

March 9, 2022

Sent via email

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Dear General Counsel,

We write to address reports that Los Angeles Unified School District (“LAUSD”) school administrators have been improperly suppressing student expression at multiple campuses. Specifically, several principals have prohibited students from distributing or wearing buttons at school that support defunding the Los Angeles School Police Department (“LASPD”). These attempts at stifling student speech plainly violate students’ constitutional and statutory rights and contradict longstanding U.S. Supreme Court caselaw. It is well-established that students may engage in political speech on campus, including by distributing and wearing arm bands, patches, or buttons to express their positions. Accordingly, we urge you to send guidance immediately to every LAUSD school site administrator making clear that students may (1) distribute buttons expressing their position on school police on campus during non-instructional time and (2) freely wear such buttons to display their political beliefs throughout the school day.

A broad coalition of organizations¹ has long advocated for the elimination of Los Angeles School Police Department. As you know, in July 2020, the LAUSD Board of Education reduced LASPD’s budget by \$25 million and reinvested those funds into the Black Student Achievement Plan. The coalition is now organizing a district-wide campaign to convince LAUSD policymakers to defund LASPD completely and to invest those funds into more holistic, effective, and supportive resources. The centerpiece of the advocacy is a student-led button campaign, which involves thousands of LAUSD students distributing and wearing buttons on campuses to show the widespread community support for police-free schools. Along with the buttons, students also hand out a half-page factsheet about why they believe police do not belong in schools and what kinds of investments they would rather have. A copy of the factsheet is included here as Attachment 1.

¹ The coalition comprises Students Deserve, Black Lives Matters-LA, Brothers Sons Selves, Labor Community Strategy Center, CADRE, InnerCity Struggle, Community Coalition, UTLA, Social Justice Learning Institute, Reclaim Our Schools LA, Collective 4 Liberatory Lawyering, and ACLU of Southern California.

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There are two small (2” in diameter) student-designed buttons at issue. One includes only the words “FULLY DEFUND L.A. SCHOOL POLICE.” It features drawings of four students with their eyes closed, two fists raised in a showing of solidarity, and a heart. The other button similarly includes only the words “FULLY DEFUND LA SCHOOL POLICE,” along with a hand-drawn image of two students. For your reference, we have included pictures of the buttons:



In March 2022, the principal of Middle College High School reprimanded a student for passing out these buttons during lunch time. The principal told the student that the student could not distribute the buttons in certain areas of the school, including in front of the school or inside school buildings. That same day, a principal at a prominent high school in Local District West told multiple students that they could neither wear the buttons nor distribute them at school. Similarly, administrators at another prominent high school in Local District South have refused to allow students to distribute the buttons and factsheet because administrators purportedly had not approved them with signatures.² None of the principals have been able to cite any school policy or law to support their prohibition of student speech.

The administrators’ attempts to ban these buttons violates students’ constitutional and statutory protections for free speech in school. As the U.S. Supreme Court concluded more than fifty years ago, students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Indep. Community School Dist.*, 393 U.S. 503, 506 (1969). *Tinker* made clear that students have a right under the First Amendment to engage in non-disruptive political activities at school, which applies to expressing opinions on controversial subjects. Indeed, the facts of the *Tinker* lawsuit parallels the present-day button campaign to stop oppression by school police, as that case involved students wearing black armbands to protest the war in Vietnam. In both scenarios, school staff may not stop students from expressing their non-disruptive political opinions at school.

Further, the attempted prohibition on wearing buttons and distributing factsheets calling to defund LASPD violates California Education Code section 48907, which protects students’ right to wear expressive messages. That statute provides:

Pupils of the public schools . . . shall have the right to exercise freedom of speech and of the press including, but not limited to, . . . the distribution of printed materials or petitions, the wearing of buttons, badges, and other

² Students at these two schools did not want to identify their schools for fear of retaliation.

insignia, . . . , except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material that so incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

Id. (emphasis added). The California law “provides greater free speech protection than does the United States Constitution.” *Lopez v. Tulare Joint Union High Sch. Dist.*, 34 Cal. App. 4th 1302, 1317 (1995). In particular, it forbids school authorities from acting to “censor (*i.e.*, exercise prior restraint over) student expression which is not prepared for an official school publication.” *Id.* at 1320. And, most relevant to the present situation, “the plain language of section 48907 mandates that a school may not prohibit student speech simply because it presents controversial ideas and opponents of the speech are likely to cause disruption.” *Smith v. Novato Unified Sch. Dist.*, 150 Cal. App. 4th 1439, 1457 (2007). Here, it is beyond dispute that the buttons and factsheet include nothing that can be interpreted as obscene, libelous, or slanderous; do not incite students to break the law or school rules; and do not incite the substantial disruption of school activities. Rather, school administrators are attempting to ban them solely because they disagree with the content, which plainly violates California law.

