

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



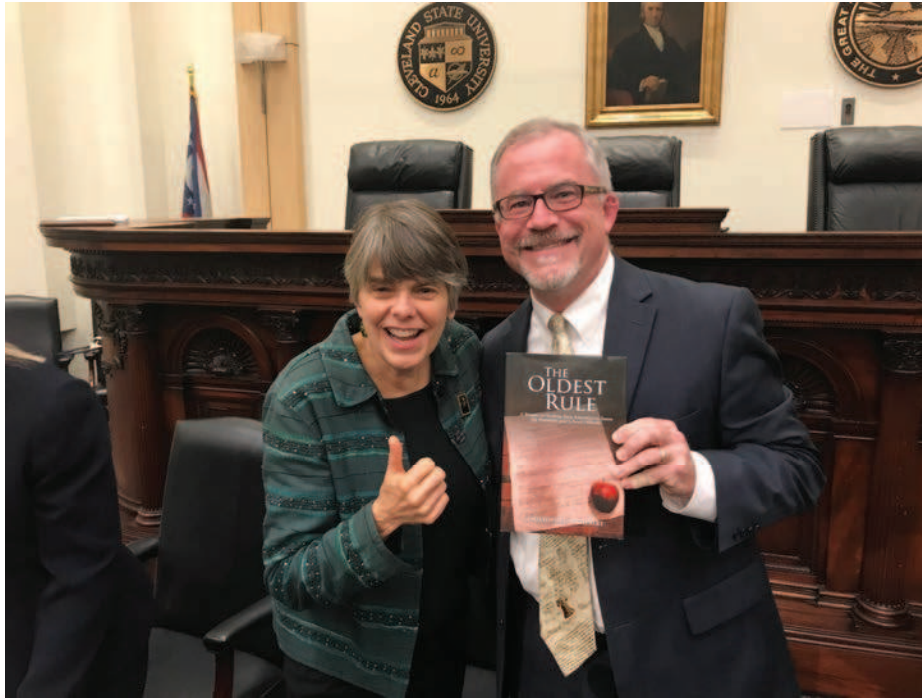
Christopher Gilbert

Thompson & Horton LLP
3200 Southwest Freeway
Suite 2000
Houston, Texas 77027



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.

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?



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/eLibrary\)](https://utcle.org/eLibrary)

Title search: Managing Student Protests: What to do when your students move beyond the schoolhouse gates

First appeared as part of the conference materials for the
34th Annual School Law Conference session
"Managing Student Protest Logistics"