

 Wharton County Junior College	ADMINISTRATIVE PROCEDURE MANUAL	
WCJC Title: Expressive Activity on College Campuses or at College-Sponsored Events	Sections G: Community and Governmental Relations	Page(s): 6
BASED ON BOARD OF TRUSTEES POLICY		
Policy Title: Community Expression and Use of College Facilities	Policy: GD (LOCAL)	
Subtitle: None	Date Adopted: 8-01-20	

Purpose:

The College shall strive to ensure a campus culture where individuals may engage in expressive activity.

Procedure:

This procedure supports the Board policies regarding expressive activity on College property, and is consistent with the requirements of Executive Order GA 44 issued by Governor Greg Abbott on March 27, 2024.

Definition:

Amplified sound: Refers to sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. It includes the use of any loudspeaker, loudspeaker system, sound amplifier, bull horn, or any other machine or device that produces, reproduces, or amplifies sound. Shouting, chanting, and acoustic musical instruments are exempt from this definition but are subject to general rules on disruption.

Antisemitism: Refers to the meaning found in Section 448.001 of the Texas Government Code, which means a certain perception of Jews that may be expressed as hatred toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities.” This definition is provided in accordance with Executive Order GA-44 (2024).

Common outdoor area: Refers to outdoor space that is not regularly used for dedicated College District business, does not have an educational function, and/or is not currently being used for a College District activity, program, or function. The term “outdoor common area” excludes the outside surfaces of a College District building, surfaces associated with or connected to a College District building such as a

porch or portico, a College District structure, spaces dedicated to temporary outdoor banners, spaces dedicated to temporary outdoor exhibits, or sites under construction. Common outdoor areas are designated by state law as traditional public forums.

Expressive activity: Any speech or expressive conduct (oral or written) protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech.

Official College event or activity: Any event, program, or activity sponsored by a College District department or division in the course of fulfilling its College District mission; educational activities that occur within the classroom; or events that occur within the regular or recurring sphere of activity of a College District department or division. Any program or event sponsored by an academic or administrative unit of the University will have priority in the use of space and facilities over any speech, expression, or assembly that is not sponsored by an academic or administrative unit,

I. Areas Where Outdoor Expressive Activity May Not Take Place

The College District will regulate outdoor expressive activity under criteria that is content and viewpoint neutral and is narrowly tailored to serve a significant institutional interest. In addition to the prohibitions stated elsewhere in Local Policy and in this Regulation, an outdoor expressive activity may not take place:

- A. In areas already reserved for an official College event during the specific times reserved for the official College event;
- B. In areas that block free movement of pedestrian or vehicle traffic;
- C. In areas that prevent or substantially hinder entry or exit of a campus building; or
- D. In any areas on campus during times that the College campus is closed to the public.

II. Time, Place, Manner Rules for Outdoor Common Areas

In addition to the prohibitions stated in Local Policy, the following time, place, and manner rules will apply:

- A. No person or organization may engage in expressive activity within a ten-foot clearance around points of entry and the perimeter of College District buildings, facilities, and garages.
- B. When engaging in expressive activities in outdoor common areas, individuals shall not:
 - interfere with the free entry to or exit from a building, structure, or facility;
 - interfere with the flow of pedestrians or vehicular traffic on sidewalks or streets or at places of ingress and egress to and from property, buildings, parking lots, or facilities;

- deny the use of offices or other facilities to the students, faculty, staff, or guests of the College District;
 - threaten or endanger the safety of any person on a campus;
 - engage in conduct that is likely to result in damage or defacement to or destruction of College District property or to cause disruption in utilities;
 - create a sustained or repeated noise disturbance that substantially interferes with a speaker's ability to communicate with others and/or the rights of others to listen;
 - attempt to prevent a College District event or other lawful assembly by the threat or use of force or violence; or
 - use or display an open flame or fireworks.
- C. Amplified sound is allowed in outdoor common areas between 8 a.m. to 8 p.m., but bullhorns are prohibited. Noise levels may not unduly interfere with or disrupt classes, meetings, or other nearby activities in progress. Making sustained or repeated noise in a manner that unduly interferes with a speaker's ability to communicate their message is not permitted.
- D. The following items are prohibited on campus:
1. A mask, facial covering, or disguise that (i) conceals the identity of the wearer and (ii) is calculated to obstruct the enforcement of these rules or the law, or to intimidate, hinder or interrupt a College District employee or police officer in the lawful performance of their duties;
 2. Signs must be carried by hand and may not be affixed to a stick, pole, club, or swords. In addition, sticks, poles, clubs, swords, shields, or rigid signs that can be used as a shield, may not be used without written permission from the Associate VP of Academic Affairs, unless authorized by federal, State or local laws;
 3. Body-armor or make-shift body-armor, helmets and other garments, such as sporting protective gear, that alone or in combination could be reasonably construed as weapons or body-armor, without written permission from the Associate VP of Academic Affairs; and
 4. Open flame, unless approved in advance by Fire Marshal.

