

Managing Student Protests:

What to do when your students move beyond the schoolhouse gates

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& Horton** LLP
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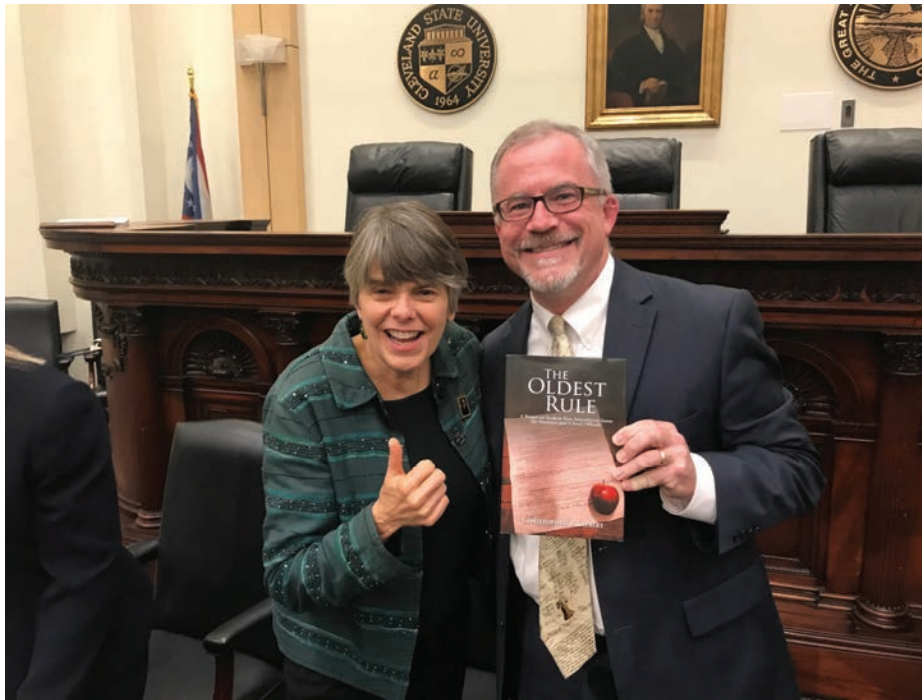
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Student protests come in all shapes and sizes



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While there are many ways students can complain about issues, they can be largely grouped into three major categories:

- They wear things;
- They write about things;
- They walk out about things.

The Student Speech Tests – a Trilogy “Plus One”

Pre-2007 Tests

"School-tolerated speech"

- Speech that merely happens to occur on school property
- a school can regulate "school-tolerated" speech only where the speech would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school."
- ***Tinker v. Des Moines Indep. Comm. Dist.***, 393 U.S. 503, 89 S. Ct. 733 (1969).

"School-sponsored speech"

- Expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school
- a school can place restrictions on "school-sponsored" speech so long as the restrictions are "reasonably related to legitimate pedagogical concerns"
- ***Hazelwood School District v. Kuhlmeier***, 484 U.S. 260, 108 S.Ct. 562, 569-70 (1988).

"Vulgar or obscene speech"

- Speech that is "vulgar, lewd, obscene, and plainly offensive," although not necessarily legally "obscene"
- a school may prohibit "vulgar speech," regardless of whether the speech causes a substantial disruption
- ***Bethel School District No. 403 v. Fraser***, 475 U.S. 675,

The Student Speech Tests – a Trilogy “Plus One”

Is Morse a Fourth Test?



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