



**BP 3900**

**SPEECH: TIME, PLACE, AND MANNER**

**References:**

- Education Code Sections 66301(e), 76067, 76120
- First Amendment to the United States Constitution
- Section 2 of Article 1 of the California Constitution
- Grayned v. City of Rockford, 408 U.S. 104 (1972)
- Widmar v. Vincent, 454 U.S. 263 (1981)
- Perry Educ. Ass'n v. Perry Local Educ. Ass'n, 460 U.S. 37 (1983)
- Good News Club v. Milford Central Sch., 533 U.S. 98 (2001)
- OSU Student Alliance v. Ray, 699 F.3d 1053 (9<sup>th</sup> Cir. 2012)

The Board of Trustees recognizes that free speech is essential to achieving the District's goal of offering a quality educational environment. Since the primary mission of the District is the education of its students and that mission is accomplished by the District's faculty and staff, it is particularly important that students, faculty, and other employees have the greatest possible access and ability to utilize the District's property and facilities for expressive activities. It is equally important that expressive activities on District property not interfere with the District's educational mission by, among other things, disrupting classes or other operations of the District, or putting in peril the lives or property of District personnel, students, and members of the public.

For these reasons, the Superintendent/President shall enact administrative procedures that designate the District's property as falling within one of three categories, which will determine the scope of the expressive activities that are permitted on various parts of the District's property:

1. Non-public forums — places not open to expressive activities by the public, students, or staff other than expressive activities that comport with the function and purpose of the space at issue (e.g., when school is in session classrooms are generally to be used for discussing course content and not for general free speech activities);
2. Designated public forums — places that are open for all manner of expressive activities by the public, students, or staff (e.g., open areas such as the Friendship Plaza for rallies, demonstrations, or leafleting on all manner of topics); and
3. Limited purpose forums — places the District permits use of by selected groups for a particular purpose (e.g., the Garvin Theater for use by the Faculty Association to discuss a topic relevant to its members, students or other employees).



In making these designations, the Superintendent/President shall consider the following guidelines:

1. The District is committed to maximizing the opportunities for expressive activities.
2. Any limitation on expressive activities in a forum shall be no greater than is reasonably necessary to prevent interference with the District's educational mission, ensuring the safety of District personnel, students, and members of the public, and the protection of the District's property.
3. The District shall not discriminate against or prohibit a person from engaging in expressive activities based upon the speaker's viewpoint or the content of the person's message.
4. Expressive activities shall be prohibited if they are defamatory, obscene according to current legal standards, or so incite 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.

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Legal Reference Update #25: November 2014

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