Washington County School District
121 West Tabernacle Street
Saint George, Utah 84770
435-673-3553

Administrative Letter A158

Displaying a Confederate Flag on a Vehicle Located on District Property is Prohibited

Administrative Letter A158 - Approved October 27, 2021

A **Confederate flag** posted on a parked student/employee vehicle in a school parking lot has the potential to materially and substantially disrupt a school's primary purpose. The fact that the Confederate flag has become a symbol of hatred is undisputed. The courts have specifically identified the Confederate flag as an image that could disrupt the educational environment. (West v. Derby Unified School Dist. No. 260, 206 F. 3d 1358 - Court of Appeals, 10th Circuit 2000) Further, in 2007, in Defoe v. Spiva, the Sixth Circuit upheld a ban on displaying the Confederate flag because such a display would "collide with the rights of other students to be secure and to be let alone." (Defoe Ex Rel. Defoe v. Spiva, 625 F. 3d 324 - Court of Appeals, 6th Circuit 2010)

District Policy 2115- 2.3.6. Prohibits a hostile environment. A hostile environment occurs when an employee's or student's conduct is sufficiently severe, pervasive, or persistent that it creates an intimidating, threatening, abusive environment, or interferes with the educational environment so as to limit a student's ability to participate in or benefit from services, activities, or opportunities offered by a school. Further, Utah Administrative Rule R277-328 requires trained administrators to maintain a school and educational environment that is free from hostility and disruptive symbols.

Even though students and employees have a right to free speech, that right is not unlimited. Schools have a responsibility to ensure that all students feel safe in school. Therefore, we do have the authority to limit speech that is likely to cause a substantial disruption to the learning environment. This disruption could include actions, signs, symbols or speech that interfere with students' opportunity to learn. We do not have to prove that the disruption actually happened, just that we can reasonably foresee a significant disruption to student learning and safety.

Any employee who observes a confederate flag posted on a vehicle or flying on District Property must report it. When reported or observed administration should visit with the student, employee, or visitor and explain the concerns outlined in this memo then ask him/her to remove the flag from the vehicle while it is parked in a school parking lot or on other District property. If the student refuses, it should be regarded as a Safe School's violation, and appropriate action should be taken. If an employee refuses it should be regarded as misconduct and appropriate action should be taken following District Policy 1450. Please

contact Human Resources if you have any questions or if you need assistance in this matter.

Signed: Superintendent Larry Bergeson