

### **3354: 1-60-03 Free Speech Policy**

Cuyahoga Community College is committed to providing a workplace and educational environment that allows for the free dissemination of knowledge by means of research, teaching, discussion and debate. 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. To ensure compliance with federal and state laws and public policy and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the College community, the College hereby adopts policies and procedures which will provide a prompt, fair, and impartial process to ensure the fullest degree of intellectual freedom and free expression allowed under the First Amendment to the Constitution of the United States and the Ohio Constitution.

#### **A. Definitions**

- 1) "Time, Place, and Manner Restrictions" means restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant institutional interest, and leave open ample alternative channels for the communication of the information or message to its intended audience.
- 2) "Faculty" means any person who is tasked with providing scholarship, academic research or teaching and includes tenured and nontenured professors, adjunct professors, visiting professors, lecturers, and those in comparable positions, however titled, but not those persons whose primary responsibilities are administrative or managerial.
- 3) "Student" has the same definition as used in the Student Conduct Code, 3354-1-30-03.5.
- 4) "Student group" means an officially recognized group at a state institution of higher education, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the institution of higher education.
- 5) "Free Speech" means speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution, verbal, written, audiovisual, or by electronic means by which individuals may communicate ideas, including, but not limited to: all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speeches, distribution of literature, carrying and displaying signs, or circulating petitions. "Free speech" does not include the promotion, sale, or distribution of any product or service, or any action that falls within

the College's policy against distribution and solicitation, 3354:1-20-03(E-F) *Operations Policy*.

B. Right to Free Speech

- 1) Students have a fundamental constitutional right to free speech and the College is committed to giving students broad latitude to speak, write, listen, challenge, learn and discuss any issue, so long as their exercise of the right of Free Expression granted by the First Amendment of the U.S. Constitution cannot be characterized as threatening, hate speech directed towards a particular class of individuals; are not defamatory; do not threaten individuals or groups, disseminate false, misleading or inaccurate information, infringe upon the rights of others, and/or incites violence.
- 2) The primary responsibility of faculty is to engage in honest, courageous, and persistent efforts to search out and communicate the truth that lies in their area of competence and may freely disseminate those ideas without suppression, so long as those ideas cannot be characterized as threatening, hate speech directed towards a particular class of individuals; are not defamatory; do not threaten individuals or groups, disseminate false, misleading or inaccurate information, infringe upon the rights of others, and/or incites violence.
- 3) The College is committed to providing students with an environment where they are free to speculate, experiment and create and where faculty are free to inquire, study, evaluate, and gain new understandings. While students and faculty are free to express their views and contest the views expressed by others, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views which they may reject or even despise.
- 4) Students may not receive a penalty imposed on their grade for an assignment or coursework based solely on the contents of the student's free speech and unrelated to ordinary academic standards of substance and relevance, or any legitimate pedagogical concerns.
- 5) Retaliation for filing a complaint under this policy is strictly prohibited. If a person or student group feels they have been retaliated against for filing a complaint alleging a violation of their right to free speech, they may file a claim under the college's policy on Discrimination, Harassment, Sexual Misconduct, and Retaliation, 3354:1-60-02.

C. Applicability

- 1) The College is committed to maintaining all campuses as a marketplace of ideas for all students and faculty that exercise their right to openly and vigorously contest the ideas they oppose without suppression solely because their ideas are thought to be offensive, unwise, immoral, indecent,

disagreeable, conservative, liberal, traditional, radical, wrong-headed, or against the common ideas of civility and mutual respect.

