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7 UNITED STATES DISTRICT COURT
8 FOR THE CENTRAL DISTRICT OF CALIFORNIA
9 WESTERN DIVISION

10 CHRISTOPHER STEVENS,)

11 Plaintiff,)

12 v.)

13 CITRUS COMMUNITY COLLEGE)
14 DISTRICT; LOUIS ZELLERS, in)
his official and individual capacity as)
15 president of the college,)

16 Defendants.)
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CASE NO: CV

COMPLAINT FOR INJUNCTIVE
RELIEF; DAMAGES

42 U.S.C. § 1983; First Amendment
and Fourteenth Amendment

California Constitution, Art. I, sec. 2

California Education Code §66301

1 **I. JURISDICTION AND VENUE**

2 1. This action seeks injunctive and declaratory relief to enjoin a student
3 speech policy on a local community college campus. Plaintiff seeks immediate relief to
4 prevent ongoing and threatened irreparable injury to his First Amendment expressive
5 rights under the United States Constitution, his right to equal protection of the laws
6 under the Fourteenth Amendment, his Liberty of Speech rights under Article I, sec. 2 of
7 the California Constitution, and his statutory rights to free expression under California
8 Education Code §66301. Plaintiff seeks injunctive relief under 42 U.S.C. § 1983. This
9 Court has jurisdiction over Plaintiff’s claims pursuant to 28 U.S.C. §§ 1331 and 1343,
10 and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

11 2. Venue is proper in the United States District Court for the Central District
12 of California under 28 U.S.C. § 1391(b). Defendants operate in this district and all of
13 the events or omissions giving rise to Plaintiff’s claims have occurred, or will occur in
14 this district.

15 **II. PARTIES**

16 3. Plaintiff CHRISTOPHER STEVENS is a student at CITRUS
17 COMMUNITY COLLEGE in the defendant CITRUS COMMUNITY COLLEGE
18 DISTRICT (“CCCD” or the “DISTRICT”). He has engaged in First Amendment
19 activities on campus in the past as part of individual and group expressive activities
20 involving issues relating to the college campus. These expressive activities include
21 petition activities directed at the conduct of faculty, the funding of community colleges
22 and other issues relating to the college and to the greater community. He has sought
23 and been denied permission to engage in activities that would be protected under the
24 First Amendment and/or the California Constitution’s Liberty of Speech Clause if those
25 activities occurred in a public forum other than the DISTRICT. He plans to engage in
26 similar expressive activities in the future but has refrained from doing so because of the
27 fear that he will be subject to expulsion from the college and/or criminal prosecution
28 unless he remains within the physical boundaries of the Free Speech Zones on campus
and adheres to all other restrictions on his speech set out in the challenged policy.

1 4. Defendant CITRUS COMMUNITY COLLEGE DISTRICT, is a
2 subdivision of the State of California as a part of the state community college system,
3 organized under the laws of the State of California, with the capacity to sue and be sued.
4 The CCCD is the legal and political entity responsible for the actions of its officials,
5 including the campus presidents and their designees under Board Regulation R-5138.
6 The CCCD is sued in its own right and on the basis of the acts of its officials, agents,
7 and employees, which were taken pursuant to the CCCD's custom and policy. The
8 DISTRICT is sued for injunctive relief only.

9 5. Defendant LOUIS ZELLERS is the President of the defendant CCCD.
10 He is the DISTRICT official responsible for enforcing CCCD policy and procedures
11 and the individual who has denied PLAINTIFF his free speech rights. Defendant
12 ZELLERS is sued in his official capacity for the purposes of injunctive relief and in his
13 individual capacity for the purposes of damages only.

14 6. On information and belief, at all times mentioned herein, all CCCD
15 officials, agents, and employees were acting pursuant to authority delegated or
16 conferred by the defendant DISTRICT and, in doing or failing to do the things
17 complained of, were acting within the scope of that authority.

18 7. At all times relevant herein, the agents and employees of the CCCD were
19 acting under color of state law.

20 8. At all times herein mentioned and in doing the things complained of
21 herein, Defendant CCCD and its officials, agents, and employees acted pursuant to the
22 official policy, practice, and/or custom of the CCCD. The policy being challenged is set
23 forth at CITRUS COMMUNITY COLLEGE DISTRICT REGULATION R-5138,
24 "Free Speech Area Guidelines." A true and correct copy of the challenged policy is
25 attached to the Complaint at Exhibit 1.

