

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**TURNING POINT USA AT GRAND
VALLEY STATE UNIVERSITY, TIM
MCKEEBY, and JOE TUCKER,**

Plaintiffs,

v.

The Trustees of Grand Valley State University—**VICTOR M. CARDENAS, DAVID S. HOOKER, JOHN C. KENNEDY, MARY L. KRAMER, JOHN G. RUSSELL, MEGAN S. SALL, DAVID L. WAY,** and **KATE PEW WOLTERS**—all individually and all in their official capacities as members of the Board of Trustees of Grand Valley State University; **THOMAS J. HAAS**, President of Grand Valley State University, in his official and individual capacities; **GAYLE R. DAVIS**, Provost and Executive Vice President for Academic and Student Affairs of Grand Valley State University, in her official and individual capacities; **BOB STOLL**, Associate Dean of Student Life at Grand Valley State University, in his official and individual capacities,

Defendants.

Case No. 1:16-cv-1407

VERIFIED COMPLAINT

JURY TRIAL REQUESTED

Plaintiffs Turning Point USA at Grand Valley State University, Tim McKeeby, and Joe Tucker, by and through counsel, and for their Complaint against the Defendants, hereby state as follows:

INTRODUCTION

1. The campus of a public university has been called a “marketplace of ideas.” That marketplace depends on free expression by students.

2. This case arises from policies and practices of Grand Valley State University (“GVSU” or the “University”) and public officials employed by the University that restrict the expressive rights of students.

3. The University’s Free Speech/Open Forum Areas Policy (the “Speech Zone Policy”), which regulates expressive activity on campus, limits expressive activity to two small areas on campus and requires students to obtain the prior permission of the University before engaging in speech in the two small speech zones.

4. The Speech Zone Policy also grants University officials unbridled discretion to restrict the content and viewpoint of student speech.

5. Plaintiffs Tim McKeeby and Joe Tucker are students at GVSU and are interested in speaking with other students at GVSU regarding important issues including the students’ constitutional rights of speech and assembly.

6. In furtherance of this desire, Mr. McKeeby formed Plaintiff Turning Point USA (“TPUSA”) as a student group at GVSU.

7. On October 17, 2016, Plaintiffs, and two other individuals, were on a large, open walkway in front of the Student Services Building on GVSU’s campus talking with students about their First Amendment rights under the United States Constitution and giving them the opportunity to write messages on a large beach ball which they called the “Free Speech Ball.”

8. Plaintiffs and the two other individuals were not blocking access to buildings or pedestrian traffic.

9. While engaged in these activities, GVSU administrators and campus security approached Plaintiffs and the other individuals and informed them that they were violating the Speech Zone Policy and they were not allowed to conduct expressive activity in this location on campus.

10. The GVSU administrators and campus security instructed Plaintiffs and the other individuals that they must immediately stop engaging in the speech activities or they would be arrested for trespassing.

11. This action is premised on the United States Constitution concerning the denial of Plaintiffs' fundamental rights to freedom of speech, equal protection of law, and due process of law.

12. The aforementioned policy and practices are challenged on their face and as applied to Plaintiffs.

13. Defendants' policy and practices have deprived and will continue to deprive Plaintiffs of their paramount rights and guarantees under the United States Constitution.

14. Each and every act of Defendants alleged herein was committed under the color of state law as each Defendant exercised power possessed by virtue of state law and each act was made possible only because the Defendant was clothed with the authority of state law.

JURISDICTION AND VENUE

15. 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.

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

17. 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.

18. 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.

PLAINTIFFS

19. Plaintiff Turning Point USA at Grand Valley State University ("TPUSA") is an unincorporated expressive association comprised of Grand Valley State University students.

20. TPUSA is a national, non-partisan organization with chapters at public and private universities throughout the country.

21. TPUSA's mission is to educate students about the importance of fiscal responsibility, free markets, and limited government.

22. Part of TPUSA's mission is to be an expressive association at GVSU.

23. Plaintiff Tim McKeeby is a student at GVSU.

24. Plaintiff Joe Tucker is a student at GVSU.

25. Mr. McKeeby is the founding member of the TPUSA student club at GVSU and Mr. Tucker is a member of TPUSA.

26. Plaintiffs desire to express their message on GVSU'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 the natural rights of life, liberty, and property, among other things.

