

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SPENCER ANDERSON,

Plaintiff,

v.

DAVID T. HARRISON, individually and
in his official capacity as President
Columbus State Community College
President's Office, Main Campus Fr-117
550 E. Spring Street
Columbus, OH 43215;

DEBORAH HEATER, individually and
in her official capacity as Vice President
of Human Resources
Columbus State Community College
Main Campus Rh-115
550 E. Spring Street
Columbus, OH 43215; and

STEVEN ZELENKA, individually and in
his official capacity as Office Associate in
the Department of Human Resources
Columbus State Community College
Main Campus Rh-115
550 E. Spring Street
Columbus, OH 43215,

Defendants.

Case No. 2:13-cv-00838

Judge

VERIFIED COMPLAINT

Plaintiff Spencer Anderson, by and through counsel, and for his Complaint
against the Defendants, hereby states as follows:

INTRODUCTION

1. The cornerstone of higher education is the ability of students to
participate in the “marketplace of ideas” on campus. That marketplace depends on

free and vigorous debate between students—debate that is spontaneous, ubiquitous, and often anonymous—and is carried out through spoken word, flyers, signs, and displays.

2. This case arises from policies and practices of Columbus State Community College (“College”) and public officials employed by the College that restrict the expressive rights of students. Instead of encouraging free discourse and debate on campus, the College restricts all student speech to two small speech zones that occupy less than 1% of the College’s main Columbus Campus. Students may not speak spontaneously and anonymously on campus. Instead, students must obtain a permit to speak—whether through oral or written communication—48 hours in advance and must stay within one of the speech zones the College assigns to them. Through the permitting process, the College retains unfettered discretion to determine whether students may speak at all. These College policies and practices chill protected student speech and disable the ability of students to speak on campus about recent and unfolding events.

3. When Plaintiff Spencer Anderson, a student at the College, sought to discuss his religious and prolife views and to distribute flyers about his new prolife student group, College officials required him to get a permit 48 hours in advance, and then assigned him to one of the two speech zones to speak. College officials forbade him from exiting the speech zone to speak with people or give them his flyer.

4. This action is premised on the United States Constitution and concerns the denial of Plaintiff's fundamental rights to free speech, due process, and equal protection of law.

5. The aforementioned policies and practices are challenged on their face and as applied to Plaintiff Spencer Anderson.

6. Defendants' policies and practices have deprived and will continue to deprive Plaintiff of his paramount rights and guarantees under the United States Constitution.

7. Each and every act of Defendants alleged herein was committed by Defendants, each and every one of them, under the color of state law and authority.

JURISDICTION AND VENUE

8. This civil rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

9. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

10. This Court has authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief pursuant to 28 U.S.C. §§ 2201-02; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and costs and attorneys fees under 42 U.S.C. § 1988.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

PLAINTIFF

12. Spencer Anderson is a resident of the State of Ohio and a student at the College.

13. Mr. Anderson is a professing evangelical Christian with sincerely-held religious beliefs regarding morality, politics, social issues, and, particularly, abortion.

14. Mr. Anderson believes that a human fetus is a living person made in the image of God. Thus, he believes that abortion is tantamount to murder, morally wrong, against the commands of scripture, and an affront to God.

15. Mr. Anderson also believes that induced abortion is the deliberate destruction of innocent human life.

16. Because of these firmly-held religious beliefs, Mr. Anderson believes it is a duty of his religious faith to communicate the immorality and impropriety of abortion to the general public and his fellow college students in the hope that people will stop having abortions and that people will vote to end and/or restrict abortions. Moreover, Mr. Anderson wants to inform others, for their own benefit, that abortion is contrary to God's revealed will. He looks for opportunities to share his beliefs with his fellow students and community members.

17. Mr. Anderson does not seek monetary gain with his expressive activity about abortion. He does not try to sell products or services or ask for money. He merely wishes for others to be exposed to his beliefs about abortion.

DEFENDANTS

18. Defendant David T. Harrison is, and was at all times relevant to this Complaint, the President of Columbus State Community College—a public college organized and existing under the laws of the State of Ohio.

