
Maricopa County Community College District

COMMITTEE ON FREE EXPRESSION ANNUAL REPORT

December 1, 2018

Overview

Changes in Arizona law, which became effective on August 3, 2018, require the board to:

- adopt a policy on free expression (A.R.S. § 15-1866), and
- establish a committee on free expression (A.R.S. § 15-1868).

The Maricopa County Community College District Governing Board has established a committee on free expression, which submits this report as required by Arizona Revised Statute §15-1868. The membership of the committee as of December 1, 2018 is provided in Exhibit A.

The Maricopa County Community College District and its affiliated community colleges promote and protect free expression.

The primary function of the Maricopa County Community Colleges District (“MCCCD”) is to provide affordable tuition, committed and knowledgeable faculty, small class sizes, and innovative programs to support student success. As a means of completing this function, MCCCD promotes the discovery, improvement, and dissemination of knowledge through teaching, discussion, inquiry, and debate. MCCCD must strive to ensure the fullest degree of intellectual freedom and free expression. It is neither the role nor desire of MCCCD or its affiliated colleges to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions that may be unwelcome, disagreeable or deeply offensive. The MCCCD Governing Board-approved policy, entitled Public Access and Expression on District Property, is attached hereto as Exhibit “B.”

All members of the MCCCD community (students, faculty, and staff), may feel free to discuss any topic, as the First Amendment allows and within the legal limits of reasonable content-neutral time, place, and manner restrictions. Spontaneous free expression gatherings are also permitted.

The Maricopa County Community College District, its affiliated colleges, and its Governing Board do not tolerate barriers to or disruptions of protected speech.

Neither the Governing Board nor the Chancellor of the MCCCD tolerates imposing barriers to or disruption of protected speech. Likewise, each college president under the MCCCD umbrella encourages and facilitates spontaneous expressions of free speech, scheduled free speech events, and all other forms of lawful public expression. The MCCCD has a policy in place for the scheduling of free expression events and has, in place, procedures to reserve space on college campuses for planned speech activities. All free speech activities are subject to reasonable time, place, and manner restrictions. MCCCD and its affiliated colleges, at all times, maintain a content neutral position in the application and evaluation of requests for free speech activities.

MCCCD recognizes that not all speech is protected speech. The District or its Colleges may restrict public expression that violates state, federal, or local law, defames a specific person, or constitutes a breach of the peace. The District or its Colleges may also restrict commercial

AS REQUIRED BY A.R.S. §15-1868

speech, fighting words, gratuitous violence, harassment, a Heckler's Veto, obscenity, prohibited discrimination, or a true threat; or speech that otherwise disrupts ordinary district/college operations, college-sponsored activities, or college-authorized activities.

Examples of MCCCCD's commitment to protecting free expression are provided below.

MCCCCD Public Access and Expression Governing Board Policy

As an institution of higher education, the MCCCCD is dedicated to the principle that a free exchange of ideas is fundamental to the pursuit and dissemination of knowledge. To that end, the MCCCCD is committed to protecting every member of the college community's right to speak, write, listen to, explore, and debate competing ideas.

In any higher-education environment, including here at the MCCCCD, it is normal for the ideas of various members of a college community to differ and sometimes conflict. Although the MCCCCD values highly the principles of civility and mutual respect, it is not the proper role of an institution of higher education to attempt to shield members of the MCCCCD from ideas and opinions they may find unwelcome, disrespectful, upsetting, or even deeply offensive. Concerns about civility and mutual respect do not justify closing off discussion of any ideas or opinions, no matter how disagreeable or offensive they may be to some or even most members of the MCCCCD Community.

Administrative Regulation 2.4.9: Use of College Grounds by Non-MCCCCD-Affiliated Users

In contrast to traditional public forums such as a public square, park, or right of way, Maricopa's campuses are dedicated by law to the purpose of formal education. They are, and have been since their creation, for the use and benefit of prospective and enrolled students, the Maricopa employees who serve them, and those who are invited to campus by members of the College community to attend or participate in sponsored events. The Maricopa County Community College District (MCCCCD) has a long history of regulating the time, place, and manner in which expressive activities are conducted on campuses, for the purposes of avoiding disruption or interference with its educational activities, and protecting the rights of the members of the campus community and their invited guests to express themselves and access information. While members of the general community always have been welcome to share their ideas with the campus community, they are subject to reasonable, content-neutral regulation of the time, place and manner of the event and to the institution's mission-based priorities – including but not limited to the need to provide an environment conducive to teaching and learning.

POLICY

This administrative regulation governs use of the college grounds, defined as the open areas and walkways of the campus by non-MCCCCD-affiliated users. Use of college facilities is governed by a separate administrative regulation. Parking lots are not available for events and activities other than those sponsored and authorized by the College president.