27. When engaging in these expressive activities, Plaintiffs will discuss political, religious, social, cultural, and moral issues and ideas.

DEFENDANTS

28. Defendants Victor M. Cardenas, David S. Hooker, John C. Kennedy, Mary L. Kramer, John G. Russell, Megan S. Sall, David L. Way, and Kate Pew Wolters are, and were at all times relevant to this Complaint, members of the Board of Trustees of Grand Valley State University (hereinafter collectively, "Trustee Defendants"), a public University organized and existing under the laws of Michigan, and are responsible for, among other things, the adoption and authorization of policies that govern students at GVSU, including the Speech Zone Policy.

29. As members of the Board of Trustees, the Trustee Defendants have the responsibility for final policymaking authority concerning students at GVSU.

30. Each of the Trustee Defendants is responsible for the enactment, amendment, and repeal of the Board of Trustees' policies, including the Speech Zone Policy challenged herein, and their application to students in restricting their ability to speak freely and without a permit on campus.

31. As members of the Board of Trustees, the Trustee Defendants possess the authority to change and enforce the policies challenged herein.

32. The Trustee Defendants have not modified the policies governing student expression on campus, including the Speech Zone Policy and practices challenged herein, to comply with the United States Constitution.

33. Each of the Trustee Defendants acquiesces in, sanctions, and supports the actions of the other Defendants in enforcing the policies and procedures regarding students' speech activities on campus.

34. Each of the Trustee Defendants are sued in their official capacity for injunctive and declaratory relief and in their individual capacity for damages resulting from the Speech Zone Policy.

35. Defendant Thomas J. Haas is, and was at all times relevant to this Complaint, the President of Grand Valley State University.

36. The Board of Trustees has delegated to the President of the University powers to exercise discretionary authority and to perform duties vested in the Board of Trustees related to the operation, control and management of the University.

37. Defendant Haas is the chief educational and administrative officer of the University.

38. Defendant Haas has the authority to delegate authority among subordinates.

39. Defendant Haas is responsible for the enforcement of University policies, including the Speech Zone Policy challenged herein, and their application to Plaintiffs' speech.

40. Defendant Haas possesses the authority and responsibility for coordination and approval of expression by students, employees, and third parties on campus.

41. Defendant Haas has not instructed GVSU personnel, including the other defendants, to change or alter the policies and practices governing student expression on campus, including the Speech Zone Policy and practices challenged herein, to comply with constitutional mandates.

42. As president, Defendant Haas has the authority to review, approve, or reject the decisions of other University officials and the other Defendants regarding the Speech Zone Policy challenged herein.

43. Defendant Haas not only authorized, approved, and implemented the Speech Zone Policy used to restrict Plaintiffs' expression, but he also failed to stop any GVSU officials from applying this policy to Plaintiffs.

44. Defendant Haas is sued in his official capacity for injunctive and declaratory relief and in his individual capacity for damages resulting from the Speech Zone Policy.

45. Defendant Gayle R. Davis is, and was at all times relevant to this Complaint, the Provost and Executive Vice President for Academic and Student Affairs of Grand Valley State University.

46. Defendant Davis, in consultation with Defendant Haas, is responsible for the enforcement of the Speech Zone Policy and its application to Plaintiffs' speech.

47. Defendant Davis possesses the authority and responsibility for regulation of campus expression by students.

48. Defendant Davis has authority under the Speech Zone Policy to review, approve, modify, or reject requests by students to use campus facilities and grounds.

49. Defendant Davis has failed to stop University officials, including the other defendants, from applying the Speech Zone Policy challenged herein to students, including Plaintiffs.

50. Defendant Davis possesses the authority to change and enforce the Speech Zone Policy challenged herein.

51. Defendant Davis has failed to recommend any changes to the Speech Zone Policy challenged herein.

52. Defendant Davis is sued in her official capacity for injunctive and declaratory relief and in her individual capacity for damages resulting from the Speech Zone Policy.

53. Defendant Bob Stoll is, and was at all times relevant to this Complaint, Associate Dean of Student Life at Grand Valley State University.

