

# MODESTO CITY SCHOOLS

## Exhibit

E 6145.5

### SUBCHAPTER VIII - THE EQUAL ACCESS ACT

#### 4071. Denial of Equal Access Prohibited

**(a) Restriction of limited open forum on basis of religious, political, philosophical or other speech content prohibited**

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

**(b) "Limited open forum" defined**

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum-related student groups to meet on school premises during non-instructional time.

**(c) Fair opportunity criteria**

School shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that--

- (1) the meeting is voluntary and student-initiated;
- (2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;
- (3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
- (4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
- (5) nonschool persons may not direct, conduct, control or regularly attend activities of student groups.

**(d) Construction of subchapter with respect to certain rights**

Nothing in this title shall be construed to authorize the United States or any State or political subdivision thereof--

- (1) to influence the form or content of any prayer or religious activity;
- (2) to require any person to participate in prayer or other religious activity;
- (3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;
- (4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;
- (5) to sanction meetings that are otherwise unlawful;
- (6) to limit the rights of groups of students which are not of a specified numerical size; or
- (7) to abridge the constitutional rights of any person.

**(e) Federal financial assistance to schools unaffected**

Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this title shall be construed to authorize the United States to deny or withhold federal financial assistance in any school.

**(f) Authority of schools with respect to order, discipline, well-being and attendance concerns**

Nothing in this title shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

**4072. Definitions**

As used in this title--

- (1) The term "secondary school" means a public school which provides secondary education as determined by State law.

- (2) The term “sponsorship” includes the act of promoting, leading or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.
- (3) The term “meeting” includes those activities of student groups which are permitted under a school’s limited open forum and are not directly related to the school curriculum.
- (4) The term “noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

**4073. Severability**

If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the title and the application to other persons or circumstances shall not be affected thereby.

**4074. Construction**

The provisions of this title shall supersede all other provisions of federal law that are inconsistent with the provisions of this title.