

# Free Speech and Peaceful Assembly

## H-171

### **POLICY**

Gateway Technical College (“Gateway”) acknowledges the constitutional right to engage in free speech and to assemble in groups for peaceful purposes. Among other things, these freedoms foster a robust exchange of ideas and can facilitate academic and social growth.

The primary use of District buildings, facilities and property owned or leased by Gateway Technical College (“Gateway”) is to provide educational services and programs for District residents. Gateway may, consistent with applicable state and federal law, establish reasonable restrictions regarding the time, place, and manner in which persons may exercise their free speech and assembly rights on Gateway property.

Nothing in this policy is intended to infringe upon any legal rights regarding freedom of speech. Application of the policy shall not be arbitrary or capricious and shall not be based upon the content of the proposed speech and nothing in this policy shall be interpreted in such a way as to discriminate on the basis of political, religious, social or other content. In addition, the speech expressed by individuals not acting in an official college capacity does not necessarily represent the views or opinions of the college, its officers, or Board of Trustees.

### **DEFINITIONS**

1. **Distribution** means circulating, disseminating, handing out, peddling, or making generally available.
2. **Solicitation** means asking, requesting, inviting, approaching, seeking, petitioning, canvassing or inducing persons for any information or to perform an act.
3. **Selling** means any exchange of currency, bartering, vending or trading of physical or conceptual items.
4. **Posting** means any display of information.
5. **Work Time** means all time during which an employee is assigned to or engaged in the performance of his/her role excluding non-paid periods during the day that the employee is not expected to perform their role.
6. **Gateway community** means students and employees of the college.

This policy applies to all Gateway campuses.

### **UNPROTECTED SPEECH AND ACTIVITIES**

Some forms of speech—including but not limited to threats of violence, incitement to imminent lawless action, raising false alarm of imminent personal danger, and certain severe and pervasive harassment—are not constitutionally protected and may result in disciplinary action.

Further, all members of the Gateway community and those visiting Gateway buildings, facilities or property are prohibited from engaging in conduct leading to or resulting in any of the following:

1. Endangerment to the health or safety of others;
2. Interference or disruption of the normal functioning of Gateway;
3. Damage to Gateway property;
4. Denial of, or unreasonable interference with, the rights of others on Gateway premises;
5. Unauthorized access to or occupation of nonpublic areas on Gateway premises, including but not limited to classrooms, laboratories, libraries, faculty and administrative offices, and recreational facilities; and
6. Unauthorized access to or use of personal property, including files and records.

Individuals who engage in such activities may be subject to disciplinary action, including suspension or dismissal from Gateway and/or removal from Gateway property. In addition, such actions may result in criminal charges by law enforcement authorities.

## **REASONABLE TIME, PLACE AND MANNER RESTRICTIONS**

Gateway may, consistent with applicable state and federal law, establish reasonable restrictions regarding the time, place, and manner in which persons and groups may exercise their free speech and assembly rights on Gateway's campuses.

To that end, Gateway generally permits public expression when its campuses are open and during the hours of 8:00 a.m. to 8:00 p.m. (Monday through Friday) and 8:00 a.m. to 1:00 p.m. (Saturday). Further, no person on Gateway property or at Gateway functions may:

- 1) Block entrances to or otherwise interfere with the free flow of traffic into and out of campus buildings and facilities;
- 2) Have unauthorized entry to, possession of, receipt of, or use of any Gateway services, equipment, resources or properties;
- 3) Engage in physical abuse including, but not limited to, physical or sexual assault, threats of violence, or other conduct that threatens the health or safety of any person;
- 4) Obstruct or disrupt teaching, research, administration, disciplinary procedures, or other Gateway activities;