19. The College's Board of Trustees delegates to Defendant Harrison the responsibility for final policymaking authority concerning student and employee free speech activities at the College.

20. Defendant Harrison is responsible for enactment, amendment, and enforcement of College policies, including the Solicitation Policy and practice challenged herein.

21. Defendant Harrison possesses the authority and responsibility for coordination and approval of campus solicitation by students, employees, and third parties.

22. All changes in campus policy concerning solicitation are made only with the prior approval of Defendant Harrison.

23. Defendant Harrison has not instructed College personnel to change or alter the Solicitation Policy and practice to comply with constitutional mandates.

24. As president, Defendant Harrison has the authority to review, approve, or reject requests to use campus facilities and grounds by students.

25. Defendant Harrison is sued in his individual and official capacities.

26. Defendant Deborah Heater is, and was at all times relevant to this Complaint, Vice President of Human Resources at the College.

27. One of Defendant Heater's responsibilities as Vice President of Human Resources is to review and give final approval or disapproval to reservation requests to use the College's speech zones.

28. In executing her duty to review reservation requests, Defendant Heater implements College policy and procedure regarding solicitation by students.

29. Defendant Heater enforced the College's Solicitation Policy and practice against Mr. Anderson when he desired to distribute literature at the College.

30. Defendant Heater is sued in her individual and official capacities.

31. Defendant Steven Zelenka is, and was at all times relevant to this Complaint, an office associate in the College's Department of Human Resources.

32. As an office associate, Mr. Zelenka is charged with responsibility for enforcing the College's Solicitation Policy and practice with respect to student events and activities taking place within public facilities and on public property at the College.

33. Mr. Zelenka is responsible for initially processing and approving requests to use the speech zones at the College before he presents them to Defendant Heater for final review and approval or denial.

34. Mr. Zelenka enforced the College's Solicitation Policy and practice against Mr. Anderson when he desired to distribute literature at the College.

35. Mr. Zelenka is sued both in his individual and official capacities.

FACTUAL BACKGROUND

36. The College is a public community college organized and existing under the laws of the State of Ohio and receives funding from the State of Ohio to operate.

37. The College operates two campuses and nine regional learning centers.

38. The College's Columbus Campus is composed of various publicly-accessible buildings and outdoor areas, including streets, sidewalks, open-air quadrangles, and park-like lawns. A copy of the College's Columbus Campus map is attached as Exhibit 1 to this Complaint. A Google Maps satellite view of the College's Columbus Campus is attached as Exhibit 2 to this Complaint.

39. The College's Columbus Campus is located on more than 80 acres, which is approximately 3,484,800 square feet.

40. The College's Columbus Campus has many suitable streets, sidewalks, open-air quadrangles, and park-like lawns where expressive activity will not interfere with or disturb the College's educational environment or access to buildings or sidewalks.

41. In early June 2013, Mr. Anderson decided that he wanted to inform his fellow students about a new prolife student group he wants to start at the College

and decided to distribute flyers about it. A copy of Mr. Anderson's flyer is attached as Exhibit 3 to this Complaint.

42. He contacted Defendant Zelenka on June 11, 2013, and asked whether, as a student, he needed a permit to hand out flyers and speak to students about the new student group. A copy of the resulting email exchange between Mr. Anderson and Defendant Zelenka is attached as Exhibit 4 to this Complaint.

43. Defendant Zelenka responded the same day and said that if Mr. Anderson "intend[ed] to personally hand them to passersby rather than post them on the bulletin boards and kiosks, a permit will be required." Ex. 4.

44. Attached to Defendant Zelenka's email were the College's Public Access Area Reservation Agreement ("Reservation Form") and Guidelines for Solicitation of Employees of Columbus State Community College (hereinafter, the "Solicitation Policy"). Copies of the Solicitation Policy and the Reservation Form are attached as Exhibit 5 to this Complaint.