[AS REQUIRED BY A.R.S. §15-1868](#)

Camping is not permitted anywhere on the campuses. Camping is defined as the use of college grounds or facilities for living accommodations or housing purposes such as overnight sleeping or making preparations for overnight sleeping (including the laying down of bedding for the purpose of sleeping), the making of any fire for cooking, lighting or warmth, or the erection or use of tents, motor vehicles, or other structures for living or shelter. These activities constitute camping when it reasonably appears, in light of all the circumstances, the participants conducting these activities intend to use or are using the facilities or grounds for living accommodations or housing, regardless of the duration or other purpose of the use. Lawful use of college grounds for events or expressive activities by individuals, groups, and organizations may be authorized by college officials when the events and activities are lawful and consistent with the non-profit, educational nature of the campus, authorized and conducted in accordance with MCCCCD policies, administrative regulations and priorities, and compliant with reasonable restrictions as to time, place, and manner. The content of the expression will not be a factor in authorizing, locating, or scheduling decisions. However, events and activities will not be permitted to disrupt or obstruct the teaching, research, or administrative functioning of the College by means of physical obstacles and crowds, by the creation of sound or noise that would interfere with teaching, learning, and the conduct of College business, or by any other means. Each College president will designate a Responsible College Official with delegable authority to approve, locate, and schedule use of college grounds.

The Maricopa County Community College District, its affiliated colleges, and its Governing Board promptly address allegations of barriers to or disruptions of protected speech.

The MCCCCD and its affiliated colleges has one process for responding to allegations of barriers to or disruptions to protected speech. Based on the particulars of the allegations, College Public Safety may be involved in the response.

MCCCCD policy 2.5.1 provides that students are subject to disciplinary action for misconduct that includes actions or verbal statements which threaten the personal safety of any faculty, staff, students, or others lawfully assembled on the campus, or any conduct which is harmful, obstructive, disruptive to, or interferes with the educational process or institutional functions (2.5.1 (1)(B)).

MCCCCD believes that education is the best approach to minimizing barriers to or disruptions of protected speech, and each college strives to provide its students information about free speech, the First Amendment, and the importance of encouraging the free exchange of ideas at MCCCCD District colleges.

Chandler-Gilbert Community College (CGCC)

CGCC has no record of the receipt of any complaints related to free expression. The college received policy/procedure inquiries regarding access to the campus facilities for voter registration in the weeks preceding the November election. The specific concern raised by faculty, staff and students was regarding whether voter registration efforts—where people attempt to get students, faculty, and staff to register to vote—is an allowable activity on

campus. Student Life leadership responded to said inquiries with the explanation that the college was following Arizona State Laws allowing their access to the campus. CGCC did not have record of any disciplinary action taken regarding barriers to and disruptions of free expressions within CGCC during the Fall of 2018 semester.

Estrella Mountain Community College (EMCC)

EMCC received no reports of barriers to or disruptions of expression during the past year. EMCC College did not administratively handle discipline relating to barriers to or disruptions of free expression.

Gateway Community College (GateWay)

GateWay received no reports of barriers to or disruptions of expression during the past year. GateWay did not administratively handle discipline relating to barriers to or disruptions of free expression.

Glendale Community College (GCC)

GCC is committed to the policies and procedures regarding free speech on our campus. There are two employees who manage the majority of the requests and/or activity. Both employees effectively use the relevant; administrative regulation to guide free expression activity on campus.

GCC has not experienced any barriers or disruptions to free speech. Most free speech on campus is peaceful and does not interrupt the learning environments. Three recent incidents that caused concern (but did not result in official complaints) were; Brother Dean, the Genocide Awareness Project (AbortionNO), and the occasional religious groups that use hand held microphones to speak to the crowd. These three incidents were handled with minimal disruption and underscore GCC's commitment to making the campus community aware of the protections afforded to free speech.

At GCC we have a strong collaboration between departments and we have effectively managed situations that might otherwise become a challenge. Our goal at GCC is to always maintain a healthy learning environment for all. If necessary our Public Safety office is prepared to handle any disruption and contact Glendale PD if necessary. Our handling of free expression is very well managed. At GCC we do not have any barriers to free expression.

Mesa Community College (MCC)

MCC received no reports of barriers to free expression. In mid-October, the Genocide Awareness Project (AbortionNO) visited the college for a free expression event. MCC received complaints from faculty, staff, and students regarding the provocative displays, but there were no reports of disruption or barriers to the free speech event.

Based on research and records, MCC had no formal or informal reports of the need for administrative handling or discipline related to barriers or disruptions to free expression within the college.

Paradise Valley Community College (PVCC)

PVCC received one report of a barrier to free expression. A campus club wanted to sponsor an evening, weekend activity without a club advisor present, which was denied on a content-neutral basis because such evening and weekend activity is prohibited. PVCC worked with the student to come to a compromise in order to allow the activity to take place. PVCC and the student group agreed to end the event when the college closed for the evening. Moreover, absent an advisor, PVCC agreed that the Manager of Student Life would act as an advisor so the event could go on, as scheduled.

PVCC received one complaint of a disruption to free expression. Brother Dean, one of the more recognizable college visitors, appeared in a location reserved for a student club. Public Safety asked the student club to relocate its activity to another location. In this case, the proper protocol was not clear. Since this situation occurred, PVCC has instituted the process that the Manager of Student Life, along with a member of administration act as liaison between the off-campus visitor and the college.

