1.03.02.60 Freedom of Speech and Expression

1.03.02.60 Freedom of Speech and Expression

Policy/Guideline Area

Governance, Organization, and General Policies

Applicable Divisions

TCATs, Community Colleges

Purpose

This policy reflects the commitment of the Board of Regents and the institutions it governs to freedom of speech and expression for all students and all faculty.

Definitions

- **Constitutional 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, Section 19 of the Tennessee 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
- **Faculty** or **faculty member** means any person, whether or not the person is compensated by the institution, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. For purposes of this part, the term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. For purposes of this policy, the term "faculty" shall not include persons whose primary responsibilities are administrative or managerial.

- **Free speech** means speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution, verbal or written, including, but not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, carrying signs, displays, or circulating petitions. "Free speech" does not include the promotion, sale, or distribution of any product or service**.**
- **Institution** means an institution governed by the Tennessee Board of Regents.
- **Student** means:
  - An individual currently enrolled in a course of study at the institution; and
  - An organization that is comprised entirely of individuals currently enrolled in a course of study at the institution that is registered with an institution pursuant to applicable policy.

Policy/Guideline

I. General Statement

A. The ideas of different members of the college community will often and quite naturally conflict. But it is not the proper role of the institution to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the institution greatly values civility, and although all members of the community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of the community.

B. The freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The institution may restrict expression that violates the law, that falsely defames a specific individual, that constitutes a genuine threat or harassment, that

unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the institution. In addition, the institution may reasonably regulate the time, place, and manner of expression to ensure that it does not disrupt the ordinary activities of the institution. But these are narrow exceptions to the general principle of freedom of expression, and it is vitally important that these exceptions never be used in a manner that is inconsistent with the institution's commitment to a completely free and open discussion of ideas.

C. In a word, the institution's fundamental commitment is to the principle that debate or deliberation may not be suppressed because the ideas put forth are thought by some or even most members of the college community to be offensive, unwise, immoral, or wrong-headed. It is for the individual members of the college community, not for the college as an institution, to make those judgments for themselves, and to act on those judgments not by seeking to suppress speech, but by openly and vigorously contesting the ideas that they oppose. Indeed, fostering the ability of members of the college community to engage in such debate and deliberation in an effective and responsible manner is an essential part of the institution's educational mission.

D. As a corollary to the institution's commitment to protect and promote free expression, members of the college community must also act in conformity with the principle of free expression. Although members of the college community are free to criticize and contest the views expressed on campus, and to criticize and contest speakers who are invited to express their views on campus, they may not obstruct or otherwise interfere with the freedom of others to express views they reject or even loathe. To this end, the institution has a solemn responsibility not only to promote a lively and fearless freedom of debate and deliberation, but also to protect that freedom when others attempt to restrict it.

II. Principles

A. Students have a fundamental constitutional right to free speech.

B. An institution shall be committed to giving students the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to constitutional time, place, and manner restrictions.

C. An institution shall be committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the institution's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.

D. It is for an institution’s individual students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.

E. It is not the proper role of an institution to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.

F. Although an institution should greatly value civility and mutual respect, concerns about civility and mutual respect shall never be used by an institution as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed those ideas may be to some students or faculty.

G. Although all students and all faculty are free to state their own views about and contest the views expressed on campus, and to state their own views about and contest speakers who are invited to express their views on the institution's campus, they may not substantially obstruct or otherwise substantially interfere

with the freedom of others to express views they reject or even loathe. To this end, an institution has a responsibility to promote a lively and fearless freedom of debate and deliberation and protect that freedom. “Substantially obstruct or otherwise substantially interfere” includes, but is not limited to:

1. Making noises with the intent of drowning out an invited speaker or hindering the audience from hearing the invited speaker;
2. Standing in between an invited speaker and the audience with the intent of blocking or impeding an audience member’s view of the speaker or the speaker’s view of the audience members;
3. Using signs or objects in a way to block or impede an audience member’s view of an invited speaker or the speaker’s view of the audience members;
4. Staging walk-outs during an event or in the middle of an invited speaker’s remarks that result in material and substantial disruption with the intent to cause a material and substantial disruption; and
5. Physically obstructing an invited speaker or an audience member from entering or attending an event.

