



William & Mary

OFFICE OF THE PRESIDENT

December 1, 2023

The Honorable Glenn A. Youngkin
Governor
Commonwealth of Virginia
Post Office Box 1475
Richmond, VA 23218-1475
glenn.youngkin@governor.virginia.gov

The Honorable L. Louise Lucas
Post Office Box 700
Portsmouth, VA 23705-0700
district18@senate.virginia.gov

The Honorable G. John Avoli
Post Office Box 1942
Staunton, VA 24402
DelJAvoli@house.virginia.gov

Dear Governor Youngkin, Senator Lucas, and Delegate Avoli,

In compliance with §23.1-401.1(D) of the Code of Virginia, William & Mary submits this report documenting satisfaction of the following statutory requirements:

1. Institutional policies regarding speech that is constitutionally protected under the First Amendment to the United States Constitution and the process to report incidents of disruption of such constitutionally protected speech are included in the student handbook, on the university's website, and in student orientation programs;
2. Certification that required employees have been notified of these policies;
3. Provision of a copy of any complaint filed in a court of law since December 1 of the preceding year to initiate a lawsuit against the institution or an employee of the institution in his official capacity for an alleged violation of the First Amendment to the United States Constitution.

William & Mary takes seriously our responsibility to uphold the constitutional freedoms provided under the First Amendment. The university was proud to join the Virginia Council of Presidents at the beginning of the new year to reaffirm its unequivocal support of free expression and viewpoint diversity.

On behalf of the university, I certify that William & Mary notified all employees who are responsible for discipline or education of enrolled students of the existence of policies and rights articulated in the Student Handbook. This occurs annually through the Provost's "Essential Matters" communication, most recently distributed by email on September 25, 2023. A form to Report Disruption of Constitutionally Protected Speech is available to members of the William & Mary community, as well as unaffiliated individuals. This form is hyperlinked to the centralized website (www.wm.edu/report), which is provided to all employees and students in back-to-school communications from the Provost and Vice President for Student Affairs, respectively, in fall 2023.

This fall new and returning students were given free access to the Constructive Dialogue Institute's (CDI) online interactive lessons to foster empathy, mutual understanding, and the skills to engage with others' ideas. On October 16, 2023, the university distributed a guide to students on how to practice constructive civil discourse, update students on their access to CDI lessons, and provide further information to students about ways for them to become effectively engaged around campus. In a follow up email to all students on October 27, 2023, the university explained the First Amendment protections that students enjoy on campus. This email included the definition of protected speech, explained the high legal threshold for speech that is not protected, identified applicable time, place and manner restrictions that students need to be aware of and reminded students that the best way to combat speech they disagree with is with more speech, not censorship or personal attacks.

I further certify that since December 1, 2022, no complaints were filed against William & Mary to initiate a lawsuit against the institution or any employee of the institution in his/her official capacity for an alleged violation of the First Amendment to the United States Constitution. Thus, no such complaints have been included in this report.

Sincerely,

A handwritten signature in black ink, appearing to read "K. A. Rowe". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Katherine A. Rowe
President

Attachments

- A. William & Mary Policies Regarding Constitutionally Protected Speech
- B. William & Mary Freedom of Expression on Campus Webpage Content
- C. 10/16/23 email from Vice President for Student Affairs re: Practicing constructive civil discourse
- D. 10/27/23 email from Vice President for Student Affairs re: Expression on campus

Attachment A: William & Mary Policies Regarding Constitutionally Protected Speech

In compliance with §23.1-401.1(B) of the Code of Virginia, William & Mary includes (1) in the Student Handbook, (2) on the website, and (3) in student orientation programs policies regarding speech that is constitutionally protected under the First Amendment to the United States Constitution and the process to report incidents of disruption of such constitutionally protected speech.

