

AP 3900 Speech: Time, Place, And Manner

References: Education Code Sections 66301 and 76120;
California Code of Civil Procedure Section 527.3

The District recognizes that fostering free speech and encouraging the broad expression of diverse views are essential to the District's goal of offering a rich educational environment. At the same time, in order to carry out its mission of teaching and public service, the District must maintain conditions under which the work of its faculty, students, and staff can be carried out freely, effectively and safely. The District interprets and applies State and Federal Constitutional provisions concerning freedom of expression in a broad and flexible manner so as to allow all views to be expressed while continuing to carry on the District's mission of preparing students to become engaged citizens in our increasingly complex communities and world. This procedure is intended to ensure that free speech activities on District campuses and centers are fostered while at the same time preventing unreasonable interference or conflict with the educational, outreach, and other functions of the District.

The District shall not restrict free expression in "areas generally available to students and the community, defined as grassy areas, walkways or other similar common areas". This definition governs the phrase "areas generally available to students and the community" as it is used in Board Policy 3900 and throughout the administrative procedure. "No restrictions shall be placed on the subject matter, topics or viewpoints expressed by students, employees or members of the public, as long as it does not include expression which is obscene, libelous, slanderous or illegal according to current legal standards; or where such speech advocates for the use of force or law violation and where such advocacy is directed to inciting or producing lawless action on District property and is likely to incite or produce such action of the unreasonable disruption of classroom or district activities or operations. The District shall have no content-based nor viewpoint-based restrictions on speech.

Employment by the District does not in any way restrict or limit the Federal First Amendment and California Constitutional right to freedom of expression and political activity that employees enjoy as members of their communities during non-work time. Employees are free to speak and write publicly on any issue, as long as they do not indicate they are speaking on behalf of the District. During work hours, District employees have the right to express their opinions which relate, directly or indirectly, to their professional activities or education, in the classroom, in participatory governance meetings, at district sponsored functions and in other settings.

In the spirit of open discussion and freedom of expression, any individual or group may use campus and District exterior spaces, including lawns, patios, and similar or related

open spaces on District grounds for the free exercise of academic freedom and free expression, subject to the regulations and the restrictions of this procedure.

As a publicly financed California community college district, the District recognizes that students, employees and members of the public are free to exercise their rights of free expression and academic freedom on its premises, subject to the requirements and the restrictions of this procedure, which are and must be applied in a content-neutral, narrowly tailored manner, designed to serve a significant public interest.

The District reserves the right to designate areas as non-public forums as necessary to prevent the substantial disruption of the orderly operation of the college. Areas of the district that are non-public forums specifically include campus offices, classrooms, labs, gym, theatres, auditoriums, warehouses, maintenance yards, and any other area not specified above

Areas not generally available to the public may be designated as a temporary public forum at the discretion of the President/Superintendent.

Use of areas generally available to students and the community shall be subject to the following:

1. Persons wishing to engage in speech or expressive activities in the areas generally available to students and the community are encouraged to inform the Student Life and Leadership office (SLO Campus requests) and Dean North County Campus and South County Center office (NC Campus requests) of their intent to be present in such areas.
2. Persons using areas generally available to students and the community shall not touch, strike or impede the progress of passersby except for incidental or accidental contact or contact initiated by a passerby, nor shall they force passersby to take materials.
3. Persons using areas generally available to students and the community shall not use any means of amplification that creates a noise or diversion that disturbs or tends to disturb the orderly conduct (as defined under Penal Code Section 626.6) of the campus or classes.

In order to protect the safety of all individuals on campus and to prevent the unreasonable interference with the educational and other functions of the District and its campuses, following content-neutral and narrowly tailored time, place and manner restrictions, designed to serve a significant public interest will apply to all public forums on campus.

Speakers and organizers must:

- Allow the District's regularly scheduled classes, events, ceremonies and normal and essential operations to proceed without unreasonable interference.

- Allow parking and the flow of vehicular and pedestrian traffic.
- Allow the ingress and egress to and from all buildings.
- Allow a group that has reserved the space to use it. An individual or group with a reservation will have priority in the use of the location.
- Allow a speaker or performer to be seen and heard by the audience.
- Maintain a noise level that allows classes, campus events and operations to occur without unreasonable interference. The use of sound amplification shall normally be allowed, except where such sound amplification creates noise or diversion that unreasonably disrupts classroom, District activities or operations.
- Assure that actions do not create an imminent health or safety hazard.
- Assure that actions do not damage or destroy District property.

Because it is the District's intention to assure maximum use of its grounds for free expression and in compliance with the California Civic Center Act, reservations normally shall be made to the Student Life and Leadership office (SLO Campus requests) and Dean North County Campus and South County Center office (NC Campus requests) to ensure that a location is available for use at a specific date and time. An individual or group with a reservation will have priority in the use of the location. The

District shall not deny a reservation application based on the speech content of the proposed activity or on the viewpoint of the individual(s) or group.

The District shall not prohibit speech or expressive activity on its campuses and grounds solely because the individual(s) or group did not make or does not have a reservation. Any District denial of a reservation application shall be in writing and may be appealed to the President who shall respond promptly in writing to the appeal.

The District shall deny a reservation or restrict speech or an event only when there is clear and convincing evidence that:

- The event is likely to lead to an unreasonable disruption of previously scheduled campus activities or the conduct of education;
- The location is unsuitable based on demonstrable health, safety or fire code restrictions;
- The use or activity would present danger to the health and safety of people or property: or
- The activity is prohibited by law.

Peaceful marches and picketing are permitted in the designated public forums of the District.

There shall not be restrictions on the right of students, employees and members of the public to exercise free expression, including but not limited to the use of bulletin boards, the distribution of printed materials, or petitions, and the wearing of buttons, badges, and other insignia, except as is limited by the reasonable time, place and manner

restrictions of this procedure, which are and must be applied in a content-neutral, narrowly tailored manner, designed to serve a significant public interest.

Distribution of Non-Commercial Literature, Signs, Banners, Postings, Literature may be distributed on District grounds or facilities. The manner of distribution shall not hinder safety or access to District grounds or facilities. Literature to be distributed on District grounds that convey to a reasonable person a reference of affiliation with District shall include the statement that it is not official District literature and does not necessarily represent the view or official position of the District. Student, employees, organizations, and/or others who distribute literature must remove litter caused by recipients who do not appropriately dispose of unwanted literature. Violators will be referred to law enforcement and District authorities for appropriate consequences.

Posting

Bulletin boards shall be provided for use in posting materials at campus locations convenient for use by students, employees of the District, and members of the public. All materials displayed on a bulletin board shall clearly indicate the author or agency responsible for its production and the date of posting. Materials displayed may be removed after the passage of ten days. Campus posting guidelines are available in the Student Life and Leadership office and the Dean North County Campus and South County Center office.

Board Policy BP3900 states nothing in this procedure shall prohibit the regulation of hate violence, directed at students in a manner that denies their full participation in the educational process, so long as the regulation conforms to the requirements of the First Amendment to the United States Constitution, and of Section 2 of Article 1 of the California Constitution. "Hate violence" is defined in subdivision (a) of Section 4 of Chapter 1363 of the Statutes of 1992 (Senate Bill 1115) to mean any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group. Acts shall not be considered "hate violence" based on speech alone, except upon a showing that the speech itself threatens violence against a specific person or group of person, that the person or group of persons against whom the threat is directed reasonably fears that the violence will be committed because of the speech, and that the person threatening violence had the apparent ability to carry out the threat. (Education Code Section 66301).