Docket No. 22-16762

In the

United States Court of Appeals

For the

Ninth Circuit

ALEJANDRO FLORES, DANIEL FLORES, JULIETTE COLUNGA and YOUNG AMERICANS FOR FREEDOM AT CLOVIS COMMUNITY COLLEGE,

Plaintiffs-Appellees,

v.

LORI BENNETT, MARCO J. DE LA GARZA, GURDEEP HÉBERT and PATRICK STUMPF,

Defendants-Appellants.

Appeal from a Decision of the United States District Court for the Eastern District of California, No. 1:22-cv-01003-JLT-HBK · Honorable Jennifer L. Thurston

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Student Organization-Appellee Young Americans for Freedom at Clovis Community College certifies that it is an unincorporated student association approved by Clovis Community College. Therefore, it has no parent corporation and no publicly held corporation owns 10% or more of its stock.

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INTRODUCTION

Rather than encouraging the expression of diverse viewpoints, college administrators at Clovis Community College ("Clovis") prohibited Student-Appellees from expressing their conservative views. Specifically, Appellants (the "Clovis Administrators") applied their viewpoint-discriminatory, overbroad, and vague policy prohibiting flyers with "inappropriate or offens[ive] language or themes" to prevent student officers of the Young Americans for Freedom campus chapter, Alejandro Flores, Daniel Flores, and Juliette Colunga, (collectively, "Student-Appellees"), from posting anti-communist and pro-life flyers on bulletin boards provided for student use.

As the district court correctly ruled in granting a preliminary injunction, the "inappropriate or offens[ive]" provision "undermine[d] the school's own interest in fostering a diversity of viewpoints on campus, thus frustrating, rather than promoting, the College's basic educational mission." 1-ER-22. This Court should affirm the district court's ruling that the provision was an overbroad and vague restriction on college students' speech. This Court may also affirm because the challenged provision was viewpoint discriminatory and an impermissible prior

restraint. *See Matal v. Tam*, 137 S. Ct. 1744, 1751 (2017) ("Giving offense is a viewpoint. The 'public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers.'" (quoting *Street v. New York*, 394 U.S. 576, 592 (1969))).

JURISDICTIONAL STATEMENT

Student-Appellees filed this First Amendment lawsuit under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. 2-ER-237–38 ¶¶ 13–15. Accordingly, the district court has federal jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3), (4).

This Court does not have jurisdiction over this appeal because Clovis Administrators' voluntary actions have mooted their appeal. After the district court enjoined the challenged provision, Clovis Administrators rescinded the provision and replaced the entire policy governing student flyers. Suppl. App. 9–13. If this Court concludes the appeal has not been mooted by Clovis Administrators' voluntary actions, jurisdiction would be proper under 28 U.S.C. § 1292(a)(1) and this appeal would be timely under Fed. R. App. P. 4(a)(1)(A).

ISSUES PRESENTED

1. Is this appeal moot in light of Clovis Administrators' voluntary decision to rescind the enjoined "inappropriate or offens[ive]" policy provision and replace the policy governing student flyers in its entirety?

2. Did the district court correctly preliminarily enjoin the "inappropriate or offens[ive]" provision as overbroad and vague in violation of the First and Fourteenth Amendments?

3. Did Clovis's "inappropriate or offens[ive]" provision improperly discriminate against viewpoint in violation of the First Amendment?

4. Did Clovis's policy requiring preapproval of student flyers, in combination with the "inappropriate or offens[ive]" provision, constitute an unconstitutional prior restraint in violation of the First Amendment?

STATEMENT OF THE CASE

I. Statement of Facts

Clovis Administrators banned Student-Appellees' flyers from indoor bulletin boards because they supposedly expressed "inappropriate or offens[ive] language or themes." Student-Appellees, seeking to recruit new members and spread their political message, asked—as required by Clovis policy—to post anti-communist and pro-life flyers on indoor bulletin boards provided for student organization use. Clovis Administrators banned those flyers under the "inappropriate or offens[ive]" provision and manufactured a pretextual justification to cover up their viewpoint discrimination.

A. Clovis Administrators maintained a Flyer Policy that banned "inappropriate or offens[ive] language or themes."

Before the district court's preliminary injunction, Clovis Administrators maintained a policy (the "Flyer Policy") regulating students' use of indoor bulletin boards. 2-ER-200. The Policy permitted "[g]roups/individuals/clubs" to "post up to 25 posters" on the indoor bulletin boards. *Id.* It also mandated that student organizations include their club name on flyers. *Id.* In addition to governing the size and placement of flyers, the Flyer Policy prohibited students from posting

flyers with "inappropriate or offens[ive] language or themes." *Id.* It also required students to submit their flyers to Clovis staff for prior approval and stamping before they could be posted. *Id.*

Except for the "inappropriate or offens[ive]" provision, the Flyer Policy did not regulate the content of student flyers. *See* 2-ER-243 ¶¶ 53–55. But the Flyer Policy failed to define or provide guidance to students or administrators as to the meaning of "inappropriate or offens[ive] language or themes." *See id.*

B. Clovis Administrators enforced the prohibition on "inappropriate or offens[ive]" speech to ban Student-Appellees' flyers.

Student-Appellees' trouble began in the Fall of 2021 when they sought to promote their conservative political message and recruit new members to their campus organization by posting certain flyers on indoor bulletin boards provided for student use. 2-ER-241 ¶¶ 39, 41. In November 2021, Student-Appellees Alejandro Flores, Daniel Flores, and Juliette Colunga were officers of the Young Americans for Freedom Clovis chapter. 2-ER-238 ¶¶ 18–20. They sought and obtained approval from Clovis employees to post anti-communist flyers celebrating "Freedom Week" (the "Freedom Week Flyers"). 2-ER-244–45 ¶¶ 58–62;

2-ER-265–70 Exs. A–C. But a few Clovis community members complained to administrators about the Freedom Week Flyers and demanded their removal. 2-ER-245 ¶ 63; 2-ER-177.

When Clovis Administrators learned of the complaints, they exchanged a flurry of emails discussing whether to remove Student-Appellees' flyers and deciding on a justification for doing so. 2-ER-245 ¶¶ 63–64; 2-ER-143–95. Appellant Vice President De La Garza suggested that the Clovis Administrators should "review the guidelines for posting flyers by clubs" that permitted Student-Appellees to post the Freedom Week Flyers to find a justification to remove them. 2-ER-182.

Within days, Clovis Administrators orchestrated the removal of the Freedom Week Flyers, applying the Flyer Policy's prohibition on "inappropriate or offens[ive] language or themes." 2-ER-245–46 ¶¶ 64–77. They did so even though Appellant Patrick Stumpf, the Clovis Administrator in charge of enforcing the Flyer Policy, recognized that virtually identical flyers had been approved in a previous school year. 2-ER-245 ¶¶ 67–69; 2-ER-183–84.

By the end of the week, Clovis Administrators had ordered staff to remove the Freedom Week Flyers. Instead of publicly noting their

application of the "inappropriate or offens[ive]" policy provision, Clovis's President, Appellant Lori Bennett, created a pretextual post-hoc justification to conceal their viewpoint discrimination: "If you need a reason, you can let them know that Marco [De La Garza] and I agreed they aren't club announcements." 2-ER-246 ¶ 71. The Flyer Policy contained no such requirement. *See* 2-ER-243 ¶ 53. Clovis's Dean of Student Services, Appellant Gurdeep Hébert, sent President Bennett's pretextual justification to Appellant Stumpf and even ordered him to keep it secret: "Between you and me. Please don't share this email. Flyers need to come down per administration." 2-ER-246 ¶ 77; 2-ER-192–93.

In late November 2021, when Student-Appellees created a new set of flyers advocating their pro-life viewpoint, Clovis Administrators used the same pretextual justification to ban the flyers from the bulletin boards for over a month. 2-ER-247 ¶¶ 79–99, 135–36. When the district court preliminarily enjoined the Flyer Policy's "inappropriate or offens[ive]" provision, the threat that Appellants would enforce the unconstitutional Flyer Policy loomed over the posting of *any* student flyers for 333 days. 2-ER-248–49.

II. Procedural History

After Student-Appellees sued for violation of their First and Fourteenth Amendment rights and sought to preliminarily enjoin the "inappropriate or offens[ive]" policy provision, the district court enjoined the challenged provision as overbroad and vague. Clovis then immediately replaced the entire Flyer Policy and has expressed no intention to reinstate the challenged provision.

A. The district court granted Student-Appellees' Motion for Preliminary Injunction.

Student-Appellees filed their Verified Complaint on August 11, 2022, seeking injunctive and declaratory relief as well as monetary damages for their loss of First and Fourteenth Amendment freedoms. 2-ER-234–70. They concurrently moved for a preliminary injunction arguing that the Appellants' Flyer Policy was (i) an unlawful viewpoint-based speech restriction, (ii) unconstitutionally overbroad, (iii) unconstitutionally vague, and (iv) an impermissible prior restraint. 2-ER-229–33. On September 23, 2022, after full briefing the district court held oral argument on the motion. 2-ER-35.

On October 14, 2022, the district court granted Student-Appellees' Motion for Preliminary Injunction because the Flyer Policy's

"inappropriate or offens[ive]" provision was overbroad and vague. 1-ER-17–26. Although deciding that the bulletin boards were public fora, as a matter of judicial restraint the court did not decide the particular type of forum. Instead, the court correctly noted that viewpoint-based restrictions are, regardless, unconstitutional in any forum. 1-ER-9–10. The court also determined that student flyers posted on campus indoor bulletin boards are not government speech. 1-ER-10–12.

After the court examined the constitutionality of the Flyer Policy's viewpoint-based speech restriction—including whether or not Clovis Administrators' viewpoint-discriminatory policy was permissible under *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988)—it ultimately declined to rule on the likelihood of success on the merits of Student-Appellees' viewpoint discrimination claim. 1-ER-15–17. The court also declined to rule on whether Clovis Administrators' Flyer Policy, in combination with the challenged provision, constituted an unconstitutional prior restraint. 1-ER-26–27.

However, informed by its viewpoint discrimination analysis, the court decided that the Student-Appellees were likely to prevail on the merits of their overbreadth claim because the provision posed an

"unacceptable risk of the suppression of ideas otherwise protected by the First Amendment" and had "no legitimate sweep of constitutionally proscribable speech." 1-ER-17–19. The court similarly found that Student-Appellees were likely to prevail on their vagueness claim because the provision did not "sufficiently identify the conduct that it prohibits," and "invite[d] arbitrary and discriminatory enforcement." 1-ER-23–26.

Ultimately, in granting Student-Appellees' motion, the district court enjoined the Clovis Administrators from "enforcing the Flyer Policy in so far as it requires preapproval from College administrators or staff and prohibits 'inappropriate or offense language or themes.'" 1-ER-32.

B. After the district court enjoined the challenged Flyer Policy provision, Clovis Administrators rescinded and replaced it.

On October 14, 2022, only seven hours after the district court enjoined the Flyer Policy's "inappropriate or offens[ive]" provision, Appellant Hébert emailed student organization faculty advisors to notify them that the entire Flyer Policy was being replaced with a new policy on posting student club flyers (the "Replacement Policy"). Suppl. App. 9–13. On October 18, 2022, Clovis Administrators published the

Replacement Policy on the Club Handbook page of Clovis's Website, Suppl. App. 2–8, replacing the former Flyer Policy. Suppl. App. 14–22. The Replacement Policy did not include the "inappropriate or offens[ive]" provision or other viewpoint-based restrictions on student organization flyers. *Id.*

On February 1, 2023, Appellants amended the Replacement Policy to reduce the number of flyers student organizations can post on the bulletin boards, but still not restricting flyers' content. Suppl. App. 23–26. Both the Replacement Policy and its amended version nevertheless contain provisions that permit unconstitutional arbitrary and discriminatory enforcement and declare—without basis—that student organization flyers are, inexplicably, Clovis's speech.

On December 9, 2022, Clovis Administrators filed their opening brief in this Court. Nowhere in Appellants' filings, public statements, or the statements of Appellants' counsel have they suggested any intent to reinstate the enjoined Flyer Policy provision.

SUMMARY OF THE ARGUMENT

Clovis Administrators banned student flyers under a policy prohibiting "inappropriate or offens[ive] language or themes." Under this Flyer Policy provision, they unconstitutionally prevented Student-Appellees from posting flyers with conservative messages on bulletin boards provided for student use.