45. The Solicitation Policy applies to "co-workers, organized groups, and non-employees." Ex. 5.

46. The Solicitation Policy defines "non-employee" as "[a]ny person not actively employed by the college." Ex. 5.

47. It is the College's policy and practice to apply the Solicitation Policy to individual students who want to speak to their peers about issues and distribute flyers to other students of the College.

48. The Solicitation Policy defines “solicitation” as the “dissemination or posting of any verbal, written, or pictorial material such as flyers, notices, requests to pledge or join any organization” Ex. 5.

49. According to the Solicitation Policy, anyone who wants to speak or distribute literature must request permission in writing one business day prior to the proposed visit. Ex. 5.

50. The Solicitation Policy requires the permit applicant to state the purpose of the visit and the name(s) of those who desire to access the designated areas. Ex. 5.

51. The Solicitation Policy restricts student speech to two speech zones, “designated areas for public speech and assembly”: the “Light Sails” sculpture and the “Quadrangle area between Eibling, Rhodes, Madison, and Aquinas Halls” (“East Eibling plaza”). Ex. 5.

52. The East Eibling plaza is a small courtyard surrounded by College administrative and academic buildings. A Google Maps satellite view of the East Eibling plaza is attached as Exhibit 6 to this Complaint.

53. At the Light Sails, students may speak only west of the sculpture in a “25-foot radius.” All activity must be confined to the space west of the sculpture. Ex. 5. Two Google Maps satellite views of the Light Sails area are attached as Exhibit 7 to this Complaint.

54. The College prohibits students from engaging in expressive activities outside the two speech zones.

55. The College prohibits students from engaging in expressive activities unless they request to use the speech zones “in writing at least one business day in advance.” Ex. 5.

56. Defendant Zelenka told Mr. Anderson that the Solicitation Policy requires 48 hours notice for a permit to use the speech zones. Ex. 4.

57. Requests to use the speech zones “must be made to the Executive Director of Human Resources,” Defendant Heater. Ex. 5.

58. Non-employees and students who fail to adhere to the Solicitation Policy will be asked to leave campus. Ex. 5.

59. The Solicitation Policy makes an exception for co-workers who “from time to time informally collect money, for example for birthday gifts, flowers to express sympathy for another co-worker, or other personal events.” Ex. 5.

60. The Solicitation Policy was issued by Defendant Harrison or his predecessor, and he has the authority to modify or rescind the policy.

61. The Solicitation Policy contains no guidelines or standards to limit the discretion of College officials in granting, denying, relocating, or restricting requests by students to engage in expressive activity.

62. The Solicitation Policy contains no deadlines or timetables in which College officials must respond to a permit request.

63. The Solicitation Policy contains no options for College officials to waive the 48 hour notice requirement when students want to speak spontaneously in response to recent or unfolding events.

64. On June 30, 2013, Mr. Anderson submitted to Defendant Zelenka a Reservation Form requesting use of the Light Sails speech zone on July 9, 2013. A copy of Mr. Anderson's Reservation Form is attached as Exhibit 8 to this Complaint.

65. Defendant Zelenka contacted Mr. Anderson on July 1, 2013, because he believed the reservation form was blank, even though Mr. Anderson turned in a fully completed form. Nevertheless, Zelenka requested a "completed form to present to the VP for approval." Zelenka also indicated that July 9 was available and he asked for 48 hours notice for the approval process to be completed. Ex. 4.

66. On information and belief, the "VP" referred to by Defendant Zelenka is Defendant Deborah Heater, Vice President of Human Resources.

67. On information and belief, Defendant Heater reviews and approves or denies all reservation requests made pursuant to the Solicitation Policy.

68. Mr. Anderson resubmitted the reservation form on July 5, 2013.

69. Defendant Zelenka responded to Mr. Anderson and asked: "The pro life flyers you want to distribute, are they a product you came up with or are you distributing them on behalf of the group that produced them? I am sure our VP [Defendant Heater] will want to know. If another entity put them together, do they have a website we could visit? Could I get a sample of the flyer for the VP [Defendant Heater] to review? Thanks." Ex. 4.

70. Defendant Zelenka asked for copies of the prolife flyers so he and Defendant Heater could examine the content and viewpoint of Mr. Anderson's speech.

