

California Exposition & State Fair

Board of Directors Policy & Procedure Manual

Section 10.0 – General Policies, Procedures, & Recommendations

## **Free Speech Activities Guidelines**

### Section I - Findings

The California Exposition & State Fair (Cal Expo) hereby finds that these guidelines are intended to set forth in writing Cal Expo's long-standing policy governing the conduct of Cal Expo employees as well as members of the public; under the First Amendment to the United States Constitution and Article 1 of the California Constitution, on Cal Expo's grounds.

These guidelines are not intended to enlarge upon nor create any rights guaranteed by existing law nor waive any defenses or rights available to Cal Expo, nor do they represent any admission that the facilities of Cal Expo are open as a public forum. It is the policy of Cal Expo to allow within the parameters set forth herein, reasonable access to its grounds and designated free speech expression zones for demonstrations for free speech activity as allowed by the First Amendment to the United States Constitution and article I to the California Constitution.

These provisions are intended to act as guidelines for reasonable regulation of time, place and manner and not content of speech.

### Section II - Definitions

1. "Public Forum" – A public forum is an event wherein the facilities are available to members of the public for a free and open discussion or debate of political or social issues.
2. "Limited Public Forum" – A limited public forum is an event wherein the public is allowed access to a facility or facilities for specific purposes and where any public debate or discussion on political or social issues is focused on a particular subject or subjects. A limited public forum is not intended by Cal Expo to generate a "public forum" as that term is defined herein.
3. "On-site" – On-site means any activities occurring within the grounds or parking lot of Cal Expo.
4. "Enclosed Facility" – An enclosed facility means any structure contained on the grounds of Cal Expo and/or any other enclosed or semi-enclosed building or structure of any nature whatsoever, enclosed by fencing, and/or a paid gate located on-site.

5. “Free Expression Zone” – A free expression zone is a designated area located on-site as established by Cal Expo’s chief executive officer (general manager), deputy general manager, or any individual designated in writing by Cal Expo’s chief executive officer, at which members of the public may be provided reasonable access in accordance with these guidelines for purposes of conducting free speech activities.

6. “Free Speech Activities” – For purposes of these guidelines, “free speech activities” mean individual or group display of signs other than specifically allowed herein; picketing, leafleting, collection of signatures or marching and any group activity involving the communication or expression, either orally or by conduct of views and/or grievances, and which has the effect and intent or propensity to express that view or grievance to others. As used in these guidelines, neither the definition of or limitations on “free speech activities” includes one-on-one voluntary discussions or individual wearing of buttons or symbolic clothing.

7. “Fighting Words” – Fighting words are those words which when addressed to the ordinary person are, as a matter of common knowledge, inherently likely to provoke an immediate violent reaction.

8. “Obscene” – Obscene means any sexually explicit material or communication which appeals to prurient interests and is patently offensive or abhorrent to the prevailing concepts of morality or decency in the community in which Cal Expo exists.

9. “Sound Devices” – Sound devices include any loudspeakers, megaphones or other devices, electrical or mechanical, which amplify or transmit sound waves.

10. “Paid Gate” – A paid gate is that area of the grounds of Cal Expo on-site, the entry to which is restricted and predicated upon purchase of either paid parking and/or an admission ticket or other form of entitlement prior to entry. This can include the general area of Cal Expo enclosed by a fence, and/or any particular building within the Cal Expo grounds.

### Section III - On-Site Free Speech Activities

1. Findings: Cal Expo finds that, with the exception of the annual State Fair, no public forum events are sponsored or take place upon grounds of Cal Expo. It is the policy of Cal Expo nevertheless, to allow free speech activity wherever said activity is not inconsistent with the normal operations or activities of Cal Expo. Cal Expo finds, however, that due to the unique nature of the grounds of Cal Expo, there is limited access necessitating creation of free expression zones. Cal Expo specifically finds that the buildings and grounds comprising Cal Expo’s grounds are generally surrounded by parking areas under the control of Cal Expo, but which areas become congested with numerous vehicles during events. Cal Expo further finds that pedestrian traffic is generally confined to narrow walkways to and from these parking areas to the various gates of the fairgrounds and that the designated free expression zones are designed to balance the interests of those engaged in free speech activity and being given reasonable access to the patrons of events of Cal Expo, and the safety of the patrons and prevention of accidents or congestion which could lead to injury.

Further, Cal Expo finds that these guidelines in the providing of free expression zones are balanced to protect the interests of patrons attending events upon Cal Expo's fairgrounds from inappropriate activity or conduct by those engaged in free speech activity, with the interest of those engaged in such free speech activities. Cal Expo's solution to this balancing of interests is designation of free expression zones and restrictions on time, place and manner of said expressions to ensure reasonable access by those engaged in free expression activity to those attending the fairgrounds, while protecting the overall safety of the public. In addition, Cal Expo finds that for the annual State Fair, for-rent booths are available for rent to anyone on a first-come, first-serve basis in addition to free expression zones.