26 9. There is a present and actual controversy between the parties to this
27 action. A declaration of the correct interpretation of the legal requirements described in
28 this complaint is necessary and appropriate to determine the respective rights and duties
of the parties to this action. Plaintiff seeks a declaratory judgment that the CCCD

1 policy of restricting speech, assembly and petition activities on its campuses is
2 unconstitutional as it is an impermissible prior restraint on protected speech, it allows
3 for discriminatory application of the policy based on both the status of the speaker and
4 the content of the intended speech, and it vests unbridled discretion in DISTRICT
5 officials to enforce or waive key portions of the policy, all thereby causing the
6 DISTRICT policy to fail the stringent test for a reasonable time, place or manner
7 regulation.

8 10. Defendant's policy violates Plaintiff's and other persons' rights of free
9 speech, assembly and petition, as well as their rights to equal protection of the laws of
10 the United States Constitution and the analogous provisions of the California
11 Constitution. In addition, Defendant's policy also violates the guarantees of free speech
12 on community college campuses as codified at California Education Code §§ 66301.

13 **IV. FACTS**

14 **The Policy:**

15 11. Defendant CCCD adopted District Regulation R-5138 in 2002,
16 establishing "Free Speech Area Guidelines." Exhibit 1. The policy requires that anyone
17 wishing to use any of the designated free speech areas must first identify themselves to
18 the College Security Office, provide "state-issued identification, a brief written
19 statement of the general content of the statements they will be making and, if any
20 materials are to be distributed, a copy of each piece." Ex. 1, R-5138.1. No written
21 materials may be distributed on campus unless they are first provided to Campus
22 Security. Ex. 1, R-5138.2. The policy provides no guidelines or standards to be applied
23 to the pre-review of the speaker's message or the written materials s/he may seek to
24 disseminate on campus, including the basis upon which any speaker or any materials
may be barred from the campus based on content.

25 12. The policy identifies three categories of speech for which the Free Speech
26 Areas may be used: "to collect signatures on proposed ballot measures or other petitions
27 and to register voters." No fundraising is permitted in any of the designated Free
28 Speech Areas unless the entity for which funds are being solicited is a non-profit

1 corporation registered with the State of California, “a member of a recognized Citrus
2 College club or organization.” Ex. 1, R-5138.3.

3 13. DISTRICT Regulation R-5138 imposes a total ban on the use of amplified
4 sound for expressive purposes at any time by an person who is subject to this regulation.
5 R-5138.4. The Regulation also restricts persons engaged in free speech to three
6 designated areas on campus, to which they may be assigned at the sole discretion of
7 school officials and outside of which they may not step “while engaged in the exercise
8 of their expression.” Ex. 1, R-5138.5. Use of the Free Speech Areas is restricted to
9 weekdays between 8:00 a.m. and 6:00 p.m. Ex. 1, R.5138.6.

10 14. Any violation of the Free Speech Use Regulations may result in removal
11 from the campus, future exclusion, “student discipline, civil and/or criminal
12 prosecution.” Ex. 1, R-5138.7. The Board Policy on “Standards of Student Conduct”,
13 P-5139, expressly provides that students may be subjected to discipline for a violation
14 of any College “rules or regulations including . . . the time, place and manner of public
15 expression.” Ex. 2, Board Policy P-5139.

16 **The Campus and the Free Speech Areas:**

17 15. The College campus consists of 104 acres, with more than 26 buildings and
18 a total of more than 11,000 students. Exhibit 3, “Citrus College online: About Citrus
19 College.” Three areas are designated as “Free Speech Areas.” Exhibit 4, Free Speech
20 Areas (“FSA”) map. The total available area for FSAs comprises a minuscule percent
21 of the entire campus. The Defendants have advanced several rationales for the Free
22 Speech Areas: Defendants informed Plaintiff that the FSAs were established in a
23 preemptive action by the college in response to expressive activities on other college
24 campuses that past administrators at Citrus viewed as “disruptive;” Defendants also told
25 Plaintiff that the FSAs are necessary to limit “offensive” and “racist” expressive activity
26 on campus.