54. Defendant Stoll has authority under the Speech Zone Policy to review, approve, modify, or reject requests by students to use campus facilities and grounds.

55. Defendant Stoll has failed to stop University officials, including the other defendants, from applying the Speech Zone Policy challenged herein to students, including Plaintiffs.

56. Defendant Stoll possesses the authority to change and enforce the Speech Zone Policy challenged herein.

57. Defendant Stoll has failed to recommend any changes to the Speech Zone Policy challenged herein.

58. Defendant Stoll is sued in his official capacity for injunctive and declaratory relief and in his individual capacity for damages resulting from the Speech Zone Policy.

FACTUAL BACKGROUND

59. Grand Valley State University is a public university organized and existing under the laws of the State of Michigan and receives funding from the State of Michigan to operate.

60. The University's campus is composed of various publicly-accessible buildings and outdoor areas, including public streets, sidewalks, open-air quadrangles, and parks. A copy of the University's campus map is attached as Exhibit 1 to this Complaint.

61. The outdoor areas of the University's campus are open to the public and there are no gates or barriers to pedestrian entry.

62. The campus is maintained like a park with large cultivated grass areas, trees, benches, and sidewalks.

63. The University's campus is approximately 1,322 acres, which is approximately 57,586,320 square feet of land. Grand Valley State University, <http://www.gvsu.edu/about.htm> (last visited December 7, 2016).

64. The University's campus has many suitable streets, sidewalks, open-air quadrangles, parks, and open spaces where expressive activity will not interfere with or disturb the University's activities or impede access to buildings and sidewalks.

65. The University recognizes that organized student groups are a valuable part of the student educational environment, because they further the University's educational mission.

66. More than 450 student organizations are recognized by the University each year.

67. Student organizations provide opportunities for learning outside the classroom; for meeting other people with similar interests; for developing life, work, and leadership skills; for gaining a broader experience and a greater perspective; and for engaging students as citizens of the campus community.

68. The University requires all recognized student organizations to adhere to its policies and procedures.

The Speech Zone Policy

69. The University regulates student oral, written, and visual speech through its Free Speech/Open Forum Areas Policy (the "Speech Zone Policy"). A copy of the Speech Zone Policy is attached as Exhibit 2 to this Complaint.

70. The Speech Zone Policy restricts student speech and other expressive activity to two small areas on campus. The first speech zone is the "circle drive/sidewalk area around the Cook Carillon Tower." Ex. 2. This speech zone is approximately 0.1607 acres or 7,000.3 square feet. A Google Maps satellite view of the speech zone is attached hereto as Exhibit 3.

71. The second speech zone is "the academic mall area within 50 feet of the sculpture Transformational Link (the blue metal building frame)." Ex. 2. This speech zone is approximately 0.166 acres or 7,221.12 square feet. A Google Maps satellite view of the speech zone is attached hereto as Exhibit 4.

72. The two speech zones combined equal less than a third of an acre which comprises approximately 2/100th of a percent of the GVSU campus.

73. The Speech Zone Policy requires students to obtain prior permission from the Events Services Office before using either of the two speech zones. Ex. 2.

74. The Speech Zone Policy restricts students from distributing literature or handing out written materials anywhere on campus except in the two small speech zones or through reserving a table in the Kirkhof Center, provided that students may be allowed to distribute literature in other locations on campus if they obtain the prior approval of the Director of Student Life.

75. The Speech Zone Policy grants unbridled discretion to the Director of Student Life to grant students permission to distribute literature in areas other than the two small speech zones.

76. The Speech Zone Policy governs all forms of expressive activity wherever they may occur on campus.

77. The Speech Zone Policy provides no deadlines or timetables by which University officials must respond to a request for a permit, meaning a student's request for a speech permit could remain pending indefinitely.

78. The Speech Zone Policy does not provide any criteria for Defendants to use when deciding whether to approve or reject a speech zone reservation request.

79. The Speech Zone Policy does not limit the discretion of Defendants when deciding whether to approve or reject a speech zone reservation request.