The attempts to ban the distribution and display of the buttons violates LAUSD Policy Bulletin BUL-6320.2, “Procedures for Handling Disturbances, or Demonstrations on or Adjacent to School Sites,” which LAUSD adopted on December 1, 2021. BUL 6320.2 confirms that:

Students have a right to freedom of speech and may participate in free speech activities, including political or religious speech, while on school campus. Students may distribute literature reflective of their views and opinions and assemble on campus during non-instructional time to discuss their views and opinions. Students may participate in peaceful demonstrations on campus during non-instructional periods.

LAUSD’s policy defends precisely the type of political speech that the students are attempting to engage in here. The students seek only to make clear that they want to attend schools without school police and that they prefer that the district invest more in the Black Student Achievement Plan and other supportive and effective resources.

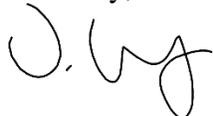
Finally, both Education Code section 48907 and BUL 6320.2 expressly protect students’ right to distribute buttons and factsheets in school. Section 48907 explicitly states that students may engage in “the distribution of printed materials” in school, and BUL 6320.2 provides that “[s]tudents may distribute literature reflective of their views or opinions . . . during non-instructional time[.]” Thus, so long as students distribute the buttons while class is not in session—for example before school, during recess or lunch, or after school—school staff may not interfere or otherwise suppress students’ right to expression.

Ultimately, we are disappointed by certain LAUSD administrators’ responses to the student-led campaign because school is a place that should encourage political discourse and promote civic engagement among youth. Instead, students are being reprimanded for merely expressing their opinions and being deterred from speaking truth to power. Accordingly, for all the reasons discussed above, please send guidance immediately to all LAUSD administrators to

ensure that they are aware of the controlling laws and LAUSD policies that allow students to distribute and display materials demanding the elimination of police in schools. All LAUSD staff must understand that students are allowed to exercise their freedom to express political statements as guaranteed by the relevant constitutional and statutory protections.

We hope to resolve these issues without the need for further action. We request that you send us a copy of the guidance you issue to LAUSD staff, and please contact us at [vleung@aclusocal.org](mailto: vleung@aclusocal.org) if you have any questions or would like to set up a meeting to discuss these concerns.

Sincerely,



Victor Leung, Director of Education Equity | Deputy Litigation Director

Ana Mendoza, Staff Attorney

Peter Eliasberg, Chief Counsel | Manheim Family Attorney for First Amendment Rights

ACLU Foundation of Southern California

cc: Superintendent Alberto M. Carvalho, [superintendent@lausd.net](mailto: superintendent@lausd.net)
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enclosure

Attachment 1: Fact Sheet

Fully Defund L.A. School Police! We Need Care Not Cops!

SCHOOL POLICE DO NOT MAKE SCHOOLS SAFE – THEY FUEL THE SCHOOL-TO-PRISON PIPELINE!

- Studies show that school police do NOT prevent shootings or other violent incidents
- School police often ESCALATE minor situations, resulting in students being abused/arrested
- In 2021, LASPD shot a man outside of Carver Middle School
- In 2021, during an after-school fight, Long Beach school police shot and killed 18 year old Mona Rodriguez
- Black students are 8% of LAUSD, but are 25% of school-based arrests, citations, and diversions.

WE ALREADY WON:

- An end to daily “random searches” targeting Black & Muslim students; a ban on the use of pepper spray by school police
 - A \$25 million cut to the School Police Budget
 - School police are no longer stationed on our campuses!

SO WHY IS LAUSD STILL SPENDING \$52 MILLION ON SCHOOL POLICE EVERY YEAR?!?!?

We call on LAUSD to DEFUND school police and use that money on:

1. Social-emotional support like PSWs, PSAs & Academic Counselors & College Counselors
2. Community-based violence prevention, intervention, and de-escalation resources
3. School Climate Advocates, other Black Student Achievement Plan staff, and Community Schools
4. Black History, Ethnic Studies, Indigenous Studies, Latinx studies, Peer Counseling & more...

#BlackLivesMatter #StudentsDeserve #CareNotCops #PoliceFreeLAUSD