




## ACADEMY POLICY MANUAL

<b>Policy Title:</b>	<b>Free Speech</b>
<b>Policy Number:</b>	OP 01-003
<b>Policy Administrator:</b>	President William Eisenhardt
<b>Policy Initiator:</b>	President William Eisenhardt
<b>Authority:</b>	
<b>Effective Date:</b>	June, 2012
<b>Revised Date:</b>	
<b>Approved:</b>	President William Eisenhardt
<b>Approval Signature:</b>	

**Purpose:** The purpose of this policy is to establish acceptable practices for the exercise and protection of individual freedom of expression and conduct on the California Maritime Academy campus.

**Scope:** This policy applies to all faculty, staff and students.

**Accountability:** The President is responsible for administering this policy and ensuring compliance.

**Policy:** It is the policy of the California Maritime Academy to encourage and support the lawful exercise of freedom of expression.

### FREE SPEECH

Freedom of expression is a cornerstone of a democratic society and is essential to the educational process. A college or university by its very nature and mission must be a forum for ideas, values, and opinions no matter how unpopular or controversial they may be. Individuals grow and learn when confronted with differing views, alternative ways of thinking and conflicting values. Therefore a college has a special obligation not only to tolerate but to encourage and support freedom of expression. It must be recognized that personal expression may take a variety of forms including speeches, signs, written materials, parades, demonstrations and artistic representation. It is also important to recognize that the fact that the expression of certain points of view or beliefs may cause some people to experience intellectual discomfort is not, in itself, a sufficient or desirable basis for interfering with or prohibiting that speech. It is the policy of the California Maritime Academy to encourage and support the lawful exercise of these fundamental rights.

Freedom of expression, however, is not an absolute right. It coexists with other rights and the need for public order. "The choice is not between liberty and order, it is between liberty with order, and anarchy without either."

[Justice Jackson in *Terminiello v. Chicago* 337 U.S. 1 (1949).] Academic communities are special environments dedicated to an educational mission, and while freedom of speech principles apply with full force to the campus environment, their application may be affected by the unique interests of that environment. In furtherance of those interests, speech or expressive conduct which materially disrupts the educational mission of the Academy or involves substantial disorder or invasion of the rights of others is strictly prohibited.

**Definitions** As used in this policy statement, the following definitions apply:

- a. "Sale," "selling" or "purchasing" means an activity creating an obligation to transfer property or services for a valuable consideration.
- b. "Commercial solicitation" means any direct and personal communication in the course of a trade or business reasonably intended to result in a sale.
- c. "Solicitation" means to importune, or endeavor to persuade or obtain by asking, but does not include "commercial solicitation."
- d. "Private sale" means occasional selling between persons who are campus students or employees.
- e. "Commercial transaction" means selling or purchasing or both selling and purchasing by any person in the course of employment in, or in the carrying on of a trade or business.
- f. "Academy President" means the president or his/her designees.

### **Commercial Transactions**

- a. Commercial transactions and the display of property or services for sale on the campus is prohibited except with written permission by the Academy President. Such permission shall be granted if:
  - i. the proposed activity aids achievement of the educational objectives of the Academy, does not unreasonably interfere with the operation of the Academy and is not prohibited by law, or
  - ii. the prospective buyer has agreed in writing in advance to an appointment, and the prospective seller makes no more than one appointment for any day, and such appointment does not interfere with the operation of the Academy.
- b. This section does not apply to private sales.

### **Solicitation**

Solicitation shall be permitted on the Cal Maritime campus subject, however, to a reasonable regulation by the Academy President as to time, place, and manner thereof. Solicitation in violation of established campus directives regarding time, place and manner is prohibited.

Time: Monday through Friday, 8 a.m. to 6 p.m.

Place: Solicitation may take place in the Quad (formation area), the lobby of all residence halls with the pre-approval from the Housing Office, the lobby of the Dining Hall, and the Student Center, but is prohibited in the campus parking lots, streets, the Training Ship GOLDEN BEAR, or inside buildings other than those mentioned above.

Manner: Solicitation is permitted which does not interfere with classes in session, other scheduled meetings or educational programs, or obstruct the free flow of pedestrian and vehicular traffic, and which is carried out without shouting, voice amplification or other loud noises and without provocation, harassment or disturbance of other persons in the area.

