkers Public Schools. The Board also reserves the right to impose reasonable restrictions on the time, place, and manner of expression which is disseminated in or through the Yonkers Public Schools.

Although students retain their right to free expression in school, that right is not unfettered. Student expression which causes a substantial disruption or which materially interferes with school activities or the 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. Student expression must comply with the rules set forth in this policy and in the Code of Conduct. Libelous statements; unfounded charges and accusations; obscenity; false statements; materials or performance advocating or expressing prejudice, hatred, discrimination, harassment, bullying or violence on the basis of a protected class (e.g. actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and gender expression), or sex); the breaking of laws and school policies and/or regulations; or materials or performances designed to disrupt the educational process will not be permitted.

School-sponsored Student Expression

School-sponsored student expression includes, but is not limited to: (1) student newspapers, periodicals, yearbooks, concerts, art exhibits, or theatrical productions, to which the District lends its resources or name; (2) publication or speech which is included as part of the school curriculum; or (3) any other activities which the public might reasonably perceive to bear the imprimatur of the Yonkers Public Schools.

School-sponsored expression is not considered a public forum. Therefore, the Board reserves the right to exercise editorial control over such expression, including pre-publication review, editing, restraint and/or deletion, in order to ensure that the expression is consistent with the District's basic message. The Board will conduct such review in an effort to insure that:

1. participants learn whatever lesson(s) the activity is designed to teach;
2. readers or listeners are not exposed to materials that may be inappropriate for their level of maturity;
3. the views of the speaker are not erroneously attributed to the schools, if, for example, the speech is:
 - a. ungrammatical;
 - b. poorly written;

- c. inadequately researched;
 - d. biased or prejudiced; or
 - e. vulgar or profane;
4. the speech will not be reasonably perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order; and
 5. the expression is consistent with the District's basic educational mission.

Any school-sponsored expression that contains personal opinion must be clearly identified as such and bear the name of the author. Additionally, an opportunity for the expression of differing opinions must be provided.

Student Personal Expression

Student personal expression includes any form of expression by a student such as, but not limited to, written text, art, video, or music composition, using any medium, including, but not limited to, paper, email, text or voice messaging, or website or social medial posting, that is intended to be shared with the broader school community, or any actions by a student taken to express a viewpoint such as, but not limited to, demonstrating or protesting. Any student personal expression, regardless of form, which is sought to be disseminated in or through the Yonkers Public Schools, must be approved by the building principal or his or her designee prior to such dissemination and the Board reserves the right to exercise editorial control over such expression.

In providing or withholding approval, building principals 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 safety and security of the school, the protection of persons and property, and the need to assist students in learning appropriate ways to exercise their rights. Further, such approval may be withheld, distribution may be halted, and/or disciplinary action may be initiated if:

1. the expression materially disrupts or substantially interferes with the normal operation of the school, or has the propensity to do so;
2. the expression materially interferes with or is an invasion of the rights of others, or has the propensity to do so;
3. the expression is potentially libelous, such as, but not limited to, speech involving a false and unprivileged statement about a specific individual which injures the individual's reputation in the community;
4. the expression involves fighting, abusive words, or slurs, such as, but not limited to, words spoken solely to injure or harass other people including threats of violence, defamation of character, or statements expressing prejudice, hatred, or discrimination;
5. the expression is obscene, lewd, or indecent, meaning that:
 - a. the average person, applying contemporary community standards, would find that the expression, taken as a whole, appeals to a minor's prurient interest in sex ("minor" means any person under the age of 18);
 - b. the expression depicts or describes, in a patently offensive way, sexual conduct such as intimate sexual acts (normal or perverted), masturbation, excretory

- functions, or lewd exhibition of the genitals; or
- c. the expression, taken as a whole, lacks serious literary, artistic, political, or social value.

Off-Campus Student Expression

Generally, the District's authority regarding student personal 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.

Procedural Due Process

If a student is dissatisfied with the decision of a school official regarding the student's freedom of expression, the student may appeal the decision to the building principal within five (5) school days of receiving the decision from the school official. If the student is dissatisfied with the building principal's decision following appeal, or the building principal made the original decision regarding the student's expression, the student may appeal to the Superintendent. An appeal to the Superintendent must be submitted in writing to the Superintendent within five (5) school days of the building principal's decision. If a student is dissatisfied with the decision of the Superintendent, the student may appeal this decision to the Board. An appeal to the Board must be submitted in writing to both the Superintendent and the Secretary to the Board within five (5) school days of the Superintendent's decision. The Board shall render its decision in writing within thirty (30) days of receipt of the appeal.

Cross-ref: 0100, Equal Opportunity
0115, Student Harassment and Bullying Prevention and Intervention
4526, Computer Use in Instruction (or Acceptable Use Policy)
4526-R, Computer Use in Instruction Regulation
5300, Code of Conduct

Ref: Education Law Article 2, §§10-18 (Dignity for All Students Act)
Morse v. Frederick, 551 U.S. 393 (2007)
Hazelwood Sch. Dist. v. Kuhlmeier, 484 U.S. 260 (1988)
Bethel Sch. Dist. v. Fraser, 478 U.S. 675 (1986)
Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969)

Adoption date: May 8, 2007

Revised: