EDUCATION LAW CENTER | FACT SHEET

STUDENTS MAINTAIN A RIGHT TO FREE SPEECH AND EXPRESSION IN PUBLIC SCHOOLS

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The First Amendment protects the rights of students to express themselves in public schools.[1] Students are entitled to speak out, write articles, form groups, hand out flyers, and petition school officials.[2] There are some important limits, however. Schools can prohibit forms of expression that are likely to — or already did — substantially disrupt the school environment or violate the rights of others. Schools can also prohibit expression that threatens serious harm to the school or community, encourages illegal activity, or contains lewd or vulgar language.

DO STUDENTS HAVE FIRST AMENDMENT RIGHTS IN SCHOOL?

Yes. Students have the right to share their opinions and ideas — known as "freedom of expression."[3] This includes all forms of "speech" and communication, like speaking aloud, writing on paper or in online chat platforms, wearing T-shirts with messages or protest armbands, and expressing themselves through hairstyle, as well as gathering in protest and petitioning officials.[4]

Students also have the right to refuse to say the Pledge of Allegiance or refuse to salute the flag. If they do refuse, their school may not tell their parents.[5]

ARE THERE LIMITS TO STUDENT FREE SPEECH AND EXPRESSION?

Yes. Students have the right to express themselves in school, within certain limits. A school may restrict expression that

- causes or is reasonably forecasted to cause a "substantial and material disruption";
- threatens serious harm to the school or community;
- encourages illegal actions;
- contains lewd, vulgar, or profane language;[6] or
- would violate someone else's rights.[7]

Schools can limit speech and discipline students even if the disruption does not actually occur. In fact, courts have held that schools have an obligation to prevent disruptions.[8]

WHAT CONSTITUTES A 'SUBSTANTIAL AND MATERIAL DISRUPTION'?

For conduct to rise to a substantial and material disruption, there is a high standard. Schools must show that speech was more than just uncomfortable, unpleasant, or unpopular — that it

reasonably can be forecasted to interfere with the school's work and discipline, or the rights of others.[9] In one case, a court considered whether a school dress code banning clothing displaying the Confederate flag violated students' rights to free expression.[10] The court ultimately found that this dress code ban did not violate the First Amendment and outlined a number of key factors in reaching that conclusion: Given existing racial tensions and violence at the school, including racist graffiti containing slurs and threats, physical altercations between students, and an increase in absences among African American students driven out of fear, school officials could reasonably forecast that clothing displaying the flag would likely cause a substantial and material disruption.[11] The court ruled that this evidence of these incidents, coupled with the Confederate flag being a symbol historically related to strife and division, justified the school's ban.[12] The court cautioned, however, that a school's restriction on student speech and expression could not be justified merely because students found the clothing offensive.[13] That standard may also apply to online communications, depending on the circumstances.[14]

WHAT ABOUT SOCIAL MEDIA AND INTERNET SPEECH? CAN SCHOOLS PUNISH STUDENT EXPRESSION MADE OUTSIDE OF SCHOOL?

Sometimes. Whether schools may restrict or punish "off-campus" speech will depend on the situation. Recently, the U.S. Supreme Court found that a student could not be punished for saying "F*** school … F*** cheer" in her social media story. A number of key factors were important to the court: The conduct occurred outside of the school building, outside of regular school hours, the conduct did not occur during any school-sponsored activities, and it was only directed to private group of friends. The post did not identify the school directly, did not target any student or school staff with vulgar or abusive language, and was transmitted through a personal device to a limited circle of contacts.[15] The court thus determined that the school overstepped its authority in suspending the student for her off-campus, minimally disruptive speech.[16]

However, the court indicated that certain types of off-campus speech may justify a school response. They include "serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; the failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; and breaches of school security devices, including material maintained within school computers."[17] Applying this standard, recently a Pennsylvania court held that a student's off-campus Snapchat messages were not protected and could be punished by the school where the messages were "not merely profane but … were actual threats" targeting primarily one student.[18] In another case, the court sided with a student in refusing to dismiss her First Amendment claim where her school punished her for an off-campus racially offensive social media post unless the school could prove it caused a substantial disruption at school.[19]

