



Southwest

Virginia Community College

Annual Report on Expressive Activity 2021

Issued by:
Office of the Dean of Student Success
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This report was prepared by Southwest Virginia Community College's Dean of Student Success, in compliance with Va. Code 23.1-401.1 (hereinafter called "the speech law"). The speech law requires each public institution of higher education to establish policies regarding constitutionally protected speech; to include the policies in the student handbook, on the college's website, and in student orientation programs; to develop materials on the policies and provide the materials to employees who are responsible for the discipline of students; and to establish a process to allow members of the campus community to report incidents of disruption to protected speech.

This report includes the VCCS Expressive Activity Policy and the SWCC Public Art Policy, along with frequently asked questions to support the policies, and any lawsuit information filed since December 1 of the preceding year that alleges a violation of the First Amendment of the U.S. Constitution.

The Dean of Student Success is the person responsible for the discipline and education of students with regard to this policy. Copies of the policy and all supporting documents are available in that office.

For more information, contact:

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Table of Contents

Background	4
Localities and Facilities.....	4
Mission/Purpose	4
Policy on Expressive Activity.....	5
Policy on Public Art.....	9
Materials to Support the Policy.....	12
Lawsuit Documentation.....	14

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Annual Expressive Activity Report 2021

BACKGROUND

Southwest Virginia Community College opened in the fall of 1968. SWCC is a two-year institution of higher education established as part of the state-wide system of community colleges serving primarily the residents of the counties of Buchanan, Dickenson (partial), Russell and Tazewell. The College operates under policies established by the State Board for Community Colleges and the Local College Board. The institution is financed by state funds, supplemented by contributions from the participating localities. The college provides career/technical education, college transfer education, developmental education, continuing/workforce education, and specialized regional and community services.

The college is located in the Cumberland Plateau Planning District, which is comprised of the counties of Buchanan, Dickenson, Russell and Tazewell; and the towns of Grundy, Clinchco, Clintwood, Haysi, Cleveland, Honaker, Lebanon, Bluefield, Cedar Bluff, Pocahontas, Richlands and Tazewell.

LOCALITIES AND FACILITIES

The service area covers 1,800 square miles of mountainous terrain, with the main campus is located on U.S. Route 19, which serves as a main route for hazardous materials. Off campus classes are conducted at several area high schools and off campus sites throughout the service region, the Booth Center in Grundy, the Southwest Center for Education and Training in Lebanon, and the Bluefield Center in Bluefield.

The college is located on a one-hundred acre site on U. S. Route 19 approximately six miles south of Claypool Hill. The campus provides modern, well-equipped facilities for vocational/technical and university-parallel programs.

MISSION/PURPOSE

Southwest Virginia Community College (SWCC), a member of the Virginia Community College System (VCCS), subscribes to the tenets set forth in the VCCS mission statement. This statement is as follows:

**We give everyone the opportunity to learn and develop the right skills
so lives and communities are strengthened.**

SWCC believes that all people should have a chance not only to develop and extend their skills and knowledge, but also to increase awareness of their roles and duties as citizens. The college serves the educational needs of the public including both occupational/technical and college transfer courses. SWCC assumes a responsibility to meet workforce development requirements in SWCC's service region through a combined effort with local industry, business, professions, and government, including economic development efforts. The college is also dedicated to organizing programs with senior institutions as well as with those of local public school systems.

Southwest Virginia Community College offers career studies certificates, diplomas, certificates, and associate degree programs. The college is also committed to assisting students with decisions concerning their occupational, educational, and personal goals.

VCCS POLICY ON EXPRESSIVE ACTIVITY

6.5.1 Policy on Expressive Activity

This policy applies to all buildings, grounds, and other spaces owned or controlled by a college. The term "expressive activity" includes:

- Meetings and other group activities of students and student organizations;
- Speeches, performances, demonstrations, rallies, vigils, and other events by students, student organizations, and outside groups invited by student organizations;
- Distributions of literature, such as leafleting and pamphleting; and
- Any other expression protected by the First Amendment to the U.S. Constitution.