Phoenix College (PC)

PC received no reports of barriers to or disruptions of expression during the past year. Based on research and records, PC had no formal or informal reports of the need for administrative handling or discipline related to barriers or disruptions to free expression within the college.

Rio Salado College (RIO)

Rio Salado College received no reports of barriers to or disruptions of expression during the past year. Based on research and records, RIO had no formal or informal reports of the need for administrative handling or discipline related to barriers or disruptions to free expression within the college.

Scottsdale Community College (SCC)

SCC received no reports of barriers to or disruptions of expression during the past year. Based on research and records, SCC had no formal or informal reports of the need for administrative handling or discipline related to barriers or disruptions to free expression within the college.

South Mountain Community College (SMCC)

SMCC has not received any complaints or reports of barriers to or disruption of expression during the past year. SMCC provides a bulletin board located directly in front of the Learning

Research Center. The area is barrier-free and any posters/external information are approved by the Student Life office on a content-neutral basis and posted in the designated area.

SMCC Student Life office provides free expression information sessions to students in order to prevent any disruptions and barriers that may occur due to the misinterpretation of the administrative regulations. SMCC did not

The Maricopa County Community College District, its affiliated colleges, and its Governing Board promote diversity of thought and administrative and institutional authority.

At its November 21, 2018 Board Meeting, MCCCDC's Governing Board adopted the Public Access and Expression on District Policy in compliance with A.R.S. §15-1866. A copy of the policy is attached hereto as Exhibit "B."

As outlined in this report, MCCCDC Governing Board and Chancellor remain committed to promoting and protecting the free flow of ideas, diversity of thought, and free expression as protected by law. Occasionally the Governing Board, the District or one of its Colleges receive feedback from students, faculty/staff, or community members who may not appreciate the broad constitutional protections afforded to speech, particularly regarding speech found offensive to the viewer/listener. MCCCDC is committed to protecting expression permitted under applicable law and also enforcing its policies regarding the rental of space for large free expression events, appropriate time, place, and manner restrictions, and content-neutral reviews of information submitted for posting/display on campus. When protected, but offensive, speech occurs on MCCCDC College campuses, MCCCDC is available to reinforce and educate on constitutional protections as well as to identify opportunities for the safe expression of divergent viewpoints.

Political Activity on College Campuses

As part of its commitment to maintaining institutional neutrality, MCCCDC follows Arizona state law as it pertains to using college funds for political activity. As outlined in A.R.S. §15-1408, no person acting on behalf of a community college district, or a person who aids another person acting on behalf of a community college district may use or spend community college resources for the purpose of influencing the outcome of an election. College resources include, but are not limited to: Monies (even small or nominal amounts), accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, webpages, personnel, equipment and materials, buildings, or any other thing of value of the community college district. MCCCDC policy reflects the law. Additional information is provided to District employees on the following page: <https://district.maricopa.edu/legal/student-faculty-resources/political-activity-on-campus>.

Training regarding political activity on campus was conducted at each of the MCCCDC affiliated colleges. Added to the training was information on A.R.S. § 15-1866)—free speech, free expression, and the First Amendment. The District also continues to provide guidance related employee questions related to political activity on campus. District employees may

AS REQUIRED BY A.R.S. §15-1868

ask questions related to political activity on campus by scrolling the banner on the web page [here](#).

The Maricopa County Community College District Committee on Free Expression recommendations and plans for the upcoming year.

Over the next year the Committee on Free Expression will meet to review how MCCCDC colleges develop additional ways to support and promote protected speech on its associated college campuses, and also to develop a plan for gathering the requisite information for this annual report. The deadline for this report did not afford the ten colleges under the MCCCDC umbrella to highlight all of its efforts to support and promote protected speech on campus. One goal for an upcoming Committee on Free Expression meeting will be to develop an information gathering protocol in order to provide a more robust report in the future.

One ongoing project is to revise the Student Code of Conduct to include the following information, as outlined in A.R.S. § 15-1866.

There is a range of disciplinary actions for a student who is subject to the jurisdiction of a university or community college and who engages in individual conduct that materially and substantially infringes on the rights of other persons to engage in or listen to expressive activity.

In all disciplinary proceedings involving students, including proceedings involving expressive conduct, a student is entitled to a disciplinary hearing under published procedures that include, at a minimum, all of the following:

- (a) The right to receive advanced written notice of the allegations.*
- (b) The right to review the evidence in support of the allegations.*
- (c) The right to confront witnesses who testify against that student.*
- (d) The right to present a defense.*
- (e) The right to call witnesses.*
- (f) A decision by an impartial person or panel.*
- (g) The right to appeal.*
- (h) If either a suspension of more than thirty days or expulsion is a potential consequence of a disciplinary proceeding under this section, the right to active assistance of counsel.*

It is the sense of the legislature that if a student has repeatedly been determined to have engaged in individual conduct that materially and substantially infringes on the rights of other persons to engage in or listen to expressive activity, a punishment of suspension or expulsion from the university or community college may be appropriate.