1. W&M Student Handbook

The Student Handbook section of Student Rights and Responsibilities, Section II. outlines students' basic rights of freedom of expression and belief, freedom of association and peaceful assembly. All new students are informed of these policies, rights and processes in the orientation session prior to the beginning of the fall and spring semester. All students receive an annual "Fall Semester Announcements" email communication from the Vice President for Student Affairs that states:

FREE SPEECH & USE OF CAMPUS FACILITIES

William & Mary is committed to creating an environment in which all members of the community and invited guests are encouraged to speak freely and express themselves on university property. Such a commitment to free expression is essential to fostering open discourse, argumentation, speaking, listening, learning and exploration of ideas.

More information about university policies concerning free speech can be found on our website, along with relevant links to the Student Handbook and the Use of Campus Facilities policies which apply to the scheduling and conduct of campus events and activities, e.g. meetings and other group activities of student organizations; speeches, performances, and other events by outside groups invited by student organizations; demonstrations, rallies, vigils, and other group free speech exercises; and distributions of literature such as leafleting and pamphleting. For assistance in scheduling and planning your activities, please contact the Scheduling Office in the Sadler Center.

Attachment B: William & Mary Freedom of Expression on Campus Webpage Content

➤ Policies & Regulations Relevant to Free Speech

- [Use of Campus Facilities for Non-University Purposes Policy](#)
- [Posting and Chalking on Campus Policy](#)

➤ Materials Relevant to Protected Rights & Responsibilities

- [Faculty Handbook](#)

Section I. A. Statement of Rights & Responsibilities ensures that students, faculty and administrators shall enjoy all rights, privileges and immunities guaranteed to every citizen of the United States and the Commonwealth of Virginia.

1. Among the basic rights are freedom of expression and belief, freedom of association and peaceful assembly, and freedom from personal force and violence, threats of violence and personal abuse.

Section III.A. Academic Freedom and Professional Ethics safeguards a faculty member's ability to "encourage free discussion, inquiry, and expression" in the course of teaching and learning. Additionally, "(F)aculty members are also entitled to their political rights and should be free from institution censorship or discipline for exercising them".

- [Student Handbook – Rights and Responsibilities](#)

Section II. Rights, Privileges and Immunities states in part that the members of the university community, as individuals, shall enjoy all rights, privileges, and immunities guaranteed every citizen of the United States and the commonwealth of Virginia, including:

A. Basic Rights: Among the basic rights are freedom of expression and belief, freedom of association and peaceful assembly, and freedom from personal force and violence, threats of violence and personal abuse.

C.2. Right to Organize: The right to hold public meetings, to invite speakers of his/her own choosing to campus, to post notices, to engage in peaceful, orderly demonstrations within reasonably and impartially applied rules (see Use of Campus Facilities Policy above)

Section III. A. Rights and Responsibilities of Citizenship articulates in part that students have the right to:

3. "discuss freely, inquire and express opinions inside the classroom"
6. "hear and study unpopular and controversial views on intellectual and public issues"
7. "expect that information about his/her views, beliefs and political associations which an instructor acquires in the course of his/her work as a teacher, advisor or counselor of the student be held in confidence."

➤ Process for Reporting Disruption of Constitutionally Protected Speech

Online [Report Form](#) for community members or invited guests

Attachment C

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Practicing constructive civil discourse – W&M News



CAMPUS ANNOUNCEMENTS

Practicing constructive civil discourse

Vice President for Student Affairs Ginger Ambler sent the following message to William & Mary students on Oct. 16, 2023.

Ginger Ambler, vice president for student affairs Published October 17, 2023

Vice President for Student Affairs Ginger Ambler sent the following message to William & Mary students on Oct. 16, 2023. – Ed.

Dear William & Mary Students,

One of the core benefits of being a member of a university community is the ability to engage intellectually and critically with new ideas and to expand awareness of our role in promoting democracy. Learning how to express our viewpoints, engage counter-arguments constructively and move toward effective action are core to the William & Mary student experience. This is particularly important as we head into another election season and at a time of intense international conflict.

While that discourse can be uncomfortable, there are tools and guiding principles that can be applied that offer us appropriate options when we encounter speech that unsettles us. These responses can include engaging in constructive dialogue with those holding oppositional views, organizing counter-programming that publicly presents a different perspective, or simply ignoring the speech that you find offensive. What can never be tolerated at William & Mary is property damage, physical confrontation or other violations of the law and/or Code of Student Conduct. In this community, such conduct is addressed as a disciplinary matter and referred for criminal prosecution, if appropriate.

