



NORTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

Free Speech Open Forum

BP 3900 and AP 3900 Speech: Time, Place, and Manner

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**HOW FREE IS
FREE SPEECH?**

What Does Free Speech Mean?

The First Amendment to the U.S. Constitution protects freedom of speech.

(Source: US Courts, Educational Resources)

Freedom of speech includes the right:

Not to speak (not to salute the flag)

West Virginia Board of Education v. Barnette, 319 U.S. 624 (1943)

To engage in symbolic speech (e.g., burning flag)

Texas v. Johnson, 491 U.S. 397 (1989);
United States v. Eichman, 496 U.S. 310 (1990)

Of students to wear black armbands to school to protest a war

Tinker v. Des Moines, 393 U.S. 503 (1969)

To advertise commercial products and professional services (absent restrictions)

Virginia Board of Pharmacy v. Virginia Consumer Council, 425 U.S. 748 (1976); *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977)

To use certain offensive words and phrases to convey political messages

Cohen v. California, 403 U.S. 15 (1971)

To contribute money to political campaigns (absent restriction)

Buckley v. Valeo, 424 U.S. 1 (1976)

What Does Free Speech Mean?

Freedom of speech does not include the right to:

Incite actions that would harm others (e.g., shouting “fire” in a crowded theater)

Schenck v. United States, 249 U.S. 47 (1919)

Incite imminent criminal acts (*Brandenburg v. Ohio, 395 U.S. 444 (1969)*) **or violation of campus rules** (*Education Code § 76120*)

Make true threats (statements that reasonably cause the listener to believe the speaker intends to inflict bodily harm)

Virginia v. Black, 538 U.S. 343 (2003)

Engage in obscene speech

Miller v. California, 413 U.S. 15 (1973)

Substantially disrupt or materially interfere with school activities or invade “the rights of other students to secure and let alone”

Tinker v. Des Moines, 393 U.S. 503 (1969); Education Code § 76120

Defame others

New York Times v. Sullivan, 376 U.S. 254 (1964); Hustler Magazine v. Falwell, 485 U.S. 46 (1988)

Free Speech Key Terms

- **Defamation**: oral or written falsehoods, which are not merely a statement of the speaker's opinion, that are communicated to a third party or parties and would harm another's reputation; defamation through a printed material is called **libel**, while spoken defamation is called **slander**
- **Hate Speech**: written or spoken communication that belittles a group based on its characteristics, such as race, gender, or sexual orientation
- **Obscenity**: a description or depiction of sexual conduct, taken as a whole by the average person, applying contemporary community standards, portrays sex in a patently offensive way, appeals to the prurient interest of the individuals and lacks serious literary, artistic, political, or scientific value
- **Symbolic Speech**: nonverbal forms of speech protected by the First Amendment, such as picketing, wearing armbands, displaying signs, or engaging in acts of symbolic protest like flag burning
- **Time, Place, and Manner Restrictions**: limits to freedom of expression based on when, where, and how individuals or organizations engage in expressive activities

Free Speech at NOCCCD

- Last updated in 2006, Board Policy 3900 and Administrative Procedures 3900 outline free speech activities, including distribution and posting of printed materials on campus and District sites.
- In 2018-19, a District-wide workgroup updated BP/AP 3900 with the goals of enhancing students' right of free expression on campus while facilitating challenges that come with the exchange of personal and political ideas, taking into consideration state and federal laws.
 - Free Speech Policies Workgroup: District Public and Governmental Affairs, Campus Communications, Campus Safety, Student Services, and Legal Counsel
- Today, drafts of the updated BP/AP 3900 are under review by the District's shared governance committees and are available online via the District website for public feedback.
- Once finalized, the updated BP/AP 3900 will go to the NOCCCD Board of Trustees for approval.