Allocation of Student Activity Fees

Exhibit C provides information regarding the allocation of student activity fees used to support and facilitate the expression and activities of students or student organizations, as outlined in A.R.S. § 15-1868.

Distribution of this report

A Copy of this report has been submitted to the following parties:

1. The Governor
2. The Speaker of the House of Representatives
3. The President of the Senate
4. The Secretary of State

A copy of this report will also be placed on the Maricopa County Community College District website at: www.maricopa.edu.

EXHIBIT A
Members of the Committee on Free Expression as of December 1, 2018

1. Teresa Toney, District Office; Office of Public Stewardship
2. Melissa Flores, Esq., District Office; Associate General Counsel, Sr.
3. Felicia Ganther, District Office; Associate vice Chancellor, Student Affairs
4. Arthur Michael Longman, District Office; Police Chief
5. David Denlinger, District Office; Deputy Police Chief
6. Judy Tucker Gragg, District Office; Program Analyst, Sr., Center for Mediation
7. Mike Mitchell; Paradise Valley Community College; English Faculty
8. Patricia Cardenas-Adame, Estrella Mountain Community College; Vice President, Student Affairs
9. Tanisha Johnson-Maxwell, Paradise Valley Community College; Vice President, Student Affairs

EXHIBIT B
MCCCD Public Access and Expression on District Property
(Submitted for final Board Approval on November 20, 2018)

Title: **Public Access and Expression on District Property**

Legal Reference: A.R.S. § 15-1864, A.R.S. § 15-1865

SECTION 1: Definitions

- 1.1 “AR” means Administrative Regulation.
- 1.2 “BP” means Board Policy.
- 1.3 “Breach of the Peace” means seriously disruptive behavior as prohibited by Arizona’s “disorderly conduct” statute (A.R.S. §13-2904), including, but not limited to, committing acts of violence, using abusive or offensive language or gestures to any person in a manner likely to provoke immediate physical retaliation by such person, making unreasonable noise; engaging in protracted disruptive behavior to prevent a lawful meeting, gathering, or procession; and refusing to obey a lawful order to disperse.
- 1.4 “Commercial Speech” means all non-District advertising, marketing, sales, purchases, or agreements for the sale or purchase of goods or services, and all non-District solicitations of gifts of money or other goods or services by a person, groups of persons, or other entity, including charitable organizations. Commercial Speech is not Public Expression for purposes of this BP.
- 1.5 “Content Neutral” means without regard to the substance or subject matter of the Public Expression or to the viewpoint(s) expressed therein.
- 1.6 “District” means Maricopa County Community College District (MCCCD) and its associated colleges, sites, and locations, specifically Chandler-Gilbert Community College, Estrella Mountain Community College, Gateway Community College, Glendale Community College, Mesa Community College,

AS REQUIRED BY A.R.S. §15-1868

Paradise Valley Community College, Phoenix College, Rio Salado College, Scottsdale Community College, and South Mountain Community College.

- 1.7 “District Authorized Activity” means an activity by any individual, group, or organization that has been permitted to take place on District Property by the Chancellor, Chief Operating Officer, a College President, or his/her respective designee but is not organized, initiated, aided, or supervised by the District’s administration or official organizations.
- 1.8 “District Community” means, collectively, all persons employed by, volunteering for, enrolled in classes at, or visiting the District or attending any District Sponsored Activity, including Governing Board members.
- 1.9 “District Property” means any college, building, or grounds owned, leased, operated, or controlled by the District, as well as any structures, improvements, or equipment thereon.
- 1.10 “District Sponsored Activity” means any event, activity, or endeavor officially sanctioned by the District, on-or-off District Property, that is organized, initiated, aided, or supervised by the District’s administration or official organizations.
- 1.11 “Employee” means any person employed by the MCCCCD on a full-time, part-time, temporary, or regular basis or directly engaged in the performance of work under the provision of a contract with the District. This definition does not include unpaid Volunteers.
- 1.12 “Fighting Words” means verbal or nonverbal Speech that, by its very utterance or other method of communication, based on reasonable and commonly accepted community standards, 1) inflicts injury on a person to whom it is addressed (including, but not limited to, seriously abusive or insulting epithets of a personal nature addressed to a specific individual), or 2) is reasonably likely to provoke immediate physical retaliation by the person to whom it is spoken, or 3) is intended to incite or encourage others hearing the speech to commit an imminent Breach of the Peace, act of vandalism, or act of violence against the speaker or against someone else.
- 1.13 “Gratuitous Violence” means real or simulated graphic, realistic visual depictions of brutal acts of physical harm or cruelty to or the infliction of brutal physical

harm or cruelty upon humans, animals, or human- or animal-like creatures and, taken as a whole, lacks discernable literary, artistic, political, or scientific value.