Civic dialogue and engagement are learned skills, ones you will explore in your classrooms, student organizations, living environments and service commitments. William & Mary offers a wealth of opportunities and resources to learn how to become more effectively engaged, and be able to confront ideas, not people:

1. [Office of Community Engagement](#)
2. [Student Unions & Engagement](#)
3. [Student Leadership Development](#)
4. [W&M Democracy Initiative](#)
5. [Self-Governance in Residence Halls](#)
6. [Dean of Students Office](#)

In addition, all members of the William & Mary community have free access to the [Constructive Dialogue Institute's](#) online learning program, *Perspectives*, an evidence-based tool that fosters empathy and mutual understanding across differences. It is designed to help you better understand yourself and others, and to equip you with the skills to engage in constructive dialogue. The program consists of six interactive lessons that each take about 20 minutes to complete. All members of our community are invited to sign-up and access the first two *Perspectives* lessons using the access codes linked below. The remaining four lessons will be available after November 1. New students received their access codes over the summer. Questions can be directed to cdi@wm.edu.

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Practicing constructive civil discourse – W&M News

- *CDI/Perspectives Access* - [Upperclass Students](#)
- *CDI/Perspectives Access* - [Graduate Students](#)
- *CDI/Perspectives Access* - [Faculty & Staff](#)

I hope you'll make use of these resources. Skills in democratic engagement that you develop at William & Mary will strengthen your relationships with others and amplify your impact in the world for years to come.

Sincerely,

Ginger Ambler

Vice President for Student Affairs

Co-Chair, W&M Democracy Initiative

William & Mary

Tags: [Student Affairs](#)

Attachment D

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Expression on Campus – W&M News

W&M NEWS

CAMPUS ANNOUNCEMENTS

Expression on Campus

A message to the student body emphasizing the William & Mary communities practices and values around free expression, civil discourse, respect and belonging.

admin Published October 27, 2023

The following message was sent from the Vice President for Student Affairs to the student body on Oct. 27, 2023 - Ed.

Dear Students,

The past two weeks have strained our world and given rise to a divisiveness on campuses across this country that we have not seen in many years. As often happens in times of intense geopolitical conflict, voices have been raised, people have taken sides, and we are, at times, acting outside of our community's values. What does it mean for us now to embrace respect, curiosity, and belonging? There is nothing easy about navigating a time like this.

Last week I sent you a message outlining ways to **Practice Civil Discourse** and the resources W&M offers to help our community engage across difference. Today I want to address some of the questions we are hearing, to set expectations about the university's ability to restrict speech, and to talk about what W&M can and cannot do as we move forward as a community.

In these recent weeks, the university has been asked repeatedly to step in to control, extinguish, and/or moderate the speech of members of our campus community. Concerns have been raised about language others are using, written expressions on signs, online posts, slogans on t-shirts, and verbal speech at tabling events, vigils, and sit-ins.

We hear those concerns, **and** the university cannot silence people who are legally exercising their right to free expression. To do so would both violate the First Amendment of the U.S. Constitution and betray our university's core values and mission. Once one person's right to speak is eroded, the right to speak is weakened for us all. We each risk losing our voice – a profound undermining of the most basic principle of democratic society. Know that, in most instances, the university is not in a position to punish or prevent speech.

It is also true that hateful speech, and language that blames or injures with rhetoric, violates W&M's values of belonging and respect. Our learning community denounces such speech, speech that serves no purpose other than to create dissension and promote fear. Information about distinguishing between protected and unprotected speech is outlined below, along with options for responding to protected speech that you find offensive.

Let's first define what is and is not protected speech.

The First Amendment of the Constitution states that Congress shall make no law **that abridges the freedom of speech**. This has been interpreted to mean that all but the most egregious speech is protected by law. In addition, Virginia law (Va. Code Sec. 23.1-401.1) states that no public institution of higher education may abridge the constitutional freedom of any individual to speak on campus.