As a threshold matter, as explained in Section I, the Clovis Administrators lack standing to bring this appeal. Hours after the district court preliminarily enjoined enforcement of one provision of the Flyer Policy, the Clovis Administrators rescinded and replaced the entire Flyer Policy—rather than simply ceasing enforcement of the enjoined provision. Clovis Administrators have therefore disavowed any interest in reinstating the previous policy. Without an interest in the rescission of the preliminary injunction, the Clovis Administrators' appeal of the injunction no longer presents a live controversy for this Court to address. *Fleet Feet, Inc. v. NIKE Inc.*, 986 F.3d 458, 463 (4th Cir. 2021).

However, the district court's preliminary injunction should be left in place because Clovis Administrators' appeal is moot based on their own voluntary actions. Suppl. App. 9–13; *see Ringsby Truck Lines, Inc. v. W.*

Conf. of Teamsters, 686 F.2d 720, 723 (9th Cir. 1982) (dismissing an appeal as moot but refusing to vacate judgment after a post-judgment settlement).

Even if the appeal is not moot, Section II details the reasons this Court should affirm the district court's preliminary injunction ruling. The district court correctly held that the "inappropriate or offens[ive]" provision in the Clovis Administrators' Flyer Policy was unconstitutionally overbroad and vague. First, the provision had no legitimate sweep and was capable of limitless unconstitutional applications to protected expression. Second, the provision used terms too vague to understand what was prohibited or to prevent arbitrary and discriminatory enforcement.

Contrary to the Clovis Administrators' contentions, Section III explains that the district court correctly concluded that the forum type was irrelevant because it determined the existence of a public forum and speech restrictions must be viewpoint neutral and reasonable in every forum type. Student-Appellees' arguments do not depend on the school bulletin boards being anything more than a limited public forum.

Faced with clear authority to the contrary, Clovis Administrators also assert—without legal or factual support—that Clovis student organizations' flyers on the bulletin board are school-sponsored speech under *Hazelwood*. As explained in Section IV, they are wrong. Neither Supreme Court nor Ninth Circuit precedent support extending *Hazelwood's* school-sponsored speech doctrine from the K–12 context to the non-curricular speech of student groups on college campuses. As this Court recently clarified, "*Hazelwood* does not provide the appropriate framework for evaluating a First Amendment claim," where the speaker is an adult and "[t]he University's purpose was not to teach [] any lesson," *Oyama v. Univ. of Haw.*, 813 F.3d 850, 863, 864 n.10 (9th Cir. 2015)—the exact situation here. Nor does the more generalized government-speech doctrine apply since Clovis Administrators do not participate in determining the content of student flyers.

Section V notes that this Court may also affirm Student-Appellees' likelihood of success on the merits on two additional bases: that the "inappropriate or offens[ive]" provision discriminated based on viewpoint and, in concert with the Flyer Policy, was an impermissible prior restraint on speech. First, Clovis Administrators provided a public forum

for student speech and therefore could not constitutionally enforce the viewpoint-discriminatory "inappropriate or offens[ive]" provision within that forum. As the Supreme Court recently explained: "Giving offense is a viewpoint." *Matal*, 137 S. Ct. at 1751; *see Am. Freedom Def. Initiative v. King County.*, 904 F.3d 1126, 1131 (9th Cir. 2018) ("[O]ffensive speech is, itself, a viewpoint and . . . the government engages in viewpoint discrimination when it suppresses speech on the ground that the speech offends.").

Second, Clovis Administrators' Flyer Policy, in combination with the enjoined provision, imposed a prior restraint on student speech by requiring preapproval of all student flyers. Clovis staff denied flyers based on the clearly arbitrary and viewpoint-discriminatory "inappropriate or offens[ive]" provision. Under the provision's overbreadth and vagueness, its viewpoint discrimination, or its prior restraint, this Court should affirm that the Student-Appellees were likely to succeed on the merits.

Finally, as Section VI explains, the Court should also affirm that the district court properly ruled—and Clovis Administrators do not argue otherwise—that Student-Appellees were likely to suffer irreparable

harm in the absence of a preliminary injunction and that the balance of the equities and public interest weighed in favor of granting the preliminary injunction.

STANDARD OF REVIEW

While a preliminary injunction order is generally reviewed for abuse of discretion, where "the essential issues are matters of law," as in this case, the Court reviews *de novo* the district court's conclusions of law. *Sanders Cnty. Republican Cent. Comm. v. Bullock*, 698 F.3d 741, 744 (9th Cir. 2012). Also, in First Amendment cases like this one, the Court reviews the factual record independently to ensure that the judgment below does not improperly intrude on free expression. *Bose Corp v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 499–500, 505 (1984); *Planned Parenthood of Columbia/Willamette, Inc. v. Am. Coal. of Life Activists*, 290 F.3d 1058, 1067–70 (9th Cir. 2002).

To obtain a preliminary injunction under Federal Rule of Civil Procedure 65, a party must establish that: (1) they are likely to succeed on the merits, (2) they are likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council,*

Inc., 555 U.S. 7, 20 (2008); *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1289 (9th Cir. 2013). In applying the four-part *Winter* test, this Court balances each part, "so that a stronger showing of one element may offset a weaker showing of another." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). And "in the First Amendment context, the moving party bears the initial burden of making a colorable claim that its First Amendment rights have been infringed, or are threatened with infringement, at which point the burden shifts to the government to justify the restriction." *Doe v. Harris*, 772 F.3d 563, 570 (9th Cir. 2014).

ARGUMENT

I. As Appellants, the Clovis Administrators Lack Standing to Appeal the Injunction of a Policy They Have Voluntarily Rescinded, Replaced, and Disavowed.

Article III demands that "an actual controversy" persist through all stages of litigation. *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90–91 (2013). Parties seeking appellate review must meet the requirements of standing, "just as [standing] must be met by persons appearing in courts of first instance." *Arizonans for Official Eng. v. Arizona*, 520 U.S. 43, 64 (1997). But an appeal "is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome."[1] *Shell Offshore v. Greenpeace, Inc.*, 815 F.3d 623, 628 (9th Cir. 2016) (quoting *City of Erie v. Pap's A.M.*, 529 U.S. 277, 287 (2000)); *see also Already, LLC*, 568 U.S. at 91; *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 398 (1981).

[1] Other issues may remain a live controversy even when a particular appeal is rendered moot. *See Shell Offshore*, 815 F.3d at 631 (citing *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 394 (1981); *Powell v. McCormack*, 395 U.S. 486, 497 (1969)). That is the case here. Student-Appellees still seek damages for the injuries that they suffered and have claims challenging other elements of Clovis's policies related to flyers and other types of student speech.

Thus, an appeal is moot where a defendant appeals an injunction but ceases and disavows the enjoined practice. *See Fleet Feet*, 986 F.3d at 463. In *Fleet Feet*, NIKE appealed a preliminary injunction preventing its use of Fleet Feet's tagline. *Id.* at 462. The Fourth Circuit held NIKE's appeal to be moot because NIKE ceased using the tagline and did not evidence an intention to use it again. *Id.* Those facts "foreclosed any possible relief to NIKE based on the preliminary injunction's interference"—thus there was no live controversy for the court to remedy. *Id.* at 463. As the Fourth Circuit noted, a defendant-appellant who ceases and "disavow[s] any intention to revive [the enjoined practice]" should not be able to avoid mootness because it "has every incentive to say [if it wishes to reinstate the enjoined practice], and thereby avoid a finding that its appeal is moot." *Id.* at 463 n.2.

The Clovis Administrators are in the same position as NIKE and therefore their appeal of the preliminary injunction here is moot. Only seven hours after the district court enjoined the "inappropriate or offens[ive]" provision, the Clovis Administrators rescinded and replaced their Flyer Policy, in its entirety, with the Replacement Policy—effectively disavowing the enjoined provision. Suppl. App. 9–13.

Appellants have since amended the Replacement Policy to include additional regulations not contained in the former Flyer Policy—but still not reinstating the enjoined provision. In addition, the Clovis Administrators have never suggested any intent to resurrect the "inappropriate or offens[ive]" policy provision. Thus, a ruling in their favor would not remedy any legally cognizable interest, rendering this appeal moot.

If the Court dismisses the appeal as moot, it should not vacate the preliminary injunction. "Where an appeal of a preliminary injunction order becomes moot but 'the case remains alive in the district court, it is [generally] sufficient to dismiss the appeal without directing that the injunction order be vacated.'" *Fleet Feet*, 986 F.3d at 466–67 (citing 13C Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 3533.10.3 (3d ed. 2019)). Generally, vacatur of an injunction is appropriate only when a claim becomes moot after final judgment to "ensure that a losing party's right of appellate review is not frustrated by circumstances out of that party's control[;]" such as where the graduation of student-plaintiffs renders moot a defendant-school's appeal of a permanent injunction. *Fleet Feet*, 986 F.3d at 466 (citing *Mellen v.*

Bunting, 327 F.3d 355, 364 (4th Cir. 2003)). But, "when the [defendant-appellant] has by his own act caused the [mootness] of the appeal" courts do not vacate injunctions because the appellant "is in no position to complain that his right of review of an adverse lower court judgment has been lost."[2] *Ringsby Truck Lines*, 686 F.2d at 722 (denying appellant's motion to vacate district court judgment after appellant's agreement to settle the case rendered appeal moot).

Here, the Clovis Administrators' appeal is moot because they rescinded and disavowed the enjoined policy provision. This Court must not vacate the preliminary injunction of a rescinded and replaced policy because Appellants' own acts caused the dismissal of their appeal.

[2] Moreover, the preliminary injunction context does not raise the equitable concerns present after final judgment because further litigation is required to make the injunction permanent. Therefore, vacatur is not necessary to "clear the path for future relitigation of the issues between the parties." *Fleet Feet*, 986 F.3d at 466 (internal citations and quotation marks omitted).

II. The District Court Correctly Ruled That Student-Appellees Were Likely to Succeed on the Merits Because the Challenged Provision Was Overbroad and Vague.

The district court correctly ruled that the "inappropriate or offens[ive]" provision was unconstitutionally overbroad and vague.[3] First, the provision has no legitimate sweep and is capable of virtually limitless unconstitutional applications to protected expression. Second, the provision uses terms too vague to understand what is prohibited or to prevent arbitrary and discriminatory enforcement.

[3] As in their briefing in the district court, Clovis Administrators "offer little response to [Student-Appellees'] overbreadth challenge" or vagueness challenge. 1-ER-19. Instead, they mistakenly argue that they have unbridled authority to control the content of student flyers on indoor bulletin boards provided for student use because the flyers inexplicably constitute school-sponsored speech—thereby suggesting overbreadth or vagueness doctrine cannot apply. They are wrong. As detailed *infra* Section III–IV, the bulletin boards are public fora and neither school-sponsored nor government-speech doctrines apply here. "It is undisputed that the College permits students, i.e., non-government speakers, to post messages and flyers containing student speech on the bulletin boards in the Academic Center." 1-ER-11. And *Hazelwood* is irrelevant to the private non-curricular speech of student groups. Appellants offer no other basis for disturbing the district court's well-reasoned decision on overbreadth and vagueness.

A. The district court correctly held the challenged Flyer Policy provision to be overbroad.

The Flyer Policy's prohibition on "inappropriate or offens[ive]" speech was unconstitutionally overbroad, creating a chilling effect on protected expression. 1-ER-23 (citing *Virginia v. Black*, 538 U.S. 343, 365 (2003)). Its broad sweep encompassed a substantial number of applications to protected speech, as judged in relation to its minimal, if not nonexistent, legitimate sweep. 1-ER-17–23; *see also Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*, 657 F.3d 936, 944 (9th Cir. 2011) (explaining that a "law may be invalidated as overbroad if 'a substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep.'" (quoting *United States v. Stevens*, 559 U.S. 460, 473 (2010))). Indeed, the provision's unconstitutional applications were virtually limitless because it banned disfavored viewpoints on political, social, economic, or other issues of public concern.

Because of its broad scope, the provision could "conceivably be applied to cover any speech," *McCauley v. Univ. of the V.I.*, 618 F.3d 232, 249 (3rd Cir. 2010)—essentially, whoever controlled or influenced the preapproval process could have prohibited any flyer that expressed a

viewpoint they opposed. Clovis Administrators could have prohibited student flyers saying "Blue Lives Matter" or "Black Lives Matter" or those carrying LGBTQ Pride flags or encouraging students to "Support Traditional Marriage." Clovis students would therefore be more likely to self-censor, rather than seek approval for potentially "offensive" flyers and be denied. As the district court ruled, the Flyer Policy's "inappropriate or offens[ive]" provision presented an "unacceptable risk of the suppression of ideas otherwise protected by the First Amendment" and was consequently overbroad. 1-ER-23.