Board Policy 3900



- Change from non-public forums and designated free speech assembly areas to common areas and recommended free speech assembly areas
 - Common areas = publicly accessible outdoor areas of a college campus
 - Recommended free speech assembly areas = common areas that tend to provide visibility and allow communication to a large number of students, staff, faculty, and others walking on campus, while mitigating disruption to educational and other activities of the District

AP 3900

Recommended Free Speech Assembly Areas

Recommended Free Speech Assembly Areas:

- Cypress College: stage area (northeast end of pond), west end of Gateway Plaza, and area generally located around pond and near Student Activities Center, Library/LRC, and SEM Building
- Fullerton College: south end of quad
- Anaheim Campus: Patio south of first floor entrance

These areas may be temporarily reserved by the District for specific uses. If in use, campus officials may designate alternate areas.

Cypress College area located around pond



Fullerton College Quad



Anaheim Campus Patio



Use of Common Areas

(Including Recommended Free Speech Assembly Areas)

Persons and groups using the common areas, including the recommended free speech assembly areas:

- Are asked to act reasonably and share the areas
 - Priority goes to persons/groups first to reserve
- Are asked to retrieve and remove materials discarded or dropped in or around the areas when distributing petitions, circulars, leaflets, newspapers, or other printed matter
- Shall not impede the progress of those passing by or force anyone to engage or receive materials being distributed
- Shall not touch or strike those passing by
- Shall not obstruct campus or building entrances by remaining more than 20 feet from doorways

Use of Common Areas (Continued)

(Including Recommended Free Speech Assembly Areas)

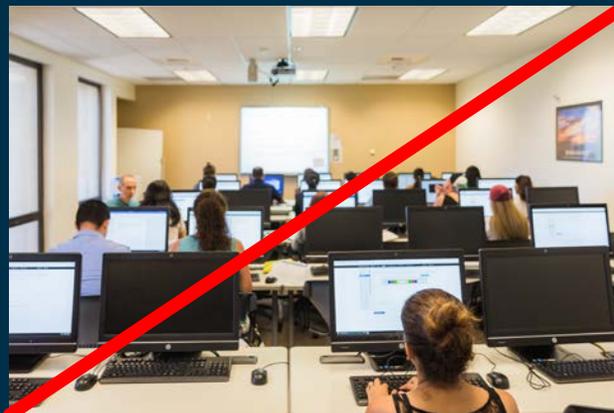
Persons and groups using the common areas, including the recommended free speech assembly areas:

- Shall not use any means of amplification that creates a noise or diversion that disturbs the orderly conduct of the campus or classes taking place
- Shall not solicit donations of money
 - Exceptions: nonprofit organizations registered with the California Secretary of State, approved Associated Students organizations or clubs, and organizations directly connected to the institution
- Shall not bring items that are generally considered to be weapons or reasonably capable of being used as weapons on to campus

Excluded Areas

BP 3900 excludes the following from the common areas:

- Areas within 20 feet of doorways opening to outdoor areas of campus
- All indoor facilities, including:
 - Offices
 - Classrooms, lecture halls, labs
 - Libraries, learning centers
 - Athletic facilities
 - Parking lots



Reservation of Common Areas

(Including Recommended Free Speech Assembly Areas)



- Persons and groups are strongly encouraged to reserve areas in advance by contacting Campus Safety to provide the following information:
 - Sponsoring person or group name (kept in confidence unless disclosure is required by law)
 - Area proposed to be reserved
 - Proposed type of usage (i.e. meeting, presentation, speech, event, etc.)
 - Date and time for proposed usage
 - Anticipated size of assembly

Large Groups and Large Displays

Persons and groups who wish to conduct an expressive activity that is expected to have more than 100 attendees or involve the use of materials that are larger than 36 inches by 36 inches need to:

- Notify Campus Safety to complete the reservation process
- Request a meeting or agree to meet with Campus Safety to discuss the activity in more detail in order to ensure crowd control and security

