

Freedom of Speech, Academic Freedom, Bullying, and Many Other Kinds of Speech in Our Cañada Community

Please “sign” the attendance
sheet for this Flex session:



Why This?

Why this session?

- We all deserve to know our rights!
- Classified and faculty have shared concerns, such as:
 - Does our college infringe on free speech or academic freedom?
 - What is the difference between bullying and free speech?
 - Does protecting against microaggressions infringe on free speech or academic freedom?
- Recent campus-wide events/incidents
- Employees have reported being unaware of how to address free speech vs. bias speech ([Asé Internal Equity Audit, p.10](#))
- Recent and ongoing legal changes and challenges
 - [Feeder high schools recently sued for free speech/academic speech](#), which has already impacted their cultural graduation ceremonies
 - [AB 2925 \(Friedman\): Postsecondary Education: Equity](#) in Higher Education Act: Prohibition on Discrimination: Training
 - [SB 1287: Public postsecondary education: Equity in Higher Education Act:](#) prohibition on violence, harassment, intimidation, and discrimination

Why Us?

Why us?

- Both representatives District Equal Employment Opportunity Advisory Committee and EMP 2.9 for reporting bias incidents
- Academic Senate role in protecting academic freedom
- Published research in free speech and bias

Community Agreements

- **USE “I” STATEMENTS:** Everyone speaks from their own experiences
- **ONE MIC, ONE VOICE:** Respect means one colleague speaks at a time
- **MAKE SPACE, TAKE SPACE:** Colleagues should be aware of how much they are speaking. If they feel they are speaking a lot, they should let others speak, and if they find themselves not talking, they should try to contribute some comments, ideas or suggestions
- **ASSUME THE BEST:** Assume your colleagues are speaking with the best intentions and do not mean to offend anyone
- **CORRECT GENTLY, BUT DO CORRECT:** If colleagues say something that hurts you or you’re unpacking, politely address what was said. Letting comments slip by only makes the space less safe and increases the difficulty of building successful partnerships
- **LEAN INTO DISCOMFORT:** Be willing to experience some discomfort in discussions, and learn from it as a team
- **UPHOLD COMMITMENTS:** The key to a safe and successful team is honoring your commitments and communicating if challenges come up
- **OUR PERSONALIZATION:** What else does this team want to add to these community agreements?

**From “Guidelines for Respectful Spaces from GLSEN*

Session Agenda

- 1. Free Speech & Academic Freedom** (\approx 20 Mins)
 - Legal rights and cases
 - Relationship between free speech and academic freedom
 - Different perspectives on their meaning and implications
- 2. First Question and Answer** (\approx 10 Mins)
 - You're welcome to submit questions in the zoom chat during the presentation.
- 3. Small Group Discussion** (\approx 20 Mins)
 - Discuss one of the provided scenarios and/or your own experience and concerns related to free speech and academic freedom.
- 4. Share Back + Exit Feedback** (\approx 10 Mins)
 - Sharing of highlights from the group discussions
 - Opportunity to share written responses, comments, and questions in an anonymous exit survey



Are your free
speech rights
an internationally
recognized
human right?

Our Free Speech Rights

International Rights

US Constitutional Rights

SMCCCD Policies & Procedures

The United Declaration of Human Rights, signed by 193 UN Member States Article 19 declares that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference...”

First Amendment: “Congress shall make no law 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 Government for a redress of grievances” [emphasis added].

Board Policy 2.31: The Board of Trustees recognizes that fostering free speech and encouraging the broad expression of diverse views are essential to the District's goal of offering a rich educational environment. At the same time, in order to carry out its mission of teaching and public service, the District must maintain conditions under which the work of its faculty, students, and staff can be carried out freely, effectively and safely.

First Amendment of U.S. Constitution

- First amendment protects individual liberties, such as free speech
 - Applies to government, including public universities
 - In California, the 1992 "Leonard Law" extends this protection to private colleges and universities
- Prohibits most content-based limits on speech
- Content-neutral limits allowed: “time, place, and manner” restrictions

SMCCCD Board Policies

Board Policy 2.31 Speech: Time, Place, and Manner

- Some highlights:
 - “The District interprets and applies State and Federal Constitutional provisions concerning freedom of expression in a broad and flexible manner so as to allow all views to be expressed while continuing to carry on the colleges’ mission of learning, research, and service.”
 - Includes list of activities that would count as interfering with the functions of the District due to safety, disruption, destruction, and facilities policies.