The enjoined provision also had "no legitimate sweep of constitutionally proscribable speech." 1-ER-19. As the Supreme Court recently emphasized, limiting speech perceived to be hateful, insulting, or offensive "strikes at the heart of the First Amendment." *Matal*, 137 S. Ct. at 1764. Following the same maxim, the Third Circuit has held that a university's "ban on 'offensive' signs was hopelessly ambiguous and subjective" and that such a ban had "no plainly legitimate sweep and may be used to arbitrarily silence protected speech." *McCauley*, 618 F.3d at 250.

Because the Flyer Policy's offending provision targeted only protected expression and Clovis Administrators did not have an overriding "interest in preventing speech expressing ideas that offend," the provision had no legitimate sweep to save it. *Id.* As the district court correctly held, "the Flyer Policy's unconstitutional applications substantially outweighs the College's alleged legitimate objectives." 1-ER-23 (citing *Black*, 538 U.S. at 365). Indeed, "no conceivable governmental interest would justify such" a sweeping prohibition. *Bd. of Airport Comm'rs of City of L.A. v. Jews for Jesus, Inc.*, 482 U.S. 569, 575 (1987). Accordingly, Clovis Administrators provide no ground to challenge the district court's correct ruling that their Policy's "inappropriate or offens[ive]" provision was likely to be found unconstitutionally overbroad.

B. The district court correctly held the challenged provision to be unconstitutionally vague.

The enjoined Flyer Policy provision was also unconstitutionally vague because it "fail[ed] to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits" and "authorize[d] or even encourage[d] arbitrary and discriminatory enforcement." *Hill v. Colorado*, 530 U.S. 703, 732 (2000); *see also Grayned*

v. City of Rockford, 408 U.S. 104, 108–09 (1972). First, "[t]he Flyer Policy does not 'sufficiently identify the conduct that it prohibits.'" 1-ER-24 (citing *United States v. Wunsch*, 84 F.3d 1110, 1119 (9th Cir. 1996)). The terms "offens[ive]" and "inappropriate" lack a definitive meaning as applied to speech, requiring students to guess whether their speech would violate the provision. *See Cramp v. Bd. of Pub. Instruction of Orange Cnty.*, 368 U.S. 278, 287 (1961). Opposing viewpoints will likely be offensive to the other side of a debate. *See infra,* Sections IV and V.A. For this reason, "[t]he Supreme Court and the Ninth Circuit have struck down statutes containing the term 'offensive' as insufficiently clear." 1-ER-24 (citing *Cohen v. California*, 403 U.S. 15, 16, 24-25 (1971) and *Wunsch*, 84 F.3d at 1119). Because Clovis Administrators' Flyer Policy failed to provide "fair warning" of what the "inappropriate or offens[ive]" provision proscribed, it necessarily chilled speech and led students to self-censor in an effort to "steer far wider of the [prohibited] zone . . . than if the boundaries of the forbidden areas were clearly marked." *Grayned*, 408 U.S. at 109.

The Flyer Policy also failed to limit Clovis employees' exercise of discretion under the enjoined provision, "invit[ing] arbitrary and

discriminatory enforcement." 1-ER-25. Because the "inappropriate or offens[ive]" provision's terms were undefined, Appellant Clovis Administrators and other Clovis employees had unlimited discretion to determine the meaning of those terms in a given instance—"exemplify[ing] the kind of arbitrary and discriminatory treatment that the vagueness doctrine is designed to prevent." 1-ER-25. Specifically, Appellant Stumpf approved Student-Appellees' Freedom Week Flyers in a previous year, 2-ER-188 and approved them again in 2021 under the Flyer Policy, even though he was "on the fence" in 2021. *Id.* When third parties criticized the Freedom Week Flyers, he and the other Clovis Administrators developed a pretextual, post-hoc justification for the flyers' removal because they found them "offens[ive]." 2-ER-245–46 ¶¶ 63, 65 69, 71. Clovis Administrators' failure to enforce the "inappropriate or offens[ive]" provision clearly and consistently "highlights the unpredictable and arbitrary enforcement that the ambiguous Flyer Policy enable[d]." 1-ER-26.

Because the Flyer Policy was such an "indeterminate prohibition," it "carrie[d] with it '[t]he opportunity for abuse, especially where [it] has received a virtually open-ended interpretation.'" *Minn. Voters All. v.*

Mansky, 138 S. Ct. 1876, 1891 (2018) (quoting *Jews for Jesus*, 482 U.S. at 576). Accordingly, the Clovis Administrators provide no ground to challenge the district court's correct ruling that their Policy's "inappropriate or offens[ive]" provision was likely to be found unconstitutionally vague.

III. The District Court Correctly Ruled That Clovis Administrators Created a Forum for College Student Speech.

Clovis Administrators provided indoor bulletin boards for student organizations to post flyers, creating at least a limited public forum for student speech. *See Hopper v. City of Pasco*, 241 F.3d 1067, 1074–75 (9th Cir. 2001). The Clovis Administrators contend that the district court erred in not determining that their bulletin boards were "nonpublic" fora, but fail to recognize that the type of public forum they created is irrelevant. The district court's legal conclusions do not rely on the bulletin boards being anything other than "nonpublic" fora. As the district court explained, "[b]ecause the First Amendment prohibits viewpoint discrimination under all three forum types and the College undisputedly provides the bulletin boards to third-party speakers, the Court need not determine whether the bulletin boards in the Academic

Center are public or nonpublic forums." 1-ER-10. Regardless, if the district court concluded the bulletin boards are limited public fora—also interchangeably labeled "nonpublic fora"[4]—it would have made the same legal conclusion: that forum type is irrelevant to determine whether the Clovis Administrators' speech restriction is viewpoint-based, overbroad, or vague.

A review of Supreme Court and Ninth Circuit forum precedent related to limited public fora is illustrative. A limited public forum "refer[s] to a type of *nonpublic* forum that the government has intentionally opened to certain groups or certain topics." *Hopper*, 241 F.3d at 1074 (quoting *DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ.*,

[4] A limited public forum *is* a nonpublic forum. As the district court correctly recognized, "[t]he terms 'nonpublic forum' and 'limited public forum' are often used interchangeably because the same reasonableness test and prohibition against viewpoint discrimination equally applies [to each]." 1-ER-10 n.3 (citing *Davenport v. Wash. Educ. Ass'n*, 551 U.S. 177, 189 (2007); *Amalgamated Transit Union Loc. 1015 v. Spokane Transit Auth.*, 929 F.3d 643, 651 n. 4 (9th Cir. 2019)); *see also, e.g.*, *Koala v. Khosla*, 931 F.3d 887, 900 n.6 (9th Cir. 2019) (explaining that the "label doesn't matter, because the same level of First Amendment scrutiny applies to all forums that aren't traditional or designated public forums" (quoting *Seattle Mideast Awareness Campaign v. King County* (*SeaMAC*), 781 F.3d 489, 496 n.2 (9th Cir. 2015))); *cf. Hopper*, 241 F.3d at 1075 n.8 (remarking upon "the strange semantic result that a limited public forum is *not* actually a public forum").

196 F.3d 958, 965 (9th Cir. 1999)) (emphasis added) (internal quotation marks omitted); *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 802 (1985). By definition, a limited public forum is created by the State for a particular purpose and the scope of the forum is defined by its purpose and the policy that created it. *Koala*, 931 F.3d at 902 (citing *Mansky*, 138 S. Ct. at 1886). Government may have wider latitude to restrict speech in limited public fora based on subject matter or speaker identity than in traditional or designated public fora. But any restrictions must still be viewpoint neutral and reasonable in light of the forum's purpose. *Hopper*, 241 F.3d at 1074–75 (citing *DiLoreto*, 196 F.3d at 965); *see also Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995); *Lamb's Chapel v. Ctr. Moriches Union Free Sch.*, 508 U.S. 384, 392–93 (1993).

For example, in *Flint v. Dennison*, campaign spending limits in public university student government elections were permissible speech restrictions in the limited public forum of a student election. 488 F.3d 816, 833–36 (9th Cir. 2007). The spending limits were viewpoint neutral because they applied to all candidates regardless of opinion, and

reasonable to preserve the election's purpose as an educational tool. *Id.* at 834–35.

In contrast, when a school district created a limited public forum in its schools for outside groups to display brochures promoting summer camps, but excluded a brochure advertising a summer camp offering Bible classes among other non-religious activities, the school district impermissibly discriminated based on viewpoint. *Hills v. Scottsdale Unified Sch. Dist. No. 48*, 329 F.3d 1044, 1053 (9th Cir. 2003). Although the school district could exclude the display of religious materials if they were unrelated to the subject of summer camps because they would then "exceed[] the purpose of the forum the District created," *id.* at 1052–53, it could not exclude a brochure merely because it addressed the appropriate subject from a religious viewpoint. *Id.* at 1051–53.

Here, "[i]t is undisputed that the College permits students, i.e., non-government speakers, to post messages and flyers containing student speech on the bulletin boards in the Academic Center." 1-ER-11. Clovis Administrators' former Flyer Policy permitted "[g]roups/individuals/clubs" to "post up to 25 posters" on the bulletin boards. 2-ER-200. Further, a local community college regulation, AR

5550, mandates that Clovis "provide[] . . . bulletin boards for use in posting student materials. . . convenient for student use." 2-ER-147. Clovis Administrators undoubtedly provided the bulletin boards to a particular group—students—for the express purpose of allowing them to post "student materials . . . convenient for student use"—thereby creating, at the very least, limited public fora for Clovis-affiliated student clubs to post flyers related to their clubs and campus life.

Clovis Administrators cannot argue otherwise. While they note AR 5550's designation of "interior walls" as "nonpublic" fora, they ignore two determinative points. Appellants' Opening Brief, ECF No. 6 at 15–16; 2-ER-135. As an initial matter, public officials may not simply declare a forum's type; forum type is determined by officials' intent, expressed through their policy and practice. *See Cornelius*, 473 U.S. at 802; *Widmar v. Vincent*, 454 U.S. 263, 277 (1981) (concluding that a university created a limited public forum by adopting an express policy allowing its meeting facilities to be used by student groups).[5] Appellant Administrators' post-

[5] Determinations of forum type must be made by courts examining the government's policy and practices to avoid turning the forum analysis "into a jurisprudence of labels." *See Pleasant Grove City v. Summum*, 555 U.S. 460, 484 (2009) (Breyer, J., concurring).

hoc declaration that their forum is fully within their control is irrelevant to this Court's analysis under the First Amendment.

In addition, even if AR 5550's declaration that "interior walls" are "nonpublic" fora meant that the walls were not open to anyone, the regulation does not give Clovis Administrators unfettered control over student speech on interior *bulletin boards*. Clovis Administrators conspicuously ignore AR 5550's stated requirement that Clovis provide "bulletin boards for use in posting student materials . . . convenient for student use." 2-ER-146–47. And, as described in their Flyer Policy, Clovis Administrators explicitly sought—as AR 5550 required—to provide the bulletin boards for students to post "student materials . . . convenient for student use."

Ultimately, once Clovis Administrators allowed student speech on the interior bulletin boards, they could only restrict it with viewpoint-neutral and reasonable rules. *Koala*, 931 F.3d at 900 (citing *SeaMAC*, 781 F.3d at 496) (First Amendment requires reasonableness and viewpoint neutrality in nonpublic fora). Their insistence that the bulletin boards are nonpublic fora is irrelevant to an analysis of whether the

"inappropriate or offens[ive]" restriction on students' bulletin board speech was viewpoint discriminatory, overbroad, or vague.

IV. Student-Appellees' Flyers Were Neither School-Sponsored Nor Government Speech.

Having no lawful basis for their overbroad and vague "inappropriate or offens[ive]" policy provision, the Clovis Administrators make the baffling claim that all student bulletin board speech is school-sponsored speech under *Hazelwood* and its Ninth Circuit progeny, *Planned Parenthood of Southern Nevada v. Clark County School District*.[6] But these cases concern curricular speech in K–12 schools. Clovis Administrators do not offer a single citation, let alone Supreme Court or Ninth Circuit precedent, for their assertion that *Hazelwood* extends to the non-curricular speech of student groups on college campuses. However, a commonsense reading of *Hazelwood* in concert with other Supreme Court and Ninth Circuit precedent demonstrates that it has no such application.

[6] *Planned Parenthood's* holding is consistent with *Hazelwood's* school-sponsored curricular speech doctrine because Planned Parenthood's advertisements were meant to appear in publications created by students as assignments for dedicated academic courses. 941 F.2d 817, 828–29 (9th Cir. 1991). Thus, there is no meaningful distinction between the two decisions as applied here. *See* 1-ER-15 n. 5.

Also, as the district court held, the government-speech doctrine has no application here because neither the Clovis Administrators nor any other Clovis employee dictated the message communicated by student flyers, rather, the Flyer Policy required that clubs include their name on their flyers, and the Flyer Policy explicitly reserved the bulletin boards for students to post student materials.

