

INTRODUCTION

1. The Supreme Court of the United States has made clear that “state colleges and universities are not enclaves immune from the sweep of the First Amendment.” *Healy v. James*, 408 U.S. 169, 180 (1972). “With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.” *Widmar v. Vincent*, 454 U.S. 263, 268 (1981). Yet, Joliet Junior College (“JJC”) maintains policies and practices that quarantine students like Ivette Salazar, who wish to exercise their First Amendment rights, to one tiny area on campus and forces them to seek permission from campus administrators before engaging in expressive activity at the core of First Amendment protections.

2. JJC policy restricts student expression on its main campus to a small, indoor “Free Speech Area,” requires students to reserve the space five business days in advance, allows only two people to use the Free Speech Area at a time, forces them to remain behind a table at all times, and requires pre-approval for all written materials displayed or distributed.

3. As a result of JJC policy, Salazar was detained by campus police on November 28, 2017, simply for distributing political literature. As she distributed flyers on campus for a meeting of the Party for Socialism and Liberation, an officer in the JJC Police Department stopped Salazar. The officer warned Salazar not to hand out such flyers because it might “start something” on campus due to the “political climate of the country,” and then detained her in a campus police interrogation room for approximately forty minutes. After Salazar was interrogated about her flyers, she asked whether she had freedom of speech. Defendant John Doe No. 1 informed her that she only has freedom of speech if the college approves it.

4. In contravention of its well-established constitutional obligations as a public institution, JJC restricts the freedom of expression of Salazar and her fellow students. Defendants have closed the vast majority of campus to student expression and promulgated an onerous prior approval requirement without providing any articulable standards or guidelines to limit decision-makers' discretion. Under JJC policy, it is impossible for students to engage in any spontaneous or anonymous speech on campus at all. To make matters worse, JJC policy was enforced against Salazar in a content- and viewpoint-discriminatory manner.

5. JJC policy also prohibits students like Salazar from posting any materials on campus without first getting the college's approval. Indeed, Salazar was informed in September 2017 — when she inquired about hanging up a newspaper from the Party for Socialism and Liberation — that she even needed to fill out a form for approval to post on a campus bulletin board designated as a “Free Speech Board.”

6. JJC's posting policy also contains overbroad and vague restrictions on student expressive activity, prohibiting the posting of “inappropriate” or “lewd” speech or “profanity.” And while using such indefinable terms, it provides no articulable standards or guidelines to cabin a decision-maker's discretion to approve or disapprove a posting.

7. This is a civil rights action to protect and vindicate Salazar and her fellow students' right to freedom of expression under the First and Fourteenth Amendments of the United States Constitution. JJC's policies governing student expression on campus and its enforcement practices unlawfully restrict these rights and are challenged on their face and as applied to Salazar. This action also seeks to vindicate Salazar's Fourth Amendment right to be free from unlawful searches and seizures. This action seeks declaratory and injunctive relief, damages, and attorneys' fees.

JURISDICTION AND VENUE

8. This action arises under the First, Fourth, and Fourteenth Amendments of the United States Constitution, and the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

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

10. This Court has the authority to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57.

11. This Court has the authority to issue injunctive relief pursuant to 42 U.S.C. § 1983 and Federal Rule of Civil Procedure 65.

12. This Court has the authority to award attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because the events giving rise to the instant claim occurred within this District and because at least one Defendant resides in this District.

PARTIES

14. Plaintiff Ivette Salazar is, and was at all times relevant to this Complaint, a resident of Manhattan, Illinois and a student at JJC.

15. Defendant Joliet Junior College is a public institution of higher education in Joliet, Illinois.

16. Defendant Judy Mitchell is, and was at all times relevant to this Complaint, the President of JJC. Defendant Mitchell is responsible for the administration and enforcement of JJC's policies and procedures, including those that were applied to deprive Salazar of her

constitutional rights. Defendant Mitchell acted under the color of state law and is sued in her individual and official capacities.

17. Defendant Yolanda Farmer is, and was at all times relevant to this Complaint, the Vice President of Student Development at JJC and oversees the Office of Student Activities. Defendant Farmer is responsible for the administration and enforcement of JJC's policies and procedures, including those that were applied to deprive Salazar of her constitutional rights, and JJC's policies pertaining to student discipline. Defendant Farmer acted under the color of state law and is sued in her individual and official capacities.

