

## California district settles lawsuit brought by student over banning of t-shirt that proclaimed her sexual orientation<sup>1</sup>

According to an Associated Press (AP) report in *The Orange County Register*, Manteca Unified School District (MUSD) has settled a suit brought by Taylor Victor, a student at Sierra High School (SHS), alleging SHS officials violated Victor's free speech by prohibiting her from wearing a t-shirt at school captioned "Nobody Knows I'm a Lesbian." MUSD has agreed to adopt a policy clarifying that students may wear clothing with statements celebrating their or their classmates' cultural identities.

Victor and her mother, who were represented by the American Civil Liberties Union of Northern California (ACLU-NoCal), sued two SHS administrators who told the girl in August 2015 that her shirt was an improper display of sexuality that violated the school's dress code and might be disruptive. "The law on this is very clear: public schools can't censor the personal beliefs of students," ACLU-NoCal attorney Linnea Nelson said. "The message of Taylor's T-shirt expresses the most fundamental type of speech already protected by the First Amendment, the California Constitution and the California education code." Under the terms of the settlement, SHS officials deny violating Victor's free speech rights and they and MUSD deny any wrongdoing.

Federal courts have allowed some limits on student speech. The U.S. Supreme Court ruled in 2007 that an Alaska school acted within its discretion to discourage illegal drug use when it suspended a student who displayed a banner reading "Bong Hits 4 Jesus" at an Olympic torch relay. In 2014, the Ninth U.S. Circuit Court of Appeals, which has California within its jurisdiction, ruled that administrators at a Northern California high school plagued by racial strife lawfully banned T-shirts bearing the American flag while the campus commemorated "Mexican Heritage Day."

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<sup>1</sup> Taken from NSBA Legal Clips.

**Source: The Orange County Register, 2/17/16, By Lisa Leff (AP)**

*[Editor's Note: In October 2015, **Legal Clips** summarized an article in **Courthouse News Service** reporting that a suit filed by a student, identified as T.V., and her mother, Heather Victor, alleged that two assistant principals at Sierra High School (SHS) sent T.V. home for wearing a t-shirt displaying the message "Nobody knows I'm a lesbian."*

*In September 2014, **Legal Clips** summarized a decision by the U.S. Court of Appeals for the Ninth Circuit, sitting en banc (all active judges in the circuit participating), in **Dariano v. Morgan Hill Unified Sch. Dist.** denying the petition for a panel rehearing and rehearing en banc, and ordering that no further petitions be permitted. The three-judge panel issued an opinion amending its opinion filed on February 27, 2014. The panel held that school officials had not violated students' free expression, due process, or equal protection rights by prohibiting them from displaying the American flag at school on Cinco de Mayo because such displays might provoke ethnic based violence.]*