A. The school-sponsored speech doctrine does not apply in college settings.

Hazelwood and its progeny have no application here. Appellants assert—without identifying supporting precedent or even a single policy justification—that *Hazelwood's* school-sponsored speech doctrine applies in college settings. But Supreme Court precedent provides no support for their contention.[7] In fact, Supreme Court and Ninth Circuit precedent regarding free speech on college campuses supports the opposite conclusion.

In *Hazelwood*, a high school principal prevented several student-written articles, prepared as part of a journalism class, from appearing

[7] *Hazelwood* explicitly declined to address extending the school-sponsored speech doctrine to colleges and universities. 484 U.S. at 273 n.7.

in the school newspaper. The principal argued that the articles described mature subject matter and infringed the privacy of students named in the articles. The Supreme Court reasoned that the principal's censorship did not violate the First Amendment because K–12 schools are entitled to "assure that participants [in school-sponsored activities] learn whatever lessons the activity is designed to teach, that readers or listeners are not exposed to material that may be inappropriate for their level of maturity, and that the views of the individual speaker are not erroneously attributed to the school." *Hazelwood*, 484 U.S. at 271. Therefore, public school K–12 "educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities." *Id.* at 273.

Hazelwood is inapplicable in public college and university settings because the school-sponsored speech "doctrine fails to account for the vital importance of academic freedom at public colleges and universities." *Oyama*, 813 F.3d at 863 (internal citation omitted). Indeed, the Supreme Court has repeatedly stressed the importance of student free speech on public college campuses. In *Healy v. James*, the Court rejected "the view that . . . First Amendment protections should apply with less force on

college campuses than in the community at large." 408 U.S. 169, 180 (1972); *see also Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957) ("The essentiality of freedom in the community of American universities is almost self-evident."). *Healy* made clear that "state colleges and universities are not enclaves immune from the sweep of the First Amendment." 408 U.S. at 180. The Court doubled down on that principle in *Widmar v. Vincent*, stating that its "cases le[ft] no doubt that the First Amendment rights of speech and association extend to the campuses of state universities." 454 U.S. at 268–69; *see also id.* at 274 n.14 (explaining that "[u]niversity students" are "young adults" and thus "less impressionable than younger students"); *Oyama*, 813 F.3d at 862–63 (emphasizing that the graduate student speech in question was uttered by an adult to other adults); *McCauley*, 618 F.3d at 246 ("Considerations of maturity are not nearly as important for university students, most of whom are already over the age of 18 and entrusted with a panoply of rights and responsibilities as legal adults.").

This Court too has explained: "Intellectual advancement has traditionally progressed through discord and dissent . . . Colleges and universities . . . have historically fostered that exchange." *Rodriguez v.*

Maricopa Cnty. Cmty. Coll. Dist., 605 F.3d 703, 708 (9th Cir. 2010). Relatedly, although not categorically ruling out the possibility, this Court has twice recognized that *Hazelwood* provides no basis for restricting college student speech. *See Oyama,* 813 F.3d at 862–63 ("In the twenty-seven years since *Hazelwood*, we too have declined to apply its deferential standard in the university setting."); *Flint*, 488 F.3d at 829 n. 9; *cf. R.W. v. Columbia Basin Coll.*, 572 F. Supp. 3d 1010, 1027 (E.D. Wash. 2021) (holding that the Ninth Circuit has signaled that the K–12 "substantial disruption" test from *Tinker* does not apply to higher education).

Further, *Hazelwood*'s assumption of school control over curriculum content, and consequent potential that student speech pursuant to that curriculum could reasonably be viewed as reflecting the school's imprimatur, has no relevance to college coursework. Unlike K–12 schools—where state and local school officials rather than individual teachers control the curriculum[8]—generally, college and university

[8] Teachers in primary and secondary public schools do not enjoy the same degree of academic freedom protection that university professors do, and state and local school officials control the curriculum. *See Epperson v. Arkansas*, 393 U.S. 97, 104 (1923) (holding that "public education in our Nation is committed to the control of state and local authorities"); *Evans-Marshall v. Bd. of Educ. of Tipp. City Exempted Vill. Sch. Dist.*, 624 F.3d 332, 344 (6th Cir. 2010) (holding that *Garcetti* applies

faculty control their course curriculum. *Demers v. Austin*, 746 F.3d 402, 413 (9th Cir. 2014) (explaining that "the degree of freedom an instructor should have in choosing what and how to teach will vary depending on whether the instructor is a high school teacher or a university professor"); *Dibona v. Matthews*, 220 Cal. App. 3d 1329, 1346–47 (Cal. Ct. App. 1990) (finding no authority to support the argument that a college or university may censor instructor-selected curriculum materials). The decentralized faculty control of curriculum in college settings means even college students' curricular speech cannot reasonably be perceived to bear the imprimatur of the school as it might in K–12 schools.

Applying *Hazelwood*—which highlighted K–12 schools' need to protect *minor children* from certain types of mature information and schools' ability to control messages that could reasonably be viewed as carrying their imprimatur—makes no sense in a college setting.

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to a public high school teacher's speech because the "constitutional rules applicable in higher education do not necessarily apply in primary and secondary schools, where students generally do not choose whether or where they will attend school"); *Mayer v. Monroe Cnty. Cmty. Sch. Corp.*, 474 F.3d 477, 480 (7th Cir. 2007) (holding that "the first amendment does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system").

B. The school-sponsored speech doctrine does not apply to non-curricular student organization speech.

Regardless, *Hazelwood* applies only to school-sponsored activities that "may fairly be characterized as part of the school curriculum." *Hazelwood*, 484 U.S. at 271. "[T]he *key* rationales for restricting students' speech [identified in *Hazelwood*] are to ensure that students 'are not exposed to material that may be inappropriate for their level of maturity' and 'learn whatever lessons the activity is designed to teach.'" *Oyama*, 813 F.3d at 863 (emphasis added). But "*Hazelwood* does not provide the appropriate framework for evaluating a First Amendment claim," where the speaker is an adult and "[t]he University's purpose was not to teach [] any lesson." *Id.* at 863, 864 n.10.

Appellants do not even attempt to argue that Student-Appellees' flyers represent curricular speech—with good reason. The expression of student organizations, like the Student-Appellees' group, has never been considered school-sponsored curricular speech. *See, e.g.*, *Bd. of Edu. of Westside Cmty. Schs. v. Mergens*, 496 U.S. 226, 249–50 (1990) (rejecting argument that providing religious student groups equal access to school facilities would cause "an objective observer in the position of a secondary school student [to] perceive official school support for such religious

meetings"); *Perry Educ. Ass'n. v. Perry Loc. Educators Ass'n.*, 460 U.S. 37, 47 (1983); *Rosenberger*, 515 U.S. at 828–30.

To the contrary, courts have consistently treated the speech of student groups—whether in college or K–12 settings—as private speech, applying forum analysis to judge the constitutionality of the school's restrictions. *See, e.g.*, *Prince v. Jacoby*, 303 F.3d 1074, 1091 (9th Cir. 2002) (treating high school student club's expression as student speech for First Amendment purposes and concluding that school had opened limited public forum); *Truth v. Kent Sch. Dist.*, 542 F.3d 634 (9th Cir. 2008), overruled on other grounds by *County of Los Angeles v. Humphries*, 562 U.S. 29 (2010); *Carver Middle Sch. Gay-Straight All. v. Sch. Bd. of Lake Cnty.*, 842 F.3d 1324 (11th Cir. 2016); *Bible Club v. Placentia-Yorba Linda Sch. Dist.*, 573 F. Supp.2d 1291 (C.D. Cal. 2008).

In a closely analogous case, *Westfield High School L.I.F.E. Club v. City of Westfield*, a Massachusetts district court decisively rejected a high school's argument—essentially identical to that advanced by the Clovis Administrators here—that a student group was "a school-sponsored organization whose literature distribution bears the 'imprimatur of the school.'" 249 F. Supp. 2d 98, 117 (D. Mass. 2003). The court explained

that a student club does not become part of the curriculum merely because the school allowed groups to communicate through its daily bulletin, bulletin boards, and yearbook, provided an adult sponsor to monitor the group, and provided its facilities for morning prayer and club meetings outside of the school day. *Id.* (citing *Hazelwood*, 484 U.S. at 271). "To adopt the defendants' definition of 'school-sponsored' would devoid that term of any helpful meaning, as nearly every student group activity happening to occur on school grounds can, in some tenuous sense, be described as using school facilities and as designed to impart some sort of knowledge upon its members." *Id.*

As in *Westfield*, the fact that Clovis Administrators provided indoor bulletin boards for student use does not transform student groups' flyers into curricular speech attributable to Clovis and subject to its editorial control. The school-sponsored speech doctrine simply has no application to the private non-curricular speech at issue here.

C. Student flyers on bulletin boards provided for student use do not constitute government speech.

For similar reasons, the government-speech doctrine also has no application here. That doctrine is a narrow First Amendment exception allowing state actors to control messages in a forum where "the

government speaks for itself." *Shurtleff v. Boston*, 142 S. Ct. 1583, 1587 (2022). However, as the Supreme Court has warned, the doctrine is "susceptible to dangerous misuse" because "[i]f private speech could be passed off as government speech by simply affixing a government seal of approval, government could silence or muffle the expression of disfavored viewpoints." *Matal*, 137 S. Ct. at 1758.

To determine "when [] government-public engagement transmit[s] the government's own message" as opposed to when "it instead create[s] a forum for the expression of private speakers' views," courts consider the history of the expression at issue, the public's likely perception as to who is speaking, and the extent to which the government actively shaped or controlled the expression. *Shurtleff*, 142 S. Ct. at 1589–90 (citing *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 209–14 (2015)). Accordingly, in *Shurtleff*, when Boston made a flagpole available for use by numerous private groups without city involvement in the featured flags' messages, the city could not later claim the hoisted flags were government speech in order to exclude raising a religious group's "Christian flag."

Government speech is more likely to be found only in those places where public officials definitively exclude the opinions of others. In *Downs v. Los Angeles Unified School District*, a school's hallway bulletin boards were accessible only to school employees and the principal oversaw and maintained control over all bulletin board messages. 228 F.3d 1003, 1011 (9th Cir. 2000). When a teacher was punished for unilaterally posting materials on a bulletin board to counter school-approved messages on other bulletin boards, this Court found no First Amendment violation because the bulletin boards were limited to government-approved messages—they were not public fora. *Id.* at 1010–12, 1016–17.

Although not squarely raised by Clovis Administrators, the district court considered and correctly rejected the government-speech doctrine's application here. 1-ER-12 ("Student flyers on the College's bulletin boards do not equate to government speech" because "the Policy does not promote or seek to express a specific message or theme on its bulletin boards."). In line with AR 5550's requirements, Clovis Administrators have allowed Clovis student organizations to post all manner of flyers on the indoor bulletin boards. 1-ER-3–4, 12. Clovis Administrators neither

reserved the bulletin boards for a particular message or theme, nor shaped the message of any student group flyers. *See* 2-ER-210. On the contrary, the Flyer Policy required that flyers display the posting organization's name to *avoid* any likelihood that people would assume flyers carried the imprimatur of the school. *Id.* Given the longstanding use of the bulletin boards as public fora for student flyers, Clovis's complete lack of involvement in shaping flyer content, and the fact that flyers carried the names of their respective organization—including Student-Appellees' flyers—no reasonable person would view the flyers as representing Clovis's speech.

V. This Court May Also Affirm Student-Appellees' Likelihood of Success on the Merits Because the Enjoined Policy Provision Was Viewpoint Discriminatory and an Unconstitutional Prior Restraint.

Because the district court found that the enjoined provision of the Flyer Policy was overbroad and vague, it did not rule on Student-Appellees' viewpoint discrimination and prior restraint claims. Either of these would provide a sufficient additional basis for affirming the district court's decision. The Flyer Policy discriminates based on viewpoint and provides no basis for reasoned application. It also imposes an unlawful prior restraint on student expression.

A. The enjoined Flyer Policy discriminated against "inappropriate or offens[ive]" viewpoints and provided no basis for reasoned application.

Because Clovis Administrators' Flyer Policy banned "inappropriate or offens[ive]" speech, it contravened two First Amendment requirements: that a public forum's rules be viewpoint neutral and provide workable, objective standards "for distinguishing what may come in from what must stay out." *Mansky*, 138 S. Ct. at 1888. As a matter of judicial restraint, the district court did not rule on the likelihood of success of Student-Appellees' facial viewpoint-discrimination claim, but this Court can affirm the lower court's ruling on this additional basis.

