



San Diego Community College District Police Department Policy and Procedures

4.12 INCIDENTS INVOLVING EXPRESSIVE ACTIVITY & FIRST AMENDMENT RIGHTS

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I. PURPOSE

This Department procedure establishes guidelines for officers responding to calls for service related to the exercise of First Amendment rights. Collectively, the many forms of expression are referred to as “expressive activity.”

II. SCOPE

This procedure applies to all sworn members of the Department.

III. BACKGROUND

The First Amendment of the United States Constitution guarantees the freedom of speech and the freedom of assembly. While the United States Constitution provides minimum protections that no state can infringe upon, a state may offer more protections than the United States Constitution.

The San Diego Community College District guarantees freedom of expression provided that such expression does not result in a disruption of the orderly operations of campus and District programs and activities. It is the policy of the District to maximize the opportunity for free discussion and expression while minimizing the potential for disruption of classroom and college/district/campus activities, and interference with the ability of students to obtain an education.

IV. DEFINITIONS

A. Expressive Activity - any protest, proselytization, propagandization, or other communication or conveyance of an idea or ideas, or message or messages, to a general audience, the effect, propensity, or intent of which is to express an idea or belief, or draw or attract a crowd or onlookers. These activities may be commercial, political, personal, or labor-related in nature.

B. Posting of Information - Posting printed material of any size including, but not limited

to, banners, posters, fliers, business cards.

- C. Affiliated Groups - District recognized and approved student clubs and organizations, and employee groups but does not include union organizations.
- D. Distribution of Literature - Written documentation affording a vehicle of information and/or opinion which are disseminated indiscriminately to students and/or District employees. Indiscriminate distribution shall not include distribution to District recognized groups of students and/or employees.
- E. Commercial literature - Materials which direct attention to a business, commodity, service or entertainment.

V. RECOMMENDED FREE SPEECH AREAS

- A. Recommended free speech areas shall be designated on each campus to ensure the opportunity for free discussion and expression while minimizing the potential for disruption of classroom and college/district/campus activities, and interference with the ability of students to obtain an education. Information concerning recommended free speech areas is available in the office of Student Affairs at the college, the campus dean for Continuing Education or Vice Chancellor, Student Services.
- B. Persons using and/or distributing materials shall not impede the progress of passersby, nor shall they force a passerby to take material.
- C. No person shall touch, strike or impede the progress of a passerby, except for incidental or accidental contact or contact initiated by a passerby.
- D. Persons shall not use any means of amplification that creates noise or diversion that substantially disrupts the orderly conduct of the college/campus, district site, classes or operations.
- E. No restrictions shall be placed on subject matters, topics or viewpoints expressed, as long as it does not include 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 or the commission of unlawful acts on the community college premises, or the substantial disruption of the orderly operation of the college/district/campus.
- F. Persons using the recommended free speech areas may distribute petitions, circulars, leaflets, newspapers and other printed material as long as it does not include expression which is obscene or libelous according to current legal standards or which

so incites students as to create a clear and present danger or the commission of unlawful acts on the community college premises, or the substantial disruption of the orderly operation of the college/district/campus.

VI. REASONABLE TIME, PLACE, AND MANNER RESTRICTIONS

Regulation of the time, place and manner of free speech activities may be imposed for the purpose of preventing substantial disruption of the orderly conduct of college classes, college/district/campus programs, or services. Such regulation must be reasonable and not discriminate on the basis of the content of the speech. All restrictions shall be applied consistently to all persons. Time limits may be imposed to ensure all persons have equal access to use the recommended free speech areas.

VII. PROCEDURES

A. Initial Response

1. When responding to calls for service regarding expressive activity, officers should keep in mind that, depending on the nature of the expressive activity, emotions can be very inflamed. Upon arrival, it may be useful to stand back and observe the parties involved, taking note of whether those engaged in expressive activity are peaceful or not.
2. Note any activity that might be considered obstructive or interfering with District activities or campus classes. If this occurs, those engaged in expressive activity lose the protection of their First Amendment right and may be subject to arrest and removal.
3. When contacting the parties, officers shall remain fair and impartial.

B. Review of Documents

1. Those wishing to use District property for expressive activities are often sophisticated enough to arm themselves with legal advice about why their interests should prevail. Groups may request that responding officers review their documents.
2. While it would be appropriate for a police officer on the scene to attempt to mediate a resolution acceptable to both parties involved in a dispute, it is NOT the place of the police officer to attempt to determine if the time, place, and manner restrictions are reasonable. Only a court can make those determinations. Therefore it is appropriate to decline to review these documents. The officer's sole

determination for taking action is whether or not a crime has been committed.

3. Likewise, those engaged in expressive activity may ask officers to read cases or opinions provided by their counsel purporting to authorize their presence. Again, declining to do so is appropriate.

VII. MISCELLANEOUS

Applicable District Policies

- A. Board Policy 3925 – Posting and Distribution of Literature, Political Activities, Free Speech and Freedom of Expression on Campus and District Sites.
- B. Board Policy 3100 – Student Rights, Responsibilities, Campus Safety and Administrative Due Process.

