



LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM

Changing Lives,
Creating Futures

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Matthew Durette
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TO: Dr. Monty Sullivan
LCTCS President

THROUGH: Ms. Susie Schowen
Vice President of Education

FROM: Dr. Amber Blair
Executive Director of Student Compliance, Equity, & Governance

DATE: February 16, 2023

SUBJECT: For Review and Advise ment: Revisions to LCTCS Policy # 2.018 –
Campus Free Expression

Received
APPROVED
3/8/23
LCTCS BOARD OF SUPERVISORS

C/S
SS

AAB

FOR BOARD REVIEW AND ADVISEMENT

Recommendation: Staff recommends that the Board receive for review and advise ment
amendments to LCTCS Policy 2.018 Campus Free Expression.

Background: Act 727 was enrolled during the 2022 Regular Session, requiring the
addition of definitions and allowances for permitting and security fees.

Fiscal Impact: N/A

History of Prior Actions: All colleges have updated their policies accordingly. The
LCTCS CAO-CSAO functional group approved this draft on November 17, 2022. The
LCTCS PACC approved this draft on January 10, 2023.

Benefits to the System: These minor revisions will ensure that System policy complies
with state law.

Monty Sullivan signature

3-8-23

Approved for Recommendation to the Board
Dr. Monty Sullivan

Date

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 2.018

Title: CAMPUS FREE EXPRESSION

Authority: Board Action

Original Adoption: 11/14/2018

Effective Date:

Last Revision:

The Louisiana Community & Technical College System (LCTCS) deems the free and open inquiry into all matters fundamental to the mission of higher education and is committed to the preservation of the lawful, free expression of ideas at all of its member institutions, subject only to reasonable time, place, and manner restrictions. All postsecondary institutions under the management of the LCTCS Board of Supervisors shall allow and protect non-commercial expressive activities by any person lawfully present on campus property in accordance with all applicable laws and this Policy.

Protests and demonstrations that infringe upon the constitutional rights of others to engage in or listen to expressive activity by creating a substantial and material disruption to the functioning of the institution or to someone's expressive activity in any location reserved for that expressive activity shall not be permitted. No conduct shall be deemed a material and substantial disruption that is protected under the First Amendment to the United States Constitution or Article I, Section 7 of the Constitution of Louisiana. Protected conduct includes but is not limited to lawful protests and counter-protests in the outdoor areas of campus generally accessible to members of the public except during times when these areas have been reserved in advance for other events or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

In accordance with Act 666 of the 2018 Regular Session and Act 727 of the 2022 Regular Legislative Session of the Louisiana Legislature, codified at

R.S. 17:3399.31 through 3399.37 ("Louisiana Campus Free Expression Law"), LCTCS hereby adopts this policy on Campus Free Expression ("Policy"). This Policy applies to all postsecondary education institutions under the management of the LCTCS Board of Supervisors. For the purposes of this Policy, the definition of key terms and other mandatory provisions shall remain consistent with those in Act 666 of 2018 and Act 727 of 2022, codified at R.S. 17:3399:31 through 3399.37. LCTCS will amend this Policy to reflect any subsequent changes to these statutes. In cases of any inconsistency, the statutory provisions shall supersede any such inconsistent provision in this Policy. The statutory provisions and this Policy shall supersede any inconsistent provision in an institution's policy.

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All institutions subject to this Policy shall adopt an institutional policy in accordance with all applicable laws and this Policy. Each institution's policy must comply with applicable laws and regulations, and must be amended to reflect any subsequent changes to laws and regulations or this Policy. ~~Each institution shall begin establishing policies and procedures in full compliance with this Policy no later than the beginning of the 2018-2019 academic year.~~ The institutional policy of each member institution shall be forwarded to the LCTCS and the Louisiana Board of Regents (BoR) ~~by the end of calendar year 2018.~~

