

CALIFORNIA STATE UNIVERSITY, EAST BAY

DESIGNATION CODE: **06-07 BEC 13 revised**
DATE SUBMITTED: May 15, 2007

TO: The Academic Senate
FROM: The Executive Committee of the Academic Senate
SUBJECT: Free Expression: Time, Place and Manner Policy
PURPOSE: For Action by the Academic Senate

ACTION

REQUESTED: That the Academic Senate adopt the attached Policy on Free Expression: Time, Place and Manner; effective upon the approval of the President

BACKGROUND

INFORMATION: In an email announcement on April 20, 2007, an “interim” policy on Free Expression was announced and distributed via mass mail to the University. In that email, Sonjia Redmond, Vice President, Student Affairs, announced that, “President Qayoumi, upon recommendation of the Time, Place, and Manner Committee, has approved the attached document as the interim Time, Place, and Manner of Free Speech policy for CSU East Bay pending review by relevant university governance bodies. The committee represented all segments of the university community and discussions were robust.

The committee feels we have a document that clarifies campus use policies, while enhancing opportunities for intellectual discourse. Please note the addition of a "Speakers' Corner" space in front of the University Union that is available at all times on a first-come, first-served basis for planned or impromptu speeches and discussions on any issue.”

ExCom reviewed the “interim” policy document at its meeting on May 15th and voted to forward the document to the Academic Senate. Upon approval, the policy will no longer be considered “interim”.

California State University, East Bay
Policy on Time, Place, and Manner of Free Expression
April 9, 2007

I. Preamble

Universities are venues for creative, thoughtful and respectful discourse where conflicting perspectives are vigorously debated and thoroughly discussed. California State University, East Bay is dedicated to affording all members of the University community the protections for freedom of speech, expression, assembly, religion, and press available under the U.S. and California Constitutions and all applicable federal and state laws, in accordance with the University's purpose and function. Within the context of this policy, free speech activity includes, but is not limited to, pure or symbolic speech, assembly, meeting, demonstrations or rallies, picketing, petitioning, mime and theater, music and singing, survey research, and religious or political activity.

II. Authority

This policy is promulgated under the authority of Title V, California Code of Regulations, and subsequent directives, resolutions, standing orders, and Executive Orders of the Board of Trustees and Chancellor of the California State University, and the President of California State University, East Bay.

III. Free Expression at CSU, East Bay

At the campuses of the California State University, East Bay, the time, place, and manner of expression are limited solely by the following general conditions and by additional specific conditions as defined in this policy.

The exercise of free speech and assembly rights must comply with all applicable federal, state, and local laws. In addition, such activities may not:

- Interfere with classes in session or other scheduled academic, educational, cultural/arts programs or with use of the University Library;
- Obstruct the flow of pedestrian or vehicular traffic;
- Interfere with or disrupt the conduct of University business;
- Employ unauthorized sound amplification or create unreasonable noise disruptive of normal University activities;
- Harass or intimidate persons in the immediate area of the activity;
- Violate any federal, state, or local safety code, such as regulations set by the State Fire Marshal.

There shall be no restrictions on legal free speech activity based on the content of such speech or expression or on the political, religious, or other affiliations of speakers. Illegal speech activity, not protected by the First Amendment to the U.S. Constitution or by this policy, includes defamation, obscenity, terrorist threats, false advertising, and the promotion of actual or imminent violence or harm.

IV. Academic Freedom in the Classroom

Students and faculty in the University enjoy generally accepted rights to academic freedom. Students and faculty are free to express their opinions and views in the classroom without censorship, providing these opinions and views are related to the subject matter under discussion in the class or if their expression is invited by the class instructor. Those not enrolled in a class or specifically invited to attend a class by the instructor do not enjoy such rights.

V. Public Meetings, Performances, Rallies, Demonstrations, or Similar Public Events

Members of the University community and non-university community may use campus buildings and grounds for public meetings, performances, rallies, demonstrations, and similar events in accordance with the general limitations described in Section III.

