



Northern  
California

October 12, 2021

*Via Electronic Mail*

Monterey Peninsula Unified School District  
District Services Center  
540 Canyon Del Rey  
Del Rey Oaks, CA

**Re: Agenda Item 10 Information Items--Board Policy 1313 Civility**

Dear Honorable Monterey Peninsula Unified School District Board Members:

We write on behalf of the American Civil Liberties Union of Northern California (“ACLU NorCal”) to express our concern regarding the Board’s consideration of a civility policy, Board Policy 1313, and to reiterate the importance of public participation in school board meetings. While we appreciate and support many aspects of the proposed policy, including its emphasis on treating all persons with dignity and “embracing varying and diverse viewpoints,” we are concerned about the potential for enforcement of the policy to discourage or suppress open and vigorous expression. Therefore, we strongly urge the Board not to adopt Board Policy 1313 in its current form, in order to promote and encourage active public participation during its board meetings—even when, from the school district’s point of view, the comments are uncivil or unpleasant to hear.

Monterey Peninsula Unified School District has an obligation to do everything it can to create a safe and inclusive environment for all students and families, but proposed Board Policy 1313, as written, may infringe on the rights of the public to participate in the Board’s public meetings fully and meaningfully. Board Policy 1313 unconstitutionally limits protected speech based on content and viewpoints expressed by speakers because it could be used to prohibit a broad array of speech that the District may find unpleasant to hear as speech that “causes disruption” or “hinders the orderly conduct of district operations,” whereas speech that conforms to “norms of civil behavior” would not violate the proposed policy. We are also concerned with the potential scope of the policy as extending to all expression “on district grounds, in district facilities, during district activities or events, and in the use of district electronic/digital systems and platforms.” Because school board meetings occur on district grounds and in district facilities, the policy would also apply to parents, students, and the public attending school board meetings. But it is unclear whether the policy would also extend, for example, to all interactions among students, parents and teachers that occur via email or social media.

While many of the policy’s goals are laudable, a policy can be problematic where it “engenders discussion artificially geared toward praising (and maintaining) the status quo, thereby

**American Civil Liberties Foundation of Northern California**

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foreclosing meaningful public dialogue and, ultimately, dynamic political change.” *Leventhal v. Vista Unified Sch. Dist.*, 973 F. Supp. 951, 960 (S.D. Cal. 1997); *see also Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 730 (C.D. Cal. 1996) (“It is difficult to imagine a more content-based prohibition on speech than this policy, which allows expression of two points of view (laudatory and neutral) while prohibiting a different point of view (negatively critical) on a particular subject matter (District employees’ conduct or performance).”).

The proposed policy is also impermissibly vague and overbroad. The policy leaves it up to school board members to determine what public comments should be considered “polite, courteous, and reasonable behavior.” This ambiguity risks the unlawful chilling of legitimate grievances. “For many citizens such participation in public meetings, whether supportive or critical of the speaker, may constitute the only manner in which they can express their views to a large number of people; the Constitution does not require that the effective expression of ideas be restricted to rigid and predetermined patterns.” *In re Kay*, 1 Cal. 3d 930, 939 (1970).

Given the constitutional concerns outlined above, we urge the Board not to recommend or adopt Board Policy 1313 as currently drafted, and instead work to ensure that parents, students, and the public have the opportunity to directly address the Board on any item of interest to the public, even if their comments or behavior may not be perceived by some as “polite, courteous, and reasonable.” We would welcome the opportunity to engage with you toward that end. If you have any questions, please contact me at [asalceda@aclunc.org](mailto:asalceda@aclunc.org).

Kind Regards,



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