

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

College Republicans of SIUE,
Plaintiff,

vs.

Randy J. Dunn, President of Southern Illinois University, in his official and individual capacities; **Randall Pembrook**, Chancellor of Southern Illinois University Edwardsville, in his official and individual capacities; **Rich Walker**, Vice Chancellor for Administration of Southern Illinois University Edwardsville, in his official and individual capacities; **P. Denise Cobb**, Provost and Vice Chancellor for Academic Affairs of Southern Illinois University Edwardsville, in her official and individual capacities; **Jeffrey Waple**, Vice Chancellor for Student Affairs of Southern Illinois University Edwardsville, in his official and individual capacities; **Rachel Stack**, Vice Chancellor for University Advancement of Southern Illinois University Edwardsville, in her official and individual capacities; and **Kevin Schmoll**, Chief of Police of Southern Illinois University Edwardsville, in his official capacity,
Defendants.

Case No.

VERIFIED COMPLAINT

JURY TRIAL REQUESTED

Plaintiff College Republicans of SIUE (the “College Republicans”), by and through counsel, and for its 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 Southern Illinois University Edwardsville (“SIUE”) and public officials employed by SIUE that restrict the expressive rights of students and student organizations.

3. Although SIUE purports to encourage free discourse and debate on campus, it uses its Demonstrations on University Property Policy (the “Speech Zone Policy”) to restrict student speech to one small designated speech zone (the “Speech Zone”).

4. SIUE’s Speech Zone Policy prohibits students from speaking outside of the Speech Zone, including on public sidewalks, walkways, lawns, and other outdoor areas. Instead, students must confine their expressive activities to the Speech Zone, and if the zone is occupied, they may not speak at all.

5. Additionally, under the Speech Zone Policy, a student must request permission to use the Speech Zone in advance of the planned activity.

6. SIUE further restricts its students’ expressive activities through its Solicitation Policy (the “Solicitation Policy”) (the Speech Zone Policy and Solicitation Policy are sometimes collectively referred to as the “Speech Policies”) which forbids students from talking with other students about their organization or handing out leaflets anywhere on campus without obtaining prior permission.

7. The Speech Policies chill protected student speech and disable students from speaking on campus about recent and unfolding events.

8. The College Republicans are a recognized student group at SIUE.

9. The College Republicans are dedicated to promoting and advocating for conservative values on the SIUE campus through a variety of means including flyers, signs, peaceful demonstrations, hosting tables with information, inviting speakers to campus, and talking with fellow students about conservative ideas, among other things.

10. However, the Speech Policies prevent the College Republicans from sharing their message with all students on campus by prohibiting them from speaking anywhere but the Speech Zone and requiring prior permission before using the Speech Zone.

11. This action is premised on the United States Constitution and concerns the denial of the College Republicans' fundamental rights to free speech and due process.

12. Defendants' Speech Policies and practices have deprived and will continue to deprive the College Republicans and other students of their paramount rights and guarantees under the United States Constitution.

13. 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

14. 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.

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

16. 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.

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

PLAINTIFF

18. Plaintiff College Republicans of SIUE is a recognized student organization at SIUE.

19. The College Republicans recruit, train, mobilize, and engage students to help elect Republican candidates, support the Republican agenda, and become the future leaders of the conservative movement through volunteering, campaigning, and teaching and promoting conservative values.

20. The College Republicans promote the intellectual development of students who share an interest in conservative values through activism and academics.

21. The College Republicans seek to express their message on SIUE's campus through a variety of means including flyers, signs, peaceful demonstrations, hosting tables with information, inviting speakers to campus, and talking with fellow students about conservative ideas, among other things.

22. When engaging in these expressive activities, the College Republicans discuss political, religious, social, cultural, and moral issues and ideas.

DEFENDANTS

23. Defendant Randy J. Dunn is, and was at all times relevant to this Complaint, the President of the Southern Illinois University System (“SIU”), a public university organized and existing under the laws of the State of Illinois.

24. SIUE is part of the SIU system and receives funding from the State of Illinois to operate.

25. As President of SIU, Defendant Dunn is the chief executive and administrative authority of SIU and is specifically delegated with the authority and responsibility for approval of SIUE’s Speech Policies governing expressive activity and demonstrations.

26. All changes in campus policy concerning expressive activity are made only with the prior approval of Defendant Dunn.

27. Defendant Dunn has not instructed Defendant Pembroke to change or alter the Speech Policies to comply with constitutional mandates.