- 1.14 “Harassment” means unwelcome Speech or conduct directed toward a specific individual that a reasonable person in the individual’s position would perceive as being so severe, persistent, or pervasive as to deny or substantially disrupt the individual’s ability to fully participate in or benefit from Ordinary District Operations or a District Sponsored Activity.
- 1.15 “Heckler’s Veto” means completely preventing or attempting to completely prevent a speaker from speaking or from being heard by others through persistent, suppressive, and overwhelming boos, chants, shouted comments, or other intentional disruptions. A Heckler’s Veto does not include isolated or intermittent vocal disagreement or heckling, even if it is loud, disrespectful, or briefly disruptive.
- 1.16 “Obscenity” means Speech or other expression in any medium that a reasonable person applying contemporary community standards would find appeals or is intended to appeal primarily to prurient interests, depicts or describes sexual conduct in a blatantly graphic or patently offensive way, and, taken as a whole, lacks discernable literary, artistic, political, or scientific value.
- 1.17 “Ordinary District Operations” means all day-to-day business and other functions of the District, including, but not limited to, academic instruction, administrative services, performance of employment responsibilities, facilities maintenance and grounds keeping, creative activity, community events, campus safety and security, and the maintenance of a Districtwide environment that is open, accessible, and welcoming to the District Community.
- 1.18 “Posted” means affixed to or deposited on District Property by any means.
- 1.19 “Prohibited Discrimination” means the unjust, prejudicial, or less favorable treatment of a person or group of persons based on actual or perceived protected characteristics or status in violation of state, federal, or municipal law, or District policy.
- 1.20 “Public Area” means an outdoor area that is generally open to the public during the District’s regular hours of operation and accessible by a public road or walkway without the need to enter or pass through a building or enclosed space.

Public Areas do not include the interiors of District buildings or enclosed outdoor spaces, such as building atriums or athletic fields.

- 1.21 “Public Expression” means all Speech – EXCLUDING Breaches of the Peace, Commercial Speech, Fighting Words, Gratuitous Violence, Harassment, Heckler’s Veto, Obscenity, Prohibited Discrimination, or True Threats – conducted in a Public Area, including, but not limited to, protests, demonstrations, rallies, speeches, forums, the distribution of posters or leaflets, and the collection of signatures for petitions, and includes all activities related to an individual’s right to peacefully assemble and/or petition the government for a redress of grievances.
- 1.22 “Public Posting” means any written or printed material that is placed on District Property in a Public Area or affixed to any structure on District Property in a Public Area.
- 1.23 “Reserved Area” means a Public Area that has been reserved and scheduled in advance by a specific individual or group for a particular activity in accordance with applicable District policy.
- 1.24 “Speech” means communication through any means, including, but not limited to, spoken or printed words or symbols, expressive gestures or utterances, symbolic actions, artistic expression, or forbearance from any of the foregoing (*e.g.*, intentional silence or non-participation in expressive actions).
- 1.25 “Student” means any person currently enrolled in courses at the District on either a full-time or part-time basis, as well as any person currently registered for or participating in continuing-education classes through the District.
- 1.26 “Student Organization” means an organization composed primarily of students which has received recognition according to District policies and procedures through the campus Department of Student Life.
- 1.27 “True Threat” means Speech in any medium that the speaker intends to communicate a serious expression of an intent to commit an act of unlawful violence against a specific person or group of persons or to cause serious damage to the property of another.

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- 1.28 “Visitor” means any person physically present on District Property or in attendance at a District Sponsored Activity who is not a current Student, Employee, Governing Board Member, or authorized Volunteer.
- 1.29 “Volunteer” means any individual who is not an Employee or Student of the District, and is authorized by the District to perform and voluntarily performs services for the District without promise, expectation, or receipt of compensation, future employment, or other tangible benefit, including academic credit. A Volunteer is not an Employee of the District for any purpose.

SECTION 2: General Principles

- A. The District will at all times maintain a Content Neutral position in the application and enforcement of this BP.
- B. As an institution of higher education, the District is dedicated to the principle that a free exchange of ideas is fundamental to the pursuit and dissemination of knowledge. To that end, the District is committed to protecting every member of the District Community’s right to speak, write, listen to, explore, and debate competing ideas.
- C. In any higher-education environment, including here at the District, it is normal for the ideas of various members of a District community to differ and sometimes conflict with each other or members of the public. Although the District values highly the principles of civility and mutual respect, it is not the proper role of an institution of higher education to attempt to shield members of the District Community from ideas and opinions they may find unwelcome, disrespectful, upsetting, or even deeply offensive. Concerns about civility and mutual respect do not justify closing off discussion of any ideas or opinions, no matter how disagreeable or offensive they may be to some or even most members of the District Community.
- D. The District is committed fully to the fundamental tenet of higher education that the appropriate response to false, offensive, or even abhorrent Speech is not to prohibit it or hide from it, but to respond to and challenge it with more Speech.
- E. Although members of the District Community are free to criticize and contest the views expressed by others, they may not deny, materially obstruct, or otherwise

improperly interfere with others' freedom to express views with which they disagree or which they find offensive or even loathsome.

