

Use of Campuses for First Amendment Purposes

The First Amendment to the United States Constitution states:

“Congress shall make no law abridging the freedom of speech...or the right of the people to peaceably assemble and to petition the Government for redress of grievances.”

This amendment lies at the heart of our democracy and has spawned shelves of law books and cases on its application. In 1994, Justice Anthony Kennedy wrote:

“At the heart of the First Amendment lies the principle that each person should decide for himself or herself the ideas and beliefs deserving of expression, consideration, and adherence. Our political system and cultural life rest upon this ideal. Government action that stifles speech on account of its message, or that requires the utterance of a particular message favored by the Government, contravenes this essential right.”

The First Amendment and its California counterpart restrict the District, as a public entity, from abridging free speech rights. The outdoor areas of community colleges are akin to a traditional public forum (public squares, sidewalks and parks), where free speech is entitled to the highest level of protection.

The Los Rios Community College District's Board Policy and Administrative Regulation 1413 *Use of Outdoor Areas* address the use of the campuses for First Amendment purposes. Board Policy 1413 states that public expression in the form of freedom of speech and advocacy may be exercised on any District outdoor property that is open to the public generally, and at such times and places and in such a manner as is compatible with the use of the property. It further requires that these activities take place in a way that:

“(a) assures orderly conduct; (b) avoids disruption or interference with District/College operations; (c) avoids disruption or interference with the ability of the District/College to carry out its responsibilities as an educational institution; (d) protects the rights of all individuals who use District/College property; (e) protects persons against practices that would make them involuntary audiences; (f) assures the safety of all members of the District/College communities; and (g) complies with all applicable laws.”

Administrative Regulation 1413 provides that:

- First Amendment activities allow for the free flow of persons and traffic.
- First Amendment activities not interfere with or disrupt the normal activities undertaken at the Colleges.
- Visitors are requested to inform the campus that they will be on campus to engage in First Amendment activities as far in advance as possible.
- If visitors provide no advance notice, visitors are requested to give notice upon arrival. Visitors may not be removed from campus simply because they did not provide notice upon

their arrival; the College is considered on notice of their presence when its staff contacts them on campus.

- Space is given on a first-come, first-choice basis and that locations should be chosen to minimize the interference with the free speech rights of others
- If an event will present a clear and present danger orderly operations, a request to use outside areas will be denied
- The District/Colleges must remain neutral on religious and political matters and District/College funds cannot be used to underwrite these activities
- The District's/College's name, insignia, or seal not be used in conjunction with religious or political purposes or activities except as consistent with the College/District regulations
- In any correspondence, the sponsor must state that the activity is not District/College-sponsored if the use of the organizer's name might reasonably be construed as implying the District/College might have sponsored the event
- The use of amplified sound requires a permit in conjunction with these First Amendment activities so as not to disrupt other College or community activities

The First Amendment and California Constitution require the District and Colleges to allow people to speak freely and share information in a peaceful manner in the outdoor areas of our campuses. If appropriate, the Colleges may designate where respective "sides" may stand or sit while giving their message in order to create an orderly environment and appropriate buffer space between the groups. To the extent that the exchanges unreasonably interfere with College operations, College personnel may move the activities out of the way, limit them, or, only if all other avenues fail, curtail them. If the conduct creates an imminent threat of physical harm, the College may curtail it.

A variety of demonstrations in past years have raised divisive issues. To the credit of our Colleges and their educational mission, the best response in these situations has been to treat these activities as learning opportunities for the students involved. Where speech of a distasteful nature has been on display, student services personnel have worked hard to combat speech with speech and education. They have worked tirelessly to keep the engagement at an intellectual level. Our police department has worked to provide a healthy and appropriately measured backdrop for the safety of the students, faculty, staff and the members of the public on our campuses. As we remember that the campuses are places where ideas are exchanged when people engage in teaching and learning, useful tools for dealing with this type of speech have been (a) to ignore it, (b) to engage the speaker with education and contrary ideas, or (c), to present contrary educated speech. The one tool that should not be used is the suppression of speech.