The First Amendment requires speech restrictions to be viewpoint neutral in any forum. *Koala*, 931 F.3d at 900 (citing *SeaMAC*, 781 F.3d at 496). Accordingly, governments may not restrict speech simply because officials believe it contravenes good taste. *Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973) ("[T]he mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of 'conventions of decency.'"); *Rodriguez*, 605 F.3d at 708 ("[I]t is axiomatic that the government may not silence speech because the ideas it promotes are

thought to be offensive."). But here, Clovis Administrators' Flyer Policy banned "inappropriate or offens[ive]" speech, which this Court has said are themselves viewpoints: "[O]ffensive speech is, itself, a viewpoint and . . . the government engages in viewpoint discrimination when it suppresses speech on the ground that the speech offends." *Am. Freedom Def. Initiative*, 904 F.3d at 1131; *Matal*, 137 S. Ct. at 1751 (recognizing as a "bedrock First Amendment principle" that speech "may not be banned on the ground that it expresses ideas that offend" and that "[g]iving offense is a viewpoint."). As this Court once phrased it, "[t]he right to provoke, offend and shock lies at the core of the First Amendment." *Rodriguez*, 605 F.3d at 708. Clovis Administrators' Policy prohibiting "inappropriate or offens[ive]" expression was textbook unconstitutional viewpoint discrimination.

Not only did the Flyer Policy's "inappropriate or offens[ive]" provision discriminate based on viewpoint, but it also failed to provide the objective, workable standards required of speech restrictions in limited public fora. *See Mansky*, 138 S. Ct. at 1891. Even in a limited public forum, the "standards for inclusion and exclusion . . . must be unambiguous and definite; without objective standards, government

officials may use their discretion . . . as a pretext for censorship." *Garnier v. O'Connor-Ratcliff*, 41 F.4th 1158, 1178 (9th Cir. 2022) (quoting *Hopper*, 241 F.3d at 1077) (internal quotation marks omitted).

In *Mansky*, the Court held that a state law barring "political" apparel at polling sites, without defining the term, violated the First Amendment because restrictions on speech must be "capable of reasoned application." 138 S. Ct. at 1888. Courts have since extended *Mansky* to hold that banning "inappropriate" or "offensive" expression, without further definition or a standard to guide application, are similarly incapable of reasoned application. *See, e.g., Ogilvie v. Gordon*, 540 F. Supp. 3d 920, 930–31 (N.D. Cal. 2020) (bar on personalized license plates "offensive to good taste and decency" does not provide an "objective, workable standard" and is incapable of reasoned application); *People for the Ethical Treatment of Animals v. Shore Transit*, 580 F. Supp. 3d 183, 193–94 (D. Md. 2022) (restriction on advertisements that are political, controversial, offensive, objectionable, or in poor taste fails to provide an objective, workable standard to guide application).

In this case, Clovis Administrators' Flyer Policy failed to include definite, objective standards necessary to support reasoned application of

the challenged provision. In fact, Clovis Administrators' statements and actions exemplify the danger of such undefined subjective restrictions. Initially, Appellant Stumpf approved Student-Appellees' Freedom Week Flyers. After Appellant De La Garza said that Clovis Administrators should review the Flyer Policy that had permitted the posting of the Freedom Week Flyers, Appellant Stumpf offered the "inappropriate or offens[ive]" provision as a justification for removing them. 2-ER-211–212. When Appellant Hébert asked why the Freedom Week Flyers had been approved in the first place, Stumpf responded that he had been "on the fence" about their approval. *Id.* at 211. Appellant Bennett then ordered the flyers removed but felt the need to concoct a post-hoc pretextual justification to cover up the viewpoint discrimination. 2-ER-246 ¶ 71. The Flyer Policy's lack of definite standards for enforcing the "inappropriate or offens[ive]" provision led to confusion and ultimately the Clovis Administrators' use of their unbridled discretion to discriminate against Student-Appellees' viewpoint.

B. The Flyer Policy is an unconstitutional prior restraint.

Although the district court declined to rule on Student-Appellees' prior restraint argument, this Court can affirm the district court's ruling

based on their likelihood of success on the merits of this claim. Prior restraints on speech are highly disfavored by the First Amendment. *See N.Y. Times Co. v. United States*, 403 U.S. 713, 714 (1971) ("Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.") "We are acutely aware of the special injury caused by permit systems as a form of prior restraint. Permit systems represent a departure from our tradition of public discourse by requiring a citizen to seek approval from the government to engage in speech." *Cuviello v. City of Vallejo*, 944 F.3d 816, 832 (9th Cir. 2019) (citing *Berger v. City of Seattle*, 569 F.3d 1029, 1037 (9th Cir. 2009) ("Almost every . . . circuit . . . ha[s] refused to uphold registration requirements that apply to individual speakers or small groups in a public forum.")). Even if a prior restraint on speech is content-neutral, it "must be narrowly tailored to serve a significant governmental interest, and must leave open ample alternatives for communication." *County of Forsyth v. Nationalist Movement*, 505 U.S. 123, 130 (1992).

Clovis Administrators' Flyer Policy required preapproval of all student flyers. 1-ER-24 ¶ 53. As part of that process, Clovis employees reviewed all flyers not only on objective and viewpoint-neutral criteria,

such as the size of the flyer, but also based on whether the flyer was "inappropriate or offens[ive]"—subjective, arbitrary, and viewpoint-based criteria. As the district court correctly concluded, without definitively ruling on prior restraint, the "combination of the preapproval system and broadly defined ban on offensive speech likely creates a chilling effect on student speech." 1-ER-23.

The district court noted that some courts have been more willing to grant the government "more flexibility to craft rules limiting speech" in nonpublic forums so long as those rules are reasonable and viewpoint neutral. 1-ER-9 (citing *Perry Educ. Ass'n*, 460 U.S. at 37, 46). Here, however, Clovis Administrators' Flyer Policy was neither reasonable nor viewpoint neutral as to the "inappropriate or offens[ive]" provision. *See supra* Part V.A. Their prior restraint regime has no justification and provides an additional basis to affirm Student-Appellees' likelihood of success on the merits.

VI. The District Court Correctly Ruled That Student-Appellees Satisfied the Remaining Preliminary Injunction Factors.

The district court did not abuse its discretion in determining that the other preliminary injunction factors favored granting a preliminary injunction. "The loss of First Amendment freedoms, for even minimal

periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The "inappropriate or offens[ive]" policy provision caused irreparable harm because "[t]he mere threat of enforcement of an unconstitutional restriction on speech" results in a chilling effect. 1-ER-29. Clovis Administrators' enforcement of the challenged provision caused "a one-month delay of [Student-Appellees] hanging their Pro-Life Flyers." *Id*. Also, for 333 days, the threat that Clovis Administrators would enforce the unconstitutional Flyer Policy loomed over the posting of *any* student flyers. 2-ER-248–49. Clovis Administrators' only argument in response is to relitigate the merits, effectively conceding that if Student-Appellees are likely to succeed on the merits—which they are—they would have suffered irreparable harm absent the injunction.

The balance of equities also strongly favors the preliminary injunction. The Ninth Circuit has "consistently recognized the significant public interest in upholding First Amendment principles." *Cal. Chamber of Com. v. Council for Educ. & Rsch. on Toxics*, 29 F.4th 468, 482 (9th Cir. 2022) (citing *Harris*, 772 F.3d at 583). And "[t]he injunction's relatively minor restriction on the College does not outweigh the

significant interest accorded to the entire student body because it alleviates the potential chill of free speech currently caused by the Flyer Policy." 1-ER-30. Clovis Administrators do not contest the district court's conclusion. Accordingly, since Student-Appellees were likely to succeed on the merits, the remaining preliminary injunction factors also supported the issuance of a preliminary injunction, and this Court should affirm.

CONCLUSION

Clovis Administrators' voluntary actions have mooted their appeal. Even if the appeal is not moot, the district court correctly ruled that the "inappropriate or offens[ive]" provision of Clovis Administrators' Flyer Policy violated Student-Appellees' First and Fourteenth Amendment rights and that they were entitled to a preliminary injunction against its enforcement. Additionally, the enjoined provision was also viewpoint discriminatory and an impermissible prior restraint. For the foregoing reasons, this Court should dismiss Clovis Administrators' appeal as moot or in the alternative affirm the preliminary injunction.

Dated: February 21, 2023

/s/ Daniel M. Ortner

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 17. Statement of Related Cases Pursuant to Circuit Rule 28-2.6

Instructions for this form: http://www.ca9.uscourts.gov/forms/form17instructions.pdf

9th Cir. Case Number(s) 22-16762

The undersigned attorney or self-represented party states the following:

- (•) I am unaware of any related cases currently pending in this court.
- ( ) I am unaware of any related cases currently pending in this court other than the case(s) identified in the initial brief(s) filed by the other party or parties.
- ( ) I am aware of one or more related cases currently pending in this court. The case number and name of each related case and its relationship to this case are:

Signature s/Daniel M. Ortner **Date** 02/21/2023

*(use "*s/[typed name]*" to sign electronically-filed documents)*

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 8. Certificate of Compliance for Briefs

Instructions for this form: http://www.ca9.uscourts.gov/forms/form08instructions.pdf

9th Cir. Case Number(s) 22-16762

I am the attorney or self-represented party.

This brief contains 9,947 **words,** including _____ words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief *(select only one)*:

- (●) complies with the word limit of Cir. R. 32-1.
- ( ) is a **cross-appeal** brief and complies with the word limit of Cir. R. 28.1-1.
- ( ) is an **amicus** brief and complies with the word limit of FRAP 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- ( ) is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- ( ) complies with the longer length limit permitted by Cir. R. 32-2(b) because *(select only one)*:
  - [ ] it is a joint brief submitted by separately represented parties.
  - [ ] a party or parties are filing a single brief in response to multiple briefs.
  - [ ] a party or parties are filing a single brief in response to a longer joint brief.
- ( ) complies with the length limit designated by court order dated _____.
- ( ) is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature s/ Daniel M. Ortner **Date** 02/21/2023
*(use "*s/[typed name]*" to sign electronically-filed documents)*

CERTIFICATE OF SERVICE

The undersigned certifies that on February 21, 2023, an electronic copy of Appellees' Answering Brief was filed with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the CM/ECF system. The undersigned also certifies all parties in this case are represented by counsel who are registered CM/ECF users and that service of the brief will be accomplished by the CM/ECF system.

Dated: February 21, 2023

/s/ Daniel M. Ortner

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ALEJANDRO FLORES, et al., *Plaintiffs-Appellees*, v. LORI BENNETT, et al., *Defendants-Appellants*.	No. 22-16762 On appeal from D.C. No. 1:22-cv-01003-JLT-HBK U.S. District Court for Eastern California, Fresno Division **PLAINTIFFS-APPELLEES' MOTION FOR LEAVE TO FILE SUPPLEMENTAL APPENDIX**

Under this Court's equitable power to supplement the appellate record,[1] Plaintiffs-Appellees respectfully ask this Court to grant leave to file a supplemental appendix, attached here as **Exhibit 1**, verified by the declaration of Plaintiff-Appellee Juliette Colunga, attached here as **Exhibit 2**. The supplemental appendix includes newly available evidence demonstrating that Defendants-Appellants have, by their own actions, divested this Court of jurisdiction to hear their appeal of the district court's order granting preliminary injunction. *See Lowry v.*

[1] Pursuant to CR 27-1, Plaintiffs-Appellees' counsel has contacted Defendants-Appellants' counsel seeking consent to file the supplemental appendix and supplemental declaration. Defendants-Appellants' counsel did not consent to this motion.

Barnhart, 329 F.3d 1019, 1024–25 (9th Cir. 2003) (explaining that requests to supplement the appellate record "should proceed by motion or formal request so that the court and opposing counsel are properly apprised of the status of the documents in question").

This Court does not have jurisdiction to entertain Defendants-Appellants' appeal because, due to Defendants-Appellants' own actions, they lack a "legally cognizable interest in the validity of the injunction." *Shell Offshore v. Greenpeace, Inc.*, 815 F.3d 623, 628 (9th Cir. 2016); *see also* Appellees' Answering Brief at 19–22. This Court should therefore "exercise inherent authority to supplement the record" because "when developments render a controversy moot," "[c]onsideration of new facts may [] be mandatory." *Lowry*, 329 F.3d at 1024.

