



Written by [Bob Adelman](#) on October 2, 2023

## Gadsden Flag Student Now a Celebrity

Jaiden Rodriguez, a seventh grader at Colorado Springs' Vanguard School, made the headlines last month when the school punished him for wearing two patches on his backpack. One was the Gadsden flag, created during the Revolutionary War to warn the British Crown not to interfere in the affairs of the 13 Colonies. The other, from the Firearms Policy Coalition (FPC), had a profile of a semiautomatic firearm.

Now he is a celebrity, having been featured in interviews with Daily Wire's founder Ben Shapiro, Newsmax's Eric Bolling, and Turning Point USA's founder Charlie Kirk. On Saturday, he read Kevin Sorbo's *The Test of Lionhood* to a crowd of young people along with their parents and grandparents in Castle Rock, Colorado.



Karl Schultz/flickr

After the reading he headed off to speak at a rally in Colorado Springs.

But his saga is far from over. Although Vanguard reversed itself concerning the Gadsden flag patch, it continues to prohibit Jaiden from displaying the FPC patch. And the Gadsden patch will be allowed as long as no one complains about it.

When the Foundation for Individual Rights and Expression (FIRE) learned of the transgression, it sent [a letter](#) to the superintendent of Harrison School District Two, where Vanguard operates as a charter school.

It warned her that Vanguard's initial decision was fraught with all manner of unconstitutional behavior:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit dedicated to defending freedom of speech, is concerned by The Vanguard School's removal of student Jaiden Rodriguez from class for displaying Gadsden flag and Firearms Policy Coalition patches on his backpack.

As over fifty years of Supreme Court precedent makes clear, the First Amendment protects Jaiden's silent, non-disruptive expression of his views at school.

FIRE calls on Harrison School District Two and The Vanguard School to confirm they will permit Jaiden to attend school with the patches on his backpack without facing discipline or removal, and for the district to revise its unconstitutionally overbroad dress code.

Vanguard touts itself as "one of the highest achieving schools in the state of Colorado," and is "committed to developing citizens who are not only intellectually astute but also strong in character." This "character," says the school's website, "is emphasized within the classroom and modeled by our



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students and staff.”

It issued half an apology:

The Vanguard School recognizes the historical significance of the Gadsden flag and its place in history. This incident is an occasion for us to reaffirm our deep commitment to a classical education in support of these American principles.

The apology only applied to the Gadsden patch, and only on the condition that no one complained if Jaiden continued to wear it to school. The other patch was gone.

The administrator who initially confronted Jaiden over the patches was historically illiterate. She claimed that the Gadsden flag had ties to “racism” and “slavery and the slave trade.” FIRE [took the time to educate](#) her:

For two years, Jaiden has displayed various patches on his backpack without incident, including one depicting the Gadsden flag, which shows a coiled rattlesnake above the words “DONT TREAD ON ME.”

The flag was designed during the Revolutionary War and symbolized the American colonies’ united resistance against the British monarchy.

As for the FPC patch, FIRE noted that “FPC is a nonprofit organization whose ‘efforts are focused on the right to keep and bear arms and adjacent issues including freedom of speech, due process, unlawful searches and seizures, separation of powers, asset forfeitures, privacy, encryption, and limited government.’”

FIRE also cured the constitutional ignorance of the administrator. It iterated the Supreme Court’s decision, rendered during the Vietnam War era, *Tinker v. Des Moines Independent Community School District*. *Tinker* [ruled that](#) “The First Amendment ... did not permit a public school to punish a student for wearing a black armband as an anti-war protest....”

It quoted further from *Tinker*:

Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance.

But our Constitution says we must take this risk, and our history says that it is this sort of hazardous freedom—this kind of openness—that is the basis of our national strength and of the independence and vigor of Americans who grow up and live in this relatively permissive, often disputatious, society.

FIRE then chided the school’s board for allowing this transgression:

As The Vanguard School Board of Directors appears to acknowledge, Jaiden’s Gadsden flag patch is constitutionally protected expression.

This is true regardless of whether some dislike the flag—an enduring symbol of the American Revolution—because it has been utilized by certain disfavored groups.



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That fact alone does not take it outside the First Amendment's protection, any more than an unpopular group's decision to fly the American flag would justify prohibiting the American flag in public schools.

The Constitution doesn't allow for a "heckler's veto," either:

Nor can The Vanguard School condition Jaiden keeping the Gadsden flag patch on his backpack on the absence of student or staff complaints....

[A] single complaint about a student's speech cannot constitute substantial disruption. The First Amendment does not allow the "heckler's veto" as envisioned by the district's assistant superintendent, where anybody can suppress a student's speech or viewpoint simply by objecting to it.

FIRE made its demands crystal clear:

FIRE calls on The Vanguard School to immediately and publicly confirm it will allow Jaiden Rodriguez to display on his backpack at school his Gadsden flag and Firearms Policy Coalition patches—and any others that cause no substantial disruption—without facing punishment or removal, regardless of whether students or staff complain.

We further call on Harrison School District Two to revise its dress code to eliminate the categorical ban on references to drugs, tobacco, alcohol, or weapons.

In doing so, the school and district will reaffirm to students and staff that "vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools" (*Shelton v. Tucker*, 1960).

FIRE asked Vanguard and Harrison School District Two to respond by September 14. As of this writing, the author has found no response either issued or received.

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