

Polk State College Procedure

Subject	Reference	Date	Number
Free Expression on Campus	<i>Florida Statutes</i> Section 1001.64 <i>Florida Statutes</i> Section 1004.097 <i>United States Constitution, Amendment 1</i>	April 5, 2022	6057

I. Purpose

The purpose of this document is to establish guidelines and procedures regarding free expression, the distribution of literature, and solicitation on Polk State College property, including its campuses and centers (hereafter referred to as "the College").

The property of the College consists of indoor areas, restricted outdoor areas, and unrestricted outdoor areas. Members of the campus community and their guests may use each of these areas in accordance with this procedure. Persons who are not members of the campus community or their guests may only use the unrestricted outdoor areas.

This policy does not apply to College-sanctioned activities.

Solicitation of College employees for the purposes of textbook sales or adoptions, or the solicitation of goods, or services, or other opportunities, is prohibited.

II. Definitions

The term "expressive activity" refers to speech and conduct that is protected by the *First Amendment* of the *United States Constitution*, or Article I: Section 4 of the *Florida Constitution*. This includes, but is not limited to, any lawful oral or written communication of ideas (including all forms of peaceful assembly, protest, and speech), distribution of literature, carrying of signs, circulation of petitions, and the recording and publication (including Internet publication) of video or audio recorded in the outdoor areas of campus. The term does not include commercial speech as defined herein.

"Material and substantial disruption" refers to any conduct that significantly hinders a function of the College or another person's or group's expressive rights. The term does not include lawful protests and counter-protests, or minor or fleeting nonviolent disruptions that are isolated or brief in their duration.

The "members of the campus community" include College administrators, faculty and staff members, and students.

"Commercial speech" refers to speech in which the individual is engaged in commerce, and in which the intended audience is commercial (i.e., for actual or potential consumers), and the content of the message is commercial.

"Trespass" is failure to leave any College location after being directed to do so by any

authority of the College (e.g., security, campus police officer, administrator, or faculty or staff member), or returning to any College location after being directed to leave.

III. Procedure

A. Indoor Areas

Indoor areas, such as classrooms, classroom buildings, administrative buildings, private offices, and other enclosed facilities, may be used only with the prior permission of the College and only for the purposes for which these indoor areas have been officially designated. These areas are not considered public forums for expressive activities.

Written literature may only be distributed in indoor areas such as classrooms, classroom buildings, administrative buildings, private offices, and other enclosed facilities (e.g., maintenance areas and outdoor learning areas) with the prior permission of the College and only for purposes that the College deems appropriate. These areas are not considered public forums for expressive activities.

The campus mail, electronic mail, and other electronic forms of communication are for official College business only. Materials distributed through the campus mail by campus organizations must only be for the purpose of communicating with members of the College community who have campus addresses.

B. Restricted Outdoor Areas

Restricted outdoor areas, such as maintenance areas, parking lots, and outdoor learning activity areas may only be used with the prior permission of the College and only for the purposes for which these areas have been officially designated. Further, sidewalks and breezeways are considered restricted outdoor areas due to their need to remain open and accessible for the ebb and flow of normal traffic around the College property. These areas are not considered public forums for expressive activities.

C. Unrestricted Outdoor Areas

Unrestricted outdoor areas of the College campus, such as grassy areas, walkways, or other similar common areas, may be used while the campus is open (without prior permission) by members of the campus community (and by guests of members of the campus community) for activities that are not prohibited by this policy. These areas are considered public forums for expressive activities by individuals, organizations, and guest speakers; however, use of these areas are subject to the following reasonable and content-neutral regulations.

1. Prohibitions on Use of Unrestricted Outdoor Areas

A person may not engage in any expressive or other type of activity in any unrestricted outdoor area of the College campus that is unlawful, causes material or substantial disruption to College functions, infringes upon the rights of other individuals or organizations to engage in their own expressive activities, is materially disruptive of a previously scheduled or reserved activity, or is considered an unauthorized commercial speech or activity. Examples of expressive and other types of activities prohibited by this policy are:

- a. Speech that can reasonably be expected to incite individuals to create a clear and present danger to people or property, or to lead to the likelihood of an imminent lawless action.
- b. Littering, defacing, or destroying campus property, or causing any type of damage to the property of students, faculty, staff, or visitors.
- c. Harassment by engaging in a course of conduct directed at a specific person that causes substantial emotional distress to that person. "Course of conduct" means a pattern of conduct composed of a series of acts over a period that evidences a continuity of purpose.
- d. Use of sound (or amplification of sound) that causes a disturbance to learning or to the quiet enjoyment of the campus and learning environment.
- e. Commercial speech (including advertising or the sale of goods or services) that has not been authorized by the College.
- f. Placing literature on windshields, tables, or at other unattended locations.
- g. Placing literature on doors, windows, and other physical edifices of the College.
- h. Intentionally touching or causing physical contact with another person or a person's occupied vehicle without that person's consent; blocking or interfering with the safe and free passage of pedestrians or vehicles; persisting in following or approaching a person either before, during, or after the distribution of literature; or forcing literature upon a person who does not willingly accept it.