Board Policy 6.35 Academic Freedom

- More narrow and rigorous than freedom of speech right

Broader View on Academic Freedom

The American Association of University Professors identify three key elements to academic freedom in their “1940 Statement on Academic Freedom and Tenure”:

1. “full freedom of research and in the publication of the results,”
2. “freedom in the classroom in discussing their subject,”
3. and freedom from “institutional censorship or discipline” when teachers speak as private citizens (14).

- Academic freedom a privilege and a responsibility
- Academic Freedom is based on professional standards, a collective right
- General aim is the pursuit of truth and to advance the public good

Freedom of Speech vs Academic Freedom

Loretta Ross presentation at NCORE 2024

- Dealing with a conflict between Free Speech and Academic Freedom
- Show students you care about them by only allowing academically honest speakers
- **Hannah Arendt**: “freedom of opinion is a farce unless factual information is guaranteed and the facts themselves are not in dispute” (“Truth and Politics”).
- **Karl Popper**: “Unlimited tolerance must lead to the disappearance of tolerance” (*The Open Society and Its Enemies*).



Credit: [Laura Flanders Show, July 18, 2017](#)

“Speech on Campus” – Dec. 2023 article

American Civil Liberties Union has long defended civic importance of free speech

- Value of free speech put to greatest test when we disagree with a speaker
- Legal standard for harassment and incitement are very high
- More speech, not less as the answer to hate speech
- Restrictions on speech usually ineffective or counterproductive
 - University of Michigan speech code in 1988-89 was used in 20 cases to charge Black students with offensive speech
 - Common attempts to censor pro-LGBT messages in public high schools



Credit: [ACLU.org](https://www.aclu.org)

A Closer Look at the U of Michigan Case

- University of Michigan 1989 case: unconstitutional to prohibit speech because it is offensive or unpopular
 - Supreme court ruling also discussed importance of the institution's mission
- Michele Moses (2021): **untrue speech** is different from **offensive or unpopular speech**
- Decisions on guest speakers should be based on institutional mission
 - Permissible to bar speakers who go against ideas that have been unequivocally discredited as untrue by scientific/scholarly standards
- Decisions on classroom content should be based on academic freedom

College Mission & Vision, & Values

- MISSION: Cañada College engages and empowers students in transforming their lives and communities through quality education.
- VISION: Cañada College provides equitable education such that students from diverse backgrounds are able to achieve their educational goals and benefit the world.
- VALUE: #1 of Cañada: Social Justice and Racial Equity





Free Speech & Effects

When free speech becomes a bias incident, research shows that it affects campus climate:

- “lowered the quality of students’ educational experience” (Cole, Orsuwan, & Sam, 2007, p. 52)
- **instilled student self-doubt and stereo-type threat**, especially in marginalized students (Solóranzo, Allen, & Carroll, 2002); (Valadez et al., 2021, p. 285)
- **negatively affects retention, graduation, and overall post-graduate success** for marginalized students (Solóranzo, Allen, & Carroll, 2002); (Perry, 2015, para. 2).

Free Speech and Effects

75% of our marginalized Cañada employees have been on the receiving end of discriminatory speech (Ase, 2021).

Employees on the other end of discriminatory free speech on campus can **feel hopeless, unheard, and think “nothing will change”** (Fujita, 2019).



Student-to-Student OR Student-to-Employee Policies: Student Code of Conduct

What are some gray area items listed in student code of conduct that align with free speech?

- #1 - **Disruptive behavior** continued **disruptive behavior**, continued willful disobedience, habitual profanity or vulgarity, the open and persistent defiance of the authority of, or persistent abuse of, College/District personnel, or violating the rights of other students.
- #7 - Engaging in **intimidating conduct or bullying** against another student through words or actions, including direct physical contact; verbal assaults, such as **teasing or name-calling**; social isolation or manipulation; and cyberbullying.
- #19 - **Breach of peace**....at SMCCCD function
- #29 - Engaging in **harassing or discriminatory behavior**-based on race, sex, (i.e. gender), religion, age, national origin, disability, sexual orientation, or any other status protected by law.