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

81. The penalties for students and groups that speak without a speech permit can be severe. GVSU's Code of Conduct for Students provides that any student that violates the Speech Zone Policy is subject to sanctions ranging from a written warning to suspension to even expulsion from GVSU. A copy of the applicable portions of the Code of Conduct for Students is attached as Exhibit 5 to the Complaint.

82. Defendants implement and enforce their Speech Zone Policy in part through the Code of Conduct for Students.

83. It is GVSU's policy that any student who fails to comply with its regulations and guidelines regarding student expression violates the Code of Conduct for Students.

84. When enforcing these provisions of the Code of Conduct for Students, Defendants do not exempt expression protected by the First Amendment from disciplinary action.

85. The Code of Student Conduct requires students to "comply with the legitimate and reasonable directions of University Officials." Ex. 5.

86. It is GVSU's policy—as expressed in the Code of Student Conduct—that students who engage in expressive activities anywhere on GVSU's campus outside of the two small speech zones have violated the Code of Student Conduct if a University official asks that the students stop such activity and the students do not comply with such request.

Defendants' Violation of Plaintiffs' Freedom of Speech

87. In the Fall 2016 semester, Mr. McKeeby formed the Plaintiff TPUSA student club at GVSU, and Mr. Tucker joined TPUSA as a student member.

88. Plaintiffs wanted to promote the TPUSA club to other students and to talk with students about their constitutional rights.

89. Plaintiffs obtained a reservation from GVSU to use the speech zone around the Cook Carillon Tower on October 17, 2016, from 12:00 p.m. to 2:00 p.m.

90. On October 17, 2016, Plaintiffs McKeeby and Tucker, along with two other individuals, went to the Cook Carillon Tower speech zone to promote the TPUSA club and talk with students about their constitutional free speech rights.

91. Plaintiffs were encouraging students to exercise their right of free speech by encouraging them to write a message of the student's choosing on a large inflatable beach ball which they called the "Free Speech Ball."

92. Shortly after arriving in the speech zone, Mr. Tucker and the two other individuals left the speech zone and took the Free Speech Ball to talk with students in other publicly accessible, open areas of campus.

93. Mr. McKeeby remained with the table in the speech zone for a while but then later joined with Mr. Tucker and the other two individuals as they walked around campus with the Free Speech Ball.

94. For approximately two hours, Mr. Tucker and the other two individuals walked around the publicly accessible, open areas of campus speaking with students about their free speech rights and allowing them to express their messages on the Free Speech Ball.

95. Plaintiffs and the two other individuals talking with students were not blocking any entrance or exit to any buildings, impeding access to the buildings or parking lots, or blocking the free flow of traffic on the sidewalks.

96. When engaging students in conversation, Plaintiffs and the other individuals did not force anyone to participate in a conversation, berate those who were not interested in conversing, or denigrate those who disagreed with them.

97. Shortly before 2:00 p.m., Plaintiffs and the two other individuals were on a public sidewalk in front of the Student Services Building when they were approached by a male GVSU administrator. The administrator informed them that they were not allowed to speak with students outside the speech zone and that they must go back to the speech zone.

98. Several minutes later, two campus police officers approached Plaintiffs and informed them that they were not allowed to talk with students outside of the speech zone.

99. Plaintiffs informed the police officers that they were simply exercising their First Amendment rights by speaking with other students in the public areas of campus.

100. Plaintiffs asked the police officers what would happen if they continued speaking with students outside of the speech zone.

101. The police officers stated that they would be arrested for trespassing and again ordered them to stop talking with students in that area.

102. Although Plaintiffs disagreed with the unconstitutional order, Plaintiffs complied with the order and stopped talking with students outside of the speech zone.

103. Plaintiffs did not continue their speech activities because of Defendants' unlawful order.

104. On October 28, 2016, Mr. McKeeby, two other student members of TPUSA, and another individual went back to the open area in front of the Student Services Building which is outside of the two small speech zones, to hand out pocket-sized copies of the United States Constitution and speak with students about their constitutional rights.

105. Shortly after arriving, the group was approached by a female GVSU administrator and ordered to leave because they were not allowed to speak with students outside of the two small speech zones. She also indicated that she had called campus police.

