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Expressive Activity Policy

I. Policy Statement

Frederick Community College (FCC) is committed to fostering a welcoming, diverse, and inclusive educational environment that promotes the free exchange of ideas while ensuring the safety, well-being, and respect of all campus community members.

However, FCC property is primarily dedicated to academic, student life, operational, and administrative functions. This policy aims to balance the rights of students, employees, and members of the community to utilize FCC Property for expressive activity with the right of FCC to carry out its educational mission while upholding the principles of the First Amendment and maintaining an atmosphere of civility, respect, and tolerance.

To this end, FCC imposes reasonable time, place, and manner restrictions on expressive activity, as outlined below, which shall not regulate expressive activity based on its content or viewpoint.

No restrictions shall be placed on the subject matter, topics, or viewpoints expressed by Internal or External Users of FCC Property engaged in expressive activity as long as it does not include expression that is obscene, defamatory, slanderous, or illegal according to current legal standards; or where such speech advocates for the use of force or law violation and where such advocacy is directed to inciting or producing imminent lawless action on College property and is likely to incite or produce such imminent lawless action or the unreasonable disruption of College educational, operational, or administrative programs and activities.

II. Definitions for the Purpose of this Policy

- A. **Expressive Activity** means verbal or nonverbal expression protected by the First Amendment and includes, but is not limited to, meetings, speeches, performances, demonstrations, rallies, vigils, events, distribution of literature, group activities, displaying posters/signs, and any other expression protected by the First Amendment to the United States Constitution.
- B. **External User** is a group or individual who is NOT: a currently registered student, a registered student group/organization, or a staff/faculty member acting within the scope of their employment, or an FCC faculty/staff organization.
- C. **FCC or College** refers to Frederick Community College.
- D. **FCC Property** refers to all buildings, grounds, and other spaces owned or controlled by FCC.
- E. **First Amendment** refers to the First Amendment of the United States Constitution.

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- F. **Internal User** means a currently registered student, a registered student group/organization, or an FCC faculty/staff member acting within the scope of their employment, or an FCC faculty/staff organization.

III. Responsible Senior Leader and Responsible Office

Chief Financial Officer and Vice President for Administration

IV. Entities Affected by this Policy and Procedures

Internal and External Users of FCC Property

V. Conditions for Use of FCC Property for Expressive Activities

By using FCC Property for expressive activities, Internal and External Users agree to the following conditions:

- A. FCC Property is available primarily for FCC educational, operational, and administrative programs and activities offered by and intended for Internal Users as members of the FCC community. Certain areas may be video-monitored by Closed-Circuit Television (CCTV).
- B. Use of FCC Property by individuals and/or groups for expressive activity does not constitute FCC endorsement of the views expressed or held by those individuals and/or groups. FCC reserves the right to require a disclaimer be placed on all advertisements, bulletins, or announcements related to the use of FCC Property that reads: "Frederick Community College is not affiliated with and does not necessarily endorse the opinions, beliefs, statements, writing, and/or philosophies expressed by this activity or its participants."
- C. All individuals and/or groups using FCC Property for expressive activities are responsible for all costs, supervision, insurance, or other financial obligations associated with their engagement in expressive activities on FCC Property. FCC assumes no liability or responsibility for injuries, losses, claims, damages, or penalties that result from the actions of individuals and/or groups engaging in expressive activities on FCC Property.
- D. FCC Property is closed to all individuals and/or groups seeking to engage in expressive activity outside of FCC's normal business hours and when FCC is closed due to designated holidays, inclement weather, or other emergency conditions.
- E. FCC Property is provided "as-is". Individuals and/or groups using FCC Property for expressive activities shall not temporarily or permanently alter, deface, move, or modify any element of FCC Property. All individuals and/or groups using FCC Property for expressive activity are responsible for restoring FCC Property to its pre-use condition, including disposal of all trash.

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- F. All individuals and/or groups using FCC Property for expressive activity are subject to all applicable FCC Policies and Procedures, including the Use of Facilities Policy, Weapons Policy and Procedures, and the Alcohol, Tobacco, Opioid, and Other Drug Use and Awareness Policy and Procedures. All [FCC Policies and Procedures](#) are available on the FCC website. This policy supersedes all other policies, on the topic of Expressive Activity occurring on FCC Property.