2. Free Expression Zones: Cal Expo shall designate free expression zones on site for the purpose of providing access for free speech activity. These zones shall be selected by Cal Expo. The area selected by Cal Expo shall be selected to provide maximum reasonable access by those involved in First Amendment activities to patrons of Cal Expo, commensurate with public safety as well as the safety of those individuals engaged in such activity, and shall interfere to the minimal extent possible with the free flow and passage of patrons to and from the parking areas and Cal Expo's fairground. The zones shall be clearly marked and may have a sign posted by Cal Expo, which sign shall state that the views expressed by those utilizing the free expression zones are not necessarily the views of Cal Expo.

3. On-site Registration: Organizations or affiliated groups of persons desiring to engage in free speech activity on-site in large groups should register with Cal Expo prior to the event. For purposes of these guidelines, it shall be presumed that a group of more than 25 protestors shall be a large group requiring a registration. Registration is not mandatory for affiliated persons not meeting the definition of a large group. However, early registration may allow the applicant to select the desired free expression zone which are allotted on a "first come, first serve basis." The purpose of registration is not to censor in any way or review discretionarily the content of the speech involved, but to allow sufficient opportunity for Cal Expo to assign space for free speech activities and to provide the participants with copies of those rules governing the use of free expression zones. Registration will be granted on a first-come, first-serve basis. A request for registration may be made 48 hours prior to the planned event, but not more than 30 days prior to the planned event at the offices of Cal Expo. Interested parties may obtain an application online or at the Cal Expo Administration office Monday through Friday from 8 a.m. to 5 p.m. Completed applications may be submitted by fax, email or in person. Information to be provided shall include:

- (a) The time of the planned event;
- (b) The nature of the planned activity;
- (c) The approximate number of individuals in the group being registered, provided that no more than 10 individuals shall be assigned to a free expression zone from each group or organization; and
- (d) A designated contact person, including a means of communication of said person such as a street address, email address, and/or phone number.

(e) In order to protect patrons from fraudulent solicitations or deceptive or false speech, if funds are solicited, a description of how the voluntary contributions be used.

In review of registration, Cal Expo will not discriminate on the basis of content of ideas or beliefs. Cal Expo may, however, require certain individuals or organizations to engage in free speech activities in different areas of the fairgrounds or to maintain a reasonable distance from other individuals or associations, if there is reasonable possibility that there may be conflict among or between various individuals or groups that will disturb the peace, interfere with the free flow of pedestrian or vehicle traffic, or otherwise pose a threat to the health and safety of any person.

In order to accommodate the maximum number of people in groups within the free expression zone, commensurate with safety, the number of individuals in a group will be limited. In addition, an exclusive area within the zone, six feet by six feet, will be assigned for use by an individual or a group.

4. Any organizations or individuals seeking to engage in First Amendment activities shall ensure their conduct and the use of any signs, banners, or other devices do not result in injuries to patrons or property; persons engaged in First Amendment activities shall comply with the following restrictions on time, place and manner:

(a) No individual or group, sign or banner or individual activity shall block the free movement of patrons, concessionaires, employees, lessees or those providing emergency services or obstruct freedom of passage to and from the fairgrounds;

(b) No individual or group engaged in free expression activity shall represent to anyone that the views they express are necessarily the views of Cal Expo or that Cal Expo in any way condones or supports said views;

(c) Patrons declining to listen, converse or provide a donation or signature or accept any item offered by those engaged in free speech activities shall not be pursued or touched once that patron has clearly indicated he or she wishes to be left alone;

(d) No one using a free expression zone shall leave said zone for purposes of infringing on any other individual or groups' use of other free expression zones engaging in free expression activity or preventing any such activity that originated in the free expression zone;

(e) Those individuals or groups engaged in free expression activities shall provide their own card table and chairs, but no more than one card table, or portable table with fold-up legs, such table shall be no longer than six feet by three feet, and one shade structure as defined more specifically in Section III(5)(b) herein shall be used in any free expression zone by any one group and no lawn, beach or patio umbrellas will be permitted.

(f) No one shall use signs or displays, or pass out or show literature which employ fighting words, obscenities, or obscene, gruesome, grisly or repulsive exhibits or pictures;

(g) No one shall use any sound devices which create a nuisance, are likely to create hearing damage, or will create noise of sufficient volume to impinge on the hearing and peace of the general public. No sound device shall be used to broadcast any fighting words or obscenities;

(h) Individuals or groups utilizing free expression zones outside of the paid gate shall occupy such areas no earlier than one hour prior to the event or no later than 30 minutes after the closing of the event. In order to give everyone an opportunity to have free speech access, please claim your spot within one hour after the start time of the event to ensure space, if not, your space can be given to another interested party. All equipment and articles brought into the zone must be removed daily;

(i) If funds are solicited, they will not be demanded nor required in return for any materials. This prohibition shall not be construed as preventing all solicitations of voluntary contributions;

(j) Any vehicles brought on the fairgrounds by those persons engaged in free expression activities shall be parked in the public pay lots and regular parking fees shall be paid;

(k) The violation of any of the terms of these conditions, depending on the circumstances, can be grounds for the discontinuance by Cal Expo of such activity, expulsion off the grounds of Cal Expo, citation by law enforcement, or arrest;

(l) Individuals or groups utilizing the free expression zones shall not themselves, nor shall they allow any of their employees, agents, or representatives, while using an assigned free expression zone, be under the influence of alcohol or any illegal substance; and

(m) Individuals or groups utilizing the free expression zones may distribute leaflets, pamphlets or other materials to be handed to the public. These leaflets, pamphlets or other materials are to be distributed from the confines of the free expression zone space and not placed on cars, left unattended at gates or other locations on the property.