18. Defendant Pam Dilday is, and was at all times relevant to this Complaint, the Director of Student Activities and Student Life at JJC. Defendant Dilday is responsible for the administration and enforcement of JJC's policies and procedures, including those that were applied to deprive Salazar of her constitutional rights. Defendant Dilday acted under the color of state law and is sued in her individual and official capacities.

19. Defendant Robert Wunderlich is, and was at all times relevant to this Complaint, Chair of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant Wunderlich acted under the color of state law and is sued in his official capacity.

20. Defendant Maureen Broderick is, and was at all times relevant to this Complaint, Vice Chair of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant Broderick acted under the color of state law and is sued in her official capacity.

21. Defendant Michael O'Connell is, and was at all times relevant to this Complaint, Secretary of the JJC Board of Trustees, which implemented and maintains the policy and

procedures that were applied to deprive Salazar of her constitutional rights. Defendant O'Connell acted under the color of state law and is sued in his official capacity.

22. Defendant John Mahalik is, and was at all times relevant to this Complaint, a member of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant Mahalik acted under the color of state law and is sued in his official capacity.

23. Defendant Patty Dieters is a member of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant Dieters acted under the color of state law and is sued in her official capacity.

24. Defendant Dan O'Connell is, and was at all times relevant to this Complaint, a member of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant O'Connell acted under the color of state law and is sued in his official capacity.

25. Defendant Alicia Morales is, and was at all times relevant to this Complaint, a member of the JJC Board of Trustees, which implemented and maintains the policy and procedures that were applied to deprive Salazar of her constitutional rights. Defendant Morales acted under the color of state law and is sued in her official capacity.

26. Defendant Jane Doe is a member of the JJC Police Department who interfered with Salazar's ability to exercise her constitutional right to freedom of expression on November 28, 2017, when she forced Salazar to stop distributing political flyers in generally accessible areas of campus, confiscated her flyers, and escorted her to a police interrogation room, where

she was detained by the police for approximately 40 minutes. Defendant Jane Doe acted under the color of state law and is sued in her individual and official capacities.

27. Defendant John Doe No. 1 is a member of the JJC Police Department who interfered with Salazar's ability to exercise her constitutional right to freedom of expression on November 28, 2017, when he detained Salazar and told her that she was not permitted to distribute her flyers in generally accessible areas of campus without obtaining advance permission. Defendant John Doe No. 1 acted under the color of state law and is sued in his individual and official capacities.

28. Defendant John Doe No. 2 is a member of the JJC Police Department who interfered with Salazar's ability to exercise her constitutional right to freedom of expression on November 28, 2017, when he detained Salazar and told her that she was not permitted to distribute her flyers in generally accessible areas of campus without obtaining advance permission. Defendant John Doe No. 2 acted under the color of state law and is sued in his individual and official capacities.

STATEMENT OF FACTS

A. JJC Board Policy 3.11: "Policy on Freedom of Expression and Campus Demonstrations"

29. JJC enrolls more than 38,000 students a year across its six campuses and education centers.

30. JJC is governed by a seven-member Board of Trustees and one non-voting student representative. The Board of Trustees promulgates and maintains a series of Board Policies that are binding on JJC and its administrators, employees, and students.

31. Among the Board Policies is, and was at all times relevant to this Complaint, Joliet Board Policy 3.11: "Policy on Freedom of Expression and Campus Demonstrations"

(“Board Speech Policy”). (A true and correct copy is attached as Exhibit 1.) The Board Speech Policy consists of numerous rules governing students’ freedom of expression on campus.

32. The Board Speech Policy’s first listed revision date is 1972. Its last listed revision date is January 2008.

33. The Board Speech Policy limits students’ expressive activities to a single specified location: “The Main Campus Free Speech Area for students will be located at the middle of the concourse located in the ‘D’ Building at 1215 Houbolt Road, Joliet, Illinois.” The Board Speech Policy leaves the vast majority of campus, including the main campus’s open, generally accessible, outdoor and indoor spaces, off-limits to expressive activities.

34. The Board Speech Policy limits the time frame for use of the Free Speech Area, providing that the “[h]ours of use for the Free Speech Area are the normal hours of operation at the Main Campus.” Because various JJC departments have different operative hours, it is not clear what the “normal hours of operation at the Main Campus” are.