28. Defendant Dunn is sued in his official and individual capacities.

29. Defendant Randall Pembroke is, and was at all times relevant to this Complaint, the Chancellor of SIUE.

30. As Chancellor, Defendant Pembroke is the chief operating officer of SIUE and is responsible for formulation, adoption, implementation, and enforcement of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

31. Defendant Pembroke is responsible for enforcement of the Speech Policies by SIUE employees.

32. All changes in campus policy concerning expressive activity are made only with the prior approval of Defendant Pembroke.

33. Defendant Pembroke has not instructed any SIUE employee to change or alter the Speech Policies to comply with constitutional mandates.

34. Defendant Pembroke is sued in his official and individual capacities.

35. Defendant Rich Walker is, and was at all times relevant to this Complaint, the Vice Chancellor of Administration at SIUE.

36. Defendant Walker, in consultation with the other Defendants, is responsible for the development, administration, interpretation, and oversight of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

37. Defendant Walker possesses the authority to approve or reject requests to speak or use campus facilities for speech by students.

38. All changes in the Speech Policies are made only with the prior approval of Defendants Pembroke and Walker.

39. Defendant Walker has not changed or altered the Speech Policies to comply with constitutional mandates.

40. Defendant Walker is sued in his official and individual capacities.

41. Defendant P. Denise Cobb is, and was at all times relevant to this Complaint, the Provost and Vice Chancellor for Academic Affairs at SIUE.

42. Defendant Cobb, in consultation with the other Defendants, is responsible for the development, administration, interpretation, and oversight of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

43. Defendant Cobb possesses the authority to interpret and enforce the Speech Policies through ordering the University Police to remove any student that is deemed to be in violation of the Policy.

44. Defendant Cobb is sued in her individual and official capacities.

45. Defendant Jeffrey Waple is, and was at all times relevant to this Complaint, the Vice Chancellor for Student Affairs at SIUE.

46. Defendant Waple, in consultation with the other Defendants, is responsible for the development, administration, interpretation, and oversight of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

47. Defendant Waple possesses the authority to interpret and enforce the Speech Policies against SIUE students.

48. Defendant Waple is sued in his individual and official capacities.

49. Defendant Rachel Stack is, and was at all times relevant to this Complaint, the Vice Chancellor for University Advancement at SIUE.

50. Defendant Stack, in consultation with the other Defendants, is responsible for the development, administration, interpretation, and oversight of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

51. Defendant Stack possesses the authority to interpret and enforce the Speech Policies against SIUE students.

52. Defendant Stack is sued in her individual and official capacities.

53. Defendant Kevin Schmoll is, and was at all times relevant to this Complaint, the Chief of Police at SIUE.

54. Defendant Schmoll, in consultation with the other Defendants, is responsible for the enforcement of SIUE policies, including the Speech Policies challenged herein, and their application to student speech.

55. Defendant Schmoll possesses the authority to interpret and enforce the Speech Policies against SIUE students.

56. Defendant Schmoll is sued in his official capacity.

FACTUAL BACKGROUND

57. SIUE's main campus is approximately 1,594 acres, which is approximately 69,434,640 square feet of land. A Google Maps satellite view of SIUE's main campus is attached as Exhibit 1 to this Complaint.

58. SIUE's main campus is composed of various publicly-accessible buildings and outdoor areas, including public streets, sidewalks, open-air quadrangles, park-like lawns, and open space where expressive activity will not interfere with or disturb SIUE's educational environment or access to buildings and sidewalks. A copy of SIUE's main campus map is attached as Exhibit 2 to this Complaint.

59. SIUE recognizes that organized student groups are a valuable part of the student educational environment because they further SIUE's educational mission by encouraging a robust exchange of ideas among students.

Defendants' Speech Zone Policy

60. SIUE regulates student oral, written, and symbolic speech through its Policy and Procedures for Use of the Designated Public Forum for Free Expression and Demonstration Activities. A copy of the Speech Zone Policy is attached as Exhibit 3 to this Complaint.

61. The Vice Chancellor for Administration, Defendant Walker, is the institutional official responsible for the implementation, interpretation, administration, and enforcement of the Speech Zone Policy.

62. The Speech Zone Policy applies to all SIUE students, student groups, faculty, staff, and members of the public.

63. Although SIUE states that it is a "community dedicated to intellectual development through the free expression of ideas," the Speech Zone Policy restricts all student expression to one Speech Zone. Ex. 3.