106. A few minutes later, the group was approached by several campus police officers. The campus police informed the group that they were violating University policy because they were talking with students outside of the two small speech zones.

107. The campus police ordered Mr. McKeeby and the other members of the group to leave the area or they would be arrested for trespassing.

108. Although Mr. McKeeby and the other members of the group disagreed with the unconstitutional order, Mr. McKeeby and the other members of the group complied with the order and stopped talking with students outside of the speech zone.

109. On November 16, 2016, Mr. Tucker observed a large crowd of students holding signs and marching around campus outside of the two small speech zones protesting the recent election of Donald Trump.

110. The student protestors stood directly outside of the Student Services Building and shouted slogans such as "Donald Trump go away. Racist, sexist, anti-gay." The protestors even went inside of the Student Services Building for a period of time.

111. Mr. Tucker observed the students in front of the Student Services Building for a period of time. During Mr. Tucker's observation, the students were never approached by any GVSU administrator or campus police officer or ordered to stop engaging in these speech activities outside of the speech zones.

112. Upon information and belief, Defendants were aware of the presence of the student protestors and did not stop them from engaging in speech activities outside of the two small speech zones.

The Effect of Defendants' Speech Zone Policy on Plaintiffs' Speech

113. Plaintiffs desire to engage in protected expression on campus—including oral communication and literature distribution—outside of the two small speech zones without obtaining prior permission of the University, but have refrained from doing so for fear of arrest and punishment.

114. GVSU's enforcement of the Speech Zone Policy against Plaintiffs burdens their speech in multiple ways.

115. Plaintiffs want to engage in speech in the open, outdoor, generally accessible areas on campus without obtaining prior permission of the University and without being limited to the specific areas designated by the school.

116. The Speech Zone Policy does not provide a means for students to speak or hand out written material spontaneously on campus.

117. The Speech Zone Policy does not provide any objective criteria for Defendants to use when deciding whether to approve or reject a student's request to speak on campus.

118. The Speech Zone Policy does not limit the discretion of Defendants when deciding whether to approve or reject a student's request to speak on campus or in deciding which location a student is allowed to speak.

119. As shown by Defendants' actions, students or student organizations that violate the Speech Zone Policy are subject to disciplinary action under University policies and state criminal trespass laws.

120. Plaintiffs are not engaging in certain oral and written speech with other students on campus due to the Speech Zone Policy.

121. Plaintiffs are chilled in their ability to promote TPUSA and discuss various TPUSA topics on campus due to the Speech Zone Policy.

122. If not for the Speech Zone Policy, Plaintiffs would immediately engage in discussions and pass out material about liberty and freedom to other students on campus.

123. Plaintiffs refrain from doing so for fear of punishment under the University's Speech Zone Policy and state criminal trespass laws.

124. The fear of punishment severely limits Plaintiffs' constitutionally-protected expression on campus.

ALLEGATIONS OF LAW

125. 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 Michigan.

126. Defendants knew or should have known that by limiting Plaintiffs' speech to two small areas on campus and requiring Plaintiffs to obtain permission prior to engaging in speech with other students on campus, the University violated Plaintiffs' constitutional rights.

127. Plaintiffs are suffering irreparable harm from the policy and practice of Defendants.

128. Plaintiffs have no adequate or speedy remedy at law to correct or redress the deprivation of its rights by Defendants.

129. Unless the conduct of Defendants is enjoined, Plaintiffs will continue to suffer irreparable injury.

FIRST CAUSE OF ACTION

Violation of Plaintiffs' First Amendment Right to Freedom of Speech Prior Restraint and Content and Viewpoint Discrimination

130. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–129 of this Complaint.

131. Speech is entitled to protection under the First Amendment.

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

133. The First Amendment also protects citizens' right to engage in spontaneous speech.

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

universities.

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

136. 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 expression on the campus of a public university.

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

138. 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.

139. Defendants' Speech Zone Policy and their practice of limiting students and student organizations' expressive activities to two small speech zones at GVSU violates the First Amendment facially and as applied because it prohibits students and student organizations from engaging in speech in public areas of the campus other than the limited area of the two small speech zones.