Definitions

- (1) "Expressive activities" include but are not limited to any lawful verbal or written means by which individuals or groups communicate ideas to one another, as provided by the First Amendment of the Constitution of the United States of America and by the Constitution of Louisiana, including all forms of peaceful assembly, protest, speech, distribution of literature, carrying signs, and circulating petitions. This expressly excludes commercial activities where individuals or groups are being compensated or attempting to advertise, market, or accrue financial gain to any individual, corporation, business, or organization.
- (2) "Material and substantial disruption" means when a person, with the intent and knowledge of doing so, significantly hinders expressive activity, prevents the communication of the message, or prevents the transaction of the business of a lawful meeting, gathering, or procession by either of the following:
 - (a) Engaging in fighting, violence, or similar unlawful behavior.
 - (b) Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.
- (3) "Outdoor areas" are outside areas generally accessible to the majority of students, administrators, faculty, and staff, such as grassy areas, walkways, or other similar common areas, and do not include areas where access is restricted.
- (4) "Student" means any person who is enrolled on a full-time or part-time basis in a public postsecondary education institution.
- (5) "Student-on-student discriminatory harassment" means unwelcome conduct that targets its victim on the basis of a class protected under federal, state, or local law and that is so severe, pervasive, and objectively offensive and so undermines and detracts from the victim's educational experience that the victim is effectively denied equal access to an institution's resources and opportunities.
- (6) "Student organization" means an officially recognized group at a public postsecondary education institution, or a group seeking official recognition, comprised of admitted enrolled students.

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Institutional Policies

Each institution's policy must contain, at a minimum, the following:

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1. A statement that the institution shall strive to ensure the fullest degree of intellectual freedom and free expression, allowing for all forms of peaceful assembly, protest, speech, distribution of literature, carrying signs, and circulating petitions which are protected by the First Amendment of the Constitution of the United States of America and Article I, Section 7, of the Constitution of Louisiana. Neither the First Amendment of the Constitution of the United States of America nor Article I, Section 7, of the Constitution of Louisiana protects harassment or threats or expressions directed to provoke and likely to produce imminent lawless actions.
2. A statement that it is not the proper role of an institution to shield individuals from speech protected by the First Amendment of the Constitution of the United States of America and Article I, Section 7 of the Constitution of Louisiana, and other applicable laws, including, without limitation, ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. No institution shall deny a belief-based student organization any benefit or privilege available to any other student organization, or otherwise discriminate against a belief-based organization, based on the expression of the organization, including any requirement that the leaders or members of the organization:
 - a. Affirm and adhere to the organization's sincerely held beliefs;
 - b. Comply with the organization's standards of conduct;
 - c. Further the organization's mission or purpose, as defined by the _____ organization.
3. A provision that students and faculty have the freedom to discuss any topic that presents itself, as provided under the First Amendment of the Constitution of the United States of America and Article I, Section 7 of the Constitution of Louisiana and other applicable laws within the limits on time, place, and manner of expression.
4. Any limitations on time, place, and manner shall be those that are necessary to achieve a significant institutional interest only, and that provide ample alternative means of expression. College policies should clearly define any time, place, and manner restrictions.
5. A provision that students and faculty may assemble and engage in spontaneous and contemporaneous expressive activity as long as such activity is not unlawful and does not materially and substantially disrupt the functioning of the institution, subject to any required permit procedures.
6. A provision that any person lawfully present on a campus may protest or demonstrate there, subject to any required permit procedures.
- ~~7. A provision that protests and demonstrations that infringe upon the constitutional rights of others to engage in or listen to expressive activity by creating a substantial and material disruption to the functioning of the institution or to someone's expressive activity shall not be permitted.~~
- 8.7. A provision that the public areas of campuses of each institution are traditional public forums that are open on the same terms to any speaker. College policies should define what constitutes a public area on their campuses. ~~Public areas generally consist of outdoor areas that are accessible to the majority of students, administrators, faculty, and staff, such as grassy areas, walkways, or other similar common areas, and do not include areas where access is restricted.~~