- F. The freedom to express ideas does not mean members of the District Community may exercise that freedom in ways that are incompatible with Ordinary District Operations or the rights of other members of the District Community, including their right to a full and equal opportunity to pursue their education, to a District environment free from impermissible or Prohibited Discrimination and Harassment, to access the resources available at the District, and to express their own opinions and beliefs.
- G. The District may restrict Public Expression that violates state, federal, or local law; defames a specific person; or constitutes a Breach of the Peace, Commercial Speech, Fighting Words, Gratuitous Violence, Harassment, a Heckler's Veto, Obscenity, Prohibited Discrimination, or a True Threat; or otherwise disrupts Ordinary District Operations, District Sponsored Activities, or District Authorized Activities.
- H. The District may place reasonable, Content Neutral regulations on the time, place, and manner of Public Expression to ensure it does not disrupt Ordinary District Functions, District Sponsored Activities, or District Authorized Activities.
- I. The fact that Public Expression activity occurs on District Property does not imply and should not be construed as implying approval or endorsement by the District of any viewpoint or message expressed during the activity.

SECTION 3: Location of Public Expression

- A. Any Public Area on District Property may be used for Public Expression consistent with this BP, including on a spontaneous basis, provided the Public Area has not already been reserved for use at that same time, subject to reasonable time, manner, and place restrictions (see Section 4, below).
- B. Reserving Public Areas for Public Expression
 - 1. Reservations are not required in order to use Public Areas for Public Expression activities; however the District may require reservations be made if the event is large in scope or anticipates large crowds.

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2. The District recommends individuals or groups who wish to engage in Public Expression activities that are anticipated or likely to involve or attract large numbers of people, or that will involve special equipment (*e.g.*, stages or platforms, chairs, sound amplification) consult with the District's administration regarding the most appropriate Public Areas to accommodate those activities and reserve those Public Areas in advance and to reserve the area by using the Facilities Use Request form.
 3. Individuals or groups who wish to engage in planned Public Expression activities may reserve a particular Public Area in advance by submitting a written "Facilities Use Request" as follows:
 - a. At least seven (7) business days before the anticipated date of the Public Expression activity, although the District strongly encourages the submission of reservations as early as possible;
 - b. To the respective College President or his/her designee when Public Expression activities are to be conducted at one of the District's campuses;
 - c. To the Chief Operating Officer or his/her designee for activities to be conducted at the District's District Office.
 - d. Facilities Use Requests may be obtained from the District's individual College Facilities Department or online through the College Facilities Department.
 4. Reservation submissions to the District Facilities Department will be processed on a first-come-first-served, Content-Neutral basis and may be denied at the District's discretion under one or more of the following circumstances:
 - a. The Public Expression activity conflicts with scheduled District Sponsored Activities or District Authorized Activities;
 - b. The Public Area in question has already been reserved by another individual or group;

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- c. The Public Expression activity for which the reservation is sought does not conform to reasonable time, place, and manner restrictions set forth by the District;
 - d. The individual or group submitting the reservation has a prior history with the District of engaging in Public Expression activities that are harmful or injurious to members of the District Community, damaging to or the cause of excessive littering on District Property, excessively disruptive to Ordinary District Operations, or that otherwise violate District policy or do not conform to the District's time, place, and manner restrictions.
5. Individuals and groups submitting reservations will be notified within five (5) business day if their reservations are confirmed or have been denied.
 6. If a reservation submission is denied, the District will provide a timely written explanation for the denial and make reasonable efforts to work with the individual or group whose reservation was denied to modify the reservation submission to facilitate its approval.
- C. The District reserves the right to cancel any Public Area reservation or terminate any Public Expression activity already in progress if anyone participating in the Public Expression activity engages in any conduct prohibited by this BP (see Section 8 below), by state or federal law, municipal law, tribal law, and/or District policy.
- D. Appeals
1. An appeal of the denial or cancellation of a reservation submission or of a decision to terminate Public Expression activity may be submitted to the Chief Operating Officer or his/her designee within three (3) business days of the date of the denial, cancellation, or termination.
 2. Consideration of appeals shall be limited to questions of whether a misapplication of this BP or other District policies or procedures resulted in the denial or cancellation of a reservation submission or the decision to terminate Public Expression activity. The Chief Operating Officer, or his/her designee, will not review or otherwise second-guess decisions regarding Public Expression or this BP on any other basis.

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3. Appeals must be in writing and state the following:
 - a. The name of the individual bringing the appeal (the “Appellant”) and whether he or she is bringing it on behalf of a particular group;
 - b. A summary of the facts leading to the denial, cancellation, or termination, including the date, time, and location of the Public Expression activity, as well as a description of the Public Expression in which the Appellant engaged or intended to engage;
 - c. The basis for the Appellant’s belief that this BP or other specific District policy or procedure was misapplied, and
 - d. The relief the Appellant is requesting.
 4. A copy of the Appeal must be delivered to the Chief Operating Officer or his/her designee and to the College President.
 5. The Appellee may submit a written response to the appeal within one (1) business day. Copies of the Appellee’s response must be delivered to the Chief Operating Officer or his/her designee and to the Appellant.
 6. Appeals pursuant to this BP will be decided and the Appellant notified of the decision within two (2) business days of the District’s receipt of the appeal.

