

SECTIONS II.E.1. AND VI.D.10. RELATED TO FREE SPEECH AND EXPRESSION NOTICE AND COMMENT

The Board of Trustees revised Sections II.E.1. and VI.D.10. of the Lone Star College Policy Manual on **September 6, 2018**. The notice and comment period for the policy was open to the public from **June 1, 2018 through August 31, 2018**. The policy revisions were posted for public comment at <http://www.lonestar.edu/proposed-policies.htm>. Commenters could anonymously submit comments to LSC-PolicyFeedback@lonestar.edu. We received five comments related to the College's free speech policies. None of them related to the then-proposed policy revisions; rather, they all related to pre-existing policy language.

Policy Sections II.E.1. and VI.D.10. Comments and Responses

Comment 1: A commenter asked for clarification of the phrase “invading others’ rights” from Section II.E.1.03.’s sentence “However, speech activities that disrupt the College’s normal operations or invade others’ rights will not be permitted.”

Response 1: The next sentences in that policy section provide examples of the most frequently encountered invasions of others’ rights in a free speech context. A comprehensive list of ways to invade other’s rights would be difficult to generate, but the examples include “threats, implied threats, physical intimidation, or any form of violent behavior”; “obstruct[ing] vehicular, bicycle, or pedestrian traffic”; and “interfer[ing] with ingress or egress to the College’s facilities, activities, or events”.

Comment 2: A commenter expressed general support for free speech excluding violence.

Response 2: The College also supports non-violent free speech.

Comment 3: We received a question about the phrase “college enforces viewpoint” that asked how a regulation could be content-neutral if the College enforces viewpoints.

Response 3: The commenter appears to have misread the policy sentence in Section II.E.1.01., which states in full, “The College enforces Viewpoint- and Content-Neutral speech restrictions.” Policy Section II.E.1.02(f) defines “Viewpoint- and Content-Neutral” as “speech policies or procedures that regulate speech without consideration for the speech’s content, such as regulations regarding speech’s time, manner, and place.” The College is not enforcing viewpoints; rather, its regulations on free speech are designed to be viewpoint-neutral and content-neutral.

Comment 4: A commenter disagreed with making the Chancellor sole arbiter of what constitutes “disruptive speech” and opined that the policy should include an appeal to a

panel of administrators, staff, faculty, students, and community members. That commenter was also concerned that the policy would subject employees and students to discipline for peacefully expressing personal political views.

Response 4: It is true that the Policy Manual gives discretion for what speech is disruptive to the Chancellor or designee. However, the Policy Manual also contains guidelines for what speech is disruptive. Giving full discretion over what speech is disruptive to one official is not necessarily problematic, especially when there are guidelines to constrain that discretion. The policy defines “disruptive” as “substantially disrupting or materially interfering with the College’s central mission of educating students” and expressly excludes “action that merely presents the possibility of discomfort or unpleasantness that often accompanies unpopular viewpoints.” When something is substantially disrupting or materially interfering with the College’s educational mission, there is usually not time to convene a panel. Any student or employee who believes that his or her rights have been violated may file a civil rights complaint or a grievance.

Also, College policy clearly prohibits viewpoint discrimination, so if personal political speech adheres to the College’s neutral regulations, the College would not discipline anyone for such speech.

Comment 5: One commenter asked for clarification of the phrase “promotes illegal drug use” from Section VI.D.10.01.’s sentence “Student expression remains protected by the First Amendment and may not be abridged unless, in the Chancellor’s or a designee’s view, the speech is disruptive, College-sponsored, promotes illegal drug use, or the regulation remains viewpoint- and content-neutral.”

Response 5: The U.S. Supreme Court has held that a public high school may suppress student speech that is reasonably viewed as promoting illegal drug use. *Morse v. Frederick*, 551 U.S. 393 (2007). Public junior colleges and public high schools have a similar compelling interest in deterring drug use by students, and the Board’s policy reflects that. “Illegal drug” and “promoting” have their common meanings. This policy statement applies only to student expression.