- 2) Students and Faculty may make judgements about ideas for themselves and it is not the proper role of the College to attempt to shield individuals from free speech, so long as that speech is not threatening, hate speech directed towards a particular class of individual, defamatory, disseminates false, misleading or inaccurate information, infringes upon the rights of others, and/or incites violence.
- 3) The College may make reasonable time, place and manner restrictions upon speech that occurs at any of its locations, campuses, or College sponsored or approved events that occur including, distance education opportunities, study abroad, experiential learning opportunities, clinical placements, athletics, club sports, group travel, and online sites such as the College's Learning Management System (LMS) or other College operated websites.
- 4) The College may impose the following restrictions so long as they do not violate the First Amendment of the U.S. Constitution or Article I, Sections 3 and 11 of the Ohio Constitution:
  - a. reasonable viewpoint-neutral restrictions in areas it has designated as a "nonpublic forum;"
  - b. the use of the College's property in order to protect the free speech rights of students and teachers and preserve the use of the property for the advancement of the institution's mission;
  - c. prohibiting or limiting speech, expression or assemblies that are threatening, hate speech directed towards a particular class of individuals; have content defamatory to the College; threatens individuals or groups, disseminates false, misleading or inaccurate information, infringes upon the rights of others, and/or incites violence.
  - d. content restrictions that are reasonably related to a legitimate pedagogical purpose, such as classroom rules.
- 5) Nothing in this Policy shall be construed to grant students the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.
- 6) Nothing in this Policy shall be interpreted as restricting or impairing the College's obligations under federal law including, but not limited to, Title IV of the Higher Education Act of 1965, Title VI of the Civil Rights Act of 1962, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act, Age Discrimination in Employment

Act, and the Age Discrimination Act of 1975 as addressed through its non-discrimination and Title IX policies.

#### D. Reporting

Annually, the Office of Institutional Equity shall submit a report to the chancellor that discloses:

- 1) The total number of submitted complaints in the academic year; and
- 2) A description of the following for each complaint:
  - a. The investigation of the complaint
  - b. The outcome of the hearing conducted regarding the complaint.
  - c. If it was determined a violation occurred, the resolution to address the violation.

#### E. Oversight

- 1) The Office of Institutional Equity shall oversee the implementation of this policy and shall be supervised by the Office of Legal Services. The Office of Institutional Equity has the primary responsibility for coordinating the College's efforts related to investigation, resolution, implementation of interim actions and/or supportive measures and monitoring to stop, prohibit, eliminate, remediate, and prevent violations of an employee's or student's freedom of speech under this policy. The Office of Institutional Equity will coordinate with Student Affairs and/or Human Resources for implementation of any disciplinary actions related to violations of this policy.
- 2) The Office of Institutional Equity shall act free from bias and conflicts of interest. The Office of Institutional Equity shall oversee all resolutions under this policy and the related procedures. All individuals involved in the investigation and resolution process shall be vetted to ensure they are not biased against any party in a specific case, or for or against Complainants and/or Respondents, generally and trained annually on this policy and the Free Speech Violations Procedure. To raise any concern involving bias or conflict of interest by an employee of the Office of Institutional Equity, contact the College's Office of Legal Services.

#### F. Process for Complaints

- 1) The College hereby establishes that the process by which a student, student group, employee, or faculty member may submit a complaint about an alleged violation of this policy by an employee of the College will be the Free Speech Violations Procedure and shall set forth the grievance procedure that shall be used to provide for the fair, prompt and equitable resolution of such reports or formal complaints; the proscribed conduct in violation of this policy; the process of both the investigation and disciplinary action phases after a complaint is received; any timeline for reviewing complaints; and how, and

from whom, the complainant will be notified of the status of their submission. The Free Speech Violations Procedure shall require the College to investigate complaints, provide a fair and impartial hearing on the complaint, and provide an approved resolution to address the violation and prevent any further violations of this Policy.

- 2) Under the Free Speech Violations Procedure, if after an impartial hearing on the complaint, the Office of Institutional Equity finds that this policy was violated, the Board of Trustees has determined any one or combination of the following resolutions will address the violation and prevent any further violation of this policy:

- a. Warning (verbal or written),
- b. Discretionary sanctions as defined in the Student Code of Conduct and/or Employee Code of Conduct,
- c. Performance improvement/management process for an employee,
- d. Required counseling, training, education or mediation,
- e. Required additional coursework or assignments for a student,
- f. Probation (interim or permanent),
- g. Loss of annual pay increase or supervisory responsibility for an employee,
- h. Demotion for an employee,
- i. Suspension with or without pay,
- j. Termination or Expulsion; or
- k. Organizational sanctions that include loss of privileges conferred upon students or employees.

The President or the President's designee is hereby directed to take all steps necessary and appropriate for the effective implementation of this policy.

Effective date: October 18, 2022