35. Pursuant to the Board Speech Policy:

Students wishing to use the Free Speech Area must request use of the space through the Office of Student Activities. Reservations must be made five business days in advance of any use of the facility. Contact the Office of Student Activities for a reservation form. Usually, use of the space will be assigned to the person or group that requests the area first. . . .

No more than two individuals shall be allowed in the Free Speech Area, and they must remain behind the table and/or divider provided for this space while utilizing such Free Speech Area. If necessary, an alternate location will be designated.

At the time of the request to use the Free Speech Area, the following information will be required:

- Name of the person or organization sponsoring the event.
- Location, date and time requested for event.
- General purpose of the event.
- The Distribution of Printed Material Request Form and an exact copy of all materials.

- List of planned activities (i.e. speech or rally, march with signs, distribution of literature, sit-in).
- Special equipment requested.
- Anticipated attendance.

[. . .]

Distribution of Literature – Distributing literature is acceptable only in the Free Speech Area by the group or organization requesting Freedom of Expression.* . . .

- = Note – Literature/material for display purposes must have the approval of the Office of Student Services and Activities prior to posting. The area must be clean of all materials/symbols at the conclusion of the event or end of the time allotted.

36. Upon information and belief, no policies or guidelines other than the Board Speech Policy govern use of JJC’s Free Speech Area or the approval of requests to engage in expressive activity under the Board Speech Policy.

37. On its face, the Board Speech Policy grants the Office of Student Services and Activities, or any JJC administrators responsible for the policy’s enforcement, unfettered discretion to deny a request for use of the Free Speech Area or a request to distribute materials because of the content or viewpoint of the speaker’s intended message.

38. The Board Speech Policy invites content- and viewpoint-based decision-making by requiring that students provide the name of any organization planning an event, the purpose of the event, and an exact copy of materials to be distributed.

39. The Board Speech Policy prohibits spontaneous or anonymous speech because students must request permission to utilize the Free Speech Area five business days in advance, and they must identify themselves and their organizations prior to reserving the Free Speech Area. Thus, under the Board Speech Policy, JJC students’ ability to respond promptly, publicly, or anonymously to current and still-unfolding events is severely restricted, if not entirely prevented.

40. By requiring advance permission to utilize the Free Speech Area, and by prohibiting expressive activity and distribution of literature outside of the Free Speech Area, the Board Speech Policy imposes a prior restraint on the freedom of expression of all JJC students.

41. JJC's campus has many open, publicly accessible areas, outdoor green spaces, and sidewalks where student speech, expressive activity, and distribution of literature would not interfere with or disturb access to college buildings or sidewalks, impede vehicular or pedestrian traffic, or in any way substantially disrupt the operations of the campus or the college's educational functions. Yet these areas are all off-limits to student expression.

42. The Board Speech Policy and other JJC policies explicitly authorize the punishment of students, like Salazar, for engaging in protected speech and other expressive activity, including the unauthorized distribution of literature.

43. The Board Speech Policy provides that all individuals participating in events pursuant to the policy "are expected to comply with state and federal law, municipal ordinances, Joliet Junior College Student Code, and the above guidelines." It further provides, "Failure to do so may result in immediate removal from the campus and any other appropriate action by College officials and/or Campus Police."

44. JJC Board Policy 11.01.00, titled "College Regulations Policy & Index," authorizes the JJC Police to fine individuals found to be in violation of campus regulations. Under Regulation 2-103 A (27) of that policy, titled "Posting /Distribution of Flyers," it is a violation of the regulations to "[k]nowingly post or deliver any advertisement or notice on any College property or any vehicle parked on college property without express written permission from the College." A violation of this regulation can result in a \$25 fine. (A true and correct copy is attached as Exhibit 2.)

45. JJC's Student Code of Conduct, which is binding on all students, allows JJC to punish students for the "[v]iolation of published College policies, or procedures as stated in the JJC Board Policy, JJC procedures, departmental policies and procedures, and Campus Police procedures." Sanctions under the code may include, among other things, warnings, probation, fines, withdrawal from classes, suspension, and expulsion. (A true and correct copy is attached as Exhibit 3.)