64. Members of the College Republicans and their fellow students and student organizations may speak only in the one Speech Zone.

65. According to the Speech Zone Policy, students are prohibited from speaking anywhere outside the Speech Zone, including the public sidewalks, walkways, lawns, or other publicly accessible outdoor areas of campus, unless they obtain permission from Defendant Walker at least 48 hours in advance. Defendant Walker will

not grant permission unless he determines, in his sole discretion, that the Speech Zone “cannot accommodate the proposed demonstration.”

66. The Speech Zone is the area within a radius of twenty feet of “The Rock” in Stratton Quadrangle. The Speech Zone contains approximately 905 square feet of land which is approximately 0.02 of an acre. The Speech Zone comprises less than 0.0013% of the entire SIUE campus. A Google Maps satellite view of the Speech Zone is attached as Exhibit 4 to this Complaint.

67. The stated purpose of the Speech Zone is to preserve freedom of expression while also ensuring that all others “are free from coercion and interference in the exercise of their rights or in carrying out their legitimate activities.” Ex. 3.

68. The Speech Zone Policy does not provide any alternative locations for student speech outside the Speech Zone.

69. Students must also reserve use of the Speech Zone.

70. Students may not speak in the Speech Zone if it is already reserved.

71. When the Speech Zone is reserved, students may not speak on campus.

72. To reserve use of the Speech Zone, a student must request permission in advance.

73. The Speech Zone Policy does not provide a means for students to speak spontaneously on campus.

74. When students want to reserve the Speech Zone, Defendant Walker is responsible for determining whether to grant the reservation request. Ex. 3.

75. The Speech Zone Policy imposes additional restrictions upon any event that is classified as a major event. A major event includes one that “is controversial in nature (Examples: political figures, religious gatherings).” Ex. 3.

76. A student organizing a major event must notify the Director of University Police, Defendant Schmoll, at least 90 days in advance of the event. Ex. 3.

77. The Speech Zone Policy classifies the security needs of major events into three levels. Level 1 events require no special security needs. Level 2 events do not require additional security but officers will be reassigned to specific campus locations as part of their usual activities. Level 3 events require security “beyond the usual levels maintained on the campus.” Ex. 3.

78. The Speech Zone Policy classifies all student organization events as Level 3 major events. Ex. 3.

79. For Level 3 major events, the University Police will provide additional security but the student organization may be required to pay for such additional security in an amount to be determined by Defendant Schmoll, the Director of University Police. Ex. 3.

80. If a student group does not notify the Director of University Police at least 90 days in advance of a major event and SIUE determines, in its sole discretion, that additional security is necessary, the student group will be responsible for the costs of additional security as determined by SIUE. Ex. 3.

81. If any expressive activity “has been characterized by or has caused hostile, harassing, disruptive or aggressive behavior,” Defendants Walker and Schmoll may

prohibit the persons deemed “responsible for the disruptive behavior” from engaging in future expressive activities in the Speech Zone or anywhere on the SIUE campus.

82. The Speech Zone Policy permits Defendant Walker to consider the content and viewpoint being expressed by a student organization requesting use of the Speech Zone to determine whether the event is “controversial in nature.” Ex. 3.

83. The Speech Zone Policy does not provide any criteria for Defendant Walker or his designee to use when deciding whether an event is “controversial in nature.”

84. The Speech Zone Policy grants unbridled discretion to Defendant Walker to determine whether an event is considered “controversial in nature.”

85. The Speech Zone Policy grants unbridled discretion to Defendant Schmoll to determine (1) whether additional security is necessary; (2) the amount of additional security necessary; and (3) the cost of such security.

86. Students or student organizations who violate the Speech Zone Policy will be subject to disciplinary action under SIUE policies including suspension or expulsion.

Defendants’ Solicitation Policy

87. SIUE regulates student oral, written, and electronic speech through its Solicitation Policy. A copy of the Solicitation Policy is attached as Exhibit 5 to this Complaint.

88. The Vice Chancellor for Administration, Defendant Walker, is the institutional official responsible for the implementation, interpretation, administration, and enforcement of the Solicitation Policy. Ex. 5.

89. The Solicitation Policy applies to all SIUE students, student groups, faculty, staff, and members of the public.

90. Solicitation is defined to include “canvassing, soliciting or seeking to obtain membership in or support for any non-University organization, political solicitations, requesting contributions, and posting or distributing handbills, pamphlets, petitions, and the like of any kind on University property.” Ex. 5.