Students, faculty, staff or other members of the University community or their organizations, or non-University groups, who seek to hold such events inside university facilities, including all buildings, the amphitheater, athletic venues, and areas surrounding residence halls, other than the designated forums described in Section VII below, must reserve such facilities at least 48 hours in advance. These shall be available on a first-come, first-served basis, which is the only basis upon which requests will be granted

or denied, through Facilities Reservations at (510) 885-3548. Recognized student organizations must schedule through Student Life and Leadership Programs at (510) 885-3657.

Outdoor demonstrations or public protests may be held on University property, without advance permission provided these adhere to the general limitations described in Section III. Any non-University group that wishes to conduct such a demonstration or protest should register with Student Development Services in Warren Hall 483 at the Hayward campus and with the Office of the Dean at the Concord campus upon arrival on campus.

Demonstrations, rallies, and other public events may not be conducted in classrooms when classes are scheduled, in offices, or in reception areas.

Speakers at such meetings, performances, rallies, demonstrations or similar events shall not be subject to harassment, nor shall the right of all to hear the speaker be infringed. At the same time, members of the campus community and outside guests shall have the right to peacefully protest any speaker, meeting, or event, so long as the event being protested is not significantly or materially disrupted.

Spontaneous events occasioned by news or affairs coming into public knowledge less than forty-eight hours prior to such event may be held in the designated public forums described in Section VII and outdoors without advance permission and in university buildings with special permission of the President or the President's designee.

Areas adjacent to administration buildings will be made available to those seeking to protest or otherwise comment on decisions that may be made in those buildings.

Where appropriate or necessary, the University shall provide security to ensure that the rights of all speakers are upheld.

VI. Handbills and Circulars

Non-commercial leaflets, fliers, handbills and circulars may be distributed at all times in the designated public forums identified in Section VII and from 8 a.m. to 5 p.m. Mondays–Friday on other University walkways and outside entrances to University buildings so long as such activity conforms to the limitations described in Section III above. Any non-University group or individual who is not a student or employee of the University that seeks to circulate such handbills and circulars should register with Student Development Services in Warren Hall 483 at the Hayward campus and with the Office of the Dean on the Concord campus upon arrival by providing copies of the material they will be circulating and identifying any organizational affiliation. Personal identification is not required.

Handbills and circulars may not be left on the windshields of automobiles parked on University grounds.

VII. Designated Public Forums

The Agora stage area opposite the University Union and the “speaker’s corner” patio adjacent to it on the Hayward campus are designated public forums in which all members of the University community and external community may exercise their free speech rights without special restriction. At the Concord campus the area in front of the Campus Union is also a designated public forum. These areas are available to individual students, faculty, and staff and to University organizations on a first-come, first-served basis for free speech activities, unless sound amplification is to be used on the Agora stage, in which case prior reservations must be made as described in Section VIII below. The “speaker’s corner” patio may not be reserved and is open to expressive activity at all times on a first-come, first-served basis. Free speech activities in these designated forums may not unduly limit pedestrian traffic in the area.

VIII. Amplification

Outdoor sound amplification is limited to the Agora stage area, except where special advance permission is obtained, and must be reserved in advance on a first-come, first-served basis only from Facilities Reservations at (510) 885-3548. Amplification is limited to 11:45 a.m. to 1:15 p.m. on days when classes are in session or when events or programs are scheduled in adjacent buildings, except when special advance permission is obtained. Advanced permission to use amplification outside the Agora

stage or at special times shall not be granted or denied on the basis of the content or viewpoint of the activity.

In all cases, the sound level of amplification must not exceed 60 decibels as measured by a sound level meter using the 'A' weighted network (scale) at slow meter response. Hand-held amplification ("bullhorns") may be used in the designated public forums indicated in Section VII without advance reservation, provided that these do not interfere with reserved activities in the area or unreasonably interfere with the free exercise of free speech rights in the area by others and conform to the general limitations outlined in Section III.