B. JJC's Posting Policy

46. JJC's Office of Student Activities maintains a policy governing the posting of materials on campus, titled "JJC Office of Student Activities Posting Guidelines" ("Posting Policy"). (A true and correct copy is attached as Exhibit 4.) Upon information and belief, the Posting Policy was last revised on March 20, 2012.

47. The Posting Policy contains a list of nine criteria that govern content to be posted on JJC's campus.

48. Under the Posting Policy, students who wish to post materials on campus must provide "a contact name, a phone number, the name of the organization, and purpose of [the] posting."

49. The Posting Policy further requires that students use "[a]ppropriate language" and prohibits the use of "profanity" and "lewd pictures (photo or illustrations)."

50. According to the Posting Policy, students must bring fifteen (15) copies of their intended posting to the Office of Student Activities, "where the posting will be reviewed and stamped if approved."

51. Upon information and belief, no policies or guidelines other than the Posting Policy govern the approval of requests to post materials on JJC main campus bulletin boards.

52. By requiring approval before a student may post any printed content on campus, the Posting Policy imposes a prior restraint on student expression.

53. The Posting Policy prohibits anonymous speech by requiring that students provide a contact name and phone number on posted materials and by requiring that students provide contact information as part of the approval process.

54. The Posting Policy prohibits students from engaging in spontaneous speech by requiring that all flyers be pre-approved by the Office of Student Activities.

55. The Posting Policy grants unfettered discretion to the Office of Student Services and Activities, or any administrators responsible for the Posting Policy's enforcement, to deny a request to post materials because of the content or viewpoint of the speaker's intended message.

56. The Posting Policy prohibits students from engaging in protected expressive activity by requiring that students use "appropriate language" and banning the use of "profanity" and "lewd pictures (photo or illustrations)."

57. The Posting Policy is an overbroad and vague restriction on speech.

C. Salazar has repeatedly attempted to engage in constitutionally protected expressive activity on her campus, but has been thwarted by JJC's policies and practices.

58. Salazar is an applicant for membership in the Party for Socialism and Liberation ("PSL"), an organization with approximately 10,000 members nationwide and approximately 24 members in Chicago, along with another 50–75 individuals who are affiliated with the organization in Chicago. PSL's core beliefs include that "capitalism . . . is the source of the main problems confronting humanity today."

59. Salazar attends regular Saturday meetings of the Chicago chapter of PSL and participates in other chapter activities.

60. In the fall of 2017, Salazar sought permission from JJC's Office of Student Activities to distribute or post information on JJC's main campus about a PSL coat drive. On a separate occasion, Salazar sought permission from the Office of Student Activities to post a copy of PSL's newspaper on a campus bulletin board described under the Posting Policy as a "Free Speech Board," which is designated for "non-JJC related information." *See* Posting Policy, Exhibit 4.

61. In or around early September 2017, Salazar was told by a staff person in JJC's Office of Student Activities that she could not distribute or post information on campus about the PSL coat drive because the coat drive was not affiliated with a JJC organization.

62. In or around late September 2017, Salazar inquired with the JJC Office of Student Activities about hanging a copy of the PSL newspaper on a campus Free Speech Board. She was told by an employee in JJC's Office of Student Activities that she would need to complete a form and obtain approval in order to have the PSL newspaper hung on the Free Speech Board.

63. At a November 25, 2017, meeting of the Chicago chapter of PSL, Salazar obtained flyers reading "Shut Down Capitalism" and advertising a "workshop and discussion-based day of Marxism classes on December 16 in Chicago." She intended to distribute the flyers at various locations.

64. On November 28, Salazar arrived on JJC's main campus around 9:30 a.m. to attend her first class of the day at 11:00 a.m. Around 10:00 a.m., Salazar walked toward her class down a large concourse that connects several of the main campus buildings. There are couches, tables, and chairs placed throughout this space where students can congregate or study. In this area, she witnessed members of the student group Turning Point USA ("TPUSA") standing at a table with large posters bearing messages such as "Socialism Sucks" and "I Love

Capitalism,” talking with passers-by, handing out literature, and inviting students to sign up for the group. TPUSA was the only group occupying a table for purposes of distributing information in the area at the time.