In this case, Plaintiffs-Appellees seek to file a supplemental appendix and supplemental declaration because they contain newly available evidence demonstrating that Defendants-Appellants "lack a legally cognizable interest in the outcome." *Shell Offshore*, 815 F.3d at 628. First, the proposed supplemental appendix contains evidence showing that Defendants-Appellants Clovis Administrators rescinded and replaced, and thereby disavowed, their former Flyer Policy—mooting

their own appeal. *See Fleet Feet, Inc. v. NIKE Inc.*, 986 F.3d 458, 463 (4th Cir. 2021) (holding defendant-appellant's appeal of preliminary injunction moot where appellant ceased and disavowed the enjoined practice). For example, the proposed supplemental appendix includes an email from Appellant Hébert rescinding and replacing, not only the enjoined "inappropriate or offens[ive]" policy provision, but the entire policy document containing the enjoined provision. The email informing student organization faculty advisors of the new policy for posting student club flyers (the "Replacement Policy") was sent a mere seven hours after the district court enjoined Defendants-Appellants from "enforcing the Flyer Policy in so far as it requires preapproval from College administrators or staff and prohibits 'inappropriate or offense language or themes.'" 1-ER-32.

Plaintiffs-Appellees' proposed supplemental appendix also contains three archived versions of the Clovis Club Handbook that contain Clovis's posting policies: (1) the Flyer Policy before the district court's October 14, 2022 preliminary injunction; (2) the post-injunction Replacement Policy made effective October 14, 2022; and (3) an amended version of the Replacement Policy made effective February 1, 2023. In addition to the

enactment of the Replacement Policy, the amendment of the Replacement Policy to include additional regulations not contained in the former policy document demonstrates Defendants-Appellants' intent not to reinstate the former Flyer Policy.

The declaration from Plaintiff-Appellee Juliette Colunga attests to the veracity of the documents in the supplemental appendix, and the timeline of Defendants-Appellants' recission and replacement of the original policy document.

The proposed new evidence shows that, as a result of Defendants-Appellants' own actions, no present controversy exists that would provide jurisdiction to this Court over the district court's preliminary injunction order. The Court should therefore grant Plaintiffs-Appellees leave to file the attached supplemental appendix.

DATED: February 21, 2023

Respectfully submitted,

/s/ Daniel M. Ortner
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Attorneys for Plaintiffs-Appellees

EXHIBIT - 1

Docket No. 22-16762

In the

United States Court of Appeals

For the

Ninth Circuit

ALEJANDRO FLORES, DANIEL FLORES, JULIETTE COLUNGA and YOUNG AMERICANS FOR FREEDOM AT CLOVIS COMMUNITY COLLEGE,

Plaintiffs-Appellees,

v.

LORI BENNETT, MARCO J. DE LA GARZA, GURDEEP HÉBERT and PATRICK STUMPF,

Defendants-Appellants.

Appeal from a Decision of the United States District Court for the Eastern District of California, No. 1:22-cv-01003-JLT-HBK · Honorable Jennifer L. Thurston

APPELLEES' SUPPLEMENTAL APPENDIX

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Attorneys for Plaintiffs-Appellees

Clovis Community College

Club Handbook

What is a Club and how do I start one?

Clubs are student organizations that are formed to develop students' interests and provide community on campus and beyond.

Requirements for Clubs to officially organize:

- Have a full-time faculty advisor.
- Include at least five Clovis Community College students.
- Have a Constitution on file with Student Activities.
- Hold meetings on a regular basis (at least one club advisor must be present).
- Attend Inter-Club Council Meetings.

Please consulate with Student Activities (AC1-160) or email patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20220929214818/mailto:patrick.stumpf@cloviscollege.edu) if you have questions or are struggling to meet these requirements.

Active vs Inactive Clubs

ACTIVE CLUBS

Active Clubs are clubs that are currently meeting, have a current advisor and attend I.C.C. Meetings.

Active Clubs will need to turn in (to Student Activities) the following paperwork:

- Advisor Acceptance Form (once per year)
- List of Club Members (once per semester)

Please visit our website for these documents: cloviscollege.edu/campus-life/clubs-organizations (index.html)

Please email patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20220929214818/mailto:patrick.stumpf@cloviscollege.edu) if you have trouble accessing or have questions.

INACTIVE CLUBS

Inactive Clubs have a constitution and have been active in the past. They can become active by turning in the documentation above.

Inter-Club Council

PURPOSE

I.C.C. meetings are to take place no less than twice per month and will be chaired by the I.C.C. President (a member of the ASG). Clubs may bring up topics of concern, propose an event, etc. at this meeting. Each club is required to send a representative to this meeting (the representative can be a student or advisor). Meeting days, and times will be set by the ASG in consultation with Student Activities.

Failure to attend I.C.C. Meetings will result in the suspension of all club activities. According to the A.S.G. Bylaws:

- 2.4.2 Any club without a representative present at two (2) consecutive meetings of the ICC will automatically be subject to a written warning from the Chair of the ICC.

Absence from three (3) consecutive meetings per semester or a total of four (4) meetings per semester will result in the club automatically being placed on probation. Absence from six (6) meetings may result in suspension.

- 2.4.2.1 The suspension of a club or student organization that is in violation of the provisions of these Bylaws may be lifted by a complex majority vote of the present eligible members of the Student Senate.

For questions, or if a club is having difficulty attending, contact patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20220929214818/mailto:patrick.stumpf@cloviscollege.edu).

Setting up an Event

When setting up a club event, it is best that the club consults with Student Activities. The club should go through these processes:

- Talk about the event in your meeting and agree as a club to hold the event.
- Get the approval of your advisor.
- Consult Student Activities to make sure the event is feasible.
- Submit a Facilities request for the event through the Student Activities Office.
- See financial processes (last section) if purchasing items for the event.
- Clubs are responsible to staff the event at all times. Clubs are also responsible for ensuring that all materials are taken down after the event.

At the end of the event, debrief amongst your club and determine what worked and what did not.

Advertising

Clubs may advertise on campus and via social media. Clubs must follow the established Posting Guidelines as set by Student Activities.

POSTING INSTRUCTIONS

Here are the posting guidelines (revised in September 2018):

- Groups/individuals/clubs can post up to 25 posters.

- Posters are to be posted on appropriate indoor poster boards with 3-4 tacks (two at the top corners of the poster and one to two at the bottom).
- Posters can also be posted on permitted outside kiosks.
- Posters should never overlap one another and should be posted at least two to three finger lengths across.
- Posters need to be in a straight and upright position.

POSTING INFORMATION

- All posters not bearing the Clovis Community Logo or in the provided Clovis Community College Template (i.e. posters not from a College Department or Division) must be approved and stamped by the Clovis Community College Student Center Staff. Failure to do so will result in unapproved/unstamped flyers being removed and thrown away.
- Posters with inappropriate or offensive language or themes are not permitted and will not be approved.
- Posters posted anywhere other than designated areas will be removed.
- Posters with unapproved (post-approval) writing will be removed.
- Damaged posters will be removed.

SOCIAL MEDIA POSTING:

Social Media posting/advertising must be conducted in consultation with the full-time faculty advisor. The full-time faculty advisor must approve each posting before it is posted. Any posts deemed inappropriate by Student Activities, the College Administration, etc. will result in the club being asked to take down the post. Failure to do so could result in the suspension of club social media privileges and/or other club privileges for a period of time determined by Student Activities/The College Administration.

Fundraising

FINANCIAL PROCESSES FOR STUDENT ORGANIZATIONS

Before the Fundraiser

1. Discuss potential fundraising events/activities during a general club meeting at least a month in advance of the planned activity. Club members must vote on and pass the motion to hold a fundraiser. Record of voting to be documented in the club's meeting minutes.

2. Contact the ASG Vice President in order to have your fundraiser to be placed on the ASG agenda. Attend the ASG meeting in which the approval of your fundraiser will be voted on. The ASG minutes in which the fundraiser was approved must be submitted with the fundraising event request form!
3. Obtain a Fundraising Event Request Form and Revenue Recap/Potential form from The Student Activities Office or the Business Services Office.
4. Attach the following documentation to The Fundraising Event Request form:
    a. Copy of Revenue Recap/Potential Form
    b. Copy of club meeting minutes and ASG minutes
    c. Copy of facility use permit (if the event is being held on campus)
    d. Itemized list of what is being sold and the price it's being sold for
5. Submit the Fundraising Event Request to The Student Activities Office: Required signatures
    a. Club Advisor
    b. Dean or Students/Instruction
    c. Vice President of Admin Services
6. Make photocopies of signed documentation for your records. Student Activities will submit the approved Fundraising Request to Business Office.
7. Request petty cash or money for supplies if needed (see Activities Office).

Completed fundraising event requests must be received by the business office 30 days in advanced

Day of the Fundraiser

1. Pick up the cash box in the Business Services Office
2. Record how much is sold of each item that the club is selling on the Fundraising Sales Record Form/Talley Sheet

After the Fundraiser

1. Record on the white copy of the Revenue Recap/Potential Form any monies received.
2. If totals at end of the fundraiser are recorded as a loss (no money was made or less money was made than originally projected), make note of why (i.e.-sodas sold at 50% off at the end of the fundraiser, not all product was sold, the club will keep for a future fundraiser, etc).

3. Make a copy of the Fundraising Sales Record/Talley sheet form for your records and attach the original to the Revenue Recap/Potential form.
4. **Deposit all money immediately** at Admissions and Records. If the fundraiser is taking place outside of regular business hours (8:00 am-5:00 pm), monies should be taken to the office of the Evening Coordinator (Maya Davis) prior to leaving campus. They keep the white copy, you will keep the yellow copy for your records.

All food fundraisers must follow Fresno County health rules and regulations and must be approved by the Crush Cafe

GENERAL CASH HANDLING CHECKLIST

1. All district or student body fundraisers must have prior approval from the Administration and Associated Student Government.
2. Cash or checks collected from fundraisers, book sales, or any other school-related activity must not be deposited into personal checking accounts. All funds must be promptly deposited into the campus safe pending preparation of the deposit into the club account.
3. The fund must remain on district property.
4. **Raffles, lotteries, or games of chance are in violation of Penal Code 326.5.**
5. It is necessary to notify the ASG and the ASG advisor when donations are made to a club or the campus by any entity.
6. All requests for reimbursement of expenses must be accompanied by an original receipt.
7. All club purchases must have prior authorization by the ASG, advisor, and Dean of Students.
8. Outside organization funds should not be held on the campus site or any district property.
9. Outside organizations are responsible for collecting and depositing any funds related to their sponsored events. ASG personnel should not do bookkeeping or act as an office for outside organizations.
10. **Whenever money changes hands, a receipt must be given (in the case of a sale, the exchange must be recorded on a tally sheet).**

PROCEDURES FOR OBTAINING A CHECK OR REFUND REQUEST

The general procedure for obtaining a check or refund payment is as follows:

1. Approve the expenditure in a club meeting first.

2. Submit a request for a Purchase order with the following documentation:
    a. Minutes in which the club approved the expenditure
    b. A quote for the product being purchased.
    c. Once a purchase order number is created, receive goods and turn in receipts to the Business Office (or Activities)

3. To submit a Reimbursement submit:
    a. Check Request
    b. Attach minutes in which the expenditure was approved by the club (BEFORE purchase)
    c. Itemized Receipts

Any Questions? Contact Patrick Stumpf at patrick.stumpf@cloviscolege.edu (https://web.archive.org/web/20220929214818/mailto:patrick.stumpf@cloviscolege.edu)

The provisions in this Handbook are subject to change at the discretion of Student Activities.

Download a **PDF version of the Club Handbook (/web/20220929214818/https://www.cloviscollege.edu/_uploaded-files/_documents/campus-life/ccc-club-handbook.pdf)** .

Gmail

Juliette Colunga <colungajuliette@gmail.com>

Fw: Updated Posting Guidelines and upcoming events

Jennifer Heyne <jennifer.heyne@cloviscollege.edu> Sat, Oct 15, 2022 at 6:13 PM
To: Juliette Colunga <colungajuliette@gmail.com>

Hi Juliette, they wrote up new guidelines which are attached. I guess you gave our dean something to do. Jennifer

---

From: Gurdeep Hebert <gurdeep.hebert@cloviscollege.edu>
Sent: Friday, October 14, 2022 9:54 PM
To: Tabatha Stewart <tabatha.stewart@cloviscollege.edu>; Cody Hoover <cody.hoover@cloviscollege.edu>; William Kerney <william.kerney@cloviscollege.edu>; Diane Schoenburg <diane.schoenburg@cloviscollege.edu>; Michelle Selvans <michelle.selvans@cloviscollege.edu>; Amy Danowitz <amy.danowitz@cloviscollege.edu>; Michael Stannard <michael.stannard@cloviscollege.edu>; Nathan Wensko <nathan.wensko@cloviscollege.edu>; Daniel Gutierrez <daniel.gutierrez@cloviscollege.edu>; Carla Stoner-Brito <carla.stoner-brito@cloviscollege.edu>; Nancy Chavero <nancy.chavero@cloviscollege.edu>; Shilpa Ranganathan <shilpa.ranganathan@cloviscollege.edu>; Shawn Fleming <shawn.fleming@cloviscollege.edu>; Colleen Brannon <colleen.brannon@cloviscollege.edu>; Anna Martinez <anna.martinez@cloviscollege.edu>; Gurinder Khaira <gurinder.khaira@cloviscollege.edu>; Jennifer Heyne <jennifer.heyne@cloviscollege.edu>; Rebekah Villalta <rebekah.villalta@cloviscollege.edu>; Jared Rutledge <jared.rutledge@cloviscollege.edu>
Cc: Patrick Stumpf <patrick.stumpf@cloviscollege.edu>; Siena Flores <siena.flores@cloviscollege.edu>; Emalee Aguilar <emalee.aguilar@cloviscollege.edu>
Subject: Updated Posting Guidelines and upcoming events

Hi there Club Advisors!