Beyond those certain types of speech, students have the right to speak outside of school or in social media content, *even if* their speech is vulgar, crude, or offensive. More recently, courts have considered additional factors for determining when a school can regulate off-campus speech, including whether the speech falls within the zone of parental versus school

responsibility, whether the school can justify its restriction, and the interest that the school has in protecting a student's (even unpopular) expression. In one case, the court ruled that a school could not punish a student for posting a picture of his friends wearing a World War II-era hat with an anti-Semitic caption on social media outside of school. While the school argued it could discipline the student for his post because it was "hate speech targeting the Jewish community" and "not just a crude attempt at a joke about the Holocaust," the court determined the school was not justified in regulating this speech because of various factors: The post was made outside of school hours from a location outside the school, did not feature weapons or specific threats towards the school or students, was transmitted to a number of friends, and did not cause a substantial disruption.[20]

Finally, remember that the First Amendment only protects against the actions of "state actors," like public schools. There can be nonschool consequences for speech, such as harassment lawsuits, removal of social media accounts, criminal charges, summary citations, retaliation by employers and others, or other individualized responses.

I WAS SUSPENDED FOR MAKING A THREAT, BUT I WAS JUST JOKING. CAN MY SCHOOL DO THAT?

True threats are **not** protected by the First Amendment, and school officials take them very seriously.[21] Even if an alleged threat does not disrupt or infringe upon the rights of others, school officials may punish you if you intended your statement to be a serious expression of intent to harm.[22] But if you were clearly joking, they may not.[23]

If your school does try to exclude you because of something you said or posted, you do have a due process right to challenge that discipline before it is imposed. See ELC's fact sheets on suspensions and expulsions.

ARE STUDENT EXPRESSION RIGHTS DIFFERENT IN A VIRTUAL SCHOOL?

This issue is new and still evolving, but the Supreme Court has indicated that schools may regulate some student speech that takes place off campus during virtual school activities, although precisely when this is authorized remains unclear.[24] For example, a student who makes lewd comments in a chat box while attending online school is likely to be subject to discipline.

WHAT IF THE SCHOOL PROVIDES A COMPUTER FOR A STUDENT TO USE FOR VIRTUAL SCHOOL AT HOME?

Check the school's computer-use policy and any agreement students or parents are required to sign. If the school district provided a student's computer for virtual instruction, not using that school computer for personal activity is safest. For more information on a student's right to privacy in virtual learning, see federal guidance on student privacy rights.[25]

ARE STUDENT CLOTHING AND HAIR CONSIDERED 'EXPRESSION'?

Yes, student clothing and hair are considered protected expression.[26] A public school may require a uniform or establish a dress code.[27] But the uniform or code may not conflict with a student's constitutional rights. This applies to all public schools, including charter schools.[28] If a school does not have a uniform or dress code, students have the right to wear clothing

containing controversial messages, subject to student speech limitations described on the first page of this fact sheet.[29]

Students have the right to wear political messages, such as Black Lives Matter shirts, armbands, or Pride buttons, unless those items are plainly lewd or cause a substantial disruption at school.[30] While courts have often deferred to the judgment of school officials in determining what meets this standard, they have held that to permit a restriction on speech, schools must identify a "specific and significant fear of disruption, not just some remote apprehension of disturbance."[31] Finally, students have the right to wear their hair and facial hair in any style or length they want, except when a substantial government interest unrelated to length or style requires otherwise.[32]

AS A BLACK STUDENT, DO I HAVE A RIGHT TO WEAR MY HAIR IN LOCS AS AN EXPRESSION OF MY IDENTITY, CULTURE, AND HERITAGE?

Yes. Affirming school dress codes are necessary for students to thrive. School policies that prohibit hairstyles, such as natural hair, Afros, locs, braids, twists, knots, puffs, braided extensions, weaves, and wigs, have been found to be racially and sexually discriminatory, and in violation of the right to expression under the First Amendment.[33]

Importantly, regulations under the Pennsylvania Human Relations Act (effective Aug.16, 2023) clarify that racial discrimination includes discrimination on the basis of "traits historically associated with race including hair texture and protective hairstyles," including styles created using extensions or headbands/headwraps.[34] This means a school cannot punish or discipline a student for expressing their racial and cultural identity by wearing a protective hairstyle or for the way their hair grows from their head. ELC advocates against racist school grooming policies that target dress-based forms of cultural expression. To learn more about this issue, see ELC's publication We Need Supportive Spaces That Celebrate Us: Black Girls Speak Out About Public Schools.