(n) Individuals or groups may not use free expression zones for direct sales or solicitation of sales leads.

5. The following equipment may be brought onto Cal Expo's property, including, but not limited to, the free expression zones and inside the paid gate, for use in free expression activities within the designated free expression zone:

(a) A card table or portable table with fold-up legs, not larger than six feet by three feet.

(b) Shade structures (pop-up tents with no walls) shall be limited to one per space, shall be no larger than ten by ten; shall be flame retardant and so designated, must fit within the designated space and anchored so as not to unreasonably obstruct visibility or create a safety issue; otherwise they will be removed. No lawn, beach, or patio-styled umbrellas will be permitted.

(c) No signs, posters, placards or banners shall be affixed, fastened or leaned against any wall, partition, any part of a building or structure, poles, planters, automobile or animal;

(d) Any necessary pens, pencils, paper clips or clip boards and leaflets, provided, however, that any leaflets shall be weighted so that they are secured and not subject to being blown off the table; and

(e) There shall be no sale or offer to sell of any merchandise or services of any kind, including the taking of orders for merchandise or services, at any free expression zone. These prohibitions shall not be construed as preventing individuals utilizing free expression zones from soliciting voluntary contributions.

6. Spontaneous Expression: Notwithstanding the 48 hour registration requirement for large groups, such a registration will not be required for persons or groups engaging in spontaneous expression. For purposes of these guidelines, "spontaneous expression" shall mean expressive activity in response to events coming into the public knowledge within the past forty-eight hours.

#### Section IV - Free Speech Activities Within an Enclosed Facility

1. Findings: Cal Expo finds that the congested nature of the enclosed facilities located on the fairgrounds of Cal Expo are such that with congested public access, limited ingress and egress, the historic numbers of patrons at various events, and the general practice of Cal Expo to rent an enclosed facility or enclosed facilities entirely to lessee, no free speech activities can be allowed within an enclosed facility.

2. As an alternative, Cal Expo has provided on-site free expression zones as noted in Section III (3) and it is the intent of Cal Expo that these zones act to provide reasonable access to patrons utilizing the enclosed facilities, rendering the need for expression activities within the enclosed facility unnecessary.

3. Anyone desiring to engage in free speech activities in an enclosed facility should do so under an agreement for exhibit space if the event is produced by Cal Expo. If the event is produced by a lessee or contractor of Cal Expo, then free speech activity shall be allowed only if that activity is allowed by the terms of the agreement. Cal Expo recognizes that it acts as a leasing agent under certain circumstances leasing the facility and that the utilization of the space is subject to reasonable control by the lessee and is dictated by the terms of the lease.

4. Anyone desiring to engage in free speech activities in an enclosed facility produced by Cal Expo, and where Cal Expo finds such free speech activities are inconsistent with the event, shall execute the appropriate agreement or lease for exhibit space, subject to the terms and conditions generally applicable to anyone entering into such agreements, and such other reasonable conditions as may be imposed. Cal Expo maintains the right to assign space within its enclosed facilities or paid gate pursuant to an agreement for exhibit space based upon a first-come, first-serve basis.

#### Section V - Violation of Guidelines

Any person or persons engaged in free speech activity who violates these guidelines may be subject to the following:

- (a) If a large group commences a protest on Cal Expo property, and no registration has been obtained by this group, Cal Expo's agent may require that such person or group register and obtain a space allocation. Refusal to provide the information requested or abide by the space allocation may be cause for ejection from the grounds;
- (b) If an organization or individual is engaged in activity in violation of these guidelines, Cal Expo may take the following actions, where appropriate: issue a warning, ordering that the activity shall be stopped, ejecting the persons in violation of the guidelines from Cal Expo grounds, issuing a citation to the offenders, arresting the offenders;
- (c) Anyone engaged in any violence or who provokes any violence shall be immediately ejected from the grounds or subject to a citation or arrest;
- (d) Anyone displaying fighting words, obscene material or grisly, gruesome or repulsive displays may be subject to having said materials or displays seized by Cal Expo and its agents. Upon demand said material or displays may be returned to said organization or individuals after the event is over and/or after the free speech activities are concluded, or upon departure;
- (e) Anyone using any sound devices in a manner prohibited by these guidelines shall immediately cease using said sound device in the prohibited manner upon demand and/or may have said sound device confiscated by Cal Expo or its agent. Upon request, said sound device shall be returned to the individual or organization upon conclusion of the event or free speech activities, or upon departure;
- (f) Nothing in these provisions regarding violations of guidelines shall require Cal Expo to exhaust any remedies, to necessarily give any oral warnings, or to compromise or limit in any way, any remedies provided by law.

(Adopted by the Board of Directors May 31, 2013)