6.5.2 Policy Statement

College property is primarily dedicated to academic, student life and administrative functions. But it also represents the "marketplace of ideas," and especially for students, many areas of campus represent a public forum for speech and other expressive activities. Colleges may place restrictions on expressive activities occurring indoors, but especially for students and student organizations, the outdoor areas of campus remain venues for free expression, including speeches, demonstrations, and the distribution of literature.

Indoors or outdoors, colleges shall not interfere with the rights of individuals and groups to the free expression of their views or impermissibly regulate their speech based on its content or viewpoint. Nevertheless, colleges may establish reasonable time, place, and manner restrictions on expressive activity. Such restrictions must be content-neutral, narrowly tailored to serve a significant governmental interest, and allow ample alternative channels for communication of the information.

No event or expressive activity shall be permitted to violate or hinder the rights of others within the campus community or substantially disrupt normal college operations.

6.5.2.0 Procedures

a. Reserving Campus Facilities:

1. If students, student organizations, or college employees desire to reserve campus facilities, they shall submit their requests to the appropriate college administrator. Colleges normally may not require more than twenty-four hours advance notice for reservation requests. More notice may be required to allow for sufficient logistical support and to ensure the safety and security of the campus.
2. If individuals or organizations who are not members of the college community (i.e., not students, student organizations, or college employees) desire to reserve campus facilities, they must be sponsored by a recognized student organization or the college to conduct expressive activities or events on campus.
3. Colleges may designate certain indoor facilities as not available for expressive activity, such as administration offices, libraries, and (during instructional hours) classrooms. Colleges shall make the campus community aware of such areas. Any other restrictions on expressive activities occurring in indoor facilities must (a) apply equally to all individuals and organizations and (b) not depend upon the content or viewpoint of the expression or the possible reaction to that expression.
4. Students, student organizations, and college employees may request to reserve campus facilities on a first-come, first-served basis. These requests may be denied for the following reasons only:
 - a. The requested venue is an indoor facility that the college has designated as not available for expressive activity under section 6.5.2.0(a)(3) of this policy;
 - b. The requested venue is an indoor facility and the request conflicts with restrictions enacted pursuant to section 6.5.2.0(a)(3) of this policy;
 - c. The venue is already reserved for another event¹;
 - d. The activity will attract a crowd larger than the venue can safely contain;

- e. The activity will substantially disrupt another event being held at a neighboring venue²;
 - f. The activity will substantially disrupt college operations (including classes);
 - g. The activity is a clear and present threat to public safety, according to the college's police or security department;
 - h. The activity will occur during college examination periods; or
 - i. The activity is unlawful.
5. During an event, the student, student organization, or college employee requesting the reservation is responsible for preserving and maintaining the facility it reserved. If it causes any damage to those facilities, the person(s) or organization (and its officers, if applicable) shall assume responsibility.
 6. When assessing a request to reserve campus facilities, colleges and their administrators must not consider the content or viewpoint of the expression or the possible reaction to that expression. Colleges and their administrators may not impose restrictions on students, student organizations, or college employees due to the content or viewpoint of their expression or the possible reaction to that expression. In the event that other persons react negatively to a student's, student organization's, or college employee's expression, college officials (including college police or security) shall take all necessary steps to ensure public safety while allowing the expressive activity to continue.
- b. Spontaneous Expressive Activity:
1. Colleges are not required to designate any indoor area as available for spontaneous expressive activities. In the event that colleges elect to do so, college officials shall prominently post the areas in which students, student organizations, and their sponsored guests may engage in spontaneous expressive activities. Any areas so designated must (a) apply equally to all students and student organizations and (b) not depend upon the content or viewpoint of the expression or the possible reaction to that expression.
 2. For outdoor campus facilities and areas, students, student organizations, and their sponsored guests may freely engage in spontaneous expressive activities as long as they do not (a) block access to campus buildings, (b) obstruct vehicular or pedestrian traffic, (c) substantially disrupt previously scheduled campus events³, (d) substantially disrupt college operations, (e) constitute unlawful activity; or (f) create a clear and present threat to public

safety, according to the college's police or security department.

