



United States Supreme Court Upholds Board's Right to Censure Trustee

We are proud to announce the United States Supreme Court has ruled in favor of RMG's client, Houston Community College, and held that the HCC Board's decision to censure one of its Trustees did not violate his First Amendment right to free speech. The Court, in an opinion (found [here](#)), determined the Trustee could not sue the College for censoring him for, among other things, speech made outside the board room. The Court's decision upholds the ability of government bodies, including public school boards, to censure an official without concern that the official can sue for an alleged violation of their First Amendment rights.

The discord between the Board and Trustee began soon after the Trustee joined the Board. As recognized by the Court, the Trustee's tenure had been "stormy." After escalating conflict, the Board first publicly reprimanded the Trustee.

The Trustee responded with defiance, stating the Board's action would "never . . . stop me." Indeed, the Trustee continued his attacks, including charging the Board in various media outlets with violating its bylaws and ethical rules, arranging robocalls to the constituents of his fellow Trustees, hiring a private investigator to surveil another Trustee, and filing several lawsuits against the College. In response, the Board voted to censure the Trustee, citing repeated violations of its rules of governance, which, among other things, require respect for the Board's collective decision-making process. The Trustee then sued the College, alleging that the Board's censure was retaliation against him for his exercise of free speech rights.

The Court unanimously rejected the Trustee's claim and upheld the right of elected officials to censure one of their own: "We have before us no evidence suggesting prior generations thought an elected representative's speech might be abridged by that kind of countervailing speech from his colleagues." The Court went on to write:

The First Amendment surely promises an elected representative . . . the right to speak freely on questions of government policy, but it cannot be used as a weapon to silence other representatives seeking to do the same.

The Court cautioned that its decision was limited to a pure censure of an elected official by the elected body – mere words of disapproval – and, not more significant punishments such as expulsion or exclusion, which the Court did not decide.

Congratulations to the RMG team that handled the case: Rick Morris, Jonathan Brush, and Alexa Gould. They worked with professors and students at the Stanford Supreme Court Law Clinic, who served as the Firm's co-counsel. Together the RMG team and Stanford clinic prepared the briefing and collaborated in preparations for oral argument. Students and professors at South Texas College of Law in Houston and local practitioners also played a vital role by assisting in multiple "moots" (rehearsals of the argument) leading up to the oral argument of the case.

The RMG team is also grateful for HCC's support, including the attorneys in HCC's Office of the General Counsel, and the Texas Association of School Board's Legal Assistance Fund, which authorized submission of an amicus brief penned by Meredith Walker at Walsh Gallegos Trevino Kyle and Robinson, as well as all others who cheered us along the way.



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