Action: Cheat Sheet on Where to Go

- **Employee-to-Student Incident**
 - Faculty - Academic Freedom for Faculty
→ Deans/VPI/Union/Academic Senate (for support in resources)
 - Staff – Supervisor
 - ALL - Human Resources
- **Student-to-Employee Incident**
 - Student Code of Conduct - VPSS Office
- **Employee-to-Employee Incident**
 - Human Resources
- **Community Members Incident**
 - If happening live and interrupting the flow of business – first Student Life, who then will assess time place and manner, and contact Public Safety who will assess safety and then contact VPSS



Share Out

Scenario #1: What Would You do to Support These Cañada Students?

- Small Group Instructions and Scenarios

Scenario #2: Student-to-Student: Red Hat Scenario

- A student is wearing a red ball cap with “Make America Great Again” around campus, in the gym, and in class.
 - Do you say something at this point? If so, what?
- An undocumented student comes to you and shares that this same student has been following them to their car and watching them in the gym.
 - Do you say something at this point? If so, what?
- The same undocumented student comes to you and shares that the same student with the red hat has begun to share in class that they are anti-immigration and that all illegals should go back to where they came from and it feels like they are looking specifically at our undocumented student, who has shared NUCLEI, or the Nurturing UndocuScholars Collective Liberation and Empowering Imagination events, on campus during class.
 - Do you say something at this point? If so, what?



Scenario #2: Resources

Student Code of Conduct:

- **Where to find it**
 - <https://catalog.canadacollege.edu/current/student-conduct/code.php>
- **What is not free speech in the student code of conduct?**
 - Assault #2
 - Violence #2
 - Threats to cause violence #6
 - Disruption of instructional or student services activities #8
 - Damage to property #10 (stickers)
- **How do you report it?**
 - Want to work with new VPSS, Lizette, because we don't have a form--it's contacting the VPSS via email
 - (CSM has a specific form to report)
 - (Skyline has a detailed process listed out on website for when report comes in)





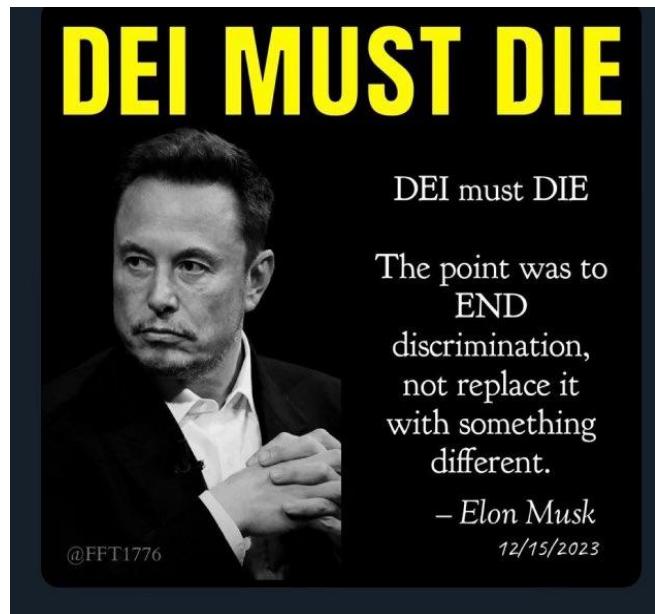
Scenario #3: Employee-to-Employee Misgendering

- An employee shares at a meeting that they are using they/them pronouns.
- Their colleague, employee Bee used she/her pronouns during the meeting instead.
 - Do you say something at this point? If so, what?
- Both colleagues are in another meeting together, and the misgendering happens again. The employee with they/them pronouns re-shares they only use they/them pronouns to their colleague Bee. It happens again in this meeting, and when corrected, colleague Bee shares that this is really hard for them and the concept of pronouns is new.
 - Do you say something at this point? If so, what?
- Again, both colleagues are in a meeting together, with numerous other colleagues. The misgendering happens again. When corrected again asking to please use their correct pronouns. Bee says, well I've always known you as she/her, you still look she/her to me, so I'm going to keep using she/her, because that's my right, that's how I met you. Both employees involved look incredible upset.
 - Do you say something at this point? If so, what?