71. Defendant Zelenka asked for the website of any affiliated company so he and Defendant Heater could examine the content and viewpoint of Mr. Anderson's speech.

72. On information and belief, Defendant Heater previously instructed Defendant Zelenka to request copies of flyers and handouts so they can examine the content and viewpoint of the speech.

73. Mr. Anderson responded on July 8, 2013, and offered to bring copies of the flyers to Defendant Zelenka. Ex. 4.

74. Defendant Zelenka replied the same day and asked Mr. Anderson to drop off one flyer at the human resources front desk when he came to pick up his solicitor's badge. Ex. 4.

75. Defendant Zelenka said that Defendant Heater approved the solicitation request and that he would notify campus police of Mr. Anderson's visit. Ex. 4.

76. Defendant Zelenka required Mr. Anderson to speak about his new student group and distribute flyers in the East Eibling plaza and not the Light Sails area because the Light Sails was reserved several days before. Ex. 4.

77. East Eibling plaza did not serve Mr. Anderson's speech purposes because he could not reach his intended audience.

78. East Eibling plaza has low foot traffic and is a small courtyard area in front of administrative buildings and a classroom building.

79. Defendant Zelenka works in one of the buildings right in front of East Eibling plaza.

80. Mr. Anderson would like to distribute his club flyers in other outdoor campus locations that are generally open to passersby.

81. Specifically, Mr. Anderson would like to distribute his club flyers outside Davidson Hall, the Discovery Exchange-Bookstore, Columbus Hall, Delaware Hall, and Nestor Hall, because all of these locations are frequented by students that are his primary audience.

82. On July 9, 2013, Mr. Anderson distributed his club flyers in East Eibling plaza.

83. He visited the Light Sails for a few minutes that day and did not see anyone using that location.

84. Defendant Zelenka told Mr. Anderson that students must submit a reservation request form pursuant to the Solicitation Policy because when a student hands out a flyer on campus the College no longer considers him a student, but considers him an “activist.”

85. Earlier in April 2013, Mr. Anderson participated in another prolife display on campus that suffered under similar restrictions.

86. Mr. Anderson submitted a Reservation Form to bring the Genocide Awareness Project (“GAP”) to campus. He requested use of the Light Sails speech zone. A copy of Mr. Anderson’s Reservation Form for GAP is attached as Exhibit 9 to this Complaint.

87. GAP is a traveling photo-mural exhibit that compares the contemporary genocide of abortion to historically recognized forms of genocide.

88. The College approved GAP's use of the Light Sails speech zone.

89. Defendant Zelenka and the Director of Public Safety, John C. Nestor, told Mr. Anderson and a GAP employee named Darius Hardwick that anyone associated with the GAP display must stay within the speech zone boundaries, which for the Light Sails is the red brick pavement.

90. The red brick payment is a triangular area that measures approximately 36 feet by 42 feet by 57 feet. A copy of the site plan for the GAP display with measurements of the Light Sails speech zone is attached as Exhibit 10 to this Complaint.

91. The Light Sails speech zone is approximately 800 square feet.

92. The Light Sails speech zone occupies approximately 0.02% of the College's Columbus Campus.

93. Defendant Zelenka and Dr. Nestor told Mr. Anderson and Mr. Hardwick that they could not stand outside the speech zone and have one-on-one conversations with students.

94. On the first day of the GAP display, Dr. Nestor reminded Mr. Anderson and Mr. Hardwick that people associated with GAP must stay inside the Light Sails speech zone.

95. Mr. Anderson and Mr. Hardwick confined their speech to the Light Sails speech zone as instructed.

96. On information and belief, the College has not enforced the Solicitation Policy against students engaged in casual conversation, one-on-one discussions, group discussions, or the sharing of flyers, advertisements, or other documents with friends and peers on campus.

97. Mr. Anderson has witnessed people associated with People for the Ethical Treatment of Animals (PETA) distributing flyers outside the entrance to Davidson Hall, which is a classroom building and not near the two speech zones.