On the national level, the CROWN Act (Creating a Respectful and Open World for Natural Hair Act of 2024) seeks to extend statutory protections to hairstyles and textures, such as locs, braids, twists, and knots, to protect against race-based discrimination in public schools and workplaces.[35] The law has not yet passed in Congress, but 26 states have adopted their own CROWN laws, and many others have legislation pending.[36] Some school districts, such as Pittsburgh Public Schools, have passed district-level versions of the CROWN Act. Ask your school districts if they have put in similar provisions!

DO STUDENTS HAVE THE RIGHT TO MEET AND TO PROTEST?

Yes. Students have the right to "assemble" (meet or gather) with other students about non-school issues if their school allows other groups to meet about non-school issues. If a chess club is allowed to meet, a Gay Straight Alliance or Black student organization must also be allowed to meet.[37]

Students can, however, be punished for meeting or attending a protest if doing so means missing class without permission.[38] Some schools have policies allowing students to protest. Before attending a protest, a student should check their school's policies to see if the absence would be excused and under what conditions (e.g., bring a signed permission note from a guardian explaining that the protest is educational).

Schools have a legal duty to address protests that implicate Title VI's protections against discrimination based on race, color, or national origin, including shared ancestry or ethnic characteristics. Harassing conduct that violates Title VI includes behavior that is "subjectively and objectively offensive and is so severe or pervasive that it limits or denies a [student's] ability to participate in or benefit from a school's education program or activity."[39] These protections "extend to students and school community members who are or are perceived because of their shared ancestry or ethnic characteristics to be Jewish, Israeli, Muslim, Arab, Sikh, South Asian, Hindu, Palestinian, or any other faith or ancestry."[40]

Title VI does not give schools the power to limit students' rights to free speech and expression. But schools must appropriately respond to harassing conduct involving speech made in public or that is motivated by political or religious beliefs if it has created a "hostile environment." A school can, for example, "communicate its opposition to stereotypical, derogatory opinions; provide counseling and support for students affected by harassment; or take steps to establish a welcoming and respectful school campus" without violating students' First Amendment rights. But simply referring matters to police is not enough.[41]

Whether the harassing conduct has created a hostile environment depends on different factors like the context, frequency, duration, and location of the harassment.[42] Protests that involve displaying signs across campus that target specific Jewish students using ethnic stereotypes or shouting terms like "terrorist" and "second Nakba" at students based on their actual or perceived Arab ancestry on their way to class, for example, may prevent students from accessing their education and can establish a hostile environment.[43]

CAN STUDENTS PUBLISH AND DISTRIBUTE WRITTEN SPEECH?

Yes. Students have the right to publish articles in a school newspaper, even if they criticize the school or its officials. However, if the material is false and hurts someone's reputation, encourages unlawful activity, interferes with another individual's rights, or materially and substantially interferes with the educational process, then a school may have greater leeway to regulate the speech in question.[44]

Students also have the right to distribute, or hand out, materials at school, including on bulletin boards or posting online through a chat box or school portal; unless the materials are inappropriate, are likely to cause a serious disruption, or advocate illegal drug use, schools generally allow posting of student materials in those places.[45] Outside of school, students have the same free speech rights as anyone else to hand out materials to peers and others, subject to the restrictions on off-campus speech outlined above on pages 2 and 3.

