

BOARD POLICY

Subject: College
Series 103: Freedom of Expression

The primary function of an institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill this function, the institution must strive to ensure the fullest degree of intellectual freedom and free expression allowed under the First Amendment to the Constitution of the United States. This policy is made and published by the College to prohibit intellectual restrictions and penalties based on protected speech, including political speech, to the fullest extent of the First Amendment of the United States Constitution.

It is not the proper role of an institution of higher education to shield individuals from speech protected by the First Amendment to the Constitution of the United States, which may include ideas and opinions the individual finds unwelcome, disagreeable, or even offensive.

It is the proper role of an institution of higher education to encourage diversity of thoughts, ideas, and opinions and to encourage, within the bounds of the First Amendment to the Constitution of the United States, the peaceful, respectful, and safe exercise of First Amendment rights.

Students and faculty have the freedom to discuss any problem that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the First Amendment to the Constitution of the United States, and subject to reasonable time, place, and manner restrictions that are consistent with established First Amendment principles.

The outdoor areas of campus of an institution of higher education are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the First Amendment to the Constitution of the United States.

The outdoor areas of campus, which for this policy means the generally accessible outside areas of campus where the campus community are commonly allowed, such as grassy areas, walkways, or other similar common areas. Outdoor areas of campus do not include areas outside health care facilities, veterinary medicine facilities, areas where livestock or animals are kept, facilities or outdoor areas used by Kirkwood Community College athletic

programs or teams, areas where there are business operations such as a hotel, or other outdoor areas where access is restricted to a majority of the campus community.

Annual training shall be provided to the College's students, faculty, and staff on free speech and First Amendment protections.

PROTECTED ACTIVITIES

A member of the campus community, which for this policy shall include students, administrators, faculty, staff, and/or guests invited by students, administrators, faculty or staff, shall be freely permitted to engage in noncommercial expressive activity in outdoor areas of campus, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of Kirkwood Community College. Kirkwood may designate other areas of campus available for use by the campus community. All access to designated areas will be granted on a viewpoint-neutral basis.

Noncommercial expressive protected activities include but are not limited to any lawful oral or written means by which members of the campus community may communicate ideas, including but limited to all forms of peaceful assembly, protests, speeches including invited speakers, distribution of literature, circulating petitions, and publishing, including publishing or streaming on an internet site, audio or video recorded in outdoor areas of campus.

Protected activities shall also include the right of student expression in a counter demonstration held in an outdoor area of campus as long as the conduct at the counter demonstration is not unlawful, does not materially and substantially prohibit the free expression of others, or impede other's access to a facility or use of walkways.

If any faculty member of Kirkwood is found to have knowingly restricted the protected speech of a student, or otherwise penalizes a student for protected speech or activities, under the Student Conduct Code or other applicable policies or procedures for student conduct, the faculty member is subject to discipline, up to and including termination under the applicable faculty policies, procedures, and Iowa law based on the totality of the facts.

In all instances, faculty and staff (including extracurricular coaches) may support a student's First Amendment rights without fear of discipline by the College.

NONPROTECTED ACTIVITIES

Nothing shall prevent Kirkwood Community College from prohibiting, limiting, or restricting expression and/or expressive activity that is not otherwise protected by the Constitution of the United States. Nonprotected activities include, but are not limited to the following:

- A threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions; and
- Harassment, including but not limited to expression which is so severe or pervasive and subjectively and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by this Community College;
- Violence;
- Defamation, including libel and slander;
- Obscenity; or
- Inciting others to commit crimes or engage in unlawful conduct.
- Disruption to the normal operations of the college

STUDENT ORGANIZATIONS

Kirkwood Community College will not deny benefits or privileges available to student organizations based on the viewpoint or expression of the viewpoint of a student organization or its members protected by the First Amendment to the Constitution of the United States. For purposes of this policy, benefits means recognition, registration, use of facilities for meetings or speaking purposes, use of channels of communication, and access to funding sources otherwise available to other student groups.

In addition, Kirkwood Community College shall not deny any benefits or privileges to a student organization based on the organization's requirement that its leaders agree to and support the organization's beliefs as interpreted and applied by the organization, and to further the organization's mission. For purposes of this policy, student organization means a group officially recognized or registered by Kirkwood Community College or a group seeking official recognition or registration comprised of students who are admitted and in attendance at Kirkwood who receive or are seeking to receive benefits or privileges.

PUBLIC FORUMS ON CAMPUS-FREEDOM OF ASSOCIATION

The outdoor areas of campus are deemed public forums. Kirkwood may maintain and enforce clear, published, reasonable viewpoint-neutral time, place, and manner restrictions that are narrowly tailored in furtherance of a significant institutional interest, but shall allow members of the campus to engage in spontaneous expressive activity and to distribute literature. If Kirkwood places restrictions, it shall provide ample alternative means of expression.

Except as provided in this policy, and subject to the reasonable time, place, and manner restrictions, Kirkwood shall not designate any area of campus a free speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus.

Nothing in this policy shall be construed to grant individuals the right to engage in conduct that intentionally, materially, and substantially disrupts the expressive activity

of a person or student organization if Kirkwood has reserved space in an outdoor area of campus for the activity in accordance with this policy.

COMPLAINT PROCEDURE

If a member of the campus community believes he or she has been aggrieved by a violation of this policy, the member shall follow the grievance procedures as outlined for this policy.

In the event the matter is not resolved through the appropriate grievance process, or otherwise as provided under Iowa law, the aggrieved member of the campus community may file a complaint with the governing body (Kirkwood Community College Board of Trustees) not later than one year after the day of the alleged policy violation.

Retaliation against any member of the campus community who files such a complaint is prohibited, and any founded instance of founded retaliation is subject to discipline or other sanctions.

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07-08-21

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Legal Reference (Code of Iowa):

S.F. 274 – passed March 11, 2019 (formerly HF661)

Related Administrative Rules and Regulations:

General Policies and Student Rights – Student Complaint Policy