SECTION 4: Time, Place, and Manner Restrictions

- A. Reasonable time, place, and manner restrictions may be imposed on Public Expression activities to achieve a compelling District interest, including, but not limited to, ensuring Ordinary District Functions are not disrupted and to protect the safety and security of the District Community and District Property.
- B. Time, place, and manner restrictions shall be determined by the respective College President or designee on a case-by-case basis, in consultation with the District’s police department and legal counsel.

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- C. Any and all time, place, and manner restrictions shall be the least restrictive means necessary to achieve the compelling District interest and must not effectively stop or prevent spontaneous Public Expression. Such restrictions must be designed to maximize opportunities and alternative channels for Public Expression.
 - D. Any and all time, place, and manner restrictions on Public Expression shall be Content Neutral.
 - E. In the event the District deems it necessary to restrict Public Expression, the District will nevertheless, to the maximum extent practicable, propose and provide alternate opportunities for such Public Expression.
 - F. The District reserves the right to require any form of Public Expression that a reasonable person applying contemporary community standards would find includes themes or depictions of graphic violence, explicit human sexual acts, or explicit human nudity (but does not otherwise constitute Gratuitous Violence or Obscenity) be conducted or displayed at a time, in a place, and/or in a manner designed to decrease the likelihood that members of the District Community (*e.g.*, minor children) will unintentionally encounter the Public Expression, regardless of its artistic, scientific, or academic value;

SECTION 5: After-Hours Public Expression on District Property

District Property, including all non-public and Public Areas, may not be used for Public Expression activities from 9:00 p.m. until 7:00 a.m., seven (7) days per week, excluding Public Expression associated with Ordinary District Operations or District Sponsored Activities, without the express written permission of the Chief Operating Officer or his/her designee.

SECTION 6: Invited Speakers

- A. Public Areas on District Property shall be open to speakers invited by Students, Student Organizations, and District faculty to engage in Public Expression at the District.
- B. The District shall make reasonable efforts to address the safety of persons engaged in Public Expression on District Property, including invited speakers and persons attending invited speakers' events.

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- C. The District may charge a reasonable fee for the provision of security services at Public Expression events involving invited speakers, provided security fees are charged uniformly and are in no way based on or influenced by the content of the Speech of the invited speaker or of the person or group who invited the speaker.

Section 7: Non-Invited and Non-Affiliated Users

- A. Please see Administrative Regulation 2.4.9 Use of College Grounds by Non-MCCCD-Affiliated Users.

SECTION 8: Amplified Sound

The District reserves the right to restrict or prohibit the use of amplified sound during Public Expression activities at times when amplified sound is reasonably likely to interfere or disrupt Ordinary District Operations, District Sponsored Activities, or non-amplified District Authorized Activities.

SECTION 9: Contemporaneous Counter- Protests and Counter-Demonstrations

- A. Protests, demonstrations, or other Public Expression activities may attract or invite other forms of Public Expression in response, including, but not limited to, contemporaneous counter-protests and counter-demonstrations.
- B. The District will, to the maximum extent possible, treat individuals and groups engaging contemporaneously in Public Expression and in counter-Public Expression equally in accordance with this BP.
- C. To preserve the health and safety of the District Community and to prevent damage to District Property, the District reserves the right to place mutual time, place, and manner restrictions on Public Expression activities and contemporaneous counter-Public Expression activities, including, but not limited to, requiring that activities be conducted a reasonable distance from each other, not to exceed the distance minimally necessary to maintain safety and order.

SECTION 10: Prohibited Conduct

- A. The District expressly prohibits any conduct, regardless of any association it may have with legitimate Public Expression activity, if the conduct

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1. Adversely affects or directly threatens to adversely affect the health or safety of members of the District Community or their opportunity to enjoy District programs and District Sponsored Activities, or
 2. Materially disrupts Ordinary District Operations.
- B. Specific conduct prohibited by this BP includes, but is not limited to, the following:
1. Causing physical injury or harm to a person;
 2. Directing threats at individuals or specific groups of persons or attempting to intimidate them in a manner that would cause a reasonable person to fear for his or her own safety;
 3. Obstructing sidewalks, vehicular roadways, or building entrances and exits;
 4. Excluding or ejecting members of the District Community from a Public Area because of the content of their Public Expression;
 5. Engaging in a Breach of the Peace, Fighting Words, Gratuitous Violence, Harassment, a Heckler’s Veto, Obscenity, Prohibited Discrimination, or a True Threat;
 6. Removing or obscuring Public Postings bearing an official stamp from the District before the expiration date indicated on the stamp (see Section 10 below);
 7. Damaging or threatening to damage District Property;
 8. Causing excessive and unreasonable littering or soiling of District Property;
 9. Remaining on District Property after receiving lawful notice to depart;
 10. Stating or implying, directly or indirectly, that any Public Expression activity or viewpoint of an individual or group on District Property is that of the District or is endorsed, supported, or approved of by the District.