[1] *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969) ("It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.").
[2] *See* 22 PA. CODE § 12.9(b)-(h)
[3] *Id.*; U.S. CONST. amend. I; PA. CONST. art. I, § 7; 22 PA. CODE § 12.9(a) ("The right of public school students to freedom of speech is guaranteed by the Constitution of the United States and the Constitution of the Commonwealth.").
[4] 22 PA. CODE §12.9(c) ("Students may use publications, handbills, announcements, assemblies, group meetings, buttons, armbands and any other means of common communication, provided that the use of public school communications facilities shall be in accordance with the regulations of the authority in charge of those facilities.").
[5] *Id.* § 12.10; *Circle Sch. v. Pappert*, 381 F.3d 172, 174 (3d Cir. 2004) (holding that state law requiring school officials to notify guardians of students who declined to recite the pledge of allegiance or salute the flag violated the students' First Amendment right to free speech).
[6] *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 684-85 (1986) (use of sexual or extremely inappropriate language may be considered disruptive)
[7] *See* 22 PA. CODE § 12.9(b) ("Students shall have the right to express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual's rights."); *Tinker*, 393 U.S. at 513-14 (speech that might be reasonably be forecasted to or does substantially disrupt is not constitutionally protected); *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 307 F.3d 243, 254 (3d Cir. 2002) (school could not ban shirt with the word "redneck" in a school with racial tensions because it had not caused a disruption) Federal law requires that schools "promptly and effectively address alleged acts of discrimination, including harassment." Off. of C.R., U.S. Dep't of Educ., *Fact Sheet: Harassment Based on Race, Color, or National Origin on School Campuses*, U.S. DEP'T OF EDUC. (July 2, 2024), https://www2.ed.gov/about/offices/list/ocr/docs/ocr-factsheet-race-color-national-origin-202407.pdf. Title VI of the Civ. Rights Act of 1964 (Title VI), which applies to pre-K, elementary, and secondary public schools and school districts (including public charter schools), protects students from harassment based on their actual or perceived race, color, or national origin. Catherine E. Lhamon, Assistant Sec'y for Civ. Rights, U.S. Dep't of Educ., *Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics*, U.S. DEP'T OF EDUC. (May 7, 2024), https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf.
[8] *See Lowery v. Euverard*, 497 F.3d 584, 596 (6th Cir. 2007) (explaining that "forecasting disruption is unmistakably difficult to do" and that requiring school officials to wait until disruption actually occurred would be "disastrous").
[9] *Tinker*, 393 U.S. at 513-14. *See also Lowery v. Euverard*, 497 F.3d 584, 594 (6th Cir. 2007) (explaining that after student athletes circulated a petition stating that they hated their football coach and didn't want to play for him, school officials could reasonably forecast that the petition could cause a disruption by undermining the coach's authority and threatening team unity).
[10] *Barr v. Lafon*, 538 F.3d 554 (6th Cir. 2008).
[11] *Id.* at 566-69.
[12] *Id. See also D.B. ex rel. Brogdon v. Lafon*, 452 F. Supp. 2d 813, 819 (E.D. Tenn 2006) *aff'd* 217 Fed. Appx. 518 (6th Cir. 2007) (unpublished) (explaining that evidence of racially motivated incidents resulting in civil rights complaints and assistance from law enforcement supported the school's belief that students' wearing of the Confederate flag "might cause disruption and interfere with the rights of other students to be secure and let alone"); *Melton v. Young*, 465 F.2d 1332, 1334 (6th Cir. 1972) (noting that school authorities at a newly integrated high school had "every right to anticipate a tense racial situation . . . if student use of the Confederate flag was permitted to resume" after a year of substantial disorder involving demonstrations, confrontations, and school closures related to the display of the flag).
[13] *Barr*, 538 F.3d at 568. *See D.B. ex rel Brogdon*, 452 F.Supp.2d at 817 (explaining that while "school officials may ban racially divisive symbols where there has been actual racially motivated violence," they "may not punish passive expression of opinion, unaccompanied by any disorder or disturbance"); *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 307 F.3d 243, 255-58 (3d. Cir. 2002) (explaining that while the term "redneck" may be considered

offensive, without evidence to show that it was used to harass or intimate, the school lacked a basis to conclude that a t-shirt displaying the word would lead to a disruption).

[14] *See, e.g., J.S. v. Blue Mountain Sch. Dist.*, 650 F.3d 915, 920 (3d Cir. 2011) (student-created internet profile of her middle school principal was vulgar and offensive, but did not cause the type of "substantial disruption" that justified student's suspension); *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205, 219 (3d Cir. 2011) (district violated the free speech rights of a high school senior by suspending him for creating an online parody of his principal that did not cause a substantial disruption).

[15] *Mahanoy Area Sch. Dist. v. B.L.*, 141 S. Ct. 2038, 2047 (2021) ("These features of her speech, while risking transmission to the school itself, nonetheless . . . diminish the school's interest in punishing [her] utterance.").

[16] *Id.* at 2047-48.

[17] *Id.* at 2045.

[18] *A.F. v. Ambridge Area Sch. Dist.*, No. 2:21-cv-1051, 2021 WL 3855900, at *6 (W.D. Pa. Aug. 27, 2021); *A.N. By and Through Niziolek v. Upper Perkiomen Sch. Dist.*, 228 F. Supp. 3d 391, 401 (E.D. Pa. 2017) (holding that a student's First Amendment rights were not violated after he was disciplined for posting an Instagram video that was reasonably perceived to be school shooting threat and resulted in school cancellations, even if the post was meant to be a joke).