65. Salazar decided that it would be beneficial for JJC students to have information offering a different viewpoint than that expressed by the TPUSA members. Consequently, she decided to distribute copies of the PSL flyers reading “Shut Down Capitalism” that she obtained on November 25, leaving copies on several of the public tables available for student use throughout the area, near where the TPUSA members were set up. Her intention was that students sitting at or approaching the tables throughout the day would see the flyers and perhaps attend the December 16 PSL workshop in Chicago, or they would wish to learn more about the organization.

66. On her way to class, Salazar also left copies of PSL flyers on tables in another concourse connecting JJC buildings, known as “The Bridge,” which also has large gathering areas for students with couches, tables, and chairs.

67. After her class ended at 12:15 p.m., Salazar again began distributing the PSL flyers in the large concourse area where the TPUSA members were still standing behind a table distributing information.

68. As Salazar was distributing flyers, she noticed a member of the janitorial staff pointing at her. He approached and informed her that she was not permitted to hand out flyers without permission. He then yelled to a nearby JJC police officer and indicated to the officer that Salazar was the person responsible for distributing the PSL flyers.

69. Defendant Jane Doe, a JJC police officer, approached Salazar with copies of the PSL flyers in her hand and asked Salazar if she had distributed them. Salazar confirmed that she had.

70. Defendant Jane Doe asked Salazar if she knew she was not allowed to distribute the flyers. Salazar replied that she did not know that distributing flyers was prohibited.

71. This exchange between Defendant Jane Doe and Salazar took place in close proximity to where the TPUSA members' table was still set up.

72. Defendant Jane Doe told Salazar, to Salazar's recollection, that, given the "political climate of the country," she should not distribute "these type of flyers" because doing so "might start something on campus."

73. Salazar gestured to the nearby TPUSA table and informed Defendant Jane Doe that she was simply distributing flyers to provide an alternative viewpoint to the message TPUSA was expressing.

74. Defendant Jane Doe instructed Salazar to accompany her to the JJC Police Department's station in order for the police to question her about her flyers and write a report.

75. Salazar did not believe that she had any choice but to accompany Defendant Jane Doe to the JJC Police Department's station.

76. When they arrived at the police station, Defendant Jane Doe led Salazar into an interrogation room.

77. Detained by uniformed police officers and confined to an interrogation room, Salazar felt nervous and worried, and she wondered whether she was going to be expelled from JJC or find herself in trouble simply for exercising her First Amendment rights.

78. Defendant Jane Doe left the interrogation room and discussed the matter with three other individuals, including Defendants John Doe No. 1 and John Doe No. 2, in Salazar's line of sight, for approximately ten minutes. The door to the interrogation room was left open throughout the Does' conversation. Salazar overheard the Defendants discussing her flyers and how they wanted to handle the situation.

79. Defendant John Doe No. 2 then entered the interrogation room and Salazar asked how long she would be detained. Defendant John Doe No. 2 replied, to Salazar's recollection, that the interrogation would take "as long as it needs to."

80. During this time, Salazar did not believe that she was free to leave the interrogation room or campus police station.

81. Defendant John Doe No. 2 asked Salazar if she was the person responsible for distributing the "Shut Down Capitalism" flyers. Salazar replied affirmatively.

82. Defendant John Doe No. 2 asked Salazar what organization she was affiliated with and whether the group was recognized on campus.

83. Defendant John Doe No. 2 informed Salazar that she could not distribute the flyers because they had not been approved by JJC. Defendant John Doe No. 2 then left the room.

84. Defendant John Doe No. 2 re-entered the room approximately ten minutes later and asked Salazar for her student identification, state identification, and telephone number.

85. Salazar asked why Defendant John Doe No. 2 needed her identification and telephone number. He replied that they were needed to file a report.

86. Salazar produced the requested identification and telephone number. Defendant John Doe No. 2 then left the room.

87. Defendant John Doe No. 2 re-entered the interrogation room approximately ten minutes later with Defendant John Doe No. 1. Defendant John Doe No. 2 returned Salazar's identification cards and informed her that the JJC Police Department would be keeping the flyers Salazar had distributed and that officers had collected from around the campus to ensure that she did not distribute them.