27 16. The largest FSA is designated as the “Primary Area (Central Campus).”
28 This consists of a circular area surrounding a fountain located between the Library and
the Liberal Arts/Business Building.” *Id.* and Exhibits 13 and 23. The designated Free

1 Speech Area “does not extend into the four straight walks that emanate from the
2 fountain.” *Id.* Persons wishing to engage in free speech activities are limited in the
3 space available at this location because of the large fountain in the middle of the
4 designated circle. Ex. 23. In addition to the Primary Area, there are two secondary
5 locations at the west and east of the campus, respectively. Each is identified by a circle
6 of bricks or markings set into a larger concrete area. The Free Speech Area in the West
7 Campus is south of the Performing Arts Center. Exhibits 4, 12. The Free Speech Area
8 in the East Campus is a “concrete area on three sides of the raised tree well at the east
9 end of the Mathematics building.” Exhibits 4, 20. The available area is limited in each
10 of the Secondary Areas because of the tree in the middle of the East area and raised
11 planters in the middle of the West area. Exhibits 20, 12.

12 17. The Free Speech Areas are not centrally located on campus and they are
13 generally out of the way of the main paths to and from the parking lots and most of the
14 major buildings on campus. Exhibits 4, 5. For example, the Campus Center, where
15 many students congregate before and after their classes is located a considerable
16 distance from the Primary Area (113 feet), the east Secondary Free Speech Area (630
17 feet), and even further from the west Secondary Free Speech Area, which is
18 approximately 620 feet from the Primary Free Speech Area. Exhibits 4, 5. The
19 Administration Building is midway between the Primary Area in the center of the
20 campus and the Secondary Area in the West Campus. *Id.* The Administration Building
21 is distant from either building and persons going to and from the Administration
22 Building do not readily pass any of the FSAs. In addition, from the FSAs, there is no
23 way in which the message of individuals engaged in expressive activities at any of the
24 designated FSAs could be heard by people approaching the Administration Building.
25 Directly outside the Administration Building is an open area, with paving and pathways
26 in which expressive activities could be conducted without impeding ingress or egress to
27 the Administration Building or otherwise disrupting activities in the Administration
28 Building. There are also open areas and pathways outside of the Campus Center which
could be utilized for expressive activities without disrupting campus activities in this

1 area. Ex. 4, 19. There are other areas on campus where students congregate, including
2 a large grassy lawn outside the Education Building (Exhibit 22), an area with tables at
3 the campus bookstore and Campus Center (Exhibit 18), and a pathway that crosses the
4 south side of the campus (Exhibit 16).

5 18. In addition to the open areas around these buildings, there are several
6 large parking lots at the west end of the campus. The main parking lot is on the south
7 side of the campus. All of the parking lots are a considerable distance from any of the
8 three designated free speech areas. Ex. 4 and Ex. 5 (Citrus College map). There is also
9 a parking lot outside the campus stadium, which is located in the southeast portion of
10 the campus. Ex. 5. A person attending an event at the Stadium area would be highly
11 unlikely to pass near any of the three FSAs because each is on the north side of the
12 campus, away from the Stadium and parking for the Stadium.

13 **Free Speech by Recognized Campus Organizations and Others:**

14 19. While Board Regulation 5138 limits the time, place and manner of some
15 persons' expressive activities on campus, the College has exempted a host of other
16 groups from the constraints of R-5138. Defendants have justified the application of this
17 dual standard on the basis that "official school recognized and sponsored activity" is not
18 "free speech" and, thus, in the view of the college, is entitled to broader expressive
19 rights than speech which does not emanate from a source that is either an "official
20 school recognized" entity, or does not occur in the course of a school "sponsored
21 activity." Persons and groups that have the College imprimatur are permitted to engage
22 in expressive activities anywhere on campus and are authorized to use amplification for
23 their events. Commercial speech is ensured a place on campus. The college has a
24 contract with a business to run a swap meet in the stadium area of the campus every
25 Sunday. Notably, plaintiff would be barred from reaching people attending the swap
26 meet because 1) there is no recognized "Free Speech Area" anywhere near that part of
27 the campus and 2) there is no "Free Speech" permitted on weekends under Regulation
28 R-5138. In addition, commercial goods such as sunglasses and other items are sold
throughout the campus by vendors who create more of the aura of a swap meet than a

1 college campus. Commercial vendors are also permitted to approach students, hand
2 them literature, and otherwise attempt to cajole passersby into buying their wares. At
3 the same time, student candidates for the Associated Students of Citrus College, the
4 student government body, are permitted free access to campaign for election throughout
5 the campus.