98. On information and believe, the College, including Defendants Harrison, Heater, and Zelenka knew about PETA distributing flyers and speaking to students outside the speech zones, approved PETA's actions, and did not take any action to enforce the Solicitation Policy against PETA.

99. Mr. Anderson has witnessed people advocating for equal rights in the workplace all over the College's Columbus Campus, handing out flyers, asking people to sign petitions, and seeking donations.

100. On information and belief, the College, including Defendants Harrison, Heater, and Zelenka knew about the people advocating for equal rights in the workplace outside the speech zones, approved their speech activity, and did not take any action to enforce the Solicitation Policy against them.

101. Mr. Anderson desires to engage in peaceful expressive activities on campus—including oral communication and literature distribution—in areas outside the designated speech zones, but he has not done so for fear of punishment.

102. The College's enforcement of the Solicitation Policy against Mr. Anderson burdens his speech for multiple reasons.

103. Mr. Anderson wants to distribute flyers containing religious, political, and prolife messages while he stands on public ways and open areas on the College's Columbus Campus. Specifically, he wants to distribute the flyers informing fellow students about his new prolife student group.

104. The College's speech zones are inadequate for Mr. Anderson's speech because he wants to reach a wider audience and there is greater foot traffic in other areas of campus.

105. Specifically, Mr. Anderson wants to give flyers about his prolife club to fellow students outside of classroom buildings and common areas where students congregate on campus.

106. Mr. Anderson's speech is further frustrated because he cannot distribute any flyer at the College until he first obtains a permit from the College to access the speech zones, and may only access those speech zones if they are not already reserved by someone else.

107. The permit requirement, in and of itself, is unduly burdensome as it requires 48 hours advanced notice for processing.

108. The permit requirement means that Mr. Anderson may not engage in spontaneous or anonymous speech on campus.

109. It is repugnant to Mr. Anderson that he, as an individual citizen and student at a public community college, must secure governmental permission to

distribute flyers, when he feels convicted by his religious faith and political beliefs to speak on campus.

110. Mr. Anderson also likes to spread his message about religion and politics in reaction to current events.

111. Mr. Anderson and all College students require the ability to speak spontaneously in reaction to news. And yet, the College's Solicitation Policy prohibits such spontaneous speech because it forces Mr. Anderson to obtain a permit prior to speaking.

112. Mr. Anderson is bound to comply with the terms of the College's Solicitation Policy at all times on campus.

113. Mr. Anderson is not distributing flyers about his prolife student group and other political and religious topics on campus due to the College's Solicitation Policy.

114. Mr. Anderson is chilled in his ability to discuss his prolife student group and other political and religious topics on campus due to the College's Solicitation Policy.

115. If not for the College's Solicitation Policy, and the actions of Defendants, Mr. Anderson would immediately return to the open areas of the College campus and distribute flyers that convey his messages about religion, morality, politics, and social issues, including his viewpoints on prolife issues.

116. Specifically, Mr. Anderson would distribute his flyers about the prolife student group he is trying to organize on campus and would discuss the group with

his peers and fellow students. Mr. Anderson refrains for fear of arrest or punishment under the College's Solicitation Policy.

117. The fear of arrest or punishment severely limits Mr. Anderson's constitutionally-protected expression on campus.

ALLEGATIONS OF LAW

118. At all times relevant to this Complaint, each and all of the acts alleged herein were attributed to the Defendants who acted under color of a statute, regulation, custom, or usage of the State of Ohio.

119. Defendants knew or should have known that by disallowing Mr. Anderson's expressive activity on campus without him obtaining prior permission, and restricting speech to two small speech zones, the College is violating his constitutional rights.

120. Mr. Anderson is suffering irreparable harm from the policy and practice of Defendants.

121. Mr. Anderson has no adequate or speedy remedy at law to correct or redress the deprivation of his rights by Defendants.

122. Unless the conduct of Defendants is enjoined, Mr. Anderson will continue to suffer irreparable injury.

FIRST CAUSE OF ACTION **Violation of Plaintiff's First Amendment Right to** **Freedom of Speech**

123. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–122 of this Complaint.