3. No college personnel may impose restrictions on students, student organizations, or their sponsored guests who are engaging in spontaneous expressive activities due to the content or viewpoint of their expression or the possible reaction to that expression. In the event that other persons react negatively to these activities, college officials (including college police or security) shall take all necessary steps to ensure public safety while allowing the expressive activity to continue.

c. Implementation; Report:

1. Each college must include this policy in its student handbook, on its website, and in its student orientation programs.
2. Each college must develop a process for members of the campus community and invited guests to report incidents of disruption of constitutionally protected speech. Such a process may include, but is not limited to, providing online incident reporting, providing contact information for a designated college official, and in cases of emergency, contact information for campus or local police or campus security.
3. All colleges must maintain materials on the policy and provide such materials to any employee responsible for the discipline or education of enrolled students. Colleges may provide such materials to other employees if so desired.
4. All college policies and materials on expressive activities must have prior approval from the Office of System Counsel.
5. Colleges must develop policies and procedures to comply with the requirements of Va. Code 23.1-401.1, and notify the Office System Counsel as soon as practicable, but no later than 20 days after being served with a complaint that alleges a violation of the First Amendment.

SWCC POLICY ON PUBLIC ART

Purpose:

The SWCC Committee on Public Art encourages and oversees the installation of art in public spaces around the campus, and works to educate the College community about the value of art in public spaces. This committee is comprised of student, faculty, and staff members whose responsibility it is to create a welcoming environment for people passing through public spaces, to stimulate conversation about art among community members, to challenge perceptions of art, and to illuminate diverse cultures. It also advises those individuals and departments responsible for works of public art on campus.

Definition of Public Art:

The committee is guided by the following definition of public art: art objects placed in a public, shared, and/or an accessible space. Moreover, the committee recognizes that as institution of learning, the visual arts are central to aesthetic and intellectual development, and opportunities should be made for creative expression. Works of art may be 1) temporary, semi-permanent, or permanent; 2) created by students, faculty, staff, or professional artists; 3) installed inside the KCC Art Gallery, Booth Center Art Gallery, Appalachian Arts Center or other designated areas on campus; either inside or outside.

Charge of the Committee:

All works of art in public spaces must relate to the academic, intellectual, or aesthetic life of the College, and meet the professional criteria and requirements set forth by the Committee on Public Art. The committee will make recommendations to the senior staff concerning 1) petitions from members of the College community to install works of art; 2) donations of works of public art to the College; and 3) the inclusion of works of public art on campus or at off-campus sites.

Categories of Public Art:

1. Expressive works of art
2. Works of memory
3. Works of art by SWCC students
4. College community art works
5. Functional works of art
6. Installation art
7. Local artisans works of arts and/or crafts

Art Media May Include:

1. Gardens, including fountains and seating
2. Sculpture
3. Paintings and Murals
4. Sketches

- The Committee recommends policies for the security and care of public art objects.
- The Committee recommends policies for dealing with proposals for the siting of art in public locations on campus.
- The Committee makes recommendations to the VP of Institutional Advancement (and Senior Staff) to accept or deny a proposed art installation
- The Committee encourages the inclusion of public art in major renovations or new construction of campus buildings.
- The Committee oversees the proper signage of works of public art.
- The Committee oversees annual inspection of works of public art.
- The Committee ensures safekeeping of permanent art collection for SWCC.

Methods of Selection/Acquisition:

The following types of acquisitions are to be made in consultation with the Public Art Committee:

- Donation: A work of Public Art is donated to the College or Educational Foundation in consultation with the Public Art Committee.
- Direct Selection: An individual artist is chosen by the committee either to be purchased or commissioned
- Student artists: A student working with a faculty advisor proposes an installation of work connected to his or her academic program.
- Community-based project: Members of the College community and/or campus organizations enlist an artist to work with the college and local community members to create a work of art on/for campus.

MATERIALS TO SUPPORT THE POLICY

1. What is expressive activity?¹

Expressive activities are speech-related activities, including

- meetings;
- other group events or activities by student organizations or their invited guests;
- speeches;
- performances;
- demonstrations;
- rallies;
- vigils;
- distributions of literature; and
- any other activity protected by the First Amendment.