SECTION 11: Commercial Speech

- A. The District is not required to permit any Commercial Speech on District Property and may restrict Commercial Speech on the basis of its content.
- B. Any Commercial Speech on District Property is prohibited without the express written consent of the Chief Operating Officer or his/her designee.
- C. The Chief Operating Officer shall designate one or more coordinators for Commercial Speech and commercial events held on District Property, including on each District College Campus.
- D. Designated coordinators shall be responsible for ensuring that any Commercial Speech on their respective District Properties is consistent with District policies, procedures, and institutional values, as well as in compliance with applicable state and federal law, municipal law, tribal law, and/or District policy.
- E. Designated coordinators may, at their discretion, decline to permit any Commercial Speech.

SECTION 12: Public Postings

- A. Public Postings – including, but not limited to, posters, flyers, leaflets, notices, and other printed materials, regardless of any Public Expression content – may be Posted on District Property only in designated areas.
- B. All Public Postings must be officially stamped by the respective Dean of Student Affairs or his/her designee with the date the posting expires, not to exceed thirty (30) days from the original date they are posted. Expired Public Postings will be removed promptly by the District.
- C. Official date-stamps will be issued by the Dean of Student Affairs on a Content Neutral basis and will not be withheld unless the Public Posting constitutes a Breach of the Peace, Fighting Words, Gratuitous Violence, Harassment, Obscenity, Prohibited Discrimination, or a True Threat.

SECTION 13: Anonymous Expression

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- A. Choosing to speak anonymously does not absolve members of the District Community of responsibility for their Public Expression or other speech, and anonymous Public Expression must comply with this BP and all other applicable District policies and procedures, as well as applicable state and federal laws, municipal law, tribal law, and/or District policy.
 - B. Anonymous Public Postings that do not comply with the District's Public Posting procedures may be removed at any time by any person.

SECTION 14: Violations

- A. Any individual who violates this BP may be removed and/or trespassed from District Property or a District Sponsored Activity and/or denied the ability to reserve Public Areas of the District for future Public Expression activities.
- B. Any violation of this BP by a District Student or Employee that also constitutes a separate violation of District policy may be subject to additional applicable sanctions pursuant to the Student Code of Conduct or applicable District Policy, respectively.
 - a. In all disciplinary proceedings involving students, including proceedings involving expressive conduct, a student is entitled to a disciplinary hearing under published procedures that include, at a minimum, all of the following:
 - i. the right to receive advanced written notice of the allegations;
 - ii. the right to review the evidence in support of the allegations;
 - iii. the right to confront witnesses who testify against the student;
 - iv. the right to present a defense;
 - v. the right to call witnesses;
 - vi. a decision by an impartial person or panel
- C. Any violation of this BP that also constitutes a violation of federal or state law may also subject an individual or group to additional sanctions, including criminal arrest, prosecution, and/or civil penalties.

SECTION 15: Complaints

- A. Any member of the District Community who feels his or her right to Public Expression has been violated or that this BP has not been followed or has been

AS REQUIRED BY A.R.S. §15-1868

misapplied may contact the District's Office of Public Stewardship to submit a complaint.

- B. In addition to pursuing the District's complaint process, members of the District community also have the right to file, and do not need to exhaust the District's complaint process before filing, legal claims regarding First Amendment violations, including with outside agencies, such the following:

United States Department of Education
Office of Civil Rights (OCR)
1244 Speer Blvd., Suite 310
Denver, CO 80204-3582
Phone: (303) 844-5695
Fax: (303) 844-4303
Email: OCR.Denver@ed.edu

United States Equal Employment Opportunity Commission
3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012-2504
Phone: (602) 640-5000
Phone: (800) 669-4000
TTY: (800) 669-6820
Fax: (602) 640-5071

Arizona Attorney General
Office of Civil Rights
2005 N. Central Ave.
Phoenix, AZ 85004-2926
Phone: (602) 542-5263
TDD: (602) 542-5002

Exhibit C
Allocation of student activity fees by community college

A.R.S §15-1868 B(5) requires an accounting of how student activity fees were allocated in the prior year. For the purposes of this paragraph, "student activity fees" means any fee that is charged to students by a community college in this state and that is used to support and facilitate the expression and activities of students or student organizations.

Chandler-Gilbert Community College

Chandler-Gilbert Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Estrella Mountain Community College

Estrella Mountain Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

GateWay Community College

GateWay Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Glendale Community College

Glendale Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Mesa Community College

Mesa Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Paradise Valley Community College

Paradise Valley Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Phoenix College

Phoenix College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Rio Salado Community College

Rio Salado Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

Scottsdale Community College

Scottsdale Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.

South Mountain Community College

South Mountain Community College does not charge activity fees for expression or student organization activities. In fiscal year 2015, the Maricopa County Community College District eliminated a \$2.00 student activity fee. Due to the deadline for filing this initial report, the District and its associated Colleges did not have sufficient time to coordinate with its Fiscal Department to identify how tuition is allocated and what portion of said monies is allocated to support and facilitate the expression and activities of students or student organizations. Upcoming reports will include such a breakdown.