### **Commercial Solicitation**

Commercial solicitation on the Cal Maritime campus is prohibited unless prior written authorization has been obtained from the Academy President. Permission for commercial solicitation shall be granted subject, however, to regulation as to time, place and manner thereof, unless such solicitation for sale would be in violation of law.

Time: Monday through Friday, 8 a.m. to 6 p.m.

Place: Solicitation may take place in the Quad (formation area), the lobby of all residence halls with the pre-approval from the Housing Office, the lobby of the Dining Hall, and the Student Center, but is prohibited in the campus parking lots, streets, the Training Ship GOLDEN BEAR, or inside buildings other than those mentioned above.

Manner: Commercial solicitation is permitted which does not interfere with classes in session, other scheduled meetings or educational programs, or obstruct the free flow of pedestrian and vehicular traffic, and which is carried out without shouting, voice amplification or other loud noises and without provocation, harassment or disturbance of other persons in the area.

Reference: Educational Code, Sections 66600, 66606, 89030, 89031 and 89035 CA Code of Regulations, Title 5, Section 52350.5

### **Selling of Published Materials**

- a. Except in the cases of private sales and commercial transactions to which Section 310.1 applies, the selling or displaying for sale of any books, newspapers, pamphlets and other published materials shall be permitted on campus provided
  - i. such published materials are not available for sale at the campus bookstore, and
  - ii. the selling or display of such published materials is conducted in compliance with any time, place and manner directives adopted by the Academy President, and
  - iii. The published materials displayed or offered for sale are not in violation of the provisions of Chapter 7.5, Title 9, part I (commencing with Section 311) of the Penal Code (relating to the sale and distribution of obscene matter), or of Chapter 6, Title 3 (commencing with Section 66400) of the Education Code (relating to the preparation, sale and distribution of term papers, theses and other materials to be submitted for academic credit).

Time: Monday through Friday, 8 a.m. to 6 p.m.

Place: Solicitation may take place in the Quad (formation area), the lobby of all residence halls with the pre-approval from the Housing Office, the lobby of the Dining Hall, and the Student Center, but is prohibited in the campus parking lots, streets, the Training Ship GOLDEN BEAR, or inside buildings other than those mentioned above.

Manner: The sale of published material is permitted which does not interfere with classes in session, other scheduled meetings or educational programs, or obstruct the free flow of pedestrian and vehicular traffic, and which is carried out without shouting, voice amplification or other loud noises and without provocation, harassment or disturbance of other persons in the area.

Reference: Educational Code, Sections 66600, 89030, 89031 and 89035 CA Code of Regulations, Title 5, Section 42351.

- b. Selling or displaying for sale of published materials in violation of subsection (a) is prohibited.

### **Handbills and Circulars**

- a. No person or persons shall upon the grounds of Cal maritime cast, throw, deposit, or distribute any advertising handbills or circulars which contain false, misleading, or illegal advertising.
- b. The distribution of written or printed matter shall be permitted on campus, subject to subsection (a) and the following directives:

Time: Monday through Friday, 8 a.m. to 6 p.m.

- Place:** Solicitation may take place in the Quad (formation area), the lobby of all residence halls with the pre-approval from the Housing Office, the lobby of the Dining Hall, and the Student Center, but is prohibited in the campus parking lots, streets, the Training Ship GOLDEN BEAR, or inside buildings other than those mentioned above.
- Manner:** Distribution of handbills and circulars is permitted which does not interfere with classes in session, other scheduled meetings or educational programs, or obstruct the free flow of pedestrian and vehicular traffic, and which is carried out without shouting, voice amplification or other loud noises and without provocation, harassment or disturbance of other persons in the area.
- Reference:** Educational Code, Sections 66600, 89030, 89031 and 89035 CA Code of Regulations, Title 5, Section 42352-42354.

### **Public Meetings, Performances, Rallies and Similar Events**

The Academy president may permit the use of campus buildings and grounds for public meetings, performances, rallies and similar events held in accordance with reasonable directives as to the time, place and manner thereof. There may be parking, rental and/or activities charges applicable to the events. Written requests for any of the above characterized events require prior approval from the Academy president and must be submitted to the Academy President at least six-working days in advance of the event. Any such event occurring on campus in violation of established campus directives regarding time, place and manner is prohibited.

