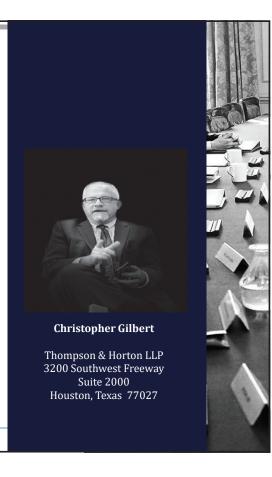
# Managing Student Protests:

What to do when your students move beyond the schoolhouse gates

2019 School Law Conference February 28-March 1, 2019 Austin, TX





## Student protests come in all shapes and sizes







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.



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## 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 "schoolsponsored" 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. 403v. Fraser, 475 U.S. 675,



## The Student Speech Tests – a Trilogy "Plus One"

### Is Morse a Fourth Test?









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