91. The Solicitation Policy provides that students “may not engage in Solicitation or Commercial Solicitation (including distributing any kind of written or printed Materials) on University property at any time, without prior approval pursuant to this Policy, through the Office of the Vice Chancellor for Administration.” Ex. 5.

92. The Solicitation Policy does not provide a means for students to speak spontaneously on campus.

93. The Solicitation Policy does not provide any criteria for Defendant Walker or his designee to use when deciding whether to grant permission to allow students to engage in solicitation on University property.

94. The Solicitation Policy grants unbridled discretion to Defendant Walker to grant or deny permission to engage in solicitation on University property.

95. Students or student organizations who violate the Solicitation Policy “shall be considered trespassers” and are subject to disciplinary action under SIUE policies.

Defendants' Violation of College Republicans' Rights

96. The College Republicans desire to immediately engage in peaceful expressive activities on campus—including oral communication and literature distribution—without obtaining prior permission 48 hours in advance (or 90 days in advance if Defendant Walker determines the activity is controversial) and without agreeing to limit their activities to the Speech Zone but they cannot without violating the challenged Policies.

97. Pursuant to the Speech Policies, the College Republicans are subject to a range of disciplinary actions, including suspension or dismissal, if they engage in expressive activities in the open, outdoor areas of the SIUE campus without first obtaining administrative permission.

98. SIUE's Speech Policies burden their speech for multiple reasons.

99. The College Republicans want to engage in expressive activities outside the Speech Zone.

100. The College Republicans want to engage in speech containing political, religious, social, cultural, and moral issues and ideas while they stand on public ways and open areas on SIUE's campus, and invite political figures to speak on campus at SIUE.

101. The College Republicans' speech is further frustrated because they cannot speak publicly at SIUE until they first apply for a reservation 48 hours (or 90 days) in advance with SIUE and they must restrict their activities to the Speech Zone.

102. The permit requirement, in and of itself, is unduly burdensome as it requires 48 hours (or even 90 days) advanced notice for processing.

103. The permit requirement means that the College Republicans may not engage in spontaneous or anonymous speech on campus even though they desire to do so immediately.

104. The College Republicans desire to advocate for their political opinions in reaction to current events when their message is most relevant.

105. The Speech Zone Policy, which restricts all student speech to a single Speech Zone, closes an entire forum for speech activity by the College Republicans.

106. SIUE's Speech Zone is inadequate for the College Republicans' speech because they want to reach a wider audience, there is greater foot traffic in other areas of campus, and some messages are more appropriate to other locations.

107. SIUE's Speech Zone is inadequate for the College Republicans because if the Speech Zone is already reserved by another individual or group, they may not engage in expressive activity on campus at all.

108. The College Republicans wish to engage in all of the above-mentioned speech but cannot do so without being in violation of the Speech Policies.

109. The College Republicans are bound to comply with the terms of the Speech Policies at all times on campus.

110. The College Republicans fear that their expression will expose them to disciplinary action, up to and including suspension and expulsion, if they fail to comply with the terms of the Speech Policies.

ALLEGATIONS OF LAW

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

112. Defendants knew or should have known that by prohibiting all expressive activities of students, including the College Republicans, except in the designated Speech Zone, SIUE was and is violating the College Republicans' constitutional rights.

113. The College Republicans are suffering irreparable harm from Defendants' Speech Policies.

114. The College Republicans have no adequate or speedy remedy at law to correct or redress the deprivation of their rights by Defendants.

115. Unless the conduct of Defendants and the Speech Policies are enjoined, the College Republicans will continue to suffer irreparable injury.

FIRST CAUSE OF ACTION

Violation of Plaintiff's First Amendment Right

to Freedom of Speech

(42 U.S.C. § 1983)

116. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1–115 of this Complaint.

117. Speech is entitled to comprehensive protection under the First Amendment.

118. Political speech is fully protected by the First Amendment.

119. The First Amendment also protects citizens' right to engage in spontaneous and anonymous speech.

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

121. The sidewalks and open spaces of SIUE's campus are designated public forums—if not traditional public forums—for speech and expressive activities by students enrolled at SIUE.

122. 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.

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

124. The First Amendment's Free Speech Clause prohibits censorship of political expression.

125. 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.