88. Salazar explained that she did not understand why the police were seizing her materials and that she thought she had freedom of speech. Defendant John Doe No. 1 replied, to Salazar's recollection, "To put it bluntly, you have freedom of speech but only if we approve it." Salazar asked, "What is the point of freedom of speech if I don't have it?" Defendant John Doe No. 1 replied, to Salazar's recollection, "If you want to go ahead and post your flyers and burn your crosses, you have to get it approved by [Defendant Pam Dilday, the Director of Student Activities and Student Life]."

89. Upon information and belief, Defendant John Doe No. 1 holds a position of greater authority within the JJC Police Department than the positions held by Jane Doe and John Doe No. 2. Salazar observed that his uniform differed from that of the other officers in that he was wearing a white uniform shirt while the other officers were wearing blue uniform shirts.

90. After being detained for approximately forty minutes, Salazar was released from custody. During this time, she did not believe she was free to leave the interrogation room or campus police station.

91. After leaving the police station, Salazar remained on campus for approximately thirty minutes. During that time, she noticed several police officers walking by and observing her. Feeling unnerved, she decided not to remain on campus until her next class at 4:00 p.m. and instead left campus.

D. Salazar's First Amendment rights continue to be chilled.

92. On December 4, 2017, the Foundation for Individual Rights in Education ("FIRE") wrote to Defendant Mitchell, copying Defendants Farmer (under her former last name, Isaacs), Dilday, and Wunderlich. (A true and correct copy is attached as Exhibit 5.)

93. FIRE's letter informed Defendants that FIRE "represents Joliet Junior College ("JJC") student Ivette Salazar" and explained that JJC police officers' detention of Salazar on November 28, the officers' actions to stop her from handing out flyers, and JJC's Board Speech Policy violate the First Amendment. FIRE requested a response to its letter by December 11, 2017.

94. On December 5, 2017, FIRE received an email from Joan Tierney, administrative assistant to JJC's Board of Trustees, in which she informed FIRE that JJC was working on a response to FIRE's letter. However, JJC had not responded to FIRE by December 11, 2017.

95. On December 12, 2017, FIRE sent an email to Defendant Mitchell and Tierney asking whether JJC intended to reply to FIRE's letter.

96. On December 15, 2017, in response to its December 12 email, FIRE received an email from Carl R. Buck, Esq., ("Buck"), who asked that FIRE "direct any future correspondence from yourself to my office."

97. Buck's December 15 email also stated that JJC had "communicated with Ms. Salazar pursuant to the policies established by the Board of Trustees for resolving disputes within the campus." Buck's email included a copy of an email that Defendant Farmer sent to Salazar's JJC email address on December 8, 2017, directing Salazar to contact her administrative assistant to set up a meeting regarding the November 28 "incident" discussed in FIRE's December 4 letter. *See* Dec. 15, 2017 email from Carl Buck, Esq., to Ari Cohn, Esq. (A true and correct copy is attached as Exhibit 6.) Salazar also received a letter from Defendant Farmer dated

December 8, 2017, via United States mail, containing the same text. (A true and correct copy is attached as Exhibit 7.)

98. Marieke Tuthill Beck-Coon, Esq., (“Beck-Coon”) FIRE’s director of litigation, replied to Buck’s email and asked him to direct all future communication regarding the matter to her and other of Salazar’s attorneys. *See* Dec. 15, 2017 email from Marieke Tuthill Beck-Coon, Esq., to Carl Buck, Esq. (A true and correct copy is attached as Exhibit 8.)

99. On December 19, 2017, Buck replied to Beck-Coon’s email to inform her: “As a student at an institution of higher education in the State of Illinois, Ms. Salazar is aware of her obligations.” *See* Dec. 19, 2017 email from Carl Buck, Esq., to Marieke Tuthill Beck-Coon, Esq. *See* Exhibit 8.

100. Defendants’ policies, practices, and actions regarding student speech, expressive activity, and distribution of literature on campus have a chilling effect on Salazar’s rights and the rights of all other JJC students to engage freely and openly in speech and expressive activity.

101. Salazar wishes to engage in expressive activity on campus, including distribution of literature, without seeking prior permission or being limited to a small, indoor area of campus. Salazar is reasonably afraid that she will be detained by law enforcement officers again, fined, or be subject to discipline under JJC’s Student Code of Conduct if she exercises her First Amendment rights on JJC’s campus without receiving prior permission and/or outside of the Free Speech Area.

