Allegany College of Maryland

FIRST AMENDMENT SPEECH & EXPRESSION POLICY

Adopted 2005
Revised 2020
Approved by Board of Trustees 08/17/20
Implementation Fall 2020

BACKGROUND AND PURPOSE

Allegany College of Maryland honors the United States Constitution and recognizes its responsibility as a public institution to protect the rights articulated in the First Amendment: freedom of speech, religion, assembly and association within the context of its educational mission and without preferential treatment. This policy highlights how persons can exercise their speech and expressive rights with reasonable time, place, and manner restrictions free from discrimination or unconstitutional content-based restrictions by the institution. Allegany College of Maryland values the exchange of ideas and encourages all students, employees, and community members to value the principles of free speech and expression – including speech and expression with which an individual might disagree, which is controversial, or which an individual might find personally offensive.

POLICY

I. SCOPE OF THE POLICY

This policy applies to constitutionally protected expressive activity as defined herein. This policy applies to all students, faculty, staff, and any person lawfully on College property which includes all campuses, instructional sites, and any property owned or managed by Allegany College of Maryland including – but not limited to – buildings, parking lots, access roads, vehicles, and fields/lawns. The words "on campus" encompass all such properties. This policy applies to both planned and spontaneous events/activities as well as any College-sponsored or College-sanctioned activity or event which creates a public forum.

II. POLICY STATEMENT

Allegany College of Maryland shall not interfere with the rights of persons lawfully on campus to engage in constitutionally protected expressive activity subject to reasonable time, place, and manner restrictions which are designed to preserve health, safety, orderly operations, and fairness in managing campus events and activities. No constitutionally protected expressive activity shall be restricted based on content or viewpoint.

III. EXPRESSIVE ACTIVITY

Protected expressive activity includes any event/activity that is covered by the First Amendment and First Amendment law. Examples include: speeches in the public square, demonstrations, rallies, vigils, distribution of literature/pamphlets, collecting signatures on petitions, art, performance art, chalking, symbolism of protected expressive activity, funding of student clubs/organizations, and campaigning for public office.

Unprotected expressive activity includes any event/activity that is unlawful or designed for commercial benefit. Examples include threats, inciting violence, inciting lawlessness, "fighting words" designed to incite a breach of peace or violence, discriminatory harassment, obscenity, libel/defamation, vandalism, advertising, and for-profit sales.

IV. EVENTS

Planned protected events must be sponsored by a College employee constituency group, academic program, credit course, or recognized student club/organization. The individual or group must be identified as the sponsor or host and must comply with planning procedures including facility usage and risk assessment.

Spontaneous, protected events are permitted; a person or group must identify himself/herself/itself as the organizer or responsible party upon request by a College Official if communication becomes necessary or if a health or safety issue arises.

Events which are supported by college funds must be open to all employees and students unless seating or space capacity is limited; in such cases, the individual or group is responsible for managing occupancy and access.

All events, planned and unplanned, must comply with the time, place, and manner restrictions described herein.

V. TIME, PLACE AND MANNER RESTRICTIONS

In order to maintain healthy, safe, and orderly learning as well as institutional operations, the College adopts the following reasonable time, place, and manner restrictions on protected expressive activity:

- Sponsor(s)/Organizer(s) are responsible for the event/activity including any materials; the College is not required to provide any equipment, materials, supplies, publicity or personnel.
- Events/activities are not permitted when the College is closed.
- Events/activities are not permitted in classrooms, study labs, libraries, or other learning spaces.
- Events/activities are not permitted in private offices.
- Events/activities may not disrupt educational activities or orderly operations.
- Events/activities may not endanger the health or safety of any person.
- No person may be compelled to participate.
- Events/activities may not interfere with the free flow of pedestrian or vehicular traffic.
- College property may not be defaced or damaged; banners, signs and the like may not be permanently affixed or attached to any College property, and they must be removed at the conclusion of the event/activity.
- Participants must comply with health/safety directives from authorized College Officials or local officials

VI. INSTITUTIONAL REQUIREMENTS, PERMISSIONS, AND PROHIBITIONS

The College must

- Approve a planned event request event/activity unless the expressive activity event violates College policy, presents an imminent, credible threat to the community, or is deemed unhealthy/unsafe pursuant to risk management assessment; if the event/activity request is denied, the College must notify the sponsor(s), provide the reasoning, and provide an opportunity to appeal.

The College may

- Prevent or cancel any activity/event if there is an imminent and credible threat to the community that cannot otherwise be mitigated.
- Take action during any event if protests or counter-speakers undermine the rights of speakers or their sponsors. The College will not allow a lawful First Amendment activity to be interfered with by others. Reasonable steps will be taken to preserve the speech/expressive rights of all persons.
- Charge facility rental fee – as long as the fee and process are consistent for all persons/groups
- Assess other fees/costs as necessary. Examples include restitution for damaged property.

The College may not

- Make decisions based on the content of any speech/expressive activity related to:
  - First Amendment activities/events,
  - Student club/organization funding,
  - Facility use or rental,
  - Funding, grants, procurement, and/or
  - Personnel decisions.
- Take adverse action against an employee who speaks/acts in their individual capacity on a matter of public concern.

VII. Procedures

Allegany College of Maryland shall adopt necessary procedures to implement this policy.

VIII. Other Provisions

The exercise of any right or activity covered by this police by a person or group does not constitute endorsement by Allegany College of Maryland, and Allegany College of Maryland reserves its own rights under the First Amendment. Only persons authorized to speak or act on behalf of the College may claim to represent the views of the College or use College logo, letterhead, or other copyrighted/trademarked property.

The College assumes no liability for the event/activity or the actions of any participant.

Nothing in this policy shall be construed to limit or infringe on academic freedom as understood and applied in higher education.

Nothing in this policy shall be construed to limit or silence the expression of an individual's personal opinion/beliefs in casual conversation, in the classroom, in assignments, in chartered student organizations, in College committees, in private actions that are not intended for public viewing/consumption in attire, with jewelry, or other symbolic means as long as the activity does not violate policies as described below, laws, or course syllabi or endanger the health/safety of any person.

Application of this policy may directly or indirectly require the application of other institutional policies; nothing in this policy shall be construed to prohibit the application of related policies which include, but are not limited to the policies listed here. If the application of this policy conflicts with the application of another institutional policy, the College will make a good faith effort to comply with all mandates and legal requirements. Related policies: Non-Discrimination, Sexual Misconduct and Sex Discrimination Policy (Title IX), Safety Risk Policy, Code of Student Conduct; Alcohol and Drug Policy, HR policies, Academic Regulations, Personal Electronic Account Privacy Protection Policy, FERPA Policy.

Criminal act(s) may be reported to law enforcement for criminal investigation/prosecution, and the College has discretion to pursue a criminal charge(s) via local court. Nothing in this policy shall be applied or interpreted to restrict or interfere with any police investigation, criminal prosecution, or civil legal action initiated by law enforcement or third parties.

V. ADMINISTRATION OF POLICY

The Dean of Student & Legal Affairs is responsible for the implementation, administration, and oversight of this policy in consultation with other College Officials and/or General Counsel as needed. Questions, concerns, and reports of non-compliance should be promptly reported to the Office of Student & Legal Affairs.

IX. Changes

Substantive changes to this policy require approval by the Board of Trustees; editorial changes, title/position changes, and/or changes to its implementation procedures may be made as required by federal or state mandate and/or institutional need with timely notice to students and employees.