

## **Freedom of Expression policy**

### Freedom of Expression

1.0 Principles. Recognizing that the principles established in the First Amendment of the United States Constitution, Article 1, Section 2 of the Constitution of the State of California, and the California Educational Code (sec. 66301) apply to all faculty, staff, and/or students, San Diego State University (SDSU) affirms the following principles of the free expression of ideas (as adapted from a working document of Minnesota State University, Mankato):

1.1 Freedom of expression is a tenet of higher education; is integral to the mission of the University and to its students, staff, and faculty; is a central and inviolate freedom to learn and teach; necessary for an educated populace; is a requisite to a free society; is incompatible with the suppression of opinions; is incompatible with prior restraint; encompasses forms of expression other than speech; and defends the expression we abhor as well as the expression we support.

### 2.0 Scope.

2.1 SDSU supports and promotes freedom of expression and assembly by students, faculty, staff, and the general public. Reasonable regulations may be designed to avoid disruption of the mission of the university, particularly academic instruction, research and creative activity or to protect campus safety and security. See the SDSU Mission and Goals Statement for a more complete explanation of these aspects of the university's mission.

2.2 The intent of this policy is to guide the development of specific regulations regarding the exercise of free expression rights on campus. In developing these regulations, the intent of this policy is to provide as much opportunity for freedom of expression, as is consistent with the limits of the law and section 2.1 hereof.

2.3 This policy should in no way be regarded as placing prohibitions beyond those prescribed by law or section 2.1 hereof on the right to express political, religious, philosophical, ideological, or academic viewpoints by any individual on the SDSU campuses. In addition, it is not the intent of this policy to conflict with provisions of collective bargaining agreements that may be in force at SDSU, and those agreements shall control in the event of any conflict.

2.4 SDSU does not support cooperation with agencies that unlawfully investigate, surreptitiously monitor or harass persons due to the legitimate exercise of their constitutionally protected prerogatives of free speech and assembly.

### 3.0 Time, place, and manner.

3.1 SDSU campuses shall be open to noncommercial speech and expressive activities, subject to appropriate time, place, and manner regulations. Regulations may be created to insure that the university's mission of instruction, research, and creative activity is not disrupted and that campus safety and security are not compromised. In drafting these regulations the intention and effect should be to maximize opportunities, in terms of time, place, and manner, for free expression. Regulation of noncommercial free speech and free expression activities shall be content neutral. All legal speech, even offensive speech is permitted. Noncommercial speech and expressive activities by students, faculty, staff

and the general public may include but are not limited to: picketing, demonstrating and other forms of peaceful assembly, petitioning, leafleting, postering, the display of signs, tabling, chalking, music, dance, audio-visual and theatrical performances.

3.2 Regulations may be created to assure that campus grounds and facilities are available in a fair and equitable manner that has the effect of encouraging opportunities for the expression of diverse points of view. Regulations may be created to avoid competition for resources required for such expression.

3.3 Noncommercial speech and expression activities may occur on campus, either indoors or outdoors, where they will not disrupt the university's mission of instruction, research, or creative activity or threaten safety and security. Regulations may provide for the voluntary reservation of various outdoor and indoor locations on campus, although SDSU is under no obligation to provide or otherwise make available indoor locations or facilities. Individuals and groups who have made such reservations for a given date and time should be granted priority over those who have not. In allocating space and facilities that may be reserved, recognized student, faculty and/or staff organizations may be granted priority over individual members of the university community. Members of the university community may similarly have priority for use of space and facilities over the general public. However, regulations should be designed so that reasonable access to the campus for noncommercial speech and expressive activities is available to all, including those who may not have made a reservation in advance, are not a member of a recognized campus organization, or are not members of the university community.

3.4 Additional regulations and reasonable restrictions, such as limits on amplification or decibel levels of sound, may also be established.

3.5 Commercial expression, defined as activities designed primarily to sell goods and services or to promote the sale of goods and services, may be regulated by the President in accordance with Trustee policy to a greater extent than noncommercial speech and expressive activities.

#### 4.0 Oversight.

4.1 Noncommercial Speech and Expressive Activities. The President, in consultation with the Vice Presidents, shall designate a coordinator for events where noncommercial speech and expressive activities are expected to occur. Groups planning such events should be encouraged to work with the coordinator to insure that these events do not materially disrupt instruction, research, or creative activity or endanger campus safety and security. Prior notification of noncommercial speech and expressive activities shall be voluntary except where advance notice is reasonably required to permit consideration of public safety, disruption to education or similar concerns.

4.2 Commercial expression. The President shall designate a coordinator for commercial events held on campus and at SDSU facilities. The coordinator shall be responsible for working with the vendors to insure that the event is held in accordance with university regulations.

4.3 Compliance. Issues regarding compliance with this policy and complaints regarding enforcement of regulations shall be directed to the Committee on Freedom of Expression. [The following is a proposed addition to the "Committees and Councils" section of the University Policy File. It should be inserted on page 57, following the section on "Fee Advisory Committee, Campus."]

## **Freedom of Expression, Committee on**

1.0 Membership (15-17). Provost or designee, Vice President for Student Affairs or designee, Vice President for Business and Financial Affairs or designee, Dean, Imperial Valley Campus, or designee, AS President or designee, five faculty, at least one of whom must be a Senator, four students, and one staff member. One of the faculty members of the committee shall function as chair. If not appointed to a voting position, the coordinator for noncommercial speech and expressive activities and the coordinator for commercial activities shall serve as *ex-officio*, non-voting, members.

2.0 Functions. The function of the Committee on Freedom of Expression is to provide advice regarding the regulation and management of campus activities that fall under the university's freedom of expression policy and to receive, evaluate, and advise the President on complaints regarding freedom of expression activities.

2.1 The Committee shall work with campus administrators and organizations to insure that the Freedom of Expression Policy is being followed, both in campus regulations and in management practices. The Committee shall, on a biannual basis, review existing campus and auxiliary organization policies that might affect freedom of expression and make suggestions, as needed, for revision of those policies to reflect the intent of the SDSU policy on freedom of expression.

2.2 The Committee shall review campus activities covered under the SDSU Freedom of Expression Policy and advise the President whether those activities were managed in a manner consistent with the principles expressed in the policy.

2.3 The Committee shall serve as a forum for complaints regarding activities covered under the SDSU Freedom of Expression Policy and shall advise the President as it deems to be appropriate.

2.4 The Committee shall recommend to the University Senate any changes to the SDSU policy necessary to insure that freedom of expression on campus is protected.

[The committee should also be added to the chart in the Policy File appendix.]