102. Salazar also wishes to be able to post information related to the Party for Socialism and Liberation without having to obtain prior permission from JJC administrators.

103. Because of her past experiences engaging in expressive activity on JJC’s main campus, Salazar is reasonably afraid that JJC’s policies will be applied to punish her for

expressive activity in the future or that she will be detained for engaging in political speech on campus.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**Freedom of Speech Under
the First and Fourteenth Amendments (42 U.S.C. § 1983)
Facial Challenge to Board Policies Governing Student Expression
(Against Defendants Wunderlich, Broderick, O’Connell,
Mahalik, Dieters, O’Connell, Morales, Mitchell, Farmer, and Dilday)**

104. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

105. The First and Fourteenth Amendments extend to the campuses of state colleges and universities. “With respect to persons entitled to be there, our cases leave no doubt that the First Amendment rights of speech and association extend to the campuses of state universities.” *Widmar*, 454 U.S. at 268; *see also Healy*, 408 U.S. at 180.

106. To pass constitutional muster under the First Amendment, time, place, and manner restrictions must be reasonable, “justified without reference to the content of the regulated speech,” “narrowly tailored to serve a significant governmental interest,” and formulated to “leave open ample alternative channels for communication of the information.” *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984).

107. Restricting all student expressive activity and distribution of literature to a single, indoor Free Speech Area is unreasonable. Quarantining student speakers into a single small “area” impermissibly restricts protected student expression, does not serve a significant government interest, does not allow ample alternative channels for communication of students’ messages, and is unconstitutionally vague and overbroad.

108. Further, by requiring students to request and receive permission five days in advance of using the Free Speech Area, by requiring the advance approval of all literature to be distributed, and by prohibiting expressive activity and distribution of literature outside of the Free Speech Area, JJC imposes a prior restraint on JJC students' freedom of expression.

109. The Board Speech Policy fails to provide "narrow, objective, and definite standards," see *Shuttlesworth v. Birmingham*, 394 U.S. 147, 151 (1969), which "provide the guideposts that check the licensor and allow courts quickly and easily to determine whether the licensor is discriminating against disfavored speech," see *Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 758 (1988).

110. By requiring that individuals provide their name and affiliation, the Board Speech Policy prohibits individuals from engaging in anonymous speech. *Watchtower Bible and Tract Soc'y of N.Y., Inc. v. Vill. of Stratton*, 536 U.S. 150, 167 (2002).

111. The Board Speech Policy unconstitutionally prohibits students from engaging in spontaneous expression by requiring that they seek permission before speaking and receive advance approval from JJC administrators for all posted or distributed literature.

112. Under JJC Board Policy 11.0100, Regulation 2-103 A (27), it is a violation of college regulations, subject to fine, to engage in the distribution of literature on college property without express written permission from JJC.

113. Like the Board Speech Policy, Regulation 2-103 A (27) places a prior restraint on JJC students' freedom of expression.

114. Defendants Wunderlich, Broderick, O'Connell, Mahalik, Dieters, O'Connell, and Morales have promulgated, maintain, and enforce the Board policies, which directly resulted in

the deprivation of Salazar and other JJC students' constitutional rights under the First and Fourteenth Amendments to the Constitution.

115. Defendants Mitchell, Farmer, and Dilday possess administrative and enforcement authority over JJC's policies and practices and are responsible for the implementation of the Board Speech Policy, which directly resulted in the deprivation of Salazar's constitutional rights under the First and Fourteenth Amendments to the Constitution.

116. By enforcing the Board Speech Policy, Defendants Mitchell, Farmer, and Dilday are responsible for the deprivation of Plaintiff's clearly established constitutional rights, of which any reasonable college official should have been aware, rendering them liable to Salazar under 42 U.S.C. § 1983.

117. The denial of constitutional rights is an irreparable injury *per se*, *Elrod v. Burns*, 427 U.S. 347, 373 (1976), and Salazar is entitled to declaratory and injunctive relief, damages in an amount to be determined by this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Freedom of Speech Under the First and Fourteenth Amendments (42 U.S.C. § 1983) As-Applied Challenge to Board Policies Governing Student Expression (Against Defendants Mitchell, Farmer, Dilday, Jane Doe, John Doe No. 1, John Doe No. 2)

118. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

119. Defendant Jane Doe enforced JJC Board policies governing student expression by halting Salazar from distributing flyers in generally accessible areas of JJC's campus on November 28, 2017, informing Salazar that she may not distribute flyers without advance permission, confiscating Salazar's flyers, enforcing JJC policy based on the content of Salazar's speech and her viewpoint, and detaining her in an interrogation room in JJC's police station.

