



June 25, 2025

Janet Routzong, Principal  
Whetstone High School  
4405 Scenic Drive  
Columbus, Ohio 43214

*Sent via U.S. Mail and Electronic Mail (jroutzong2475@columbus.k12.oh.us)*

Dear Principal Routzong:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech, is concerned by reporting that Whetstone High School banned students from speaking with the press about Columbus City Schools' (CCS) bathroom policies.<sup>1</sup> However, students have a First Amendment right to speak to journalists about school-related matters of public interest. Whetstone High School officials must refrain from using pressure or any ban to dissuade students from speaking with the press, and must publicly affirm their right to do so.

Our concerns arise from a school directive to students after a controversial CCS bathroom policy garnered media attention last October. According to NBC4 reporting, CCS began restricting student access to bathrooms to address fighting, vaping, and other student misconduct.<sup>2</sup> The new policy included measures such as locking certain bathrooms, limiting access during specific times, and requiring students to obtain permission or escorts to use bathrooms.<sup>3</sup> After a growing number of students complained, NBC4 interviewed some of your students to document their concerns, including unsanitary bathroom conditions, long lines, female students bleeding through their clothes, dehydration, urinary tract infections, and even students calling parents to take them to nearby public facilities.<sup>4</sup>

After publishing its initial story on the controversial policy, NBC4 subsequently reported that you called one of the interviewed students to your office and that administrators made

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<sup>1</sup> The narrative in this letter represents our understanding of the pertinent facts sourced from local reporting, but we appreciate you may have additional information and invite you to share it with us.

<sup>2</sup> Katie Millard, *Students say they're fed up with bathroom policy at Columbus' Whetstone High School*, NBC4 (Sept. 30, 2024), <https://www.nbc4i.com/news/local-news/columbus/students-say-theyre-fed-up-with-bathroom-policy-at-columbus-whetstone-high-school/>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

an “aggressive and demanding” announcement forbidding students from speaking with the press.<sup>5</sup> NBC4 opted to refrain from naming students in its subsequent reporting due to concerns of retaliation. The article included a letter the district sent to students which requested their cooperation with the bathroom policy, referenced disciplinary measures when “necessary,” and asked “all students to reflect on how their actions affect their peers, teachers, staff and themselves.”<sup>6</sup>

### **I. Any Press Ban Would Violate Students’ First Amendment Rights**

Preventing Whetstone High School students from speaking to press about school matters violates their First Amendment rights, which they do not shed at the schoolhouse gate.<sup>7</sup> As the Supreme Court recently reaffirmed, “America’s public schools are the nurseries of democracy.”<sup>8</sup> They thus have an interest in *protecting* students’ freedom to express themselves, which “must include the protection of unpopular ideas, for popular ideas have less need for protection.”<sup>9</sup> Administrators may restrict student speech in certain limited instances, but they hardly “possess absolute authority over their students.”<sup>10</sup> “In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.”<sup>11</sup>

Administrators cannot restrict student speech at school based simply on “undifferentiated fear or apprehension of disturbance.”<sup>12</sup> Rather, they face a “demanding standard”<sup>13</sup> not satisfied by *any* disturbance, but only a *material and substantial* one.<sup>14</sup> And that authority is

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<sup>5</sup> Katie Millard, *Columbus high schools’ bathroom policies spark districtwide discussion*, NBC4 (Oct. 3, 2024), <https://www.nbc4i.com/news/local-news/columbus/columbus-high-schools-bathroom-policies-spark-districtwide-discussion/>.

<sup>6</sup> Columbus City Schools, *Safety Message Regarding Bathroom Guidelines from Columbus City Schools* (Oct. 2, 2024), <https://www.nbc4i.com/wp-content/uploads/sites/18/2024/10/Safety-Message-Regarding-Bathroom-Guidelines-from-Columbus-City-Schools-1-1.pdf>.

<sup>7</sup> *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

<sup>8</sup> *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 190 (2021).

<sup>9</sup> *Id.*

<sup>10</sup> *Tinker*, 393 U.S. at 511, 513 (allowing restriction of student speech only where there is actual or reasonably forecasted material disruption of school operations or substantial invasion of the rights of others).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 508. Since *Tinker*, the Court has recognized only “three specific categories of student speech that schools may regulate in certain circumstances.” *Mahanoy*, 594 U.S. at 187. None of those exceptions—lewd speech during a school assembly, speech promoting illegal drug use, and speech others may reasonably perceive as bearing the imprimatur of the school—apply here.

<sup>13</sup> *Mahanoy*, 594 U.S. at 193.