6 **Application of the Policy:**

7 20. On information and belief, Plaintiff alleges that on November 13, 2002,
8 several anti-abortion activists were arrested on the Citrus College campus at the request
9 of Defendants when they stepped outside the bounds of the FSAs during an expressive
10 activity. Six anti-abortion demonstrators had demonstrated peacefully in the Primary
11 Free Speech Area for an hour, holding signs to convey their political message. When
12 they stepped outside the bounds of that area, into the surrounding Quad, the group was
13 arrested for violation Regulation R-5138. The College sought to have these students
14 criminally prosecuted, but no charges were filed by the Los Angeles County District
15 Attorney's office. Exhibit 6.

16 21. The College has been the subject of heated political debate this semester. In
17 early March, 2003, the College gained national notoriety when a Communications
18 professor offered students in her class extra credit if they wrote a letter opposing the
19 war in Iraq and sent it to President Bush and the local elected official. See Exhibit 7
20 (Los Angeles Times, March 8, 2003). When several students in the class asked if they
21 could received extra credit for writing a letter of support for the war, they were told that
22 they could not. Plaintiff was among those students in the class who protested such
23 viewpoint-based academic standards.

24 22. In early May, 2003, plaintiff requested permission to conduct a rally
25 protesting Governor Davis' cuts to the Community Colleges system's budget. Plaintiff
26 was told he could only do so if he stayed within the bounds of the FSAs. Plaintiff also
27 sought to conduct a Pro-America rally on campus and received the same response.
28 Exhibits 8 and 9. Plaintiff was informed that if he wanted to engage in a rally outside of
the three small FSAs, he would have to do so as part of the Citrus College Republicans

1 Club, of which he is a member. Plaintiff informed College officials that he did not
2 believe he had to declare his political affiliation in order to express his views on a
3 political issue outside of the three remote Free Speech Areas on campus. Exhibit 9.
4 The College has approximately 19 recognized student clubs, ranging from the
5 Cosmetology Club to the Newman Club to the Citrus Democrats Club. Exhibit 10. So,
6 under Defendants' Regulations, Plaintiff could approach students anywhere on campus,
7 hand out literature without permission, and use amplified sound to convey his message
8 if he wants to talk about beauty treatments (Cosmetology Club), but he may not do so if
9 he wants to criticize Governor Davis' cuts to the Community College system unless he
10 does so under the auspices of a "recognized" student club. Exhibit 10 (Policy on Student
11 Clubs and Organizations). If he wants to organize a Pro-America rally or one opposing
12 Governor Davis' budget priorities, he must stand in a small area as he is assigned by
13 school officials, using only his own voice, and not approach passersby who are outside
14 the reach of the FSAs under penalty of expulsion and/or arrest.

15 23. On May 8, 2003, Plaintiff was informed by Dr. Arnold Rollin, the Associate
16 Dean of Students of the College, that if he engaged in expressive activities outside of
17 the three FSAs, in violation of Regulation R-5138, he would be subject to arrest and
18 expulsion. Exhibit 11. On May 13, 2003, Plaintiff attended and spoke at the regularly
19 scheduled meeting of the Board of Trustees. At that meeting, Plaintiff requested that
20 the Board suspend Regulation R-5138 and review it for constitutionality. Plaintiff was
21 informed by Defendants that, pursuant to the Brown Act, the Board could take no action
22 without first setting the matter on the Board agenda. Plaintiff made his request to the
23 Board because he had previously been informed by Defendant Zellers that any process
24 to review the Regulation would be a lengthy one and Plaintiff believes that subjecting
25 his request to a lengthy review process before even determining whether or not to
26 continue the policy would impede and chill his exercise of his First Amendment rights.

FIRST CAUSE OF ACTION

First Amendment and Fourteenth Amendment to the U.S. Constitution;

42 U.S.C. § 1983; Article I, sec. 2 and 3 of the California Constitution

1 **(Abridgement of Right of Freedom of Speech, Assembly and Petition)**

2 24. Plaintiff hereby incorporates and realleges paragraphs 1 through 23 of the
3 Complaint as though fully set forth in this paragraph.

