

Expressive Activities by the Campus Community

In accordance with Act 2019-396 of the Alabama Legislature and the ACCS Board of Trustees' Policy 224.01: Expressive Activities by the Campus Community, effective December 9, 2020, Bevill State Community College's implementing policy on Expressive Activities by the Campus Community is as follows:

I. Findings.

Bevill State Community College finds the following:

- A. A primary function of Bevill State Community College is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate, and that to fulfill that function, Bevill State Community College will strive to ensure the fullest degree possible of intellectual freedom and free expression.
- B. It is not the proper role of Bevill State Community College to shield individuals from speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama of 1901, including without limitation, ideas and opinions they find unwelcome, disagreeable, or offensive.
- C. Students, administrators, faculty, and staff are free to take positions on public controversies and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.
- D. Bevill State Community College supports free association and will not deny a student organization any benefit or privilege available to any other organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.
- E. Bevill State Community College will strive to remain neutral, as an institution, on the public policy controversies of the day, except for administrative decisions that are essential to the day-to-day functioning of the institution, and Bevill State Community College will not require students, faculty, or staff to publicly express a given view of a public controversy.
- F. Bevill State Community College prohibits all forms of harassment as defined in Act 2019-396, which includes expression so severe, pervasive, and objectively offensive that it effectively denies access to an educational opportunity or benefit provided by the College.

II. Speech and Expression in Outdoor Areas, Invited Speakers, and Security.

- A. For purposes of this policy, the "Campus Community" includes Bevill State Community College's students, administrators, faculty, and staff as well as the invited guests of the College and the College's recognized student organizations (including organizations seeking recognition), administrators, faculty and staff.
- B. Members of the Campus Community shall be permitted to engage in expressive activities in outdoor areas of Bevill State Community College's campus which enjoy general access during regular hours of College operation, subject to the limitations described below. Expressive activities are defined as those activities protected under the First Amendment to the United States Constitution and Article 1, Section 4 of the Alabama Constitution of 1901, including any lawful verbal, written

or electronic communication of ideas; lawful forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; and circulating petitions.

C. Outdoor areas where expressive activities are not allowed include:

1. Areas within 10 feet of classrooms or places of residence;
2. Athletic facilities;
3. Class held in outdoor settings;
4. Areas where access is restricted due to operational or safety protocols, such as energy or maintenance control areas.
5. Areas of parking/traffic flow.

D. Except for II.H. below, this policy does not apply to expressive activities that take place in indoor areas of Bevill State Community College property including, but not limited to, classrooms or classroom buildings or offices; auditoriums; performing arts venues; events centers; and recreational facilities. Expressive activities in these areas are governed by Bevill State Community College's Use of Facilities policy, subject to the requirement that Bevill State Community College must be open to any speaker whom Bevill State Community College's student organizations or faculty have invited. These areas may be used for official events sponsored by the College or for non-college use under ACCS Board of Trustees Policies 500.01 and 507.01.

E. Members of the Campus Community who engage in expressive activities in permitted outdoor areas may do so freely, spontaneously, and contemporaneously as long as the conduct is lawful, in accordance with laws applicable to conduct and activities on Bevill State Community College property, and does not materially and substantially disrupt the functioning of the College or infringe upon the rights of others to engage in expressive activities.

F. Conduct that may materially and substantially disrupt the functioning of Bevill State Community College or infringe upon the rights of others to engage in expressive activities may include:

1. Obstruction of vehicular, bicycle, pedestrian, or other traffic;
2. Obstruction of entrances or exits to buildings or driveways or impeding entry or exit from any building or parking lot or vehicular path;
3. Violations of a state, federal or local law, regulation, or ordinance;
4. Threats to passersby or the use of fighting words, which are words that by their mere utterance inflict violence or would tend to incite a reasonable person to violence or other breach of the peace;
5. Following, badgering, or forcibly detaining individuals;
6. Interference with scheduled College classes, ceremonies or events, including memorials, dedications or classroom activities, whether indoors or outdoors;
7. Damage to property, including buildings, benches, sidewalks, fixtures, grass, shrubs, trees, flowers, or other landscaping;
8. Use of sound amplification, including bullhorns, except within reasonable limits that will not disrupt normal College operations;
9. Use of placards, banners, or signs that are dangerous or cause obstruction as described in subsections 1 and 2 above;
10. Engaging in expressive activities in prohibited or restricted areas as defined in Sections II.B. and II.C. above;
11. Any other interference with normal College operations beyond a minor, brief, or fleeting nonviolent disruption that is isolated or brief in duration; or
12. Any other conduct or activity not protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Alabama Constitution, or other state law.

