

Handout 2

Plaintiff Kenji Davis's complaint

**In the United States District Court for the
Eastern District of Michigan**

Kenji Davis, Plaintiff,)
)
)
 vs.) **Case No. 1:12-cv-45678**
)
 Ann Arbor School Board, Defendant)
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)
 _____)

COMPLAINT

NATURE OF THE CLAIM

This is a civil action for violation of Plaintiff's rights under the First Amendment to the United States Constitution. Plaintiff Kenji Davis alleges as follows:

PARTIES

1. Plaintiff Kenji Davis is a 17-year-old senior at Ann Arbor High School (AAHS). He currently resides in Ann Arbor, Michigan.
2. Defendant Ann Arbor School Board is located in Ann Arbor, Michigan.

GENERAL ALLEGATIONS

3. In May 2012, Davis was elected Senior Class Representative for the upcoming (2013-2014) school year.
4. Davis was a member of the AAHS computer science club. Club members meet weekly to engage in computer science projects, plan community activities, and compete in computer science competitions. Davis joined the computer science club when he was a freshman.
5. During Davis's junior year, the club supervisor announced that she was no longer able to work with the club due to a personal health matter. AAHS announced that a parent volunteer, Olivia Marquez, agreed to take over supervision and coaching of the club.
6. Ms. Marquez is a computer scientist who worked at the National Security Agency (NSA) in Maryland for 8 years. The NSA is an intelligence organization of the United States government, responsible for global monitoring, collection, and processing of information and data for foreign intelligence purposes. One of its goals is to protect United States government information systems against penetration and network warfare.

Unit 5: Lesson 1

First Amendment Rights in Schools

7. At the request of the NSA, Ms. Marquez moved to Ann Arbor for a two-year assignment, collaborating with University of Michigan researchers on NSA projects.
8. Shortly after Ms. Marquez became the supervisor of the AAHS computer science club, Davis discontinued his participation in the club in protest of the NSA's surveillance programs and of AAHS's decision to permit Ms. Marquez to lead the club.
9. In Davis's senior year, AAHS invited Ms. Marquez to speak about the NSA at a school assembly. The assembly took place on February 2th, 2014, from 12:45-1:15 p.m. All students were required to attend. As a member of the student council, Davis was required to sit on the stage, facing the audience, during the assembly.
10. The purpose of the assembly was to allow Ms. Marquez to inform students about computer science careers with the government, and with the NSA specifically.
11. In the summer of 2013, public controversy erupted when a former NSA contractor, Edward Snowden, made unauthorized revelations of the NSA's vast capacity to spy on the private communications of United States citizens. In response to this controversy and his own beliefs that the NSA conducts unconstitutional surveillance activities, Davis opposed Ms. Marquez's appearance at the assembly. He believed it was inappropriate for the school to sponsor a speech that encouraged students to join the NSA.
12. Davis attended the assembly and sat on the stage as required. Right before he entered the auditorium, he taped a patch on the front of his T-shirt that said "The NSA SUCKS." This patch was intended to get the attention of his fellow students in order to encourage them to consider the appropriateness of having an NSA employee lead a student club and speak at a mandatory assembly. Davis's political message did not disrupt the assembly, which began and ended as scheduled without interruption.
13. Immediately after the assembly, Davis was approached in the hallway by other student members of the computer science club. The students told him that they disapproved of his message, that they were offended by his actions, and that they were planning to complain to the administration. They did not threaten him in any other way. Davis remained at school for the rest of the day. A few students made comments to him, some positive and some negative, but he attended classes and finished the day with no interference.
14. At 2:45 p.m., Davis was ordered to report to the office of George Carpenter, the Vice Principal. Carpenter told Davis that his actions were inappropriate, had disrupted classroom activities, and had violated school rules. One rule prohibited lewd speech. Another prohibited wearing buttons, shirts, patches, and other paraphernalia with political messages. Carpenter imposed a three-day suspension and told Davis he must withdraw from student council.
15. Davis and his parents appealed this decision to the Ann Arbor School Board. Their appeal was unsuccessful.
16. The school rule against wearing buttons, shirts, patches, and other paraphernalia containing political messages has been inconsistently applied. It began during the Vietnam War when pro- and anti-war students were having serious conflicts during the school day. Prior to its use against the plaintiff, it had last been applied to discipline a student in 1991.
17. In recent years, students have routinely violated the rule by wearing paraphernalia bearing political messages, including pro-government and pro-surveillance messages related to

national security, such as “Protect America: Arrest Snowden” and “See Something / Say Something” and “I’d Rather Be Waterboarding Terrorists.” No student has ever been disciplined for wearing paraphernalia bearing these messages.

18. The suspension and removal from student council has caused Davis significant reputational damage among his peers and the colleges to which he is applying. Davis is embarrassed about the suspension and his removal from student council, and has felt uncomfortable in school since the incident. Davis is a model student who had never suffered any disciplinary problems prior to this incident, and whose future plans have been negatively impacted by the school’s actions.

CAUSE OF ACTION

19. By suspending Davis and removing him from student council, Defendant infringed upon Davis’s constitutional right to freedom of expression, protected by the First Amendment to the U.S. Constitution.
20. Davis’s speech was intended to convey, and did convey, a political message.
21. Davis’s message was not lewd or vulgar.
22. The school rule prohibiting buttons and patches with political messages has been inconsistently applied. Specifically, it has not been applied against students expressing messages approving of the federal government’s “pro-security” and “pro-surveillance” policies.
23. Defendant restricted Davis’s speech because of its viewpoint.
24. Davis’s actions did not materially or substantially disrupt the work or discipline of the school, or infringe on the rights of other students.
25. The restrictions on Davis’s speech were not reasonably related to legitimate pedagogical concerns.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that judgment be entered against the Defendant, awarding him:

- A) declaratory and injunctive relief
- B) monetary damages for his emotional, psychological, and reputational injuries
- C) any further relief to which Plaintiff is entitled, and
- D) reasonable attorney fees, costs, and other damages.

Dated this 21st day of March, 2014
[Attorney's signature and contact information omitted]