

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LEGAL)

- PROHIBITED ACTS An officer or employee of the state or of a political subdivision of the state, including a college district, who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:
1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
 2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
 3. Refuse to grant a benefit to the person; or
 4. Impose an unreasonable burden on the person.

Civ. Prac. and Rem. Code 106.001(a)

FIRST AMENDMENT A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. *U.S. Const. Amend. I, XIV*

FORUM ANALYSIS
"TRADITIONAL
PUBLIC FORUM" A "traditional public forum" includes locations, such as sidewalks and parks, where members of the public have historically been permitted to gather and speak on any topic. *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc., 473 U.S. 788 (1985)* An institution's property is not a traditional public forum, with the exception of sidewalks, streets, and parks that are indistinguishable from surrounding city property. *Widmar v. Vincent, 454 U.S. 263 (1981); Brister v. Faulkner, 214 F.3d 675 (2000)*

If an institution's property is deemed a traditional public forum, the entity may exclude particular content if that entity can assert a compelling governmental interest that is narrowly tailored to address that interest, a standard referred to as the "strict scrutiny" standard. The institution can also enforce viewpoint-neutral time, place, and manner restrictions to meet a compelling governmental interest if a sufficient number of alternative communication channels are available. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983)*

"DESIGNATED
PUBLIC FORUM" A "designated public forum" is a forum that a college or university intentionally opens to the general public to discuss matters of public concern. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)*. Once designated, an institution may enforce reasonable time, place, and manner restrictions. *Widmar v. Vin-*

	<p><u>cent</u>, 454 U.S. 263 (1981). Any content limitations are subject to the strict scrutiny standard described above. <u>Chiu v. Plano Indep. School Dist.</u>, 260 F.3d 330 (5th Cir. 2001)</p>
"LIMITED PUBLIC FORUM"	<p>A "limited public forum" is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. <u>Christian Legal Society v. Martinez</u>, 130 S.Ct. 2971 (2010); <u>Rosenberger v. Rector & Visitors of Univ. of Va.</u>, 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and manner restrictions, as long as these restrictions do not relate to the content of the expression. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u>, 473 U.S. 788 (1985)</p> <p>To distinguish between a designated public forum and a limited public forum, courts consider two factors: (1) the intent of the institution regarding the forum, and (2) the forum's nature and compatibility with particular speech. <u>Justice for All v. Faulkner</u>, 410 F.3d 760 (5th Cir. 2005); <u>Chiu v. Plano Indep. School Dist.</u>, 260 F.3d 330 (5th Cir. 2001)</p>
"NONPUBLIC FORUM"	<p>If an institution has not opened a public forum, it remains a "non-public forum." Although limits on expression must be reasonable and viewpoint neutral even within a nonpublic forum, an institution will have greater discretion to control the content of speech within such a forum. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u>, 473 U.S. 788 (1985)</p>
PROTECTED SPEECH	<p>The mere dissemination of ideas on the campus of an institution of higher education may not be restricted on the basis of conventions of decency, regardless of how offensive those ideas are to good taste. However, an institution has the authority to enforce reasonable regulations as to the time, place, and manner of speech and its dissemination. <u>Papish v. Bd. of Curators</u>, 410 U.S. 667 (1973); <u>Healy v. James</u>, 408 U.S. 169 (1972)</p> <p>[See also CHE for use of the college district's mail system]</p>
FEES FOR USE	<p>The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use, or availability of all or any of its property, buildings, structures, activities, operations, or facilities, in such amounts and in such manner as may be determined by such board. <i>Education Code 130.123(c)</i></p>
FACILITIES AS POLLING PLACES	<p>The entity, including a college district, that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located.</p>

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If more than one authority requests the use of the building for the same day and simultaneous use is impractical, the entity that owns or controls the building shall determine which authority may use the building. *Election Code 43.031(c)*

No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of an election is a day on which the building is not normally open for business, a charge may be made only for reimbursement of the actual expenses resulting from use of the building in the election. *Election Code 43.033(a)*

ELECTIONEERING “Electioneering” includes the posting, use, or distribution of political signs or literature. *Election Code 61.003(b)(1), 85.036(f)(2)*

DURING THE
REGULAR
VOTING PERIOD A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 61.003(a)–(a-1)

DURING EARLY
VOTING During the time an early voting polling place is open for the conduct of early voting, a person may not electioneer for or against any candidate, measure, or political party in or within 100 feet of an outside door through which a voter may enter the building or structure in which the early voting polling place is located. A person commits an offense if the person electioneers in violation of this provision.

The entity that owns or controls a public building being used as an early voting polling place may not, at any time during the early voting period, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 85.036(a)–(b), (d)

POLITICAL PARTY
CONVENTIONS No charge may be made for the use of a public building for a precinct, county, or senatorial district convention except for reimbursement for the actual expenses resulting from use of the build-

ing for the convention. The reimbursing authority is entitled to an itemized statement of expenses before making remittance. A person commits an offense if the person assesses a charge for the use of a public building for a precinct, county, or senatorial district convention in violation of this provision. *Election Code 174.0631*

SEARCH AND RESCUE
DOGS

“Search and rescue dogs” mean canines that are trained or being trained to assist a nationally recognized search and rescue agency in search and rescue activities. *Health and Safety Code 785.001(4)*

PUBLIC FACILITY

The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog admittance to the facility. The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog’s handler admittance to the facility because of the presence of the handler’s search and rescue dog. The discrimination prohibited by this section includes:

1. Refusing to allow a search and rescue dog or the dog’s handler to use or be admitted to a public facility;
2. A ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog’s handler from using or being admitted to a public facility; and
3. Failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog’s handler to be admitted to a public facility.

Health and Safety Code 785.002(a)–(b), (d)

TRANSPORTATION

The owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an employee or other agent of the owner, manager, or operator, may not:

1. Refuse to accept as a passenger a search and rescue dog or the dog’s handler; or
2. Require the dog’s handler to pay an additional fare because of the search and rescue dog.

Health and Safety Code 785.002(c)

HOUSING

A search and rescue dog’s handler is entitled to full and equal access, in the same manner as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limitation established

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by law that applies to all persons, except that the handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog. *Health and Safety Code 785.002(f)*

“HANDLER”

“Handler” means a person who handles a search and rescue dog and who is certified by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. *Health and Safety Code 785.001(1)*

CREDENTIALS

A person may ask a search and rescue dog handler to display proof that the handler is a person with a certification issued by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. *Health and Safety Code 785.005*

RESPONSIBILITIES

A handler who accompanies a search and rescue dog shall keep the dog properly harnessed or leashed. A person may maintain a cause of action against a dog’s handler for personal injury, property damage, or death resulting from the failure of the dog’s handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals. The handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations. *Health and Safety Code 785.004(a)–(b)*

POLICY

A policy relating to the use of a public facility by a designated class of persons from the general public may not prohibit the use of the particular public facility by a search and rescue dog or the dog’s handler. *Health and Safety Code 785.002(e)*

PENALTY

A person who violates Health and Safety Code 785.002 commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000. It is a defense to prosecution that the actor requested the search and rescue dog handler’s credentials under Health and Safety Code 785.005 and the handler failed to provide the actor with the credentials. *Health and Safety Code 785.003*