2. What kind of speech is protected by the First Amendment?

The U.S. Constitution protects most speech, with very limited exceptions. In outdoor spaces, the college may place reasonable limits only on the time, place, and manner of your expressive activity, and those limits must not depend on the content or viewpoint of the expressive activity. In addition, for outdoor areas, students, student organizations, and their guests are not required to give notice before engaging in expressive activity. In other words, students, student organizations, employees, and guests may engage in spontaneous expressive activities as long as they do not engage in any of the conduct listed in Number 3 below. (There may be exceptions to this general rule; for example, your college may have an outdoor facility that requires a reservation to use.)

Indoors, colleges may place restrictions on expressive activities, as long as any rules apply to everyone equally and are not based on the content or viewpoint of the speech. The college may determine that certain indoor facilities are not available for expressive activity. Common examples of such areas include: (1) administrative offices, (2) libraries, (3) hallways, and (4) classrooms during instructional hours.

3. What kind of actions related to protected speech can be regulated?

Most speech is protected by the Constitution, but sometimes, the actions that a speaker takes during an expressive activity are disruptive enough to allow a college to intervene, regardless of what is actually being expressed. For outdoor facilities and areas, students, student organizations, and their guests may freely engage in expressive activity as long as they do not also engage in any of the following:

¹ The words “speech” and “expressive activity” may be used interchangeably.

- block access to campus buildings;
- obstruct traffic (vehicles or pedestrians);
- substantially disrupt previously scheduled campus events;
- substantially disrupt college operations or violate or hinder the rights of others;
- break the law; or
- create a threat to public safety, according to the college's police or security department.

4. How can someone reserve campus facilities for speech activities?

a. Request submission

Contact Dyan Effler Lester at 276.964.7677 to reserve campus facilities. Spaces are reserved be on a first-come-first serve basis. The college can state in advance that certain spaces cannot be reserved for speech activities. Common examples include libraries, offices, hallways, and classrooms during instructional hours. Any other restrictions on expressive activities that occur in indoor facilities must apply equally to everyone and not depend on the content or viewpoint of the expression, or the possible reaction to the expression.

b. Timing

Colleges usually cannot require more than 24-hour advance notice unless the event requires additional planning to ensure safety and sufficient logistical support. You are encouraged to request the facility as soon as possible.

c. Denials

When assessing a request to reserve a facility, the college must not consider the content or viewpoint of the expressive activity, or the possible reaction to the expressive activity. If a facility or space is generally available to be reserved, the college can refuse a reservation by a student, student organization, or employee only for the following reasons:

- The venue is an indoor facility that has been designated as unavailable for reservation.
- The venue is an indoor facility and the request is in conflict with any restrictions the college has placed on the facility. For example, a restriction could be that the indoor facility is unavailable on the weekends.
- The venue has been reserved already at the time requested.
- The size of the anticipated crowd is too large for the space.
- The activity would substantially disrupt another event occurring in close proximity.
- The activity would substantially disrupt college operations.
- The activity is a clear and present threat to campus safety, according to police or security.
- The activity occurs during college exam periods.
- The activity is against the law.

d. Responsibility for the space

Anyone who reserves a facility or space is responsible for maintaining the space and will be responsible for any damages, cleaning costs, or other costs.

5. Is the college required to have indoor areas available for spontaneous expressive activities?

No. The college is not required to have an indoor area designated for spontaneous speech activities. However, if it chooses to create one or more, college officials must post that the area is available for students, student organizations, employees and guests to engage in expressive activities. The area must be available for all students, student organizations, employees, and guests equally, and not depend on the content or viewpoint of the expression or the possible reaction to it.

6. What do I do if someone or a group tries to disrupt my, my organization's or invited guest's speech?

To report a disruption of protected speech, you may contact Dyan Effler Lester at 276.964.7677 or via email at dyan.lester@sw.edu. You may also report online using the SWCC TIPS service at <https://sw.edu>. In cases of emergency, please call 911 or contact SWCC Campus Police at 276.964.4357.

7. I have additional questions.

Please contact Dyan Effler Lester at 276.964.7677 or via email at dyan.lester@sw.edu for more information.

LAWSUIT DOCUMENTATION

There has not been a lawsuit filed against the college that alleges a violation of the First Amendment from December 1, 2019 to December 1, 2020.