124. Speech, including written expression, is entitled to comprehensive protection under the First Amendment.

125. Religious and political speech—including the distribution of literature—is also fully protected by the First Amendment.

126. The First Amendment rights of free speech and press extend to campuses of state colleges.

127. The sidewalks and open spaces of the College campus are designated public fora—if not traditional public fora—for speech and expressive activities by students enrolled at the College.

128. The First Amendment's Free Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits content and viewpoint discrimination in the public forums for student speech and expression on the campus of a public college.

129. A public college's ability to restrict speech—particularly student speech—in a public forum is limited.

130. The First Amendment's Free Speech Clause prohibits censorship of religious and political expression.

131. Under the First Amendment's Free Speech Clause, a prior restraint on citizens' expression is presumptively unconstitutional, unless it (1) does not delegate overly broad licensing discretion to a government official, (2) contains only content and viewpoint neutral reasonable time, place, and manner restrictions, (3)

is narrowly tailored to serve a significant governmental interest, and (4) leaves open ample alternative means for communication.

132. Unbridled discretion to discriminate against speech based on its content or viewpoint violates the First Amendment regardless of whether that discretion has ever been unconstitutionally applied in practice.

133. The First Amendment's Free Speech Clause guarantees a citizen the right to express his views anonymously and spontaneously.

134. Defendants' Solicitation Policy and their practice of restricting student speech and literature distribution to the speech zones violate the First Amendment facially and as applied because they are a prior restraint on speech in areas of campus that are traditional or designated public fora for College students.

135. Defendants' Solicitation Policy and their practice of restricting student speech and literature distribution to the speech zones violate the First Amendment facially and as applied because they grant College officials unbridled discretion to discriminate against speech based on its content or viewpoint.

136. Defendants' Solicitation Policy and associated practices that require students to submit an application for approval at least 48 hours in advance of a proposed expressive activity and the limitation on the location of that activity to one of two speech zones, are unconstitutional "time," "place," and "manner" restrictions that violate Plaintiff's and other students' right to freedom of speech and expression.

137. Defendants' Solicitation Policy and associated practices provide no guidelines or standards to limit the discretion of College officials in granting, denying, relocating, or restricting requests by students to engage in expressive activity.

138. Defendants' Solicitation Policy and associated practices require students to submit to Defendants literature they wish to distribute and then delegate authority to Defendants to determine where students may distribute that literature, thus giving Defendants unbridled discretionary power to limit student speech in advance of such expression on campus and to do so based on the content and viewpoint of the speech.

139. These grants of unbridled discretion to College officials violate the First Amendment because they create a system in which speech is reviewed without any standards, thus giving students no way to prove that a denial, restriction, or relocation of their speech was based on unconstitutional considerations.

140. The First Amendment's prohibition against content and viewpoint discrimination requires Defendants to provide adequate safeguards to protect against the improper exclusion, restriction, or relocation of student speech based on its content or viewpoint.

141. Because Defendants have failed to establish neutral criteria governing the granting, denial, or relocation of student speech applications (including requests to use campus facilities and to distribute literature), there is a substantial risk that

College officials will engage in content and viewpoint discrimination when addressing those applications.

142. Defendants exercised the unbridled discretion granted them under the Solicitation Policy and practice when they required Plaintiff to use one of two speech zones for literature distribution and prohibited him from approaching students outside that speech zone.

143. Defendants' Solicitation Policy and associated practices do not contain any definite time period in which College officials must grant or deny students' requests to distribute literature.

144. Defendants' Solicitation Policy and associated practices that require prior approval to speak prohibit students from anonymously communicating with passersby via literature distribution.

145. Defendants' Solicitation Policy and associated practices that require 48 hours advanced notice to speak prohibit spontaneous expression.

146. Defendants' Solicitation Policy and associated practices are neither reasonable nor valid time, place, and manner restrictions on speech because they are not content-neutral, they are not narrowly tailored to serve a significant government interest, and they do not leave open ample alternative channels of communication.

147. Defendants' Solicitation Policy and associated practices are also overbroad because they prohibit and restrict protected expression.