Hope you are doing well. It has certainly been a very busy semester however it is really nice seeing so many students back on campus. I am reaching out to you so I can share our updated Posting Guidelines and to give you an update on several upcoming events. Please note that the attached Guidelines and Process for Campus Postings go into effect today, October 14, 2022.

Many of you have already heard that we lost a very dear member of our Crush family. Professor Adela Santana was a full-time Anthropology instructor and an advisor to our Muslim Student Association (MSA). On Monday, Oct 17th, the MSA and ASG will hold a candlelight vigil in memory of Adela. The vigil will be held in front of the Café and will begin at 6pm. Please join us as we honor Adela.

Our Annual RocktoberFest will take place next Thursday so please make sure your club has connected with Student Activities to be a part of the festivities.

And lastly, our Women's Soccer team will go up against Fresno City College next Friday. This is the big game and our student athletes need your support. We will have giveaways, food, and fun. Please encourage your clubs to come out and support the team.

Thank you again for serving as advisors. We truly appreciate the time and support that you provide to our student clubs.

Have an awesome weekend!

Gurdeep

Gurdeep Hébert (she/her)

Dean, Student Services

Clovis Community College

10309 N. Willow Avenue

Fresno, CA 93730

559-325-5378 office

559-307-5499 cell

Creating Opportunities…One Student at a Time

Clovis Community College

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2 attachments

Black Candle Photocentric Deep Condolences Instagram Post (3).png
3243K

CCC Posting Guidelines Effective October 14, 2022.DOCX
32K

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Clovis Community College

Guidelines and Process for Campus Postings

Clovis Community College encourages recognized student organizations and College programs and departments to share information about their programs, services, events, student clubs, classes, and more. The Student Activities Office is responsible for stamping and dating materials from recognized student organizations before they are posted inside the campus buildings. When stamped and dated, the postings placed on the bulletin boards become official college announcements. The college has developed a set of guidelines to help govern the placement of posters to ensure that we have a welcoming and safe environment. The following guidelines will assist your recognized student organization with publicizing your program, service, or event. Please remember, these guidelines are intended to:

- Facilitate greater campus community engagement and better communication of campus events.
- Keep the college's buildings clean and in good condition.
- Ensure consistency with college standards for publications.
- Comply with relevant college policies and procedures.

Speech Kiosks

The College has designated two kiosks as a public forum for free speech. Any person may post on the exterior kiosks any material except that which is defamatory, which is obscene according to current legal standards, which so incites others as to create a clear and present danger of the commission of unlawful acts on district property, which violates district policies or regulations, or which leads to the substantial disruption of the orderly operation of the District. The kiosks do not require prior approval before expressive material is posted. Posted material on the free speech kiosks may remain posted for ten days or until after the date of the event to which they relate. The College's exterior walls, fences, and other surfaces on campus are not forums for posting expressive material and the College regulates posting on those surfaces. The College will remove any material posted on the College's exterior walls, fences, and other surfaces.

Posting Guidelines for College Interior Walls

- All posters must be stamped and dated prior to posting on the designated interior bulletin boards.
- All postings on interior bulletin boards must relate to recognized student organizations, College departments, or College programs.
- Recognized student organizations may post 15 copies of a poster. No more than two copies of a poster may be posted on each bulletin board.
- Poster must not exceed 8 ½" x 14" in size.
- Posting in classrooms is limited to College, College department, or College program events and announcements. Recognized student organizations, or third parties are not permitted to post inside classrooms.
- Posted information must clearly indicate the full name of the recognized student organization and the date and location of the any event to which the poster relates.

- College name and logo cannot be used without prior campus approval. If logo is used without permission posters will be removed.

Obtaining Student Activities Office Stamp

- All posters must be presented to Student Activities located in the Student Center (AC1-160) or emailed to cccstudentcenter@cloviscollege.edu.
- Student Activities Staff will respond as soon as possible, but please allow three business days for designated Student Activities staff to respond to all requests whether in person or by email.
- Student Activities staff will place the Student Activities Office stamp on all posters and will date the poster.
- Posters may be posted for ten days after date stamped, or until after the event to which they relate, and then removed in accordance with Administrative Regulation 3900.
- Posters may only be posted on designated bulletin boards.
- The Student Activities Office will make and keep one copy of each poster.
- The Student Activities Office cannot photocopy posters to be posted. The Recognized student organization must bring the appropriate number of copies at the time of stamping and dating. Each copy will be stamped, no copies of the stamp are allowed.
- Posters in languages other than English, must be accompanied by an English translation of the poster when the Student Activities Office stamps and dates the poster.

Questions, comments, or concerns may be addressed in the Student Activities Office, which is in Academic Center One, Room 160 (Student Center).

Clovis Community College

Club Handbook

What is a Club and how do I start one?

Clubs are student organizations that are formed to develop students' interests and provide community on campus and beyond.

Requirements for Clubs to officially organize:

- Have a full-time faculty advisor.
- Include at least five Clovis Community College students.
- Have a Constitution on file with Student Activities.
- Hold meetings on a regular basis (at least one club advisor must be present).
- Attend Inter-Club Council Meetings.

Please consulate with Student Activities (AC1-160) or email patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20221216170523/mailto:patrick.stumpf@cloviscollege.edu) if you have questions or are struggling to meet these requirements.

Active vs Inactive Clubs

ACTIVE CLUBS

Active Clubs are clubs that are currently meeting, have a current advisor and attend I.C.C. Meetings.

Active Clubs will need to turn in (to Student Activities) the following paperwork:

- Advisor Acceptance Form (once per year)
- List of Club Members (once per semester)

Please visit our website for these documents: cloviscollege.edu/campus-life/clubs-organizations (index.html)

Please email patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20221216170523/mailto:patrick.stumpf@cloviscollege.edu) if you have trouble accessing or have questions.

INACTIVE CLUBS

Inactive Clubs have a constitution and have been active in the past. They can become active by turning in the documentation above.

Inter-Club Council

PURPOSE

The Inter-Club Council is a meeting/forum for each of the clubs to communicate/collaborate with other clubs on campus, as well as the ASG and Student Activities.

I.C.C. meetings are to take place no less than twice per month and will be chaired by the I.C.C. President (a member of the ASG). Clubs may bring up topics of concern, propose an event, etc. at this meeting. Each club is required to send a representative to this meeting (the representative can be a student or advisor). Meeting days, and times will be set by the ASG in consultation with Student Activities.

Failure to attend I.C.C. Meetings will result in the suspension of all club activities. According to the A.S.G. Bylaws:

- 2.4.2 Any club without a representative present at two (2) consecutive meetings of the ICC will automatically be subject to a written warning from the Chair of the ICC. Absence from three (3) consecutive meetings per semester or a total of four (4) meetings per semester will result in the club automatically being placed on probation. Absence from six (6) meetings may result in suspension.
- 2.4.2.1 The suspension of a club or student organization that is in violation of the provisions of these Bylaws may be lifted by a complex majority vote of the present eligible members of the Student Senate.

For questions, or if a club is having difficulty attending, contact patrick.stumpf@cloviscollege.edu (https://web.archive.org/web/20221216170523/mailto:patrick.stumpf@cloviscollege.edu).

Setting up an Event

When setting up a club event, it is best that the club consults with Student Activities. The club should go through these processes:

- Talk about the event in your meeting and agree as a club to hold the event.
- Get the approval of your advisor.
- Consult Student Activities to make sure the event is feasible.
- Submit a Facilities request for the event through the Student Activities Office.
- See financial processes (last section) if purchasing items for the event.
- Clubs are responsible to staff the event at all times. Clubs are also responsible for ensuring that all materials are taken down after the event.

At the end of the event, debrief amongst your club and determine what worked and what did not.

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Clubs may advertise on campus and via social media. Clubs must follow the established Posting Guidelines as set by Student Activities.

POSTING INSTRUCTIONS

Here are the posting guidelines (revised on October 18, 2022):

Clovis Community College encourages recognized student organizations and College programs and departments to share information about their programs, services, events, student clubs, classes, and more. The Student Activities Office is responsible for stamping and dating materials from recognized student organizations before they are posted inside the campus buildings. When stamped and dated, the postings placed on the bulletin boards become official college announcements. The college has developed a set of guidelines to help govern the placement of posters to ensure that we have a welcoming and safe environment. The following guidelines will assist your recognized student organization with publicizing your program, service, or event. Please remember, these guidelines are intended to:

- Facilitate greater campus community engagement and better communication of campus events.
- Keep the college's buildings clean and in good condition.
- Posters can also be posted on permitted outside kiosks.
- Ensure consistency with college standards for publications.
- Comply with relevant college policies and procedures.

SPEECH KIOSKS

The College has designated two kiosks as a public forum for free speech. Any person may post on the exterior kiosks any material except that which is defamatory, which is obscene according to current legal standards, which so incites others as to create a clear and present danger of the commission of unlawful acts on district property, which violates district policies or regulations, or which leads to the substantial disruption of the orderly operation of the District. The kiosks do not require prior approval before expressive material is posted. Posted material on the free speech kiosks may remain posted for ten days or until after the date of the event to which they relate. The College's exterior walls,

fences, and other surfaces on campus are not forums for posting expressive material and the College regulates posting on those surfaces. The College will remove any material posted on the College's exterior walls, fences, and other surfaces.

POSTING GUIDELINES FOR COLLEGE INTERIOR WALLS

- All posters must be stamped and dated prior to posting on the designated interior bulletin boards.
- All postings on interior bulletin boards must relate to recognized student organizations, College departments, or College programs.
- Recognized student organizations may post 15 copies of a poster. No more than two copies of a poster may be posted on each bulletin board.
- Poster must not exceed 8 ½" x 14" in size.
- Posting in classrooms is limited to College, College department, or College program events and announcements. Recognized student organizations, or third parties are not permitted to post inside classrooms.
- Posted information must clearly indicate the full name of the recognized student organization and the date and location of the any event to which the poster relates.
- College name and logo cannot be used without prior campus approval. If logo is used without permission posters will be removed.

OBTAINING STUDENT ACTIVITIES OFFICE STAMP

- All posters must be presented to Student Activities located in the Student Center (AC1-160) or emailed to cccstudentcenter@cloviscollege.edu.
- Student Activities Staff will respond as soon as possible, but please allow three business days for designated Student Activities staff to respond to all requests whether in person or by email.
- Student Activities staff will place the Student Activities Office stamp on all posters and will date the poster.
- Posters may be posted for ten days after date stamped, or until after the event to which they relate, and then removed in accordance with Administrative Regulation 3900.
- Posters may only be posted on designated bulletin boards.
- The Student Activities Office will make and keep one copy of each poster.
- The Student Activities Office cannot photocopy posters to be posted. The Recognized student organization must bring the appropriate number of copies at the time of

stamping and dating. Each copy will be stamped, no copies of the stamp are allowed.

- Posters in languages other than English, must be accompanied by an English translation of the poster when the Student Activities Office stamps and dates the poster.

Questions, comments, or concerns may be addressed in the Student Activities Office, which is in Academic Center One, Room 160 (Student Center).

SOCIAL MEDIA POSTING:

Social Media posting/advertising must be conducted in consultation with the full-time faculty advisor. The full-time faculty advisor must approve each posting before it is posted. Any posts deemed inappropriate by Student Activities, the College Administration, etc. will result in the club being asked to take down the post. Failure to do so could result in the suspension of club social media privileges and/or other club privileges for a period of time determined by Student Activities/The College Administration.