8. ~~A provision that the policy supersedes and nullifies any provision in the policies and regulations of any institution that restricts speech on campus and that any such provision is therefore inconsistent with this policy on free expression. Each institution shall remove or revise any such provision in its policies and regulations to ensure compatibility with this policy on free expression. A provision that the institution shall prohibit student-on-student discriminatory harassment. An institution is prohibited from sanctioning/disciplining a student's expression as a student-on-student discriminatory harassment unless the expression meets the definition above.~~
9. ~~A provision that institutions can still prohibit/limit/restrict unprotected expression such as true threats or expressions directed to provoke and likely produce imminent lawless actions.~~
10. ~~A provision that institutions are not prevented from responding, through non-punitive actions, to student expression that does not meet the definition of student-on-student discriminatory harassment.~~
11. ~~A provision that the institution will uphold other policies prohibiting stalking or other criminal activity.~~
12. ~~Instructions on whether or not a permit is required. Institutions may require a permit from an individual or groups as a condition of being granted the exclusive control of a location for an expressive activity at a reserved time.~~

a. Published permit processes:

- i. ~~must not be overly burdensome;~~
- ii. ~~must be evaluated solely based on published content-neutral and viewpoint-neutral criteria;~~
- iii. ~~should provide a written reason for permit denial within two (2) business days and allow the applicant to appeal;~~
- iv. ~~should indicate if there is a required security fee associated. An institution shall not charge a security fee based on the content of the expression of the student or student organization/invited guest or anticipated reaction to the content. The determination of whether or not to charge a security fee must be solely based on content-neutral and viewpoint-neutral criteria such as the time/location/anticipated size of the event and whether or not alcohol will be served. The criteria the institution will use to assess the need for a security fee will be published.~~

~~9. — 11. Colleges should provide~~ information regarding the procedures whereby a person aggrieved by a violation of the institutional policy on free expression may seek relief.

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Publication and Dissemination

College policies on campus free expression should be made public in the institution's handbook, on its website, and through student orientation programs. They should be incorporated in the materials, programs, and procedures provided to all employees and students.

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Reporting Requirements

Each college shall submit a report on the implementation of the new free expression policy to the LCTCS ~~by January 1, 2019, and, subsequently,~~ on an annual basis by August 1. Annual reports ~~beginning August 1, 2019~~ should include any barriers to or incidents against free expression that occurred at the institution during the previous year. The report shall detail the barrier or incident as

well as actions taken in response to the barrier or incident. If an institution is sued for an alleged violation of a right guaranteed by the First Amendment of the Constitution of the United States of America, the institution shall submit to the LCTCS a supplementary report with a copy of the complaint within 30 days of receipt of the complaint. The LCTCS will submit all reports related to campus free expression to the Governor and the Legislature on behalf of its member institutions.

Compliance

Failure to comply with any applicable laws and regulations, including those listed above, shall constitute a failure to comply with this Policy. Each member institution shall make all due diligence efforts to comply with applicable laws and regulations, including those listed above. While the provisions of the laws listed above are mandatory components of the institutional policy, institutions may supplement the provisions of this Policy as necessary, but any such supplemental provision shall comply with the laws and this Policy. This policy and the provisions therein shall supersede and control to the extent of any conflict with any other provision of law and shall govern the LCTCS's obligation to address all forms of discriminatory harassment perpetrated by one student on another, including sexual harassment.

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
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Signature: 
Amber A. Blair (Mar 3, 2023 15:55 CST)

Email: amberblair1@lctcs.edu

Signature: 
Susana Schowen (Mar 3, 2023 16:51 CST)

Email: susanaschowen@lctcs.edu












I.3.Policy 2.018 Revisions Memo

Final Audit Report

2023-03-03

| | |
|-----------------|--|
| Created: | 2023-03-03 |
| By: | Sara Kleinpeter (sarakleinpeter1@lctcs.edu) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAA13DprblY0Z0mnT-ICz3cUEHJgZgz-M5u |

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✔ Agreement completed.

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