

# Freedom of Expression AP/BP 3900

## Academic Senate Workgroup Report and Recommendations

### 12/3/2020

#### Purpose and Function Statement

The purpose of the Freedom of Expression AP/BP Academic Senate workgroup is to ascertain whether the current Freedom of Expression AP and BP are reflective of current practices, reflect the campus mission of diversity, equity, and inclusion, and are up to date with the latest legal and scholarly positions.

#### Membership

Kelly Rivera, Academic Senate co-Vice President, Political Science Faculty  
Dianne Rowley, Assistant Curriculum Liaison, Learning Assistance Faculty  
Raul Madrid, Political Science Faculty  
Abby Wood, Business Law and Paralegal Studies Faculty  
Toni Albertson, Journalism Faculty  
Julia Walker, Student Center Specialist in Student Life

#### Methods of Consultation

Kelly Rivera met with ELAC Senate President, Jeffrey Hernandez, to learn more about LACCD developments around Freedom of Expression Policies related to lawsuits in the district in October 2019. The workgroup was formed at the end of Fall 2019 and meetings were planned for Spring 2020. Due to COVID-19, the group was advised to move work to Fall 2020. In Fall 2020, workgroup meetings were held synchronously through Zoom on 10/14/20 and 10/28/20. The group also collaborated asynchronously through email during the months of October and November. Kelly Rivera served as the note taker for the meetings and a shared drive was created to store resources consulted.

#### Background of the Topic that Led to the Workgroup Meeting

During an AMAC meeting in September 2019, AP/BP 3900 were pulled for review by the Academic Senate. Once agendaized and reviewed, the Academic Senate Executive Board authorized the creation of a workgroup that Kelly Rivera was to organize. There have been recent lawsuits at other area colleges regarding Freedom of Expression policies. In an effort to ensure that Mt. SAC has policies that reflect our practice and secure Freedom of Expression to the greatest extent possible, the workgroup was formed to review AP/BP 3900.

## Specific, Achievable Recommendations

The Freedom of Expression workgroup recommends the following:

1. Update both BP and AP 3900 to incorporate the standards outlines in the Report of the Committee on Freedom of Expression (FOE) from the University of Chicago while also reflecting relevant portions of CA Ed Code
2. Refer to CSU Channel Islands as a possible model which reflects the FOE from the University of Chicago
3. Refer to LACCD and Citrus College policies as they have been recently updated post lawsuits
4. Include specific protections related to freedom of the press, in particular student press
5. Revise general tone to reflect the open and inclusive environment that welcomes freedom of expression – particularly in BP 3900
6. Ensure that current practices match with AP 3900
7. Review the language about the College being a non-public forum, except for those areas designated as Free Speech Areas
8. Clarify terms by adding definitions to the terms “Free Speech Zone” “Non-Public Forum” “Limited Public Zone” *see presentation from CCLC convention in resources*
9. Obtain a legal opinion regarding public (or limited public) versus non-public distinction and clarify terms by adding definitions in the AP/BP (e.g. “Non-Public Forum” “Limited Public Zone” *see presentation from CCLC convention in resources*)

## List of Resources/People Consulted by the Workgroup

- The Committee on Freedom of Expression at the University of Chicago: *Report of the Committee on Freedom of Expression*
- California Education Code § 66301. Freedom of speech; students’ remedies; hate violence; retaliation prohibited
- California Education Code § 76120. Exercise of free expression by students; adoption of rules and regulations
- Assembly Concurrent Resolution No. 21 Kiley. Public postsecondary education: free speech policy.
- California Constitution Reference: § 2. Liberty of speech or of the press; responsibility for abuse; right to refuse to disclose source of information by member of news media
- Citrus College AP and BP 3900
- Crosby v South Orange County Community College District: 172, Court of Appeal, Fourth District, Division 3, California.
- Mt. SAC Check-In Form for use of Free Speech
- CSU Pomona: Use of University Building, Facilities or Grounds: Freedom of Expression Policy

- NOCCCD Free Speech Open Forum Presentation
- Khademi v South Orange County Community College District
- Free Speech Areas and Campus Access at Los Angeles City College
- LACCD AR B-38 (Free Speech Areas and Campus Access)
- CSU Channel Islands: Policy on Time, Place, and Manner and the Use of University Buildings and Groups
- Inside Higher Ed: “The Chicago Principles are a gold standard for freedom of expression on campuses (opinion)”
- Student Press Law Center: Model guidelines for college media in regard to freedom of speech
- Student Press Law Center: Public colleges
- Student Press Law Center: Free Speech Zones
- “First Amendment, Academic Freedom and Harassment” LCW Legal Presentation at the 2018 Community College League of California Annual Convention