

**Assignment 4 Freedom of Speech in schools**

MaryBeth Morris

Concordia University

EDSC 551 Legal and Ethics

Rebecca Clark

April 23, 2023

## **Assignment 4 Freedom of Speech in schools**

### **FREEDOM OF SPEECH INTRODUCTION**

“First Amendment safeguards the rights of every American to speak and think freely. Those rights are central to the educational process and are equally important to educators and students” (NASA,2021). Freedom of speech is important because it allows individuals to express their feelings, thoughts, ideas, and emotions without consequences. Open communication exchange is important for progress to grow when it comes to different opinions and different points of views. Without freedom of speech we can not vote, have woman’s rights, call for representatives, or have equal rights in marriage. Freedom of speech is a fundamental human right. The ability to express our thoughts and feelings is what allows us to change things in our community and society.

### **Freedom of speech in schools /Verbal speech on/off campus/written assignments**

. The First amendment protects students and staff in schools for freedom of speech. However, schools have responsibilities and it’s not as “freeing” as one might think “censorship is the suppression of speech or other expression that the censor (a person or institution with the power to suppress speech) does not like..”(NASA,2012). With censorship, Courts have ruled for schools that can forbid bad language, interfere with school publishing, yearbooks, journals, newspapers, anything that might interfere with the school operation. School officials have the right to “censor” anything that could cause potential harm. (NCAC,2021).

Off campus students are protected by The First Amendment in some areas. While students are off campus and if they are not using the school facilities students can post anything

they want on social media. Students are protected by their rights. They cannot be punished by the school if they are not using their resources. Students need to be aware of the school's policy of the use of technology. Students that use the school's technology can receive consequences. Other situations such as threatening a teacher, harassing a student, or severely bullying a student may not be protected under The First Amendment.

### **Grooming and Dressing**

“Under federal laws protecting against discrimination in education – including Title IX, Title VI, and the U.S. Constitution's equal protection guarantee, public schools cannot enforce a dress code based on gender- or race-based stereotypes about appropriate dress or appearance”.(American Civil Law, 2023) There are many complications with campus dress codes. The courts can not seem to decide who should be in charge of the dress code. (The administration of the school or supreme courts). They have to meet the standards of binary students, LBTQG students and racism. The law clearly states they cannot enforce a dress code based on gender and other things. Schools can express the types of dress code they would like on their campus. For example on my campus, no one is allowed to wear tank tops or flip flops. That is a type of clothing rather than stating only girls cannot wear tank tops.

### **Social Media and Text**

According to the American Bar Association, social media can be tricky There Was a recent case (Levy VS. Mahony School District) where a cheerleader had posted a video saying the inappropriate things. This video went viral but, in this video, the cheerleader did not direct this towards anyone in particular. This happened off campus and on the weekend. The coach of the cheerleader saw the video and took it to the school administration which they ended up

punishing the student. The school was allowed to punish the student because it involved the cheer leading team and the moral of the school. (American Bar Association, 2023). Students need to be careful while posting videos and where they are taking the videos. Since this case it took over four years for First Amendment rights through the civil litigation process. (ABA,2023).

### **Struggles as a Counselor**

The law I've decided to discuss is the First Amendment. Since staff is protected by The First Amendment in public Schools and it can overlap with Student's rights. One of the struggles that school counselors face on a high school campus is diversity and respecting students. Counselors want to show respect for their students but at the same time counselors need to understand their position in the schools and they need to follow all policies the school provides. They may be protected by the First Amendment, but they need to respect the schools. On the ASCA website they mentioned a counselor losing their job because they refused to stop wearing their Black Lives Matter shirt. This was not protected by the First Amendment as the school had a right to terminate her after asking her several times to take off the shirt.

On a school campus everyone is treated equally. In order to help with diversity, the key is to use your ASCA mindset and behavioral tools. For example, wanting to promote diversity at the same time being respectful to the school and school polices one behavior could be B-SS2: creating positive relationships with students. Another tool is B-SS7 Use leadership and teamwork skills to work effectively in diverse teams. There are many other standerds and behaviors that can be used to help promote diversity on a high school campus. This will still show a lot of respect towards the students and keep your job safe as a school counselor.

## **Conclusion**

The First Amendment was created so that we had freedom of speech. We can share our thoughts and ideas, with the public. Without freedom of speech, we would not be able to vote, change things in society or change things in the public school system. As I mentioned above a student in the public school system does have the same rights; however, it can be limited. Certain things must be “censored” by the district to make sure everything is appropriate. Writing this paper was very eye opening and I learned a few things about how to promote diversity and to always make sure you follow the school policy before joining in any kind of movements. The First Amendment and civil rights law may not always protect school counselors.

## References

(2021). National Coalition Against Censorship. Retrieved April 19, 2023, from <https://ncac.org/>

*American Bar Association*. (2023). [https://www.americanbar.org/about\\_the\\_aba/](https://www.americanbar.org/about_the_aba/). Retrieved

April 19, 2023, from [https://www.americanbar.org/about\\_the\\_aba/](https://www.americanbar.org/about_the_aba/)

Know your CoNarrow, B. A., & Dean, S. I. (2023). American Bar Association. *Students Rights to Online Speech*, 2(Vol. 47, No. 2: The State of Civic Education in America), 1.

Retrieved April 19, 2023, from

[https://doi.org/https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/the-state-of-civic-education-in-america/the-law-of-students-rights-to-online-speech/](https://doi.org/https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-civic-education-in-america/the-law-of-students-rights-to-online-speech/)

*Know your student's rights*. (2023). American Civil Liberties Union. [aclu.org](https://www.aclu.org)

Stone, C. (2023). *Your First Amendment Rights*'. American School Counselors Association.

Retrieved April 19, 2023, from [School Counselors.Org](https://www.schoolcounselors.org)