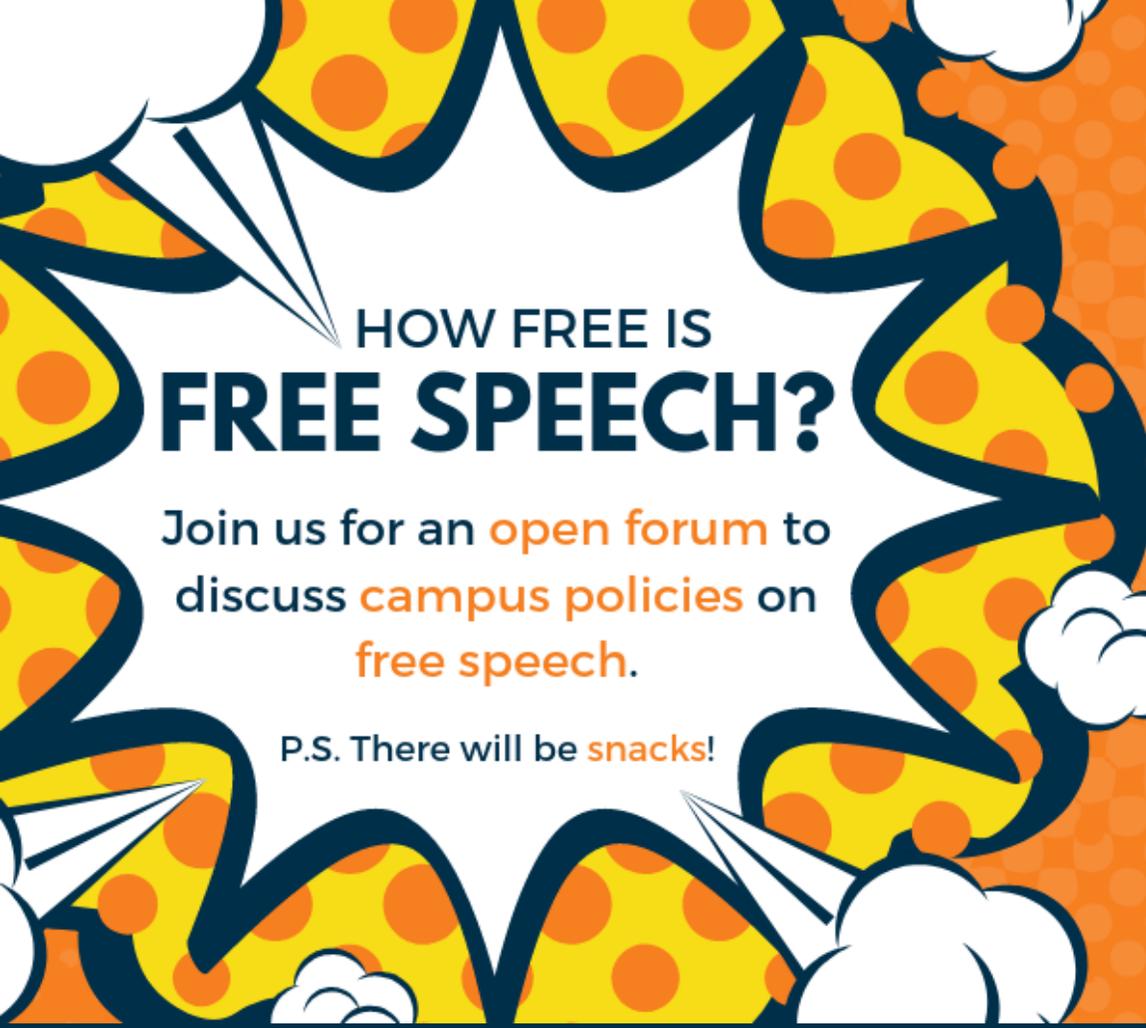


Posting on Campus

Each campus/District site provides a bulletin board(s) specifically for the posting of free speech materials. All materials posted on a free speech bulletin board(s) shall:

- Clearly indicate the author or agency responsible for its production
- Be dated with the date of posting by the campus Student Activities Office or site manager
- Not be placed over previously posted materials or campus communications
- Be removed after the passage of 14 calendar days





HOW FREE IS
FREE SPEECH?

Join us for an **open forum** to
discuss **campus policies** on
free speech.

P.S. There will be **snacks!**

Fullerton College
OCT 14

Cypress College
NOV 18

NOCE
NOV 21

Questions?

For more information, visit: nocccd.edu