- Time:** 8 a.m. to 11 p.m.
- Place:** Restricted to the immediate geographic location of the public meeting, performance, or similar event. Groups or persons desirous of using Academy facilities as a location for such events must contact the Conferences/Facility Rental Coordinator, but only after the event has been approved by the Academy president or his/her designee.
- Manner:** Such events are permitted that do not interfere with classes in session, other scheduled meetings or educational programs, or obstruct the free flow of pedestrian or vehicular traffic, and which are carried out without shouting, voice amplification or other loud noise, and without provocation, harassment or disturbance of other persons in the area
- Reference:** Educational Code, Sections 66600, 89030, 89031 and 89035 CA Code of Regulations, Title 5, Section 42353.

### **Notice**

A notice is posted near the entrance of the Academy campus calling attention to the existence of the regulations contained herein relating to soliciting, handbills and circulars, public meetings, performances, rallies and similar public events.

### **Off-Campus Issues**

In publicly expressing opinions on off-campus issues, faculty or staff members have an obligation to take every reasonable precaution to make it clear that they are expressing their personal views and not purporting to represent the Academy.

### **Visiting Speakers**

The freedoms of speech and assembly guaranteed by the first and fourteenth amendments to the U.S. Constitution shall be enjoyed by California Maritime students and faculty with respect to the opportunity

to hear off-campus or outside speakers on Academy grounds. Free discussion of subjects of either controversial or noncontroversial nature shall not be curtailed.

However, as there is no absolute right to assemble or to make or hear a speech at any time or place regardless of the circumstances, content of speech, purpose of assembly, or probable consequences of such meeting or speech, the issuance of invitations to outside speakers shall be limited in the following particulars, but only in the manner set forth herein:

- a. A request to invite an outside speaker will be considered only when made by an organized student or faculty group recognized by the Academy President;
- b. No invitation by such organized group shall be issued to an outside speaker without prior written concurrence by the Academy President or his/her authorized designee, for scheduling of speaker dates and assignment of campus facilities;
- c. Any speaker request must be made in writing by an officer of the student or faculty organization desiring to sponsor the proposed speaker using an official Free Speech Use Request Form no later than ten calendar days prior to the date of the proposed speaking engagement. The request shall contain the name of the sponsoring organization, the proposed date, time and location of the meeting, the expected size of the audience and topic of speech. Any request not acted upon by the Academy President or his/her designee within four days after submission shall be deemed granted;
- d. A request made by a recognized organization will be denied only if the Academy President or his/her designee determines, after proper inquiry, that the proposed speech will constitute a clear and present danger to the Academy's orderly operation by the speaker's advocacy of such actions as:
  1. The violent overthrow of the U.S. or State of California governments or any political subdivision thereof; or
  2. The willful damage or destruction, or seizure and subversion of the Academy's buildings or other property; or
  3. The forcible disruption or impairment of or interference with the Academy's regularly scheduled classes or other educational functions; or
  4. The physical harm, coercion, intimidation, or other invasion of lawful rights of the Academy's officials, faculty members or students; or
  5. Other campus disorder of a violent nature.

Note: In determining the existence of a clear and present danger, the Academy President and/or his/her designee may consider all relevant factors, including whether such speaker has, within the past five years, incited violence resulting in the destruction of property at any state educational institution or has willfully caused the forcible disruption of regularly scheduled classes or other educational functions at any such institution

### **Sound Amplification**

No Sound Amplification is permitted without the permission of the Dean of Students. Sound amplification equipment used on campus is restricted to that provided by the Associated Students or by the Academy. There may be a charge for such equipment. Sound equipment may be requested from the Associated Student's Office located in the Student Center at least three working days in advance of the scheduled event. The maximum allowable noise level is 100 decibels.

#### **A. Amplification**

Time: Tuesday and Thursday, 11 a.m. to 1 p.m.

Place: Rizza Auditorium, Bodnar Field, the Mini Park, and outdoors on the Southwest side of the Student Center

Manner: Amplification shall be used in a manner that is in accordance with and conducive to the academic environment. Amplification above 100 decibels is not permitted.

B. Voice Controlled Amplification

Time: Monday through Friday, 11 a.m. to 1 p.m.

Place: Rizza Auditorium and gymnasium

Manner: The volume is established by the facilities technical in charge and is permitted.