- 5) Exhibit disorderly or lewd conduct;
- 6) Participate in a disturbance of the peace or unlawful assembly;
- 7) Unlawfully manufacture, distribute, dispense, possess, use, or sell, or attempt to unlawfully manufacture, distribute, dispense, possess, use, or sell controlled substances, as identified by federal and state law;
- 8) Manufacture, distribute, dispense, possess, use, or sell, or attempt to manufacture, distribute, dispense, possess, use, or sell alcohol that is unlawful or otherwise prohibited by or not in compliance with Gateway policy;
- 9) Possess, use, store, or manufacture a firearm, explosives, or other weapons and destructive devices, except as authorized by Gateway policy or local, state, or federal law;
- 10) Engage in the theft, conversion, destruction of, or damage to any Gateway property, or any property of others while on Gateway's campus;
- 11) Possess any property when the individual had knowledge or reasonably should have had knowledge that it was stolen;
- 12) Fail to comply with the directions of a Gateway official or other public official acting in the performance of his or her duties while on Gateway property or at official Gateway functions, or resist or obstruct such Gateway official or other public official in the performance of his or her duties;
- 13) Camp or lodge on Gateway property other than in authorized facilities;
- 14) Climb up or repel down any building, facility, structure or natural feature on Gateway property; or
- 15) Participate in indecent exposure or public nudity on Gateway property. This prohibition does not apply to appropriate visual or performing arts productions, or academic programs or classes scheduled or sponsored by campus academic groups or departments as determined by the department chair or group director.

In addition to these reasonable restrictions, all members of the Gateway community are responsible for complying with all applicable Gateway policies and procedures.

Gateway acknowledges and respects the rights of members of the Gateway community to engage in personal political activity. When using Gateway buildings or facilities, however, members of the Gateway community must keep their personal political activity separate from their institutional role and from Gateway activities. Personal political activity should not be engaged in such a manner as to incorrectly represent Gateway support or

endorsement. Neither Gateway funds, equipment, instructional programs nor other resources may be used for such personal political activity.

## **COMMERCIAL SPEECH**

Commercial speech is any form of speech, expression, or activity that is primarily intended to market, sell, or promote goods and services on behalf of any person or entity that is not a Gateway department or affiliated organization. Soliciting for contributions or donations is included in the definition of commercial speech. Commercial speech may be regulated by Gateway to a greater extent than non-commercial speech.

Gateway is under no obligation to make any campus areas or facilities available for commercial speech. Persons or organizations wishing to engage in commercial speech activities on Gateway property must be granted express written permission to do so by the Associate Vice President, Facilities and Security (or designee).

Commercial speech activities are generally prohibited unless such activities promote Gateway's educational objectives. Employees are not permitted to solicit or sell to students while on campus. Commercial speech activities are prohibited inside classrooms, libraries, centers that support student learning such as the Student Services Centers, Multicultural Centers, and Learning Success Centers, other specialized laboratories and training or testing facilities.

In addition, all approved commercial speech activities must occur during standard operating hours and may be further limited to certain locations on Gateway campuses that will not interfere with or disrupt student privacy, education, or Gateway's normal educational and business functions.

Any action by Gateway that restricts commercial speech under this policy shall be applied without discrimination toward the content of the view(s) being expressed. Gateway may, however, consider the effect of commercial activities on the safety and orderly operations of its campuses when making determinations regarding approval or necessary restrictions.

## **NON-COMMERCIAL SPEECH BY EXTERNAL PERSONS**

Persons who are not associated with the Gateway community (e.g., those who are not students, employees, volunteers, or individuals otherwise invited to be present on Gateway property) and who wish to engage in non-commercial speech on Gateway property must provide notice, by phone or in writing, to the Associate Vice President, Facilities and Security (or designee) at least five business days in advance of the activity. This notice allows the college to assure that the activity does not interfere with a planned event and that adequate security and services are available, if applicable, for said activity.

No political activities or distribution of printed materials are allowed inside any Gateway building, facility or conference center, or temporary facility such as a tent, except where a table is reserved in accordance with facility use policies.

*For additional details regarding the use of Gateway District buildings and facilities by individuals or groups who are not associated with the Gateway community, see Administrative Procedure E-150.*

## **PEACEFUL ASSEMBLIES AND DEMONSTRATIONS**

Peaceful assemblies and demonstrations are prohibited inside any classroom or any place or manner that interferes with educational or other normal functions and operations of the institution.