140. Defendants' Speech Zone Policy and their practice of forbidding students and student organizations from engaging in speech activities without express written consent violates the First Amendment facially and as applied because it prohibits students and student organizations from engaging in speech in public areas of the campus without prior permission.

141. Defendants' Speech Zone Policy and their practice of requiring students and student organizations to obtain permission in order to engage in speech at the University violates the First

Amendment facially and as applied because it prohibits students and student organizations from engaging in spontaneous speech.

142. Defendants' Speech Zone Policy and their practice of requiring students and student organizations to obtain permission in order to engage in speech at the University violates the First Amendment facially and as applied because it is a prior restraint on speech in areas of campus that are traditional or designated public forums for University students.

143. Defendants' Speech Zone Policy and their practice of requiring students and student organizations to obtain permission in order to engage in speech at the University violates the First Amendment facially because it contains no time frame in which the University administrators must rule on a student's request for permission to speak. The Policy's failure to ensure a prompt decision creates the risk that GVSU will delay a permit request indefinitely.

144. Defendants' Speech Zone Policy and associated practices are an unconstitutional "time, place, and manner" restriction that violates Plaintiffs' and other students' right to freedom of speech and expression.

145. Defendants' Speech Zone Policy and associated practice 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.

146. While Defendants have an interest in maintaining a safe campus, requiring advance approval in order to engage in speech in public areas of the University campus is not narrowly tailored to Defendants' interest.

147. Defendants violated Plaintiffs' First Amendment right to freedom of speech by ordering them to stop engaging in non-disruptive speech activities and telling them that they would not be allowed to engage in any such speech activities on campus without first obtaining Defendants' permission and such activities must be limited to the two small speech zones on campus.

148. Defendants' Speech Zone Policy and associated practices grant University administrators unbridled discretion to regulate speech based on content or viewpoint and are not narrowly tailored to a compelling state interest.

149. By granting unbridled discretion to discriminate against speech based on its content or viewpoint, the Speech Zone Policy violates the First Amendment regardless of whether that discretion has ever been unconstitutionally applied in practice.

150. Defendants exercised their unbridled discretion granted under the Speech Zone Policy when they informed Plaintiffs that they were required to obtain a permit prior to engaging in discussions with other students on the GVSU campus and must conduct those discussions in the two small speech zones.

151. Defendants' Speech Zone Policy provides no guidelines or standards to limit the discretion of University officials in deciding when or whether to grant or deny a student's request to speak.

152. Defendants' Speech Zone Policy and associated practices give 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.

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

154. 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.

155. Because Defendants have failed to establish neutral criteria governing the decision whether to allow students to speak, there is a substantial risk that University officials will engage in content and viewpoint discrimination.

156. Defendants regulated Plaintiffs' speech based on its content and viewpoint when it required Plaintiffs to obtain prior permission and remain in the two small speech zones while allowing students with other viewpoints to speak in areas outside the two small speech zones and without prior permission.

157. Defendants' Speech Zone Policy and associated practices violate Plaintiffs' right to free speech as guaranteed by the First Amendment to the United States Constitution.

158. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, irreparable harm. Plaintiffs are entitled to equitable relief.

159. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to a declaration that Defendants violated their First Amendment right to freedom of speech and an injunction against Defendants' Speech Zone Policy and actions. Additionally, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of Plaintiffs' Fourteenth Amendment Right to Due Process of Law

160. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–129 of this Complaint.

161. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the right to due process of law and prohibits Defendants from promulgating and employing vague standards that allow for content or viewpoint discrimination in Defendants' handling of Plaintiffs' speech.

162. The government may not regulate expression based on policies that permit arbitrary, discriminatory, and overzealous squelching of speech.

163. The government may not regulate speech based on policies that differ as to their application and do not provide any way for students to determine what protected speech will be allowed and what protected speech will be banned.

164. Defendants' Speech Zone Policy and associated practices contain no criteria to guide administrators when deciding whether to grant, deny, relocate, or restrict student speech on campus.

165. Defendants' Speech Zone Policy and associated practices are impermissibly vague and ambiguous and are thus incapable of providing meaningful guidance to Defendants because they do not contain any objective criteria, factors, or standards to apply.

