

Campus Protests

This document outlines policy and statute requirements regarding demonstrations and protests. These policies and statutes are based on the requirements of the First Amendment to the Constitution of the United States.

"The First Amendment is first, not simply because it falls at the beginning of a list of amendments, but because it articulates the first freedom and the nature of that freedom. It guarantees the freedom essential to humans as rational beings.

By connecting the freedom of religion with the freedom of speech, the First Amendment gets to the essence of what it is to be a human — for it is self-evident that we are thinking beings. We use reason to form thoughts, and we think in order to make sense of, or give meaning to, our experiences in light of our basic beliefs."

"Our freedom to think and pursue meaning involves our need to publicly deliberate about our beliefs and especially in those areas where we remain divided. And this is why the First Amendment remains the first in importance." (Anderson, Owen, (2016, December 12). Why the First Amendment is "first in importance". The Washington Times. Retrieved from <http://www.washingtontimes.com>)

The First Amendment states:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." (U.S. Const. amend. I)

The rights of protest and free speech are guaranteed in the First Amendment of the U.S. Constitution. Truman understands the importance of free speech, whether these opinions be dominant or marginalized. Free speech means being open to hearing all opinions, including those you may not agree with. The words *"the right of the people peaceably to assemble"* are particularly important to civil discourse.

In order to have a community where differing viewpoints can be heard and considered, the Truman community must be civil. The Student Conduct Code promotes such civility as follows:

CIVILITY: Truman State University students and organizations exemplify civil and respectful treatment of each other in their dealings and interactions. Behavior that violates this value includes, but is not limited to:

8. Physical Harm

- 8.1. Intentional or reckless physical harm or threat of physical harm to any person...
- 8.3. Conduct that intentionally or recklessly threatens or endangers the health or safety of any other person(s).
- 8.4. Condone or encourage acts that cause physical harm.

Truman, to facilitate and protect its community environment and to promote civil discourse, has set in place certain relevant Student Conduct Code provisions to prevent disruptive conduct within its community:

COMMUNITY: Truman State University students and organizations honor and value their community. Behavior that violates this value includes, but is not limited to:

1. Disruptive conduct.

- 1.1. Acting in a manner that can reasonably be expected to disturb or obstruct the academic pursuits, including teaching, research, and administration, or infringe upon the privacy, rights (e.g., freedom of speech), privileges, health or safety of (a) students, (b) organizations, (c) the University community, (d) guests, or (e) local community.
- 1.2. Acting in a manner that can reasonably be expected to (a) disturb or obstruct the free movement of other students around the campus including pedestrian and vehicular traffic on University premises, (b) interfere with the use of University facilities, (c) prevent the normal operation of University, or (d) residential and/or social activities.
- 1.3. An act that (a) is a breach of peace or (b) that aids, abets, or procures another person to breach the peace on University premises, at activities or events arranged or sponsored by the University, or sponsored by a student organization(s), regardless of location.

Truman employs University Officials, such and officers of the Department of Public Safety, to ward against disruptive behavior. In order to do their job, the University official's directions must be followed by the Truman community. It is a violation of the Student Conduct Code to not comply with such directions, to-wit:

Compliance with the Directions or Requests of University Officials.

- 7.9. Failure to timely comply with oral or written instruction from duly authorized (a) University officials acting within the scope of their job duties (b) authorized agents acting in the performance of their duties, or (b) law enforcement officers acting in performance of their duties.

It is also a violation of the Student Conduct code to violate City or State laws:

- 21. Allegation of commission of felony, misdemeanor or other crime. Allegation of commission of an act which may be a (a) felony or (b) misdemeanor or (c) other crime as provided in local, state, or federal law will also constitute a violation of

this Code, and subject the accused student to conduct action, whether or not prosecuted by public officials.

The City of Kirksville has enacted the following relevant ordinances:

Sec. 18-5. - Rules and regulations during nonviolent civil rights demonstrations.

(a) The city hereby adopts and will enforce this section prohibiting the use of excessive force by law enforcement officers within its jurisdiction against any individual engaged in nonviolent civil rights demonstrations. The city also prohibits the physical barring of any entrance or exit to such facility and will enforce all applicable ordinances and state laws regarding same.

(b) Any person found to be violating the provisions of this section shall be served by the city with notice stating the nature of the violation.

(c) Any person guilty of this violation shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred dollars (\$100.00) for each violation. Each separate occurrence in which any such violation shall take place shall be deemed a separate offense.

(d) Any person violating any of the provisions of this section shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.

(Ord. No. 11103, §§ 2—5, 7-12-93)

Many times what a person has to say, while protected by the First Amendment, is offensive and what some would term, “hate speech”. Hate speech can be defined as:

Hate speech is a communication that carries no meaning other than the expression of hatred for some group, especially in circumstances in which the communication is likely to provoke violence. It is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, national origin, gender, religion, sexual orientation, and the like. Hate speech can be any form of expression regarded as offensive to racial, ethnic and religious groups and other discrete minorities or to women.
(<http://www.legaldirectories.com>)

While hate speech is protected under the First Amendment, underlying criminal violations are not. For example, a person who is legally present in a public setting can make statements that reflect hatred towards a religion. However, that speaker cannot then physically attack a person of the targeted faith. If the speaker does assault a person, that crime can be termed a “hate crime” allowing for enhanced sanctions.

A speaker can be arrested for inciting violence through their rhetoric. Usually the violence the speaker is encouraging must be imminent, intentional, and the speaker must know his or her speech will incite such violence. Basically, for a criminal charge to be in compliance with the First Amendment, the charge must be for the conduct, not the speech.

A person who does not like another person's message, hate speech or not, is free to protest. A protest can occur in a public forum. At that public forum a protestor can distribute leaflets or other materials so long as entrances are not blocked and pedestrians or other traffic are not prohibited or detained. In general the protest must be conducted in an orderly, non-disruptive manner. Protestors and counter-protestors cannot disrupt each other's protesting. Each has a right to be present and voice their support or displeasure.

Truman recognizes the First Amendment rights of all community citizens, even those who engage in hate speech with no underlying criminal activity. Likewise, Truman is committed to facilitating the First Amendment right of those in the community who wish to protest another's speech, including hate speech.

It is in such open environment what opposing viewpoints can be considered and to which rational informed personal beliefs can be developed.

"We continue to be divided and have disagreements about our most basic beliefs. This Amendment not only gives us the freedom to believe and practice our particular religions, but also the freedom to discuss and debate over these differences. The more we understand the role of basic beliefs in how we interpret experiences, both individually and collectively, the more we will see why agreement is important. It is as thinking beings that we can begin to increasingly realize the goal of 'E pluribus unum.'" Anderson, Owen (2016).

"E pluribus unum" translates, "out of many, one". Truman is a community of rational scholars with differing beliefs. We can and should come together to discuss, debate and learn—and become one. We are Truman.