Due to the size and configuration of the Burlington Center, HERO Center, Elkhorn Veterinary Sciences Center, and LakeView Advanced Technology Center, peaceful demonstrations are not allowed inside these buildings. In addition, peaceful demonstrations are not allowed in Libraries, centers that support student learning such as the Student Services Centers, Multicultural Centers, and Learning Success Centers, private office areas, and other specialized laboratories and training or testing facilities.

A person who wishes to engage in an expressive activity in outdoor areas of campus may do so freely, spontaneously, and contemporaneously as long as the person's conduct is lawful and does not materially and substantially disrupt the functioning of the public institution of higher education or infringe upon the rights of other individuals or organizations to engage in expressive activities.

Assemblers or demonstrators refusing to vacate Gateway's property upon request may be subject to immediate temporary suspension and/or arrest under applicable state and federal laws.

## **SOUND AMPLIFICATION**

The use of sound amplification equipment for functions or events must be approved in advance. Applications for the use of sound amplification equipment or space shall be approved by the Associate Vice President, Facilities and Security (or designee). Gateway may control the volume and direction of sound amplification so as not to interfere with other campus or community activities.

Acoustic or ambient sound, such as that generated through musical instruments, may be limited when such use interferes with the orderly conduct of Gateway business or authorized events.

## **GATHERING OF SIGNATURES**

The gathering or solicitation of signatures for petitions, for the nomination of a candidate for elective office, or for similar purposes is permitted pursuant to the following guidelines.

Members of the Gateway community (except employees during their work hours), subject to the other provisions of this policy, may generally solicit signatures when the College's campuses are open and during the hours of 8:00 a.m. to 8:00 p.m. (Monday-Friday) and 8:00 a.m. to 1:00 p.m. (Saturday).

Individuals or groups not associated with Gateway's campus who wish to solicit signatures on campus must provide notice, by phone or in writing, to the Associate Vice President, Facilities and Security (or designee) at least five business days in advance

Signature solicitation must not interfere with the orderly conduct of Gateway's affairs, the maintenance of Gateway's property, the entrance to or exit from any Gateway facility, or the free flow of vehicular and pedestrian traffic. Signature solicitation is allowed outdoors without notice.

No indoor solicitation or signature collection is allowed in any Gateway building, facility or conference center, or temporary facility such as a tent, except where a table is reserved in accordance with facility use policies.

No individual may solicit signatures in libraries or centers that support student services, including but not limited to multicultural resource centers, learning success centers, during standard operating hours or in academic facilities or classrooms while class is in session unless granted express written permission by the Associate Vice President of Facilities and Security (or designee) to do so.

## **VIDEO AND PHOTOGRAPHY**

Noncommercial videotaping and photographing of public spaces are generally permissible due to the lack of expectation of privacy in such areas. Examples of public spaces include college events, commencement, and other non-sensitive invited events, as well as locations such as sidewalks, parks, and streets. Examples of noncommercial videotaping and photographing include media news coverage and videotaping and photography by staff and students for non-commercial, educational, or administrative purposes.

Permission or a release is generally required in situations in which there is a reasonable expectation of privacy or when doing so would invade the privacy rights of others (e.g. individuals are making an effort to hide or shield what they are doing). In these situations, it is best to error on the side of caution and obtain permission or a release to videotape or photograph individuals on campus.

Videotaping and photographing are allowed during normal operating hours unless permission is granted by the Associate Vice President of Facilities and Security (or designee) to partake in these activities outside of operating hours.

Commercial videotaping and photography require permission from Gateway's marketing department (Director of Marketing (or designee)). In such cases, the individual or group

making such videos or taking such images must obtain permission and releases from students.

***For additional details relating to the reasonable restrictions Gateway has placed on the distribution and posting of printed materials and the use of display tables on Gateway property, please see Administrative Policy H-170.***