[19] *R.H. v. Borough of Sayreville Bd. of Educ.*, No. 21-19835, 2023 WL 3231214, at *7 (D.N.J. May 12, 2023). *C1.G on behalf of C.G. v. Siegfried*, 38 F.4th 1270, 1277-1279 (10th Cir. 2022) (explaining that while the post was discussed in school advisory meeting, news reports, and in a few emails from parents, this did not amount of a substantial disruption to justify discipline).

[20] *Id.* at 1278 ("[I]mpact does not necessarily equal substantial disruption.").

[21] *Watts v. United States*, 394 U.S. 705, 708 (1969) (holding that the First Amendment does not protect true threats).

[22] *J.S. v. Manheim Twp. Sch. Dist.*, 263 A.3d 295, 316-322 (Pa. 2021) (holding that memes sent via social media were not a true threat under the First Amendment based on the speaker's intent and did not rise to the level of *Tinker's* required substantial disruption).

[23] *Id.* at 317-18 (finding that the speaker's intent was to offer his opinion on another student, not threaten harm).

[24] *Mahoney Area Sch. Dist.*, 141 S. Ct. at 2045-46 ("[W]e hesitate to determine precisely which of many school-related off-campus activities belong on such a list [of approved school restrictions on student speech].").

[25] Student Priv. Pol'y Off., U.S. Dep't of Educ., *FERPA and Virtual Learning Related Resources* (Mar. 2020), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20%20Virtual%20Learning%20032020_FINAL.pdf. *See also* Letter from Reggie Shuford, ACLU of Pa., to Gov. Tom Wolf, *Re: Ensuring Privacy Protections in Remote Learning for All Students During COVID-19 School Closures* (May 11, 2020), https://www.aclupa.org/sites/default/files/wysiwyg/aclupa_online_learning_letter_5-11-2020.pdf.

[26] *See Tinker v. Des Moines Indep. Cmty. Sch. Dist.* 393 U.S. 503 (1969); 22 PA. CODE § 12.11(b). *See also Gillman ex rel. Gillman v. Sch. Bd. for Holmes Cnty., Fla.*, 567 F. Supp. 2d 1359 (N.D. Fla. 2008) (finding that a high school's ban of t-shirts advocating for the acceptance of and fair treatment for persons who are homosexual, without evidence that this caused a disturbance, violated students' rights to free expression).

[27] 22 PA. CODE §12.11(a) ("The governing board may establish dress codes or require that students wear school uniforms.").

[28] *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104, 130-31 (4th Cir. 2022) (finding that the school's requirement that girls wear skirts was "based on blatant gender stereotypes" in clear violation of the Equal Protection Clause and Title IX). *See also* Letter from Craig D. Ginsburg, Supervisory Att'y, Phila. Off., Off. for C.R., to Mr. Gregory Frigoletto, Superintendent, Wayne Highlands Sch. Dist. (July 5, 2022), https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03201279-a.pdf (explaining that the school district's dress code policy stating that earrings worn by boys was an example of unacceptable dress violated Title IX, which prohibits a school from "excluding, denying benefits to, or otherwise treating any person differently on the basis of sex in its education programs or activities").

[29] *B.H. v. Easton Area Sch. Dist.* 725 F.3d 293, 302 (3d Cir. 2013) (holding that a school cannot restrict students' First Amendment right to wear a bracelet that said "I © boobies! (KEEP A BREAST)" because they were not plainly lewd, vulgar, or profane and worn in support of a breast cancer awareness campaign).

[30] *Id.*; *Tinker*, 393 U.S. at 509; 22 Pa. Code § 12.9(h) ("The wearing of buttons, badges or armbands shall be permitted as another form of expression within the restrictions listed in [22 PA. CODE § 12.9(c)]").