166. The lack of criteria, factors, or standards in Defendants' Speech Zone Policy and practices renders the policy and practice unconstitutionally vague, facially and as applied, in violation of Plaintiffs' right to due process of law under the Fourteenth Amendment.

167. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer irreparable harm. They are entitled to equitable relief.

168. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs 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, Plaintiffs are entitled to damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

THIRD CAUSE OF ACTION

Violation of Plaintiffs' Fourteenth Amendment Right to Equal Protection of the Law

169. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1–129 of this Complaint.

170. The Fourteenth Amendment to the United States Constitution guarantees Plaintiffs the equal protection of the laws, which prohibit Defendants from treating Plaintiffs differently than similarly situated students and student organizations.

171. 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.

172. Plaintiffs are similarly situated to all other students and student organizations at the University.

173. Defendants allow other students and student organizations to speak without prior permission, including the students that participated in the Trump protest, but prohibit Plaintiffs from speaking unless they have prior permission.

174. Defendants allow other students and student organizations to distribute literature and engage in expressive activities with students outside their reserved speech zones, including the students that participated in the Trump protest, but prohibit Plaintiffs from doing the same.

175. Defendants' Speech Zone Policy and practices violate various fundamental rights of Plaintiffs, such as their right to freedom of speech and due process of law.

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

177. Defendants' Speech Zone Policy and associated practices have also been applied to discriminate intentionally against Plaintiffs' rights of freedom of speech and due process of law.

178. Defendants lack a rational or compelling state interest for such disparate treatment of Plaintiffs.

179. Defendants' Speech Zone Policy and associated practices are not narrowly tailored as applied to Plaintiffs because Plaintiffs' speech does not implicate any legitimate state interest.

180. Defendants have applied the Speech Zone Policy and practices to Plaintiffs in a discriminatory and unequal manner, allowing other student organizations to speak freely and engage in expressive activities outside of the two small speech zones when Defendants say Plaintiffs cannot do the same, in violation of Plaintiffs' right to equal protection of the laws under the Fourteenth Amendment.

181. The disparate treatment of Plaintiffs compared to similarly situated student organizations based on Defendants' Speech Zone Policy and practices renders the policy and practices unconstitutional, facially and as applied, in violation of Plaintiffs' right to equal protection of the laws under the Fourteenth Amendment.

182. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. Plaintiffs are entitled to an award of monetary damages and equitable relief.

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

PRAYER FOR RELIEF

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

- (A) A declaratory judgment that Defendants' Speech Zone Policy and associated practices, facially and as applied, violate Plaintiffs' rights under the First and Fourteenth Amendments;
- (B) A preliminary and permanent injunction prohibiting Defendants, their agents, officials, servants, employees, and any other persons acting on their behalf from enforcing the Speech Zone Policy and associated practices challenged in this Complaint;
- (C) Compensatory and nominal damages for the violation of Plaintiffs' First and Fourteenth Amendment rights from the Defendants sued in their individual capacities;
- (D) Plaintiffs' reasonable attorneys' fees, and expenses in this action pursuant to 42 U.S.C. § 1988; and
- (E) All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this 7th day of December, 2016,

By: s/ Tyson C. Langhofer

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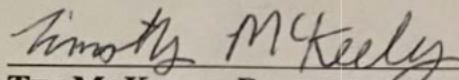
*Petition for Admission Forthcoming

ATTORNEYS FOR PLAINTIFFS

DECLARATION UNDER PENALTY OF PERJURY

I, TIM MCKEEBY, President of Turning Point USA at Grand Valley State University, and a citizen of the United States and a resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 29 day of November, 2016, at Allendale, Michigan.



TIM MCKEEBY, PRESIDENT
TURNING POINT USA AT GRAND VALLEY STATE UNIVERSITY

DECLARATION UNDER PENALTY OF PERJURY

I, TIM MCKEEBY, a citizen of the United States and a resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 29 day of November, 2016, at Attendale, Michigan.

Timothy McKeeby
TIM MCKEEBY

DECLARATION UNDER PENALTY OF PERJURY

I, JOE TUCKER, a citizen of the United States and a resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 29 day of November, 2016, at Allendale, Michigan.

Joseph Tucker
JOE TUCKER