126. Defendants' Speech Policies and their practice of limiting students' and

student organizations' expressive activities to a single Speech Zone at SIUE facially violates the First Amendment because it prohibits students and student organizations from engaging in speech in public areas of the campus other than the limited area of the Speech Zone.

127. Defendants' Speech Policies and their practice of requiring students and student organizations to obtain a permit or reservation in order to engage in speech at SIUE violates the First Amendment because it prohibits students and student organizations from engaging in anonymous or spontaneous expression.

128. Defendants' Speech Policies and their practice of requiring students and student organizations to obtain a permit or reservation in order to engage in speech at SIUE violates the First Amendment because it is a prior restraint on speech in areas of campus that are traditional or designated public forums for SIUE's students.

129. Defendants' Speech Zone Policy discriminates against speech based on its content and viewpoint because it imposes additional restrictions on speech that Defendants consider to be controversial, including (1) requiring prior permission 90 days in advance; (2) requiring students to pay security fees; and (3) allowing Defendants to shut down the speech if Defendants determine that the speech "has been characterized by or has caused hostile, harassing, disruptive or aggressive behavior."

130. Defendants' Speech Zone Policy discriminates against speech based on its content and viewpoint because it classifies political and religious speech as "controversial in nature" and imposes additional restrictions on such speech.

131. Defendants' Speech Zone Policy grants Defendants unbridled discretion in determining whether speech is "controversial."

132. Defendants' Speech Zone Policy grants Defendants unbridled discretion in determining whether to impose security fees based on the content and viewpoint of the proposed speech.

133. Defendants' Speech Zone Policy grants Defendants unbridled discretion in determining whether speech is characterized by or has caused other people to engage in hostile or aggressive behavior.

134. 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.

135. Defendants' Speech Policies and their practice of requiring students and student organizations to obtain a permit or reservation in order to engage in speech at SIUE violates the First Amendment because they grant SIUE officials unbridled discretion to discriminate against speech based on its content or viewpoint.

136. Defendants' Solicitation Policy and associated practices provide no narrow, objective, or definite standards to limit the discretion of SIUE officials in deciding whether to grant or deny a request from a student or student organization to engage in solicitation or in deciding what conditions, limitations, or restrictions to impose before granting such a request.

137. Defendants' Speech Policies and associated practices do not provide a way for SIUE officials to approve of spontaneous student or student organization

speech.

138. Defendants' Speech Policies and associated practices do not require SIUE officials to provide written justification for their decision to grant, deny, or place conditions on a request from a student or student organization to engage in speech on campus.

139. Defendants' Speech Policies and associated practices provide no appeal process that students or student organizations may utilize when their request to engage in speech is denied or limited.

140. These grants of unbridled discretion to SIUE 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.

141. Because Defendants have failed to establish narrow, objective, and definite standards governing the review of requests from students and student organizations to engage in speech on campus, there is a substantial risk that SIUE officials will engage in content and viewpoint discrimination when addressing those applications.

142. 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.

143. Defendants' Speech Policies and associated practices are an unreasonable

and overbroad time, place, and manner restriction that violates Plaintiff's and other students' right to freedom of speech and expression.

144. Defendants' Speech Policies 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 governmental interest, and they do not leave open ample alternative channels of communication.

145. While Defendants have an interest in maintaining a safe campus, the challenged policies are not narrowly tailored to Defendants' interest.

146. Under Defendants' Speech Zone Policy, students and student organizations have no alternative channels of communication to reach students on the SIUE campus because they must obtain advance approval in order to engage in speech in the Speech Zone and are prohibited from engaging in speech anywhere else on the SIUE campus.

147. The First Amendment's Freedom of Speech Clause prohibits a public college from restricting student speech based on overbroad regulations.

148. Defendants' Speech Policies and associated practices are overbroad because they prohibit and restrict protected expression.

149. Defendants' Speech Policies and associated practices unconstitutionally impose restrictions on all private student speech that occurs on SIUE's campus.

150. The overbreadth of Defendants' Speech Policies and related practices chills the speech of students not before the Court who seek to engage in expressive activities on campus.

151. Defendants' Speech Policies and associated practices chill, deter, and restrict the College Republicans from freely expressing their political opinions.

152. Defendants' Speech Policies and associated practices violate the College Republicans' right to free speech as guaranteed by the First Amendment to the United States Constitution.

153. Because of Defendants' actions, the College Republicans have suffered, and continue to suffer, economic injury and irreparable harm. They are entitled to an award of nominal damages and equitable relief.