[31] *See Tinker v. Des Moines Indep. Cmty. Sch. Dist.* 393 U.S. 503 (1969); 22 Pa. Code § 12.11(b). *See also Gillman ex rel. Gillman v. Sch. Bd. for Holmes Cnty., Fla.*, 567 F. Supp. 2d 1359 (N.D. Fla. 2008) (finding that a high school's ban of t-shirts advocating for the acceptance of and fair treatment for persons who are homosexual, without evidence that this caused a disturbance, violated students' rights to free expression); *Sypniewski v. Warren Hills Regl. Bd. of Educ.*, 307 F.3d at 253 ("In sum, 'if a school can point to a well-founded expectation of disruption—especially one based on past incidents arising out of similar speech—the restriction may pass constitutional muster.'") (internal citations omitted).
[32] 22 PA. CODE §12.11(b) ("Students have the right to govern the length or style of their hair, including facial hair. Any limitation of this right must include evidence that the style of hair causes disruption of the educational process or constitutes a health or safety hazard. When length or style of the hair presents a health or safety hazard, some types of covering shall be used."); *Arnold v. Barbers Hill Indep. Sch. Dist.*, 479 F.Supp.3d 511, 528-29 (S.D. Tex. 2020) ("There is scant evidence in the record tying the hair-length policy to any important or substantial government interest.").
[33] *See id.* at 531 (granting injunction to prevent enforcement of school policy requiring a Black male student to cut his locs or be prohibited from participating in regular classes and school activities). Read about the case here: https://www.naacpldf.org/case-issue/arnold-family-v-barbers-hill-independent-school-district/.
[34] *See* Protected Classes Under the PHRA and PFEOA, Regulation #52-13, at 2 (adopted Dec. 8, 2022) (to be codified at 16 Pa. Code ch. 41.201-41.207), http://www.irrc.state.pa.us/regulations/RegSrchRslts.cfm?ID=3350.
[35] For more on the CROWN Act, see https://www.thecrownact.com/home. The CROWN Act passed the U.S. House of Representatives in 2022 but failed to pass the Senate. Federal lawmakers reintroduced the legislation, known as the CROWN Act of 2024, in April of 2024.
[36] A map of those states can be found here: https://www.thecrownact.com/about.
[37] *See, e.g., Straights & Gays for Equality v. Osseo Area Sch. Dist. No. 279*, 540 F.3d 911, 913-15 (8th Cir. 2008) (finding Equal Access Act prohibited school from denying meeting of non-curricular gay equality group when other noncurricular groups were permitted to meet); *Donovan v. Punxsutawney Area Sch. Bd.*, 336 F.3d 211, 214 (3d Cir. 2003) (school could not deny a Bible Club permission to meet during non-instructional time when other non-curricular related clubs met).
[38] 24 P.S. § 13-1327 (compulsory school attendance). *See also Corales v. Bennett*, 567 F.3d 554, 566-68 (9th Cir. 2009) (holding that the school was entitled to enforce its policy of disciplining students for truancies and for leaving campus without permission).
[39] Catherine E. Lhamon, Assistant Sec'y for Civ. Rights, U.S. Dep't of Educ., *Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics*, U.S. DEP'T OF EDUC. (May 7, 2024) ("Dear Colleague Letter") at p. 4, and cases cited at n. 15, https://www2.ed.gov/about/offices/list/ocr/letters/colleague-202405-shared-ancestry.pdf. The offensive of a particular expression is judged from the perspective of the student allegedly being harassed, not from other students. *See, e.g., Rashdan v. Geissberger*, 764 F.3d 1179 (9th Cir. 2014) (finding that while the "Third World" reference was an "offensive, insensitive, and politically incorrect jab," because it was directed at the student's work, and not her national origin, there was no Title VI violation).
[40] Dear Colleague Letter at p.1.
[41] *Id.* at p. 3.
[42] *Id.* at p. 6 (explaining that generally a single incident is insufficient to establish a hostile environment that triggers schools to take responsive action, but depending on the facts and circumstances, it may be enough).
[43] *Id.* at p. 14.
[44] 22 PA. CODE §12.9(b) and (g) (detailing the free expression and free press rights of students and school newspapers); *see also Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 261 (1988) (schools may place "reasonable restrictions" on student speech which members of the public might reasonably perceive to bear the "imprimatur" of the school).
[45] 22 PA. CODE §12.9(c) (explaining the standards to which student free speech media in schools must conform); *id.* § 12.9(f) (explaining the standards to which bulletin boards in schools must conform). *See Morse v. Frederick*, 551 U.S. 393, 403 (2007) (holding that a school may restrict student speech via a banner at a school event when it is reasonably viewed as promoting illegal drug use).