

NATIONAL COALITION AGAINST CENSORSHIP

YOUTH FREE EXPRESSION

November 1, 2023

Principal Amy Gerade
Framingham Public Schools
19 Flagg Drive
Framingham, MA 01702

Dear Principal Gerade,

The National Coalition Against Censorship is an alliance of national nonprofit groups dedicated to protecting freedom of expression, including the rights of K-12 students, teachers and staff. We are writing in regard to an incident in which school officials required a student to remove a shirt with a political message.

As we understand it, a student at Framingham High School was forced twice to remove "pro-Palestine" shirts. He first wore a shirt containing support for Palestine, opposition to Zionism, and support for a congressional resolution to prohibit Israel from using U.S. taxpayer dollars for certain activities related to Palestine. A school administrator emailed the student that the shirt "would spark a visceral reaction from other people at FHS which would lead to violence" and wearing it again would result in disciplinary action. The student then wore a second shirt which denounces what it deems to be Palestinian "oppression" and "genocide." The administration barred him from wearing this shirt as well.

As you know, the Supreme Court declared in its landmark decision in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), that school officials may not forbid students from expressing political views unless the expression of those views substantially disrupt school activities. Recently, the Court reaffirmed this principle in *Mahanoy Area Sch. Dist. v. B. L.*, 594 U.S. ___, 141 S. Ct. 2038, 2046 (2021) ["As we have previously said, simple 'undifferentiated fear or apprehension... is not enough to overcome the right to freedom of expression.'"]

We understand that some shirts may indeed create a risk for substantial disruption in some educational circumstances. However, the evidence of disruption must be clear. To assume disruption based on a student's political views is improper. It both raises the specter of unlawful viewpoint discrimination if students with opposing views are permitted to express themselves, and it risks subjecting political speech to more suppression at school – exactly the opposite result that the First Amendment, and *Tinker* itself, demand.

In addition, any limits on student expression should reflect context and timing; particularly with regard to political speech about contemporary world events. Any limit should be rescinded as time passes and emotions cool and it is no longer reasonable

to assume that there is a risk of substantial disruption at your school whenever a student speaks on contentious issues.

Respect for students' free speech rights should lead the school to err in favor of protecting your students' rights to express and engage with political opinions whenever possible. Indeed, that members of the school body hold passionate and opposing political opinions is an opportunity for learning and growth rather than censorship. That principle was endorsed by a school administrator in an email that stated, "the forum for such complexities is... in some kind of other space wherein ideas can be exchanged freely and with negative reactions minimized." Therefore, we urge the school to create such a space where students have the opportunity to engage in an exchange of views on the Middle-East conflict.

As the Supreme Court stated in *Mahanoy*, "the school itself has an interest in protecting a student's unpopular expression," and that "schools have a strong interest in ensuring that future generations understand the workings in practice of the well-known aphorism, 'I disapprove of what you say, but I will defend to the death your right to say it.'" 141 S.Ct. at 2046. We encourage the school to ensure that unpopular speech is not suppressed.

Therefore, we urge you to honor our constitutional values of respect for student free expression and responsibility to foster dialogue by ensuring you have taken all possible steps to prevent disruption without resorting to censoring unpopular speech.

We understand that free speech raises difficult issues. We have a variety of resources that can help districts educate students on those issues such as guest speakers, publications, and resources for educators. Please reach out to us if we can be helpful in this matter.

Thank you for your attention to this important issue.

Sincerely yours,

The National Coalition Against Censorship