

A Brief Introduction to Free Speech for the Student Community



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What is Free Speech?

Free speech or free expression refers to the constitutional right, protected by the First Amendment, to express opinions, ideas, and beliefs without government censorship or interference. It fosters an environment where individuals can engage in open dialogue, share diverse perspectives, and explore controversial topics. Although this right is fundamental, it comes with certain reasonable restrictions to ensure a safe and inclusive campus environment. Not all expressive actions are protected.

“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.”

– First Amendment to the Bill of Rights of the U.S. Constitution

What Speech is not protected by the First Amendment?

- **Defamation:** False statements that harm the reputation of others
- **Incitement to Violence:** Speech that directly encourages or incites others to commit unlawful actions immediately
- **True Threats:** Communication that conveys a serious intention to harm or commit violence to a particular person or group
- **Fighting words:** Speech that is likely to incite an immediate physical confrontation or breach of the peace
- **Speech by public employees** pursuant to official duties or related to matters not of a public concern
- Speech that prevents others from speaking, expressing themselves or getting an education
- Material and substantial disruptions or disorder
- Speech that disrupts classes or school operations
- **Harassment**
- **Commercial speech** that is false or misleading
- **Fraud**
- **Obscenity:** Speech that is explicitly sexual and lacks any artistic, literary, or scientific value
- **Pornography**

What is Hateful Speech?

“Hateful conduct” has been defined under New York State law to include online speech that can “vilify” or “humiliate” a group or a class on the basis of race, sex, and other traits. New York State recently enacted an “Online Hate Speech Law” that requires social media sites to promulgate policies governing so-called “hateful conduct” and create “mechanisms” by which users can report such conduct.

Freedom from Harassment

Balancing freedom of expression and maintaining a harassment free environment at CUNY is crucial and is everyone’s responsibility. Freedom of speech protects the expression of ideas, even unpopular ones. Hateful conduct can involve speech that promotes violence or discrimination against a particular group. Fighting words are direct, personal, and likely to incite immediate violence, falling outside the protection of speech. The key difference between protected speech and fighting words lies in the potential harm and immediacy associated with fighting words.

Freedom from Harassment and Freedom of Expression

Balancing the right to a harassment free environment and the right of freedom of expression at CUNY is crucial. Encouraging diverse perspectives while maintaining respect for all individuals fosters a healthy learning and intellectual environment. It is essential to follow guidelines that promote open dialogue without compromising the safety and well-being of our university community. Setting clear boundaries while encouraging open dialogue helps create an environment where individuals feel heard and respected and can attain an education free from harassment or discrimination. It must be remembered that speech which impairs another’s rights may not always be protected speech.

Time, Place and Manner Restrictions

Content-neutral time, place, and manner restrictions may be placed on expressive activities. Examples of such restrictions include regulations that prevent disruptive activity, prevent obstruction of vehicle or pedestrian traffic, or prevent excessive noise or noise that interferes with classroom, or university operations and activities. The right to speak does not mean a person can disrupt classes or university operations. The CUNY community must comply with the Henderson Rules. We encourage all students to be familiar with the Henderson Rules (cuny.edu/HendersonRules). If you have any questions about your school’s time, place and manner restrictions, please contact your school’s Office of Student Affairs.

Helpful Resources

Student Policies & Procedures

CUNY Equal Opportunity &
Non-Discrimination Policy

CUNY Rules and Regulations for the Maintenance
of Public Order (Henderson Rules)

Collective Bargaining Agreement-Article 21

Student Resources

CUNY University-Wide Discrimination
and Retaliation Reporting Portal

State Resources

New York State Anti-Hate Crime
Resource Guide (ny.gov)

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