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## School 'gag order' ruled unconstitutional

San Leandro teachers free to discuss controversial topics such as homophobia, race

By Jason Bono

STAFF WRITER

HAYWARD — A county court has ruled unconstitutional a requirement that teachers in the San Leandro school district seek permission to discuss controversial topics outside the curriculum with students.

### EDUCATION

Biology teachers can now broach new developments in genetic engineering without first getting the principal's nod. History teachers can foster debate on terrorism without getting approval.

And English teacher Karl Debro can ask his San Leandro High School students about homophobia or racial tolerance on campus without fear of being disciplined.

The ruling, which could influence school policy across the state, was made by Alameda County Superior Court Judge Bonnie Lewman Sabraw in Hayward on Thursday.

The ruling came during the proceedings of a lawsuit Debro brought against the San Leandro school district and Superintendent Tom Himmelberg. Debro said his constitutional rights

See **RULING**, News 13

### San Leandro teacher awarded \$500,000

By Elizabeth Schainbaum

STAFF WRITER

HAYWARD — An Alameda County Superior Court jury on Thursday ruled in favor of a San Leandro High English teacher who sued the San Leandro school district and its superintendent for violating his constitutional rights.

After 17 trial days and an hour

and a half of deliberation, 12 jurors awarded Karl Debro a half-million dollars for emotional distress — \$50,000 more than what lawyers had requested.

The jury unanimously ruled on three of Debro's four claims — that the school district and Superintendent

See **SPEECH**, News 13

## Teacher had received letters of reprimand

► **SPEECH**, from News 1

dent Tom Himmelberg violated Debro's right to free speech, retaliated against him and broke laws governing school employees' rights. The jury was split 11 to 1 on his racial discrimination claim.

"Karl feels finally vindicated," said one of Debro's lawyers, Julia Sherwin. She commented briefly because the trial is not over: The court will decide later this month whether to hand down a penalty against Himmelberg.

School district officials declined to comment pending the trial's final phase.

Three years ago, Debro, who has taught in San Leandro for 18 years, filed suit against the school district and Himmelberg for violating his freedom of speech. Debro, who has a wife and two children, claimed he was unfairly punished because he's African American and had spoken out against homophobia and racism.

Gay rights advocates said the jury's verdict sends a clear message about appropriate classroom discussion.

"It will state definitively that there is no harm in speaking about gay and lesbian issues," said Ann Acree, board of directors chair for the local chapter of the Gay Lesbian Straight Education Network, a national nonprofit.

In fact, the Hayward school board has been criticized recently by members of the community for its resolution supporting teachers who denounce homophobia and teach tolerance.

During the 1997-98 school year, Debro received letters of reprimand after parents complained that he discussed racial tensions and hostility toward gays on campus. The district claimed such conversations vio-

lated its policy requiring teachers to consult administrators before talking to students about topics not included in the curriculum.

Late Wednesday, the judge in Debro's trial ruled this Controversial Issues Policy unconstitutional.

Debro and others who testified, including a past school board president, said that policy was too vague. The Daily Review learned Thursday that the San Leandro school board quietly rescinded the policy in March 2001. The jury had no knowledge of this.

The defense claimed that Debro was not reprimanded for violating that policy. In fact, the school board in 1998 had modified his letters of discipline to exclude that part, defense attorney Greg Stubbs said.

Instead, Stubbs argued Debro was disciplined for mishandling situations with parents and students, including using teenagers to get back at their parents.

"This is a case of terrible public relations with parents," Stubbs said. Debro did not suffer any losses from the discipline, which were just a few pieces of paper, he said.

Sherwin, Debro's lawyer, argued that the letters were excessive. Himmelberg could have given him lesser punishment, such as a verbal warning, she said. She quoted several defense and plaintiff witnesses who testified that Debro was disciplined for speaking about social issues.

Staff writer Jason Bono contributed to this report.



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DAILY REVIEW

NEWS 13

## Policy originated 17 years ago

► **RULING**, from News 1

were violated when he was disciplined in 1998 for discussing homophobia and racism without first consulting administrators.

The discipline involved a "vague gag order" and threat of further, more serious discipline for future violations of the district's Controversial Issues Policy, said Debro's counsel, Haddad and Sherwin of Oakland, in a written statement.

A jury ruled in Debro's favor Thursday and awarded him \$500,000 for emotional distress.

Sabrina Ramirez of the school district's teachers' union saw the ruling as a victory.

"We support our members, and anytime they can use their rights to support their freedom in the classroom, we're behind them," she said.

The Daily Review learned Thursday that the school board had quietly rescinded the policy in March 2001. The court intended for the jury to have no knowledge of this. As a result, teachers and students also remained in the dark.

A school district official said the change was part of an ongoing policy review and in response to a complaint — conceivably Debro's lawsuit.

San Leandro school district officials declined to comment on

the policy Thursday, pending the trial's final phase later this month. At that time the court will decide whether to hand out a penalty to Himmelberg.

The Controversial Issues Policy originated in 1985 as a sample policy distributed by the California School Boards Association to all of its members.

The association includes a large majority of the state's public school districts as members, but it does not have records of how many have implemented the policy.

The group's spokesman, James Morante, said the sample policy was written to give legal and procedural guidance to its members. It has not been updated since 1989.

"The policy is, in general, a safety check to the district as to what's going on in the classroom," Morante said. "What's controversial in one area may not be controversial in another. We leave that up to our districts."

Morante said that a ruling against San Leandro's policy could cause the association to revise its recommendation.

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