G. Nothing herein shall be construed to limit the application of laws related to disruptions, disturbances, or interference with the College and the function of educational institutions.

H. Bevill State Community College will provide police and security officers and use other security measures to ensure the safety of all participants, the Campus Community, and the public. Nothing in this policy shall prohibit the College from charging a fee for security for events, provided that such fees may not be calculated or otherwise based on the content of the protected expressive activity or the anticipated reaction to the protected expressive activity.

The President may waive this security fee, but may not base the decision on the basis of the content of the expressive activity or the anticipated reaction to the protected expressive activity, except in emergency situations in which there is a clear and present danger to the campus community or to the public.

Bevill State Community College may also charge a use of facilities fee for the use of campus facilities, such as for the use of IT resources or cleanup costs. These fees will not be based on the content of the expressive activity. [Fees are outlined on the Request for Facility Use form]

I. To promote a safe and effective event, individuals or groups from the Campus Community planning to engage in expressive activity that they anticipate will require the assistance of security are expected to provide sufficient notice to the Director of Facilities and Security at least one week, but no less than 48 hours in advance of the event. Such arrangements enable Bevill State Community College to ensure the event takes place in a safe and constructive manner.

J. Individuals and groups who engage in expressive activity in outdoor areas on Bevill State Community College property are subject to Bevill State Community College policies relating to the use and operation of campus facilities, including without limitation policies relating to firearms and weapons, alcohol, smoking, and trespassing. Bevill State Community College prohibits the possession or use of clubs, bats, weapons, open flames, or other dangerous materials on campus property during these events.

K. Bevill State Community College shall not permit members of the Campus Community to engage in conduct that materially and substantially disrupts protected expressive activity or infringes on the right to engage in expressive activity. Any act of reprisal, interference, coercion, or restraint, by a student or employee, of protected expressive activity, violates this policy and will result in appropriate disciplinary action. Disciplinary sanctions for members of the Campus Community under the jurisdiction of Bevill State Community College who violate this subsection shall be handled through the Student Code of Conduct or Employee Conduct Code procedures.

L. Nothing in this policy shall be construed to prevent Bevill State Community College from regulating and restricting expressive activity that is not protected by the United States Constitution, the Constitution of Alabama of 1901, or state law, including, but not limited to, any of the following:

1. Violations of state or federal law, including, but not limited to, actions that damage institutional property.
2. Expressions that a court has deemed unprotected defamation.
3. Harassment.
4. True threats, which are defined as statements meant by the speaker to communicate a serious expression of an intent to commit an act of unlawful violence towards a particular individual or group of individuals.
5. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
6. An action that unlawfully disrupts the function or security of the institution.
7. Any constitutional time, place, and manner restrictions for outdoor areas of campus when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression.

M. Complaints or questions regarding the application of this policy should be addressed in accordance with relevant Bevill State Community College policy by the Director of Facilities and Safety.

III. Commercial Activity on Campus

Individuals, organizations and groups, both internal and external to Bevill State Community College, may not conduct commercial transactions or engage in commercial speech on Bevill State Community College property unless authorized pursuant to ACCS Board of Trustees Policy 515.01 and approved by the President in advance.

Commercial speech means speech in which the speaker is engaged in commerce, the intended audience is commercial or actual or potential consumers, and the content of the message is commercial. Fundraising, including political fundraising, is considered solicitation and therefore deemed commercial speech under this policy.

IV. Policy Distribution

This policy will be included in new student, new faculty, and new staff orientation programs. Bevill State Community College shall disseminate this policy to all members of the Campus Community and make this policy available in handbooks and its website.

V. Relationship to Other Policies

This policy shall supersede and nullify any previous Bevill State Community College policies that could regulate speech on Bevill State Community College campus. However, this policy is not intended to supersede, nullify, or amend any Bevill State Community College policy that regulates the reservations and use of interior spaces on campus, or that charge incidental fees for the use of such spaces.

VI. Annual Report

Bevill State Community College will submit an annual report to the Chancellor and Board of Trustees by August 15 for the prior 12-month period ending July 31 that includes the following:

1. The date and description of each violation of this policy.
2. A description of the administrative handling and discipline relating to each violation.
3. A description of substantial difficulties, controversies, or successes in maintaining a posture of administrative and institutional neutrality.
4. Any additional assessments, criticism, commendations, or recommendations Bevill State Community College sees fit to include.