

2.7 **FREEDOM OF EXPRESSION POLICY**

Category: Administration
Responsible Office: Student Rights and Responsibilities
Responsible Executive: Vice President, Student Services

Date Approved: June 1, 2015
Date Revised:

Commented [FJ(O1): Formerly Assembly, Picketing, and Demonstrating Policy, responsible office Campus events and Public Safety, responsible executive VP EDIWS, VP Student Services, CFO/VP Administrative Services.
Revised to assign ownership to Student Service, Student Rights and Responsibilities Office. Name change recommended to align with current best practice among Colleges.

Summary

This document describes the College's policy pertaining to freedom of speech and assembly and further outlines the rules, applicability, and procedures regarding assembly, picketing, or demonstrating on College property.

Policy

POLICY STATEMENT

- A. **Consistent with the First Amendment**, no student, faculty member, or other employee or authorized visitor shall be subject to any limitation or penalty for expressing their views or for assembling with others for such purpose. College officials will not interfere with orderly assemblies, picketing, or demonstrations occurring on College property provided that there are no violations of law or this or other College policies.
- B. Assemblies, picketing, demonstrations, and similar expressions of First Amendment rights may not infringe on or interfere with the rights of others or disrupt essential operations of the College. As such, no one engaged in an assembly, picket, or demonstration may impede vehicular or pedestrian traffic, block sidewalks or roadways, or engage in any activity that would constitute a violation of the New York State Penal Law, other applicable statutes, or College policies
- C. The use of College property for the purpose of assembly, picketing, or demonstrating does not imply Monroe Community College's endorsement of any organization, activity, cause, or position.
- D. If, in the judgment of College officials, an activity is not consistent with the purposes previously articulated on the application (See Procedures Step 1) by the applicant or the activity has been misrepresented, authorization to use College property will be withdrawn, and the activity in progress will be halted. Requests will be considered on a content-neutral and **viewpoint-neutral** basis.
- E. The College reserves the right to terminate any use of College property in the event that a participant or participants engage in conduct that violates any law or this or other College policies.

Commented [FJ(O2): BSK recommendation, approved by committee

Commented [LKM(O3): "Viewpoint-neutral" was included by BSK

BACKGROUND

Free speech and peaceful assembly are fundamental to the purpose of a College as a center for open inquiry in the search for knowledge and insight. Monroe Community College is strongly

committed to the protection of these rights. However, these rights bring with them a concurrent obligation to maintain an atmosphere conducive to scholarly pursuits and respect for the rights of all individuals.

APPLICABILITY

This policy is applicable to any individual or group of students or visitors wishing to assemble, picket, or otherwise demonstrate on Monroe Community College property. It also applies to College employees, to the extent such employees: (1) are speaking as private individuals; (2) regarding a matter of public concern; (3) where the College lacks adequate justification for treating the faculty member or staff member differently than any other member of the general public.

RESPONSIBILITY

Campus Events Office
Public Safety Department
Student Rights and Responsibilities Office

DEFINITIONS

Assembly - a rally or demonstration for the purpose of exercising free speech or dissension.

Picketing or Demonstration – any public gathering, congregation, or exhibition of one or more persons for the purpose of conveying or displaying a message or supporting a cause

College – Monroe Community College

College Community – includes Monroe Community College students, faculty, employees, and members of recognized MCC organizations

College Property – any land, building or other property that is owned, leased, or under the control of Monroe Community College

Organization – recognized student government groups or clubs, alumni groups, and/or athletic teams

Contact Information

Office of Student Rights and Responsibilities

Related Information

Student Code of Conduct

Employee and Visitor Code of Conduct

Commented [FJ(04): This language comes directly from a 2006 U.S. Supreme Court case dealing with the question of whether the First Amendment protects a government employee from discipline based on speech made pursuant to the employee's official employment duties.

To determine the constitutional protections afforded to public employee speech, first we must determine whether the employee spoke as a private citizen on a matter of public concern.

-If NO → Employee has no First Amendment claim based on their employer's reaction to the speech. Why? When public employees make public statements pursuant to their official duties, they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.

-If YES → Then a possible First Amendment claim arises. Next, we must determine whether the government employer has an adequate justification to treat the employee differently from any other member of the general public. Why? Because public employers have broader discretion to restrict speech that has some potential to affect the government employer's operations.

Bottom line, my recommendation is we should keep this language as is (with the slight modification I made for clarity) because it tracks the language of the case law and defines the bounds of First Amendment free speech protections afforded to speech by public employees.

Commented [FJ(05): Recognizes responsibility for policy

Commented [FJ(06): Added for clarification

Commented [FJ(07): Updated to align with responsible office