VI. FCC Property Available for Expressive Activity

- A. FCC imposes content/viewpoint neutral and reasonable time, place, and manner restrictions and/or requirements for expressive activities on FCC Property to prevent disruption and/or interference with FCC programs, operations and instruction.
- B. The following areas of FCC Property are designated as a *limited public forum*¹ for expressive activities:
1. Specific open/green spaces of FCC Property, on the [FCC Campus Map](#).
 - a. The campus flagpole area, directly in front of Linganore Hall, near the main entrance.
 - b. The lawn area between the Athletics Center and Linganore Hall.
 - c. The campus quad/courtyard area, outside of the Student Center and adjacent to the patio.
 2. Open/green space of FCC Property that is available for expressive activity is offered in the following priority:
 - a. The first priority for all FCC Property is for FCC educational, operational, and administrative programs and activities.
 - b. The second priority is for reservations made in accordance with FCC's Use of Facilities Policy.
 - c. The third priority is first-come-first-serve for spontaneous activities.

¹ A "limited public forum" is "one that is not traditionally public, but the government has purposefully opened to the public, or some segment of the public, for expressive activity." *ACLU v. Mote*, 423 F.3d 438, 443-44 (4th Cir. 2005) (recognizing that a college campus "is a limited public forum" and that "the campus is not akin to a public street, park, or theater, but instead is an institute of higher learning that is devoted to its mission of public education" and that "[t]his mission necessarily focuses on the students and other members of the university community."). A college campus "has not traditionally been open to the public at large, but instead has been a 'special type of enclave' that is devoted to higher education." *Id.* (citing *United States v. Grace*, 461 U.S. 171, 180 (1983)).

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- d. FCC reserves the right to restrict and/or deny the use of FCC Property for expressive activity that is superseded by a higher priority use.
3. Reservations are recommended in order to secure priority (as outlined above) for use of open/green space of FCC Property that is available for expressive activity. Reservations should be submitted at least one (1) week in advance (to ensure minimal disruption to normal campus operations) and subject to the availability of FCC Property. Reservations will be confirmed on a first come, first-serve served basis.
 - a. Reservations may be denied if the expressive activities planned violate the reasonable time/place/manner restrictions outlined in Section VI. and VII. of this Policy.
 - b. Individuals or groups of individuals using FCC property for expressive activity are requested to check-in upon arrival, at the FCC Public Safety Office in the Student Center first floor.
4. The following areas are *unavailable* for expressive activity in accordance with this policy and are designated as *nonpublic forums*:
 - a. classrooms (both inside campus buildings and those areas designated as “outdoor classrooms”),
 - b. the area surrounding the “Carl & Norma Miller Children’s Center,”
 - c. designated student study spaces,
 - d. laboratories,
 - e. the “Bess and Frank Gladhill Learning Commons,”
 - f. parking lots, and
 - g. administrative and academic offices.

VII. Reasonable Time/Place/Manner Restrictions for Expressive Activities

All Users of FCC Property for expressive activities are subject to the following reasonable, content/ viewpoint-neutral, time, place, and manner restrictions:

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- A. The activity must not substantially disrupt previously scheduled campus events.²
- B. The activity must not block access to campus buildings.
- C. Unauthorized access to campus buildings is prohibited.
- D. The activity must not obstruct vehicular or pedestrian traffic.
- E. The activity must not substantially disrupt FCC operations.
- F. The activity must not constitute unlawful activity.
- G. The activity must not create a clear and present threat to public safety, according to the FCC Public Safety department policies and procedures.
- H. The activity must not involve violence against persons, threats of violence against persons, or damage to property.
- I. The activity must not involve the sale or promotion of commercial goods and services.
- J. The activity must not involve the creation of an audio or video recording of any person in an area deemed a “non-public space”, where the person/s has a reasonable expectation of privacy, without such person’s permission. (For example: classrooms, offices, private conversations, etc.)
- K. The activity must not use sound amplification devices.
- L. The activity must not use signage or posters larger than handheld poster board sized at 24” x 36” (i.e., no trucks, trailers, motorized or other moving vehicles).
- M. The activity must occur during the normal hours of operation for the campus.
- N. The activity must not attract a crowd larger than the venue can safely contain.
- O. The activity must not occur during FCC examination periods.
- P. The activity must not last more than two hours.

² The expression of competing viewpoints or multiple speakers in proximity to each other does not, in and of itself, constitute a substantial disruption.

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- Q. In order to allow FCC Property to remain available for a variety of uses, External Users must not have engaged in expressive activity on FCC Property within the previous seven (7) days.

VIII. Disciplinary Action

- A. Individuals engaging in expressive activity on FCC Property must abide by all FCC Policies and Procedures.
- B. In accordance with Md. Code Ann., Educ. § 26-102, as amended, individuals on FCC Property may be required to provide identification and evidence of qualification to an FCC Official, upon request. Evidence of qualification means evidence that the individual is a bona fide, currently registered student, staff, or faculty member at FCC, or has lawful activity to pursue at FCC.
- C. Violation of this Policy by Internal Users may be grounds for disciplinary action.
- D. Violation of this Policy by External Users may be grounds for reporting to local law enforcement.