

## Chapter 3 – General Institution

### BP 3900 Freedom of Expression (Speech: Time, Place, and Manner)

#### References:

Education Code Sections 66301 and 76120, and 87708; Penal Code Sections 311, 311.2, 407, 409, 415, 415.5, 416, 422.6, 602.10, 626- 626.6 Business and Professions Code Section 5402 **Education Code Section 66301 (e)**

Freedom of expression is central to a vibrant democratic society and is essential to the educational process. The academic mission of Mt. San Antonio College necessitates the free exchange of thought and open debate of ideas and information. Mt. SAC encourages and supports that free exchange of thought, recognizing that such expression may take a variety of forms, such as speeches, press, signs, written materials, public assemblies, parades, demonstrations, artistic representations and other forms of expressive conduct. While one may find certain expressions or materials to be offensive or insulting, the appropriate way to counteract such materials is through discourse, constructive criticism, and the expression of additional points of view. At the same time, all members of the college community should recognize that freedom of expression includes a responsibility to respect the rights of others, including the right to express differing opinions.

In accordance with the First Amendment to the United States Constitution and of Section 2 of Article 1 of the California Constitution, freedom of expression at Mt. San Antonio College is guaranteed to everyone on the Mt. SAC campus on the premise that the normal operation or program of the College remains uninterrupted. Students, College personnel, and members of the public shall be free to exercise their rights of free expression, subject to the requirements of this policy.

The purpose of this policy is to foster free speech, press, assembly, and other expressive activities, while addressing the need of the College to make necessary arrangements to assure that such activities do not interfere with the College's mission and operations or with the rights of others. Accordingly, these regulations are intended to facilitate peaceful assembly, the expression of ideas and opinions, and the distribution of materials, while ensuring the safe and orderly flow of college business and activities.

~~The College is a non-public forum, except for those areas designated as Free Speech Areas, which are limited public forums. Mt. San Antonio College feels that free expression of ideas and a guaranteed freedom of participation in lawful movements by individuals are essential to public educational institutions such as California community colleges.~~ In order to preserve the instructional environment of the College, certain areas are non-public forums which specifically include but, are not limited to, campus offices, classrooms, instructional spaces, warehouses, maintenance yards, and locker rooms. Recommended public forum spaces are areas generally available to students and the community. The College President/CEO shall enact such Administrative Procedures as are necessary to reasonably regulate the time, place, and manner of the exercise of free expression in the limited public ~~forums~~ **public forum spaces**.

~~The Administrative Procedures established by the College President/CEO shall not prohibit the right of anyone on campus to exercise free expression including, but not limited to, speech, **press** the use of certain bulletin boards for display of written materials, posters, etc., the distribution of printed materials or petitions, and the wearing of buttons, badges, or other insignia, except that expression which is obscene, libelous, or slanderous according to current legal standards, or which so incites others 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, shall be prohibited.~~

The College shall not make or enforce any rule subjecting any student **and or employee** to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged outside of the College, is protected from governmental restriction by the First Amendment to the United States Constitution and of Section 2 of Article 1 of the California Constitution.

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. **“Hate violence” is defined in subdivision (a) of Section 4 of Chapter 1363 of the Statutes of 1992 (Senate Bill 1115) to mean any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group. Acts shall not be considered “hate violence” based on speech alone, except upon a showing that the speech itself threatens **physical** violence against a specific person or group of persons, that the person or group of persons against whom the threat is directed reasonably fears that the **physical** violence will be committed because of the speech, and that the person threatening **physical** violence had the apparent ability to carry out the threat. (Education Code section 66301.) **Students and campus employees may be disciplined for harassment, threats, or intimidation unless such speech is constitutionally protected.****

**No student shall be subject to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article 1 of the California Constitution (Education Code section 663302(a)).**

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