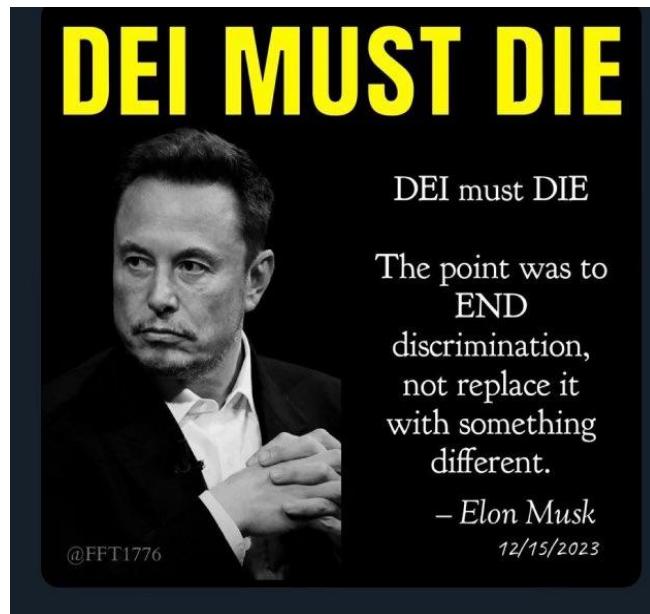
Scenario #3: Resources Applicable for Employee-to-Employee AND Employee-to-Student

- **Title IX**
 - Title IX Website: <https://smccd.edu/TITLEIX/>
 - Where to file a Title IX Report: <https://smccd.edu/titleix/reporting.php>
- **Employment Policies**
 - [Where to find it: https://smccd.edu/humanresources/employment-policies.php#:~:text=The%20District%20will%20not%20tolerate,medical%20condition%20relating%20to%20other](https://smccd.edu/humanresources/employment-policies.php#:~:text=The%20District%20will%20not%20tolerate,medical%20condition%20relating%20to%20other)
 - San Mateo County Community College District is an equal employment opportunity (EEO) employer committed to nondiscrimination and achieving diversity, equity, inclusion, and accessibility for all prospective employees, faculty, staff, and students.
 - The District will not tolerate discourteous, offensive or abusive conduct or language including jokes, slurs, derogatory comments, or behaviors or language regarding a person's race, color, religion, national origin, age, gender, disability, marital status, sexual orientation or medical condition relating to other employees, students or the public.
- **Discrimination Outside of Title IX (Gender/Sexual Orientation)**
 - Where to file: https://smccd-czqfp.formstack.com/forms/discrimination_complaint_form
 - The DHR Administrator is Mwanaisha Sims Adams, Director of Civil Rights and Compliance, or designee--650-358-6808 or sims@smccd.edu.



Scenario #4: Unknown or Community Member Posting

- Students, faculty, and staff come back from break and see flyers like the ones to the left all over campus.
 - Do you say something at this point? If so, what?
- In your class/program/team meeting a student is very upset and wondering how this can be posted all over campus. You notice that all the flyers have student life stamps, and are all over campus windows, walls, classroom bulletin boards, and public bulletin boards.
 - Do you say something at this point? If so, what?
- A person you've never seen on campus before is passing out the flyers and screaming that DEI must die and Black Lives don't matter. Students are starting to crowd and get upset. You run into a colleague who's been at the scene for a while and notes that the person yelling and handing out flyers said they are from the community and not a student.
 - Do you say something at this point? If so, what?



Scenario #4: Resources

- **SMCCD Posting Policy**

- Anything posted on campus must be stamped by Student Life first, and only posted on the listed and named public posting boards
 - <https://canadacollege.edu/studentlife/posting.php>

- **Time Place and Manner**

- BP 2.31 Speech: Time, Place and Manner
 - Prevents unreasonable interference or conflict with the educational, research, outreach, and other functions of the District and its campuses
 - No restrictions shall be placed on the subject matter, topics or viewpoints expressed by students, employees or members of the public, as long as it does not include expression which is obscene, libelous, slanderous or illegal according to current legal standards; or where such speech advocates for the use of force or law violation and where such advocacy is directed to inciting or producing lawless action....The District shall have no content-based nor viewpoint-based restrictions on speech.
- B.P 6.39
 - If there is a presence of a non student and it's disruptive in any way, they have to leave

Concluding Stuff

- **Session Exit Survey**
- **Overall Flex Day Feedback**
- **Resources List**
 - Includes the different laws, legal cases, policies, articles, etc that were shared during the presentation