Fundraising

FINANCIAL PROCESSES FOR STUDENT ORGANIZATIONS

Before the Fundraiser

1. Discuss potential fundraising events/activities during a general club meeting at least a month in advance of the planned activity. Club members must vote on and pass the motion to hold a fundraiser. Record of voting to be documented in the club's meeting minutes.
2. Contact the ASG Vice President in order to have your fundraiser to be placed on the ASG agenda. Attend the ASG meeting in which the approval of your fundraiser will be voted on. The ASG minutes in which the fundraiser was approved must be submitted with the fundraising event request form!
3. Obtain a Fundraising Event Request Form and Revenue Recap/Potential form from The Student Activities Office or the Business Services Office.
4. Attach the following documentation to The Fundraising Event Request form:
    a. Copy of Revenue Recap/Potential Form
    b. Copy of club meeting minutes and ASG minutes
    c. Copy of facility use permit (if the event is being held on campus)
    d. Itemized list of what is being sold and the price it's being sold for

5. Submit the Fundraising Event Request to The Student Activities Office: Required signatures
    a. Club Advisor
    b. Dean or Students/Instruction
    c. Vice President of Admin Services

6. Make photocopies of signed documentation for your records. Student Activities will submit the approved Fundraising Request to Business Office.
7. Request petty cash or money for supplies if needed (see Activities Office).

Completed fundraising event requests must be received by the business office 30 days in advanced

Day of the Fundraiser

1. Pick up the cash box in the Business Services Office
2. Record how much is sold of each item that the club is selling on the Fundraising Sales Record Form/Talley Sheet

After the Fundraiser

1. Record on the white copy of the Revenue Recap/Potential Form any monies received.
2. If totals at end of the fundraiser are recorded as a loss (no money was made or less money was made than originally projected), make note of why (i.e.-sodas sold at 50% off at the end of the fundraiser, not all product was sold, the club will keep for a future fundraiser, etc).
3. Make a copy of the Fundraising Sales Record/Talley sheet form for your records and attach the original to the Revenue Recap/Potential form.
4. Deposit all money immediately at Admissions and Records. If the fundraiser is taking place outside of regular business hours (8:00 am-5:00 pm), monies should be taken to the office of the Evening Coordinator (Maya Davis) prior to leaving campus. They keep the white copy, you will keep the yellow copy for your records.

All food fundraisers must follow Fresno County health rules and regulations and must be approved by the Crush Cafe

GENERAL CASH HANDLING CHECKLIST

1. All district or student body fundraisers must have prior approval from the Administration and Associated Student Government.
2. Cash or checks collected from fundraisers, book sales, or any other school-related activity must not be deposited into personal checking accounts. All funds must be promptly deposited into the campus safe pending preparation of the deposit into the club account.
3. The fund must remain on district property.
4. Raffles, lotteries, or games of chance are in violation of Penal Code 326.5.
5. It is necessary to notify the ASG and the ASG advisor when donations are made to a club or the campus by any entity.
6. All requests for reimbursement of expenses must be accompanied by an original receipt.
7. All club purchases must have prior authorization by the ASG, advisor, and Dean of Students.
8. Outside organization funds should not be held on the campus site or any district property.
9. Outside organizations are responsible for collecting and depositing any funds related to their sponsored events. ASG personnel should not do bookkeeping or act as an office for outside organizations.
10. Whenever money changes hands, a receipt must be given (in the case of a sale, the exchange must be recorded on a tally sheet).

PROCEDURES FOR OBTAINING A CHECK OR REFUND REQUEST

The general procedure for obtaining a check or refund payment is as follows:

1. Approve the expenditure in a club meeting first.
2. Submit a request for a Purchase order with the following documentation:
    a. Minutes in which the club approved the expenditure
    b. A quote for the product being purchased.
    c. Once a purchase order number is created, receive goods and turn in receipts to the Business Office (or Activities)
3. To submit a Reimbursement submit:

a. Check Request

b. Attach minutes in which the expenditure was approved by the club (BEFORE purchase)

c. Itemized Receipts

Any Questions? Contact Patrick Stumpf at patrick.stumpf@cloviscolege.edu (https://web.archive.org/web/20221216170523/mailto:patrick.stumpf@cloviscolege.edu)

The provisions in this Handbook are subject to change at the discretion of Student Activities.

Clovis Community College

Club Handbook

WHAT IS A CLUB AND HOW DO I START ONE?

Clubs are student organizations that are formed to develop students' interests and provide community on campus and beyond.

Requirements for Clubs to officially organize:

- Have a full-time faculty advisor.
- Include at least five Clovis Community College students.
- Have a Constitution on file with Student Activities.
- Hold meetings regularly (at least one club advisor must be present).
- Attend Inter-Club Council Meetings.

Please consulate with Student Activities (AC1-160) or email ASG Advisor Maricarmen Figueroa maricarmen.figueroa@cloviscollege.edu (https://web.archive.org/web/20230202203107/mailto:maricarmen.figueroa@cloviscollege.edu) if you have questions or are struggling to meet these requirements.

ACTIVE VS INACTIVE CLUBS

Active Clubs

Active Clubs are clubs that are currently meeting, have a current advisor and attend I.C.C. Meetings.

Active Clubs will need to turn in (to Student Activities) the following paperwork:

- Advisor Acceptance Form (once per year)
- List of Club Members (once per semester)

Please visit our website for these documents: cloviscollege.edu/campus-life/clubs-organizations (index.html)

Please email maricarmen.figueroa@cloviscollege.edu (https://web.archive.org/web/20230202203107/mailto:maricarmen.figueroa@cloviscollege.edu) if you have trouble accessing or have questions.

Inactive Clubs

Inactive Clubs have a constitution and have been active in the past. They can become active by turning in the documentation above.

INTER-CLUB COUNCIL

Purpose

The Inter-Club Council is a meeting/forum for each of the clubs to communicate/collaborate with other clubs on campus, as well as the ASG and Student Activities.

I.C.C. meetings are to take place no less than twice per month and will be chaired by the I.C.C. President (a member of the ASG). Clubs may bring up topics of concern, propose an event, etc. at this meeting. Each club is required to send a representative to this meeting (the representative can be a student or advisor). Meeting days, and times will be set by the ASG in consultation with Student Activities.

Failure to attend I.C.C. Meetings will result in the suspension of all club activities. According to the A.S.G. Bylaws:

- 2.4.2 Any club without a representative present at two (2) consecutive meetings of the ICC will automatically be subject to a written warning from the Chair of the ICC. Absence from three (3) consecutive meetings per semester or a total of four (4) meetings per semester will result in the club automatically being placed on probation. Absence from six (6) meetings may result in suspension.
- 2.4.2.1 The suspension of a club or student organization that violates the provisions of these Bylaws may be lifted by a complex majority vote of the present eligible members of the Student Senate.

For questions, or if a club is having difficulty attending, contact maricarmen.figueroa@cloviscollege.edu (https://web.archive.org/web/20230202203107/mailto:maricarmen.figueroa@cloviscollege.edu).

SETTING UP AN EVENT

When setting up a club event, the club should consult with Student Activities. The club should go through these processes:

- Talk about the event in your meeting and agree as a club to hold the event.
- Get the approval of your advisor.
- Consult Student Activities to make sure the event is feasible.
- Submit a Facilities request for the event through the Student Activities Office.
- See financial processes (last section) if purchasing items for the event.
- Clubs are responsible to staff the event at all times. Clubs are also responsible for ensuring that all materials are taken down after the event.

At the end of the event, debrief amongst your club and determine what worked and what did not.

ADVERTISING GUIDELINES

Clubs may advertise on campus and via social media. Clubs must follow the established Posting Guidelines as set by Student Activities.

Posting Instructions

Here are the posting guidelines (revised on February 1, 2023):

Clovis Community College encourages active student organizations and College programs and departments to share information about their programs, services, events, student clubs, classes, and more. The Student Activities Office is responsible for stamping and dating materials from active student organizations before they are posted inside the campus buildings. When stamped and dated, the postings placed on the bulletin boards become official college announcements. The college has developed a set of guidelines to help govern the placement of posters to ensure that we have a welcoming and safe environment. The following guidelines will assist your active student organization with publicizing your program, service, or event. Please remember, these guidelines are intended to:

- Facilitate greater campus community engagement and better communication of campus events.
- Keep the college's buildings clean and in good condition.
- Posters can also be posted on permitted outside kiosks.

- Ensure consistency with college standards for publications.
- Comply with relevant college policies and procedures.

Posting Guidelines for College Interior Walls

- All posters must be stamped and dated before posting on the designated interior bulletin boards.
- All postings on interior bulletin boards must relate to recognized student organizations and must be placed on the appropriate board. (ex. Student clubs can only post on designated student club boards)
- Active student organizations may post 1 copy per board on every board labeled for student clubs. No more than two copies of the same event may be posted on each bulletin board.
- Posters that exceed the limit or are placed on the incorrect board will be removed.
- The poster must not exceed 8 ½" x 14" in size.
- Posting in classrooms is limited to College, College department, or College program events and announcements. Recognized student organizations or third parties are not permitted to post inside classrooms.
- Posted information must clearly indicate the full name of the recognized student organization and the date and location of any event to which the poster relates.
- The college name and logo cannot be used without prior campus approval. If the logo is used without permission posters will be removed.

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FUNDRAISING

Financial Processes for Student Organizations

Before the Fundraiser

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Procedures for obtaining a check or refund request

The general procedure for obtaining a check or refund payment is as follows:

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    c. Once a purchase order number is created, receive goods and turn in receipts to the Business Office (or Activities)
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    a. Check Request
    b. Attach minutes in which the expenditure was approved by the club (BEFORE purchase)
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Any Questions? Contact ASG Advisor Maricarmen Figueroa at maricarmen.figueroa@cloviscollege.edu (https://web.archive.org/web/20230202203107/mailto:maricarmen.figueroa@cloviscollege.edu)

The provisions in this Handbook are subject to change at the discretion of Student Activities.

EXHIBIT - 2

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ALEJANDRO FLORES, et al., *Plaintiffs-Appellees*, v. LORI BENNETT, et al., *Defendants-Appellants*.	No. 22-16762 On appeal from D.C. No. 1:22-cv-01003-JLT-HBK U.S. District Court for Eastern California, Fresno Division **DECLARATION OF JULIETTE COLUNGA IN SUPPORT OF PLAINTIFFS-APPELLEES' MOTION FOR LEAVE TO FILE SUPPLEMENTAL APPENDIX**

Pursuant to 28 U.S.C. § 1746(2), I, Juliette Colunga, declare the following:

1. I am a Plaintiff-Appellee in the above-captioned case and a resident of the State of California. I am over eighteen (18) years of age and fully competent to make this declaration. I knowingly and voluntarily make this declaration in support of Plaintiffs-Appellees' Motion for Leave to File Supplemental Appendix. If called as a witness, I believe I could and would testify competently under oath to the following facts, which are based on my personal knowledge.

2. I am a student at Clovis Community College ("Clovis") and the current President of the Clovis Community College Chapter of Young Americans for Freedom ("YAF-Clovis").

3. Before October 14, 2022, the Club Handbook page of the Clovis website contained the text of the former Flyer Policy that was the subject of the District Court's October 14, 2022 preliminary injunction. A true and accurate copy of the Club Handbook page as it appeared before October 14, 2022, appears on pages 2 through 8 of Plaintiffs-Appellees' Supplemental Appendix.

4. On Friday, October 14, 2022, at 9:54 pm, Defendant-Appellant Dean Gurdeep Hébert sent an email to YAF-Clovis faculty advisor Jennifer Hanson and other Clovis student club advisors, sharing Clovis's "updated Posting Guidelines." A true and accurate copy of Dean Hébert's October 14, 2022 email appears on pages 9 through 10 of Plaintiffs-Appellees' Supplemental Appendix.

5. Dean Hébert advised in her email that "the attached Posting Guidelines and Process for Campus Postings go into effect today, October 14, 2022."

6. Dean Hébert attached to her email a Word document entitled "CCC Posting Guidelines Effective October 14." A true and accurate copy of the Posting Guidelines appears on pages 12 through 13 of Plaintiffs-Appellees' Supplemental Appendix.

7. On October 18, 2022, the guidelines attached to Dean Hébert's October 14 email were posted to the Club Handbook page of the Clovis website. A true and accurate copy of the Club Handbook page as it appeared after the October 18, 2022 amendment appears on pages 14 through 22 of Plaintiffs-Appellees' Supplemental Appendix.

8. On February 2, 2023, I visited the Club Handbook page of the Clovis website and read that the guidelines for posting flyers had been amended as of February 1, 2023. A true and accurate copy of the Club Handbook page as it appeared on February 2, 2023, appears on pages 23 through 29 of Plaintiffs-Appellees' Supplemental Appendix.

9. The February 1, 2023 amendments to the posting guidelines reduced the number of flyers student groups are allowed to post at the same time from "up to 15 copies" with "[n]o more than two copies" on each bulletin board" to "1 copy per board," with "[n]o more than two copies of the same event" on each board, and prohibited students from posting

flyers on any bulletin board that has not been specifically designated for student club use.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 21 day of February, 2023.

Juliette Colunga