148. Defendants' Solicitation Policy and associated practices unconstitutionally censor or restrict all private speech (including, but not limited to, literature distribution) that occurs outside the speech zones that Defendants, in their unbridled discretion, designate, and they require students and non-students to register all expressive activities with Defendants in advance.

149. The overbreadth of Defendants' policies and related practices chills the speech of students and non-students not before the Court who seek to engage in private expression (including literature distribution) in the open, outdoor area of campus.

150. Defendants' Solicitation Policy and associated practices chill, deter, and restrict Plaintiff from freely expressing his religious and political beliefs.

151. Defendants' Solicitation Policy and associated practices violate Plaintiff's right to free speech as guaranteed by the First Amendment to the United States Constitution.

152. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer irreparable harm. He is entitled to an award of monetary damages and equitable relief.

153. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated his First Amendment right to freedom of speech and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and

this Court and the reasonable costs of this lawsuit, including his reasonable attorneys' fees.

SECOND CAUSE OF ACTION
Violation of Plaintiff's First Amendment Right to
Free Exercise of Religion

154. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–122 of this Complaint.

155. The First Amendment's Free Exercise Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits the government from enacting policies that are not neutral or generally applicable.

156. A policy that appears neutral and generally applicable on its face violates the First Amendment if, in practice, the policy is not applied neutrally or generally, allows for exemptions, or targets a belief or faith-based practice. A policy that is applied in this manner violates the First Amendment unless it advances a compelling state interest and is narrowly tailored to that interest.

157. Defendants apply their Solicitation Policy in a way that targets private religious expression for special disabilities, which violates his First Amendment right to free exercise of religion.

158. Plaintiff desires to share his religious and prolife views and materials with his peers on campus based on his sincerely-held religious beliefs.

159. Defendants applied the Solicitation Policy to prohibit Plaintiff from sharing his religious and prolife views anywhere outside the two designated speech

zones, but allowed other people to share their views about animal rights and equal rights outside of the designated speech zones.

160. In practice, Defendants' Solicitation Policy is riddled with exemptions and Defendants enforce it to target and restrict Plaintiff's religiously-motivated activity.

161. Defendants' Solicitation Policy and practice substantially burdens Plaintiff's free exercise of religion by conditioning his ability to practice his faith and speak on foregoing his free exercise rights.

162. Defendants' Solicitation Policy and practice constitutes the imposition of special disabilities on Plaintiff due to his religion and his intent to engage in private religious activity and expression.

163. Defendants' Solicitation Policy and practice of banning Plaintiff's religious, prolife speech on campus, except in the speech zones, selectively imposes a burden on expression and religious practice based on the religious nature of the expression and practice and singles out his expression and practice for discriminatory treatment.

164. Defendants' interpretation and application of the Solicitation Policy chill Plaintiff's freedom of religious expression and exercise, both of which are fundamental rights guaranteed to Plaintiff by the First Amendment.

165. These special disabilities placed on Plaintiff by Defendants are neither neutral nor generally applicable.

166. Defendants' Solicitation Policy is not neutral in practice because it targets religious speech and permits Defendants to arbitrarily decide what speech is permitted under the policy and what speech is not.

167. Defendants' Solicitation Policy is not generally applicable in practice because it grants Defendants unbridled discretion, enforced by a policy of individualized assessment, to censor Plaintiff's religious, prolife expression while permitting other students to speak and distribute literature.

168. Defendants' Solicitation Policy and practice cannot be justified by a compelling state interest and is not narrowly tailored to advance any such interest.

169. Defendants' Solicitation Policy and practices violate Plaintiff's right to free exercise of religion as guaranteed by the First Amendment to the United States Constitution.

170. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer irreparable harm. He is entitled to an award of monetary damages and equitable relief.

171. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated his First Amendment right to free exercise of religion and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including his reasonable attorneys' fees.

THIRD CAUSE OF ACTION
Violation of Plaintiff's Fourteenth Amendment Right to
Due Process of Law

172. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–122 of this Complaint.

173. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff the right to due process of law and prohibits Defendants from promulgating and employing vague standards that allow for viewpoint discrimination in Defendants' handling of Plaintiff's literature distribution.

174. The government may not regulate speech based on policies that permit arbitrary, discriminatory, and overzealous enforcement.

175. The government may not regulate speech based on policies that cause persons of common intelligence to guess at their meaning and differ as to their application.

176. Defendants' Solicitation Policy and associated practices contain no criteria to guide administrators when deciding whether to grant, deny, relocate, or restrict student speech (including literature distribution) on campus.

177. Defendants' Solicitation Policy and associated practices are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants.

178. The lack of criteria, factors, or standards in Defendants' Solicitation Policy and associated practices renders these policies and practices

unconstitutionally vague and in violation of Plaintiff's right to due process of law under the Fourteenth Amendment.

179. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer irreparable harm. He is entitled to an award of monetary damages and equitable relief.

180. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated his Fourteenth Amendment right to due process of law and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including his reasonable attorneys' fees.

FOURTH CAUSE OF ACTION
Violation of Plaintiff's Fourteenth Amendment Right to
Equal Protection of the Law

181. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–122 of this Complaint.

182. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff the equal protection of the laws, which prohibits Defendants from treating Plaintiff differently than similarly situated students.

183. The government may not treat someone disparately as compared to similarly situated persons when such disparate treatment burdens a fundamental right, targets a suspect class, or has no rational basis.

184. Plaintiff is similarly situated to other students at the College.

185. Defendants allowed other students to engage in speech and distribute literature, but denied the same to Plaintiff.

186. Defendants treated Plaintiff disparately when compared to similarly situated students by denying Plaintiff the ability to distribute his flyers.

187. Defendants' Solicitation Policy and associated practices violate various fundamental rights of Plaintiff, such as its freedom of speech and due process of law.

188. When government regulations, like Defendants' Solicitation Policy and associated practices challenged herein, infringe on fundamental rights, discriminatory intent is presumed.

189. Defendants' Solicitation Policy and associated practices have also been applied to discriminate intentionally against Plaintiff's rights to freedom of speech and due process of law.

190. Defendants lack a rational or compelling state interest for such disparate treatment of Plaintiff.

191. Defendants' Solicitation Policy and associated practices are not narrowly tailored as applied to Plaintiff because Plaintiff's speech does not implicate any of the interests Defendants might have.

192. Defendants have applied the Solicitation Policy and associated practices to Plaintiff in a discriminatory and unequal manner, allowing other students to speak freely and distribute literature when Defendants say Plaintiff

cannot do the same, in violation of Plaintiff's right to equal protection of the laws under the Fourteenth Amendment.

193. Defendants knew about the people associated with PETA and advocating for equal rights in the workplace, and allowed them to distribute literature and solicit students outside the speech zones.

194. Because of Defendants' actions, Plaintiff has suffered, and continues to suffer irreparable harm. He is entitled to an award of monetary damages and equitable relief.

195. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff is entitled to a declaration that Defendants violated his Fourteenth Amendment right to equal protection of law and an injunction against Defendants' policy and actions. Additionally, Plaintiff is entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including his reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants and provide Plaintiff with the following relief:

- (A) A declaratory judgment that the Defendants' Solicitation Policy and associated practices, facially and as-applied, violate Plaintiff's rights under the First Amendment;

- (B) A declaratory judgment that the Defendants' Solicitation Policy and associated practices, facially and as-applied, violate Plaintiff's rights under the Fourteenth Amendment;
- (C) A declaratory judgment that the Defendants' restriction of Plaintiff's distribution of literature violated Plaintiff's rights under the First and Fourteenth Amendments;
- (D) A preliminary and permanent injunction prohibiting the Defendants, their agents, officials, servants, employees, and any other persons acting in their behalf from enforcing the Solicitation Policy and associated practices challenged in this Complaint;
- (E) Compensatory and nominal damages for the violation of Plaintiff's First and Fourteenth Amendment rights;
- (F) Plaintiff's reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (G) All other further relief to which Plaintiff may be entitled.

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