4 25. Board Regulation R-5138 is a prior restraint on speech. It requires prior
5 notice to engage in expressive activities in the public fora on the CCCD campus.
6 Individuals seeking to engage in such activity must identify themselves to Campus
7 Security, even if they are a student on campus. They must tell Security what they intend
8 to say and they may not distribute any literature in support of their cause unless they
9 first submit it to Security.

10 26. Board Regulation R-5138 discriminates both on the basis of the status of
11 the speaker and the content of the speech. It restricts expressive activities to three small
12 areas of campus for students and other persons who are not members of a State-
13 registered non-profit corporation, a recognized student club, or an official activity of the
14 school, while permitting access to the entire campus for those who carry the imprimatur
15 of the State (non-profit corporation) or the College (recognized student club or official
16 activity). The Regulation also prohibits amplified speech by those who do not fall
17 within the categories of speakers exempted from the Regulation. Persons subject to the
18 regulation are prohibited, completely, from engaging in any expressive activities on
19 campus after 6:00 p.m. on weekdays and any hour on weekends. As a consequence of
20 the distinctions in rights created by the Defendants based on the status of the speaker or
21 the content of the speech, the Regulation fails the test of a reasonable time, place, or
22 manner regulation because it does not further a compelling state interest, is not narrowly
23 drawn and fails to leave open ample channels of communication.

24 27. Plaintiff is entitled to provisional injunctive relief to prevent Defendants,
25 or their agents or employees, from enforcing the unlawful provisions of said policy,
26 thereby violating Plaintiff's rights of freedom of speech, assembly and petition.

27 **SECOND CAUSE OF ACTION**

28 **Fourteenth Amendment to the U.S. Constitution; 42 U.S.C. § 1983**

(Abridgement of Right to Equal Protection)

1 which non-official speakers may express themselves, Defendants have violated
2 Plaintiff's rights to the exercise of free expression under California Education Code
3 §66301, which ensures that Plaintiff and others may exercise their rights on campus in
4 the same manner that they would be guaranteed the exercise of those rights by the First
5 Amendment in any off-campus public fora. .

6 35. Plaintiff is entitled to provisional injunctive relief and declaratory relief to
7 prevent Defendants, their agents and employees, from restricting protected student
8 expressive activities in violation of Education Code § 66301.

9 **FOURTH CAUSE OF ACTION**
10 **(Declaratory Relief Against All Defendants)**

11 36. Plaintiff realleges and incorporates by reference as though fully set forth
12 in this paragraph each and every allegation of paragraphs 1 through 23 of the
13 Complaint.

14 37. An actual controversy has arisen and now exists between Plaintiff and
15 Defendants concerning the respective rights under the United States Constitution, the
16 Constitution of the State of California, and the California Education Code. Plaintiff
17 contends and Defendants dispute that Board Regulation R-5138 carries the threat of an
18 improper restriction on protected rights; that the policy violates Plaintiff's rights to free
19 speech and petition, as well as the right to assemble in a public forum; that Defendants'
20 policy violates Plaintiff's rights to the equal protection of the law; that Defendants'
21 policy violates the Supremacy Clause; that Defendants' policy violates Plaintiff's rights
22 under California Education Code § 66301; and that such prohibitions are, therefore,
23 illegal and unenforceable. Defendants contend that their policy of restricting student
24 speech and advocacy on the CCCD campuses constitutes a reasonable and lawful
25 regulation of speech and assembly rights in a public forum and is not content-based,
26 vague or overbroad. Defendants further contend that the distinctions codified in Board
27 Regulation R-5138 based on the status of the speaker do not violate the Equal
28 Protection Clause of the Fourteenth Amendment.

38. Plaintiff desires a judicial determination of the parties' respective rights

1 and duties as they pertain to Plaintiff's right to speak, assemble and petition on a public
2 college campus, without being subject to a prior restraint and/or unreasonable time,
3 place, or manner regulations.

4 39. A judicial declaration is necessary and appropriate at this time and under
5 the circumstances in order that plaintiff and defendants may ascertain their respective
6 rights and duties under the Constitutions of the United States and the State of California
7 and the statutory law of the State of California.

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Attorneys for Plaintiffs