<sup>14</sup> See *Cl.G v. Siegfried*, 38 F.4th 1270, 1279 (10th Cir. 2022) (four emails from parents, an in-school discussion, and news reports about a student’s social media post of him and his friends wearing World War II attire in a thrift store, with the caption, “Me and the boys bout [sic] to exterminate the Jews” did not satisfy “*Tinker*’s demanding standard” of a “reasonable forecast” of material and substantial disruption).

further “diminished” for student speech off school grounds,<sup>15</sup> for several reasons: First, off-campus speech “normally fall[s] within the zone of parental, rather than school-related, responsibility.”<sup>16</sup> Second, “courts must be more skeptical of a school’s efforts to regulate off-campus speech, for doing so may mean the student cannot engage in that kind of speech at all.”<sup>17</sup> Third, schools retain a “strong interest” in protecting the “marketplace of ideas,” which includes protecting unpopular ideas, “especially when the expression takes place off campus.”<sup>18</sup>

Under *Tinker*, *Mahanoy* and cases applying them, while Whetstone might regulate whether and to what extent students speak to the press during the school day on school premises—and even then, substantial disruption is required—a full-on ban on their speaking with press would necessarily apply even outside of school, where the bar on school officials restricting student speech is even higher, and is not met on these facts. While speech about CCS bathroom policies relates to the district, it is hard to see how administrators could reasonably forecast a “concrete threat” of material and substantial disruption of school activities.<sup>19</sup> That is especially so given the disruption must be severe—something more serious than upset administrators, complaints about the speech, or negative publicity.<sup>20</sup>

Ordinarily, school officials make these determinations *after* a student has spoken. That makes sense, as what the student said and the precise context are critical to evaluating whether the speech caused or is reasonably likely to cause substantial disruption. Here, however, Whetstone reportedly not only reprimanded students who spoke to the press absent substantial disruption to the school, it imposed a *prospective ban* on *all* students talking to the press as a prior restraint—the “most serious and the least tolerable infringement” of free expression, because it prevents speech before it occurs.<sup>21</sup> Such a blanket ban extends beyond the school’s legitimate interest in preventing substantial disruption.

It is difficult to imagine any scenario in which a student talking to the press about CCS’s bathroom policy or its consequences would cause (for example) boisterous conduct or commotion, or other material and substantial disruption to the school environment. Rather, the ban seems calculated to impermissibly prevent students from expressing a viewpoint

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<sup>15</sup> *Mahanoy*, 594 U.S. at 190–91.

<sup>16</sup> *Id.* at 189.

<sup>17</sup> *Id.* at 189–190.

<sup>18</sup> *Id.* at 190.

<sup>19</sup> *Taylor v. Roswell Indep. Sch. Dist.*, 713 F.3d 25, 37 (10th Cir. 2013); *see also Tinker*, 393 U.S. at 508; *Holloman v. Harland*, 370 F.3d 1252, 1273 (11th Cir. 2004).

<sup>20</sup> *Mahanoy*, 594 U.S. at 185, 192–93 (students “visibly upset” at student’s social media posts “d[id] not meet *Tinker*’s demanding standard”); *Cl. G.*, 38 F.4th at 1279 (four emails from parents, an in-school discussion, and news reports about a student’s Snapchat post fell short of “*Tinker*’s demanding standard” for substantial disruption); *Flaherty v. Keystone Oaks Sch. Dist.*, 247 F. Supp. 2d 698, 704 (W.D. Pa. 2003) (public high school principal’s belief student speech would bring “disrespect, negative publicity, negative attention to our school and to our volleyball team” was “simply not sufficient to rise to the level of ‘substantial disruption’ under *Tinker*”).

<sup>21</sup> *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 559 (1976).

disfavored by school officials, which is “censorship in its purest form” that “threatens the continued vitality of free speech.”<sup>22</sup>

Students have a right to draw attention to what they see as problems unaddressed by CCS officials. If CCS officials disagree with what students say, they are free to offer their side of the story. But displeasure with negative press coverage or criticism does not authorize banning student speech, especially when it occurs off school grounds and concerns matters of public interest like school policies and their effect on students.<sup>23</sup>

## **II. Conclusion**

A blanket ban on students speaking to the press violates their First Amendment rights. Whetstone High School accordingly must rescind any ban it has instituted and publicly clarify that students are free to speak with the press in their personal capacities on matters of public concern.

We respectfully request a substantive response to this letter no later than July 9, 2025.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephanie Jablonsky', with a stylized, flowing script.

Stephanie Jablonsky  
Senior Program Counsel, Public Advocacy

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<sup>22</sup> *Bible Believers v. Wayne Cnty.*, 805 F.3d 228, 248 (6th Cir. 2015) (*en banc*) (cleaned up).

<sup>23</sup> *N. Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (First Amendment reflects “a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open”).