154. Pursuant to 42 U.S.C. §§ 1983 and 1988, the College Republicans are entitled to a declaration that Defendants violated their First Amendment right to freedom of speech and an injunction against Defendants' Speech Policies and actions. Additionally, the College Republicans are entitled to nominal damages and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of Plaintiff's Fourteenth Amendment Right

to Due Process of Law

(42 U.S.C. § 1983)

155. The College Republicans repeat and reallege each of the allegations contained in paragraphs 1–115 of this Complaint, as if set forth fully herein.

156. The Fourteenth Amendment to the United States Constitution guarantees the College Republicans the right to due process of law and prohibits Defendants from

promulgating and employing vague and overbroad standards that allow for viewpoint discrimination in Defendants' handling of the College Republicans' speech and which authorize Defendants to impose punishment for violating such vague standards.

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

158. 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.

159. The government also may not regulate speech in ways that do not provide persons of common intelligence fair warning as to what speech is permitted and what speech is prohibited, and then to impose punishments for violation of such policies.

160. Defendants' Solicitation Policy and associated practices contain no criteria to guide administrators when deciding whether to grant, deny, relocate, or restrict student speech (including public speaking) on campus, or whether to impose punishment for violation of such policies.

161. Defendants' Solicitation Policy and associated practices are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants, both in deciding whether to grant a permit and in deciding whether to impose punishment for failure to obtain a permit.

162. The lack of criteria, factors, or standards in Defendants' Solicitation Policy and associated practices renders these policy and practices unconstitutionally vague and in violation of the College Republicans' right to due process of law under the

Fourteenth Amendment.

163. Defendants' Speech Zone Policy and associated practices contain no criteria to guide administrators when deciding whether an event is "controversial in nature."

164. Defendants' Speech Zone Policy and associated practices contain no criteria to guide administrators when deciding whether to charge students for providing security for an event.

165. Defendants' Speech Zone Policy and associated practices contain no criteria to guide administrators when deciding whether an activity "has been characterized by or has caused hostile, harassing, disruptive or aggressive behavior."

166. Defendants' Speech Zone Policy and associated practices are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants in deciding whether a student has violated the policy and whether to impose punishment for such violation.

167. The lack of criteria, factors, or standards in Defendants' Speech Zone Policy and associated practices renders these policy and practices unconstitutionally vague and in violation of the College Republicans' right to due process of law under the Fourteenth Amendment.

168. Because of Defendants' actions, the College Republicans have suffered, and continue to suffer irreparable harm. They are entitled to an award of monetary damages and equitable relief.

169. Pursuant to 42 U.S.C. §§ 1983 and 1988, the College Republicans are entitled to a declaration that Defendants violated their Fourteenth Amendment right to due process of law and an injunction against Defendants' policy and actions. Additionally, the College Republicans are entitled to nominal damages and the reasonable costs of this lawsuit, including their 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 Defendants' Speech Policies and associated practices violate Plaintiff's rights under the First Amendment;
- (B) A declaratory judgment that Defendants' Speech Policies and associated practices facially violate Plaintiff's rights under the Fourteenth Amendment;
- (C) A preliminary and permanent injunction prohibiting Defendants, their agents, officials, servants, employees, and any other persons acting on their behalf from enforcing the Speech Policies and associated practices challenged in this Complaint;
- (D) Nominal damages for the violation of Plaintiff's First and Fourteenth Amendment rights;
- (E) Plaintiff's reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and

(F) All other further relief to which Plaintiff may be entitled.

JURY DEMAND

Plaintiff demands a trial by jury for all issues so triable.

DATED this 25th day of October, 2017.

s/ Whitman H. Brisky

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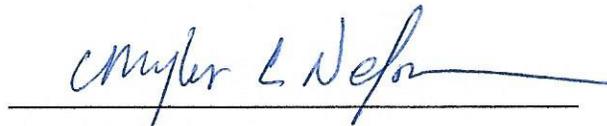
*Application for *pro hac vice* admission
forthcoming

Attorneys for Plaintiff

VERIFICATION OF COMPLAINT

I, Myles C. Nelson, Outreach Chairman of College Republicans of SIUE, and a citizen of the United States and a resident of the State of Illinois, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 20 day of October, 2017, at Edwardsville, Illinois.

A handwritten signature in blue ink that reads "Myles C. Nelson". The signature is written in a cursive style and is positioned above a horizontal line.

Myles C. Nelson, Outreach Chairman
College Republicans of SIUE