



# SAN DIEGO COMMUNITY COLLEGE DISTRICT

## Administrative Procedure

### Chapter 5 – Student Services

#### AP 3102.2 STUDENT PUBLICATIONS

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These procedures implement Board Policy 3102, *Student Publications*, and Education Code section 76120 as to printed or electronic materials published as part of a District instructional program.

#### 1. FUNCTION

- a. The following matters are prohibited in all student publications:

“...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.” (Ed. Code, 76120)

- b. As part of the instructional process, the advisor/instructor for each student publication is required to teach students as to what constitutes prohibited expression so that the students may identify and avoid the use of prohibited expression.
- c. These procedures relate only to prohibited expression, as defined above, not to instructional and production decisions unrelated to content of expression.

#### 2. IMPLEMENTATION

- a. As set forth in Board Policy 3102, *Student Publications*, 1.c.:

*It is not the function of the advisor/instructor to approve, restrain or regulate the content of expression. However, to foster effective instruction, it is the intent of the Board that the advisor/instructor advise students of their editorial responsibilities.*

- b. In order for the advisor/instructor to carry out their instructional duties, and to avoid any appearance of, or any prior restraint, each advisor/instructor is responsible for adopting as part of their syllabus at the start of each semester, and implementing, appropriate procedures for the review of all materials prior to publication, in consultation with the department chair. Although such procedures may vary depending on the frequency of publication and the particular schedules of the advisor/instructor and students, the procedures shall contain at least the following:

- 1) The means by which student writers and/or student editors are to submit proposed materials to the advisor/instructor.
- 2) The deadline by which student writers and/or student editors are to submit the materials proposed for publication to the advisor/instructor.

- 3) The time period during which the advisor/instructor must review the materials and return them to the student writer and/or student editor.
- 4) Provisions specifying that (1) if the student writer and/or student editors do meet the established deadlines but the advisor/instructor does not, then the materials may be published without review (except if the regular timelines have been previously modified by mutual agreement) and (2) that if the student writer and/or student editor does not meet the deadlines then the materials need not be published.
- 5) Provisions that require the student writer (and student editor, if necessary) to be available or reachable to discuss the materials with the advisor/instructor, if necessary.

Although the deadlines and timelines in the procedures will need to vary based on the frequency of publication, these timelines must be a short duration to insure that there is no prior restraint of materials. The advisor/instructor may consult with the District's legal counsel for advice as to these procedures.

- c. Should an advisor/instructor determine that a student writer and/or student editor is proposing to publish expression which is prohibited as set forth in Section 1, a, above, then the advisor/instructor shall do the following:
  - 1) The advisor/instructor shall promptly meet with the student writer (and student editor, if there is one) to discuss the specific reasons that the materials constitute prohibited expression and should not be published. The advisor/instructor, student writer and student editor will attempt to reach a mutual agreement which makes appropriate modifications, changes or deletions in the materials so that it no longer contains prohibited expression.
  - 2) If the student writer and/or student editor reject the advice of the advisor/instructor and state that they still intend to publish the expression in question, then the advisor/instructor shall immediately notify the student writer and/or student editor in writing of the advisor/instructor's opinion that the materials contain prohibited expression, that the student(s) have been advised of that, that the materials should not be published, and that the student(s) alone may be held liable for the publication and may be subject to appropriate student disciplinary action.
  - 3) The advisor/instructor shall then notify the school dean, the College President, (and any other members of administration deemed necessary) who will make a determination whether the materials at issue contain prohibited expression; and if so, whether the District wishes to seek to enjoin publication of the materials.
  - 4) If a decision is made at this administrative level to seek to prohibit the expression, then the advisor/instructor and/or administrative representatives shall contact the District's legal counsel for the purpose of initiating litigation seeking to restrain publication of the prohibited expression. If the District determines to seek a judicial order enjoining publication, the student shall be advised of this. In order to allow adequate time for the District to seek an injunction from the courts, the advisor/instructor may delay publication of the prohibited materials for a time period not in excess of 14 calendar days from notification as set forth in paragraph c. 2. above.

- 5) Unless the District then secures judicial restraint within the time periods set forth in paragraph c. 4. above, the material at issue may be published.
- 6) At any time during this process the advisor/instructor and/or administration representatives may contact the District's legal counsel for consultation and advice as to whether the material at issue does constitute prohibited expression and speech which is not protected by the guarantees of the Constitution.

References: SDCCD Board of Trustees Policy 3102, *Student Publications*, Education Code Section 76120, Advice from County Counsel pursuant to Procedure 2003.1, *Legal Services*.

Approved by  
the Chancellor: November 28, 2016

Supersedes: Procedure 3102.2 - 5/19/86, 10/14/98, 6/1/12