H. Through shared governance with its faculty, an institution may determine for itself on academic grounds who may teach, what may be taught, how it may be taught and graded, and who may be admitted to the institution as a student.

I. An institution shall be committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding.

J. The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

K. Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction.

L. An institution shall maintain the generally accessible, open, outdoor areas of its campus as traditional public forums for free speech by students. This does not mean that those areas must be equally available to non- students.

M. An institution shall not confine students' free speech to certain areas of the campus, sometimes known as "free speech zones," or otherwise create policies implying that students' free speech is restricted to particular areas of campus.

N. An institution shall not deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates.

O. An institution shall not establish permitting requirements that prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although an institution may maintain a policy that grants members of the college community the right to reserve certain outdoor spaces in advance.

P. An institution shall not:

1. charge students security fees based on the content of their speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to speech;

2. Require a student group to pay fees or security deposits that are not charged to other student groups for use of the institution's property; or
3. Deny a student group access to the institution's property if the property is routinely used by other student groups.

Q. An institution shall allow all students and all faculty to invite guest speakers to campus to engage in free speech regardless of the views of guest speakers.

R. An institution shall not disinvite a speaker invited by a student, student organization, or faculty member, or require that a speaker be disinvited, because the speaker's anticipated speech may be considered offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed by students, faculty, administrators, government officials, or members of the public, or in response to threatened protests or opposition from students or faculty.

S. For purposes of approving or scheduling usage of the institution's property, an institution shall not show bias or favoritism against:
1. A student group that is peaceful and requests to use the institution's property in a peaceful and lawful manner;
2. A guest speaker's, or a guest speaker's student sponsoring group's, viewpoint, race, creed, color, religion, non-violent political ideology, or non-violent political party affiliation; or
3. A student group that, or a guest speaker who, intends to maintain a peaceful campus presence and peaceful use of the institution's property on grounds that the institution has received threatened simple breaches of the peace or non- destructive disruptions from groups or individuals who oppose the student group's or guest speaker's presence on campus.

T. Students do not have the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.

U. An institution is not required to fund costs associated with student speech or expression.

V. Nothing in this policy shall be interpreted in a manner that is inconsistent with the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution.

III. Publication of Policy

A. This policy shall be:

1. Published annually in the institution's student handbook and faculty handbook, whether paper or electronic;
2. Made available to students and faculty by way of a prominent notice on the institution's internet site other than through the electronic publication of the policy in the student handbook and faculty handbook;
3. Sent annually to students and employees to their institutionally- provided email address; and
4. Addressed by the institution in orientation programs for new students and new faculty.

IV. Institution Policies

A. Institutions may adopt institution policies that include measures that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution such as:

1. Constitutional time, place, and manner restrictions on assemblies, speech, expression, and usage of the institution's property;
2. Reasonable and viewpoint-neutral restrictions in nonpublic forums;
3. Restricting the use of the institution's property to protect the free speech rights of students and faculty and preserve the use of the property for the advancement of the institution's mission;

4. Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution; or
5. Content restrictions on the speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by faculty.

B. Institutional policy shall define student-on-student harassment consistent with and no more expansively than the following definition:
   1. **Student on student harassment** means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.

C. Each institution shall consult the TBR Office of General Counsel when making any revision to its policies on this subject and obtain approval prior to implementing such revisions.

Sources

Authority

Statutes: T.C.A. §§ 49-7-1907; 49-7-2401 to 2409, *The Campus Free Speech Protection Act;* T.C.A § 49-7-3210 *et seq.*; the University of Chicago Report of the Committee on Freedom of Expression (the "Chicago Principles")

History

NEW policy approved at Board Meeting; Dec. 14, 2017; Revised at Board Meeting September 22, 2023; Revised at Board Meeting June 11 and 12, 2026 (effective July 1, 2026).