What is considered speech under the First Amendment?

Most written and verbal communication is "speech." Verbal statements, written slogans on posters and shirts, online writing, and even lyrics in music are considered speech.

What speech is not protected under the First Amendment?

There are a few *limited* exceptions to our constitutional Free Speech protections:

- **Harassment:** Speech that creates both a *severe and pervasive* hostile environment **and** is also *objectively offensive* to the average William & Mary student would be deemed illegal harassment and not protected. This is a very high legal threshold.
- **True Threats:** Speech that would cause the listener to believe that an immediate act of violence is about to occur against identifiable persons. Words alone are not enough. The speaker must intend for the listener to believe violence will occur. This is also a very high threshold.
- **Fighting Words:** In-person (not on social media) speech which would make the average William & Mary student feel propelled to violence simply by hearing it. It is not enough to find language disturbing. No court has ever found this exception to be applicable, mostly because we all have self-determination, a choice, and an opportunity to walk away and exercise self-control.
- **Defamation:** Speech about a specific individual that is both untrue and causes injury to reputation.

What about hate speech?

Hateful speech, even speech that is focused on hurtful, pejorative, racialized themes, or which invokes stereotypes and tropes is still protected speech unless it meets the criteria outlined above. Without a doubt, hateful speech often pains and harms others. It can be scary and deeply upsetting. By definition, it is antithetical to our mission and values – and yet it is constitutionally protected speech.

When does protected speech cross the line into something actionable?

The university has established content-neutral restrictions on the time, place and manner where speech can occur. For example, speech that disrupts class schedules or the operation of campus events and activities is prohibited. In addition, speech outside of buildings is treated differently than such speech inside buildings.

Details on applicable restrictions can be found in the following policies: [Use of Campus Facilities for Non-University Purposes](#) and [Posting/Chalking Policy](#). Likewise, speech directed toward particular individuals, especially speech attempting to compel certain outcomes, can quickly escalate from an expressive activity into an interpersonal conflict. Speech that includes conduct which violates university policies will be addressed accordingly.

What can we do?

In times of uncertainty and conflict, we can feel helpless, silenced, and powerless. Yet, alone and together, there are many things we can do to respond to protected speech that we find hateful or offensive.

Report: If you feel you have experienced or witnessed illegal harassment or threats, please report this to reportconcern@wm.edu. You matter. The university will respond vigorously to conduct and policy violations – investigating them swiftly in a way that ensures due process.

Respond: Use your voice! The best way to combat speech is with speech. Good, civil, educated, passionate, factual speech. Meet bad facts with better ones, meet silence with sound, meet ignorance with education, meet positionality with dialogue. Find ways to confront ideas, not the speakers themselves. When you hear bias, name what you hear, in a way that others can also hear: say, “I find that phrase X, and here’s why.”

As mentioned in my most recent email, there are offices across campus that can help you reserve spaces for speech, hone your speech skills, and offer you many opportunities to learn how to become more effectively engaged:

1. [Civic & Community Engagement](#)

2. [Student Unions & Engagement](#)
3. [Student Leadership Development](#)
4. [W&M Democracy Initiative](#)
5. [Self-Governance in Residence Halls](#)
6. [Dean of Students Office](#)

Recover: Most importantly, experiencing hateful speech can be deeply painful. If you are hurting or feeling injured or alone, we have many campus resources to help. We care about you.

1. [Counseling Center](#) - when one-to-one or group therapy is needed
2. [Timely Care](#) - online 24/7 counseling support
3. [Campus Recreation](#) - take out a canoe, do a fitness class, move your body

Looking to the future:

William & Mary has played a pivotal role in the shaping of democracy since the founding of the United States. We have and will continue to lead essential efforts to practice and promote democratic ideals in the pursuit of a more perfect union. We will rely on our community, our history, and our laws to guide us through.

Even as our world is deeply divided, we have the opportunity to rediscover the ideals that make pluralistic democracies strong. I have faith we will do just that - together.

Sincerely,

Ginger Ambler

Virginia M. Ambler '88, Ph.D. '06

Vice President for Student Affairs

William & Mary

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