IV. Additional Prohibitions

1. The material is obscene. Obscenity is a writing, visual image, or performance as defined in Section 43.21 of the Texas Penal Code (or successor provisions).
2. The material contains defamatory statements. Defamation is a false statement of fact about another individual that holds the individual up to hatred, ridicule, or contempt and that is not otherwise privileged. If the defamed person is a private individual, the question is whether the speaker knew or should have known that the statement was false. If the defamed person is a public official or public figure, the question is whether the statement was made with knowledge of the falsity or with reckless disregard of the truth.
3. The material advocates imminent lawless or disruptive action and is intended to incite or produces such action.
4. The material contains a true threat, which is a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. The speaker of a true threat need not intend to inflict actual harm; the question is whether the speaker consciously disregarded a substantial risk that the communications would be viewed as threatening violence.
5. The material constitutes intimidation, which is a type of true threat where a speaker directs a threat to a person or group of persons with the intent of placing the victim(s) in fear of bodily harm or death.
6. The material constitutes harassment, which means material that is (i) hostile, threatening, or intimidating, (ii) directed at a specific person or persons, and (iii) is sufficiently severe, pervasive or persistent, and objectively offensive that it would cause an ordinary and reasonable person to fear violence or bodily harm or creates an objectively hostile or threatening campus environment that unreasonably interferes with the person's ability to access or participate in a College District activity, program, service, or privilege.
7. The material constitutes discriminatory harassment based on membership in a protected class recognized under state or federal law and is sufficiently severe or pervasive to create an objectively hostile campus or academic environment that unreasonably interferes with or diminishes another individual's ability to participate in or benefit from an activity, program, service, or privilege provided by the College District. [See DIAA, DIAB, FFDA, and FFDB and associated regulations for examples of discriminatory harassment based on membership in a protected class, including but not limited to race, national origin, color, religion, sex, disability, age, and veteran status. National origin includes shared ancestry.]

V. Maintenance of Peace and Order; Evaluation of Disorder and Disruption

In cases of marginal or unintentional disruption, the College District administrator or peace officer should encourage the alleged violator to comply with the rule being violated, especially in instances in which public safety is not threatened. If an individual continues to violate a rule or procedure after receiving a warning, but the activity is otherwise peaceful, staff and campus police should evaluate all

facts and circumstances and determine whether to intervene immediately. For example, if the activity is about to end, intervention may be more disruptive than allowing the activity to end on its own.

The College District appreciates that, except in extreme cases, interference and disruption will require evaluation of the context. Intentional physical interference with another's movement or position is nearly always disruptive in any context. Interfering with traffic depends on the volume of traffic and the size of the passageway. Disruptive noise will depend on the activity disrupted. Any distracting sound or noise that disrupts a memorial service, library, or graduation ceremony is less likely to disrupt an athletic event. Occasional heckling of speaker may not disrupt the giving of a political speech, but persistent heckling that prevents listeners from hearing the speaker does disrupt a political speech. A College official's decision whether and when to intervene shall be made without consideration of the viewpoint of the speaker.

Policies:

The Wharton County Junior College Board of Trustees policy manual contains the following free speech Legal and Local policies:

DGC – Employee Rights and Privileges: Employee Expression and Use of College Facilities

FLA – Student Rights and Responsibilities: Student Expression and Use of College Facilities

GD – Community Expression and Use of College Facilities

Violations:

Failure to comply with these policies and associated procedures shall result in appropriate administrative action, to include:

DGC – Employee Rights and Privileges: Employee Expression and Use of College Facilities

Violations: "Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, suspension of an employee's or employee organization's use of College District facilities and/or other disciplinary action in accordance with the College District's policies and procedures and the employee handbook." (DGC LOCAL)

FLA – Student Rights and Responsibilities: Student Expression and Use of College Facilities

Violations: "Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, confiscation of nonconforming materials, suspension of a student's or registered student organization's use of College District facilities, and/or other disciplinary action in accordance with the College District's discipline policies and procedures [see FM and FMA]." (FLA LOCAL)

GD – Community Expression and Use of College Facilities

Violations: “Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, the suspension of the individual’s or organization’s use of College District facilities and the confiscation of nonconforming materials.” (GD LOCAL)

Summary:

For complete policy information regarding free speech and their related violations, refer to the WCJC Policy Manual.

Date Prepared: 6-20-2024 (BAM)

Revised date: