

General Institution
DRAFT as of 3/29/13

BP 3900 SPEECH: TIME, PLACE, AND MANNER

References:

Education Code Sections 76120 and 66301

NOTE: This policy is legally required.

Students, employees, and members of the public shall be free to exercise their rights of free expression, subject to the requirements of this policy.

The college(s) of the District is/are non-public forums, except for those areas that are designated public forums available for the exercise of expression by students, employees, and members of the public. The Chancellor shall enact such administrative procedures as are necessary to reasonably regulate the time, place, and manner of the exercise of free expression in the designated public forums.

The administrative procedures promulgated by the Chancellor shall not prohibit the right of students to exercise free expression, including but not limited to the use of bulletin boards, the distribution of printed materials or petitions in those parts of the college designated as areas generally available to students and the community, and the wearing of buttons, badges, or other insignia.

Speech shall be prohibited that is defamatory, obscene according to current legal standards, or which so incites others as to create a clear and present danger of the commission of unlawful acts on District property or the violation of District policies or procedures, or the substantial disruption of the orderly operation of the District.

Nothing in this policy shall prohibit the regulation of hate violence directed at students in a manner that denies their full participation in the educational process (Education Code Section 66301(e)), 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. Students may be disciplined for harassment, threats, or intimidation unless such speech is constitutionally protected.

NOTE: Current CLPCCD Policies 4322 and 5510 (both titled Free Speech) contain the exact same language with the exceptions highlighted in gray shading.

❖ From the current CLPCCD Policy 4322 titled Free Speech

~~The right to free speech on campus is shared by all students, faculty, administrators, and by any speaker subject to time, place and manner regulations.~~

~~Free speech allows for the widest possible exchange of ideas and opinions. In order to ensure a favorable environment for speakers and their audience, the following conditions shall govern speaking events:~~

- ~~1. Speakers shall have the right to express ideas and opinions freely in a manner appropriate to the academic atmosphere of the college, and they are encouraged to respond to questions from their audience.~~
- ~~2. Time, place and manner are subject to reasonable regulation to prevent interference with the normal functions of the college.~~

~~Any issue involving the alleged violation of free speech on campus shall follow procedures of academic due process as provided for the student, the faculty, the college, and the appeal procedure associated with access to campus, whichever be appropriate.~~

The procedures regarding free speech are located in the Administrative Rules and Procedures [AP 3900 titled Speech: Time, Place, and Manner](#).

❖ From the current CLPCCD Policy 5510 titled Free Speech

~~The right to free speech on campus is shared by all students, faculty, administrators, and by any speaker, subject to reasonable time, place and manner regulations. Free speech allows for the widest possible exchange of ideas and opinions. In order to ensure a favorable environment for speakers and their audience, the following conditions shall govern speaking events:~~

- ~~1. Speakers shall have the right to express ideas and opinions freely in a manner appropriate to the academic atmosphere of the college, and they are encouraged to respond to questions from their audience.~~
- ~~2. Time, place and manner are subject to reasonable regulation to prevent interference with the normal functions of the college.~~
- ~~3. Established administrative rules and procedures shall govern activities related to free speech.~~

~~Any issue involving the alleged violation of free speech on campus shall follow procedures of academic due process as provided for the student, the faculty, the college, and the appeal procedure associated with access to campus, whichever is appropriate.~~

~~Nothing in this policy shall supersede the provisions of governing board policies relating to student and faculty conduct and grievance.~~

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from the current CLPCCD Policy 4322 titled Free Speech adopted on March 19, 1996 and current CLPCCD Policy 5510 titled Free Speech adopted on March 19, 1996. The language in **blue ink** is included for consideration.

Date Adopted:

(This policy replaces current CLPCCD Policies 4322 and 5510)

Legal Citations for BP 3900

EDUCATION CODE SECTIONS 66301 and 76120

66301. (a) Neither the Regents of the University of California, the Trustees of the California State University, the governing board of a community college district, nor an administrator of any campus of those institutions, shall make or enforce a rule subjecting a student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution.

(b) A student enrolled in an institution, as specified in subdivision (a), at the time that the institution has made or enforced a rule in violation of subdivision (a) may commence a civil action to obtain appropriate injunctive and declaratory relief as determined by the court. Upon a motion, a court may award attorney's fees to a prevailing plaintiff in a civil action pursuant to this section.

(c) This section does not authorize a prior restraint of student speech or the student press.

(d) This section does not prohibit the imposition of discipline for harassment, threats, or intimidation, unless constitutionally protected.

(e) This section does not prohibit an institution from adopting rules and regulations that are designed to prevent hate violence, as defined in subdivision (a) of Section 4 of Chapter 1363 of the Statutes of 1992, from being directed at students in a manner that denies them their full participation in the educational process, if the rules and regulations conform to standards established by the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution for citizens generally.

(f) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

76120. The governing board of a community college district shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each community college maintained by the district, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

Such rules and regulations shall not prohibit the right of students 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, or other insignia, except that expression which is obscene, libelous or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on community college premises, or the violation of lawful community college regulations, or the substantial disruption of the orderly operation of the community college, shall be prohibited.