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September 25, 2013

**VIA FACSIMILE & U.S. MAIL**

Mr. Peter Bonilla  
Director, Individual Rights Defense Program  
Foundation for Individual Rights in Education  
601 Walnut Street, Suite 510  
Philadelphia, Pennsylvania 19106

**Re: *September 19, 2013 Letter to Yosemite Community College District***  
**Client-Matter: YO072/001**

Dear Mr. Bonilla:

Your September 19, 2013 letter to Dr. Stearns has been referred to my office for response. Please address all further communication to me.

It has come to my attention that on September 17, 2013, Modesto Junior College student Robert Van Tuinen and two other students were distributing printed copies of the United States Constitution on Modesto Junior College's East Campus when they were approached by a campus safety officer. It is my understanding that when Mr. Van Tuinen stated he was interested in forming a new student club, the campus safety officer explained to Mr. Van Tuinen that the Yosemite Community College District ("District") has a policy and procedure for forming student clubs and that the students needed to comply with applicable college policies and procedures. The campus safety officer led the students to the Modesto Junior College Student Development office in the Student Center where they could get more information about the District's policy and procedures.

I further understand that Mr. Van Tuinen later spoke with an employee in the Student Development Office who informed him of the District's Board Policy and Administrative Procedure regarding the Time, Place & Manner of free speech on its campuses, including activities such as distributing printed materials on the campuses. A copy of the District's Board Policy No. 3900 and a copy of the District's Administrative Procedure No. 3900 are enclosed.

As described in the District's official Board Policy and Administrative Procedure, students may distribute printed material in the areas of the District's campuses generally available to students and the community as long as they do not disrupt the orderly operation of the college. There are procedures to avoid duplicative use of areas, and the District is evaluating those. Please be assured the District is looking into this incident, and whether Mr. Van Tuinen and his fellow students should have been allowed to continue passing out the printed materials. The District's

Mr. Peter Bonilla

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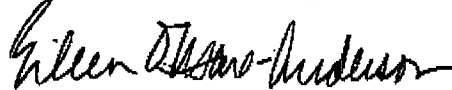
Board Policy No. 3900 and Administrative Procedure 3900 are content-neutral, and the District's Administration supports the peaceful distribution of printed materials on campus.

Also, as a general matter, the District wholly supports student free speech and supports Constitution Day with activities each year. It is thus troubling to see this type of incident unfold the way it has, and for the District to be subjected to allegations of censorship. We will evaluate these allegations thoroughly to assure free speech on campus is supported.

We plan to continue to communicate with your organization on this important matter.

Very truly yours,

LIEBERT CASSIDY WHITMORE



Eileen O'Hare-Anderson

EOA:kms

Enclosures:

Yosemite Community College District Policy No. 3900

Yosemite Community College District Administrative Procedure No. 3900

Yosemite Community College District Policies and Administrative Procedures

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Yosemite Community College District Policies and Administrative Procedures

No. 3900

**Policy**

**3900 Time, Place & Manner**

The Colleges of the District are non-public forums, except for those areas designated as "free speech areas", which are limited public forums. The Chancellor 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.

The administrative procedures promulgated by the Chancellor shall not prohibit the right of students to exercise free expression, including but not limited to the use of bulletin boards designated for such use, the distribution of printed materials or petitions in those parts of the College designated as "free speech areas", and the wearing of buttons, badges, or other insignia. Nothing in this policy shall prohibit the regulation of hate violence, 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.

**References:**

Education Code Section 76067, 76120, 56301

**Adopted:** June 28, 2004

**Revision Adopted:** May 13, 2009

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**Administrative Procedure**

**3900 Time, Place & Manner**

- I. The students of the District shall be permitted to exercise their rights of free expression subject to the time, place, and manner policies and procedures contained in Board Policy 3900 and these procedures.
- II. The Colleges of the District are non-public forums, except for designated areas generally available to students and the community, as follows:
  - A. Modesto Junior College (East Campus) the area(s) generally available to students and the community is designated as the stage area Northeast section of the Quad. The Free Speech boards are located in front of the Student Center.
  - B. At Modesto Junior College (West Campus) generally available to students and the community is designated in the Quad area in between Yosemite and Sierra Halls. The Free Speech boards are located outside the Mary Stuart Rogers Student Learning Center.
  - C. At Columbia College, the area(s) generally available to students and the community are designated in *Columbia College Guidelines and Procedures for Requesting College Facilities for Free Speech* which can be obtained at the Office of Vice President for Student Learning.
- III. The areas generally available to students and the community are limited public forums. The District reserves the right to revoke that designation and apply a non-public forum designation at its discretion.
  - A. The District reserves the right to designate areas as non-public forums as necessary to prevent the substantial disruption of the orderly operation of the Colleges. Areas of the Colleges that are non-public forums specifically include campus offices, classrooms, warehouses, maintenance yards, and locker rooms.
- IV. The use of area(s) generally available to students and the community is subject to the following:
  - A. Persons using the area(s) generally available to students and the community and/or distributing material in the areas generally available to students and the community shall not impede the progress of passersby, nor shall they force passersby to take material.
  - B. No person using the area(s) generally available to students and the community shall touch, strike or impede the progress of passersby, except for incidental or accidental contact, or contact initiated by a passerby.
  - C. Persons using an area(s) generally available to students and the community shall not use any means of amplification that creates a noise or diversion that disturbs or tends to disturb the orderly conduct of the campus or classes taking place at that time.

Modesto Junior College Student Handbook - 2012-2013 - Appendix - Student Procedures

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D. No persons using the area(s) generally available to students and the community shall solicit donations of money, through direct requests for funds, sales of tickets or otherwise, except where he or she is using the area(s) generally available to students and the community on behalf of and collecting funds for an organization that is registered with the Secretary of State as a nonprofit corporation or is an approved Associated Students Organization or club.

E. Persons using the area(s) generally available to students and the community shall not disrupt the orderly operation of the college.

F. Unauthorized camping is prohibited.

V. All persons using the area(s) generally available to students and the community of the colleges shall be allowed to distribute petitions, circulars, leaflets, newspapers, and other printed matter. Such distribution shall take place only within the area(s) generally available to students and the community. Material distributed in the area(s) generally available to students and the community that is discarded or dropped in or around the area(s) generally available to students and the community other than in an appropriate receptacle must be retrieved and removed or properly discarded by those persons distributing the material prior to their departure from the area(s) generally available to students and the community that day.

VI. Posting: Students shall be provided with bulletin boards for use in posting student materials at campus locations convenient for student use. All materials displayed on a bulletin board shall clearly indicate the author or agency responsible for its production, the name of the person requesting the posting, and shall be dated and approved by the Student Development and Campus Life Office on the East and West Campus for Modesto Junior College, and the designee of the Learning Support Services office at Columbia College.

**References:**

Education Code Section 76120

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Procedure Last Revised: April 11, 2007, May 9, 2012