IX. Sale, Solicitation and/or Distribution of Merchandise, Publications, or Other Printed Matter

In accordance with Section 42350 of Title V of the California Code of Regulations, commercial transactions and the display of property or services for sale on the University's campuses is prohibited except with written permission by the campus president. Such permission shall be granted if

- (i) the proposed activity aids achievement of the educational objectives of the campus, does not unreasonably interfere with the operation of the campus and is not prohibited by law, or
- (ii) the prospective buyer has agreed in writing in advance to an appointment, and the prospective seller makes no more than one appointment for any day, and such appointment does not interfere with the operation of the campus.

No student, student organization, non-University person, employee, employee organization, or outside agency or person shall solicit sales to any employee or student at California State University, East Bay without first obtaining written permission from the President's designees as indicated below.

The content or expressive viewpoint of any materials to be made available for sale shall not be considered in granting or denying permission to solicit for sale.

Commercial solicitation is limited to the hours of 8 a.m. to 5 p.m., Monday-Friday, except by special permit. Vendors interested in doing business on University property must submit an application in advance for review to Student Development Services, Warren Hall 483, (510) 885-3763 for the Hayward campus and at (925) 602-6713 for the Concord campus. Designated vending spaces are situated along the walkway in front of the University Union/Pioneer Bookstore and on the Concord campus in front of the University Union or at other locations on either campus by special permit.

Any published materials offered for sale must not violate the provisions of Chapter 7.5, Title 9, Part 1 of the Penal Code (relating to the sale and distribution of obscene matter) or of Chapter 6, Title 3 (commencing with Section 66400) of the Education Code (relating to the preparation, sale, and distribution of term papers, theses and other materials to be submitted for academic credit).

X. Distribution of Published Materials

The display and free distribution of books, newspapers, pamphlets and other published materials is permitted provided that such published materials are not available for sale at the campus bookstore.

Sale, display, or distribution of published materials will be permitted from 8 a.m. to 5 p.m. Monday-Friday, or at other times by special permit, in the designated vendor area as indicated in Section IX or other location by special permit, provided such activity conforms to the general limitations outlined in Section III of this policy and there is:

- No harassment of persons in the area
- No physical contact of individuals without their consent
- No prolonged or repeated contact with persons who have declined the material
- No noise louder than normal conversation
- No illegal misrepresentation of the true name or purpose of the material or of any organization involved in its distribution

XI. Self-Service Vending Machines

The University seeks to provide ecological and safety standards for the distribution of printed materials via self-serve publications dispensers and racks on campus. Newspaper and Magazine vendors

and/or distributors may be permitted to establish and maintain self-service publication vending machines/dispensers in designated campus locations on a first-come first-served basis.

Depending on the location desired, requests for approved self-serve vending space for publications must be obtained from and approved as follows: For locations throughout the campus, other than on Foundation and University Union property - by the Student Affairs Vending Office. For locations on Foundation property (bookstore) - from the Bookstore Manager. For locations on University Union property - from the Director of the University Union. Requests shall not be granted or denied on the basis of the content or viewpoint of the publications seeking permission for self-service vending space. Normally such requests will be approved within two business days of their submission.

Fees for administration and monitoring such dispensers and racks will be set by the administering authority in accordance with existing policies for such fee schedules, which may be obtained from Student Development Services in Warren Hall 483, (510) 885-3763. Self service publication vending machines left on campus without approval will be removed and held for 180 days by the Student Affairs Vending Program. After that time they will be considered to have been abandoned and will be disposed of as deemed appropriate by the university.

XII. Posting

The University recognizes that signs (to include posters, banners, handbills, announcements, notices, brochures) serve as a means for communicating information to the campus community in a timely and orderly manner. Signs containing false, misleading or fraudulent information or expression that constitutes criminal or severe harassment; defamation; or obscenity are prohibited.