2. Regulations Regarding Unrestricted Outdoor Areas

- a. An individual in an unrestricted outdoor area must not knowingly approach within eight feet of another person without that person's consent for the purposes of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with this other person.
- b. A person in an unrestricted outdoor area cannot knowingly engage in expressive activity within 35 feet of an indoor area or a restricted outdoor area.
- c. Unrestricted outdoor areas cannot be used for expressive activity prior to 6:00 a.m. or after 10:00 p.m., or after any announced speech, reading, music program, performance, debate, or similar public gathering upon conclusion of the use of facilities.
- d. The College strongly encourages organizers to notify the Campus Associate Dean of Student Services at least ten business days in advance of the activity regarding events that are reasonably expected to attract or involve more than fifty individuals. This is necessary to facilitate organized and safe gatherings with the College.
- e. Expressive activities are prohibited by the College when closed by the President (or his or her designee) for reasons including, but not limited to, health, safety, or emergencies.

IV. Implementation

The President has the authority to establish additional rules, policies, and procedures to implement or supplement this procedure. The Campus Associate Dean of Student Services is responsible for the implementation and oversight of this procedure.

Any student or guest of the College who wishes to appeal a decision by the Campus Associate Dean of Student Services may do so in writing to the Associate Vice President of Student Services within five business days of the Dean's decision.

The Associate Vice President of Student Services consults with fellow administrators to issue a decision within five business days of receiving an appeal. The decision of the Associate Vice President of Student Services is final.

V. Violation of Policy

Any person who does not comply with this policy is: 1) warned that he or she is in violation, 2) asked to stop the violation, and, if appropriate, 3) asked to leave the College campus. Any person who is asked to leave campus and does not do so is trespassing according to District Board of Trustees Rule 2.12: *Disrupters on Polk State College Locations*. Such an individual is subject to arrest by local law enforcement in accordance with applicable laws.

A. Students

Any student in violation of this policy may be asked to leave and is subject to procedures governing trespass in accordance with District Board of Trustees Rule 2.12: *Disrupters on Polk State College Locations*. A student found in violation of this policy is also subject to discipline in accordance with DBOT Rule 4.01: *Code of Conduct for Students and Student Organizations*, up to and including expulsion from the College. Any grievance should be exercised pursuant to Polk State College Procedure 5028: *Student Code of Conduct: Sanctions and Assignment of Penalties for Violations* and Procedure 5025: *Student Appeals Hearing Protocol*.

B. Faculty and Staff Members

Any violation of this policy by a faculty or staff member is investigated by the Director of Human Resources and the Director of the Office of Equity, Diversity, and Inclusion (and any person designated by these two individuals to assist in the gathering of evidence). Violation of this policy may result in disciplinary action up to and including termination. The faculty or staff member may be subject to trespass in accordance with District Board of Trustees (DBOT) Rule 2.12: *Disrupters on Polk State College Locations*. Additionally, each College faculty and staff member is expected to comply with DBOT Rule 3.32: *Employee Code of Ethics*. Any grievance should be exercised pursuant to Polk State College Procedure 6013: *Employee Grievance Procedure*.

VI. Interpretation

This policy complies with, and must be interpreted consistently with, the *Campus Free Expression Act* (Section 1004.097 of *Florida Statutes*). If any aspect of this policy cannot be interpreted consistently with this Act or is otherwise interpreted as invalid, it must be severed from all other aspects of the policy so that all valid aspects of the policy remain in full force and effect.

History

Adopted: June 18, 1990

Revised: September 1, 2009; September 20, 2013; October 4, 2016; and April 5, 2022

<i>Reginal T. Wehl</i>	4/5/22	<i>Reginal T. Wehl</i>	4/5/22
Executive Responsible for Procedure	Date	President's Staff Member's Approval	Date
<i>Angela M. Falconetti</i>			4/5/22
President's Approval			Date