Bulletin boards are of three types:

- General Bulletin Boards: Students, recognized student organizations, faculty, and staff of the University and non-University individuals may post signs on General Bulletin Boards (indoor or outdoor) and on kiosks.
- University Bulletin Boards: University bulletin boards are for posting of official University documents and announcements.
- Department Bulletin Boards: Department bulletin boards are identified, controlled, and maintained by specific University departments, and only materials approved by that Department can be posted.
- Union Bulletin Boards: The union shall have an adequate number of designated bulletin boards, visible and accessible to employees, for the posting of union material.

Use of bulletin boards is subject to the following guidelines: All signs must be identified with the name of the person or organization responsible for the posted information, along with contact information (e.g., phone number or web address). Postings on bulletin boards may not exceed 17 inches by 22 inches in size. Signs on bulletin boards shall be posted by thumbtacks, staples, or pushpins only. Other methods of posting which damage a bulletin board will subject the posting party to liability for damages.

Those posting materials for specific events or with expiration dates must remove such materials within one week after the event or expiration date.

Posting of signs on building walls, restrooms, windows, glass surfaces, doors, benches, utility poles, sculptures, garbage receptacles, railings, trees, traffic control signs, stairs, bus stop areas, and sidewalks is prohibited except in those buildings where it has been customary for faculty and staff to post materials on their own office doors. In such cases the posting method must not damage the door in any manner.

Removal of signs, other than by the posting party or University personnel acting pursuant to their duties is prohibited.

A request for posting banners must receive the prior approval of the Student Life and Leadership Programs Office at (510) 885-3657. Approval will be based solely on the availability of posting space.

The Office of Student Development Services or its designees shall monitor all campus General Bulletin Boards at both the Hayward and Concord campuses for compliance with the above guidelines.

Signs not in compliance shall be removed. All posted materials are removed from General Bulletin Boards at each academic quarter break.

XIII. Fundraising Activities

Fundraising events are activities where organizations receive monies (directly or indirectly) in exchange for merchandise, service, entertainment, or a chance at winning a prize.

Fundraising by On-Campus Organizations:

Recognized student, faculty, and on-campus organizations may raise funds on campus either through direct solicitation or by sponsoring revenue-producing activities in accordance with the following:

- The appropriate University officials or designees must approve the fundraising activity in advance on the basis of their conformity to the general principles of this policy and to all applicable federal, state, and local laws. The viewpoint of the group sponsoring the activity and the content of any materials to be distributed shall not be considered in the decision to grant or deny permission. Student groups must receive prior approval from Student Life and Leadership Programs, (510) 885-3657. Faculty/staff must receive prior approval from Vice President, Administration and Finance (510) 885-3803.
- The fundraising activity must be consistent with the stated purpose of the organization.
- The net proceeds from the fundraising activity must be used for the stated purpose and are in some direct relation to the educational, research or service missions of the University, or donated to a charitable organization.

Fundraising by Individuals and Non-University Organizations:

Individuals, community and charitable organizations, political and religious organizations may raise funds in accordance with the following:

- The University must approve the fundraising activity in advance, including the use of tables, displays or other structures. Contact Student Development Services, Warren Hall 483, (510) 885-3763 for additional information, approval and to secure a permit.
- The fundraising activity must be consistent with the stated purpose of the organization.
- The net proceeds from the fundraising activity must be used for the stated purpose and are in some direct relation to the educational, research or service missions of the University, or donated to a charitable organization.

Revised and recommended to the President by the University Time, Place and Manner Committee
April 9, 2007

Committee Members:

Sonjia Parker Redmond, Vice President Student Affairs, Chair
Hank Reichman, Chair, Academic Senate
Gregory Horton, ASI Representative
Tolo Aria, ASI Representative
Dustin Weber, Chair, University Union Board of Directors
Mary Fortune, Director, Student Life and Leadership
Monica Pacheco, Director, University Union
Barbara Aro-Valle, Director, Facilities Reservations
William Dinehart, Analyst, Student Affairs

Approved by the Academic Senate, as revised, on May 22, 2007