120. Defendants John Doe No. 1 and John Doe No. 2 enforced JJC Board policies governing student expression by detaining Salazar in the interrogation room, informing Salazar that she may not distribute flyers without advance permission, confiscating Salazar's flyers, and enforcing JJC policy based on the content of Salazar's speech and her viewpoint.

121. Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 chilled Salazar's right to free expression and deprived her of her clearly established rights to freedom of speech and expression secured by the First and Fourteenth Amendments.

122. Defendants Mitchell, Farmer, and Dilday have administrative and enforcement authority over JJC's policies and practices governing student speech and expressive activity on JJC's main campus. As described above, by designating only a tiny area of campus for speech and distribution of literature, requiring advance permission for its use, and requiring advance approval of all materials to be distributed, Defendants should reasonably have known that their actions and inactions would lead to the deprivation of clearly established student rights to freedom of speech and expression secured by the First and Fourteenth Amendments in the manner experienced by Salazar.

123. Defendants violated Salazar's clearly established constitutional rights, of which any reasonable college official or police officer should have known, rendering them liable to Salazar under 42 U.S.C. § 1983.

124. The denial of constitutional rights is an irreparable injury *per se*, and Salazar is entitled to declaratory and injunctive relief, damages in an amount to be determined by this Court, and the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

THIRD CAUSE OF ACTION

**Freedom of Speech Under
the First and Fourteenth Amendments (42 U.S.C. § 1983)
Facial and As-Applied Challenge to Posting Policy
(Against Defendants Mitchell, Farmer, and Dilday)**

125. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

126. By prohibiting students from posting materials without permission, the JJC's Posting Policy imposes a prior restraint on speech.

127. The Posting Policy fails to provide "narrow, objective, and definite standards," *see Shuttlesworth*, 394 U.S. at 151, which "provide the guideposts that check the licensor and allow courts quickly and easily to determine whether the licensor is discriminating against disfavored speech," *see Lakewood*, 486 U.S. at 758.

128. By requiring that students use only "appropriate" language in posted materials, and by prohibiting profane speech or lewd images, JJC has created an overbroad restriction on speech that bans a great deal of protected speech. *See Cohen v. California*, 403 U.S. 15, 25 (1971); *see also Papish v. Bd. of Curators of the Univ. of Mo.*, 410 U.S. 667, 670 (1973); *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973).

129. JJC's requirement that language be "appropriate" and its prohibition on profane speech or lewd images are unconstitutionally vague because a reasonable person would not be able to determine what language is permissible under the rule. "[S]tandards of permissible statutory vagueness are strict in the area of free expression." *NAACP v. Button*, 371 U.S. 415, 432 (1963); *see also Wis. Right to Life, Inc. v. Barland*, 751 F.3d 804, 811 (7th Cir. 2014).

130. By requiring that students provide their name and contact information on any materials to be posted, the Posting Policy prohibits students from posting material anonymously

on JJC's campus. *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 342 (1995); *Watchtower Bible*, 536 U.S. at 167.

131. Defendants Mitchell, Farmer, and Dilday have administrative and enforcement authority over JJC's policies and practices governing student speech and expressive activity. Defendants should reasonably have known that the maintenance and enforcement of the Posting Policy would lead to the deprivation of clearly established student rights to freedom of speech and expression secured by the First and Fourteenth Amendments in the manner experienced by Salazar.

132. During the fall of 2017, the Posting Policy was applied to Salazar when she was directed to seek permission prior to posting materials on JJC's main campus.

133. The Posting Policy is challenged on its face and as applied to Salazar.

134. By maintaining and enforcing the rules related to posting materials on JJC's campus, Defendants Mitchell, Farmer, and Dilday are responsible for the deprivation of Plaintiff's clearly established constitutional rights, which any reasonable college official should have been aware of, rendering them liable to Salazar under 42 U.S.C. § 1983.

135. As a legal consequence of the Defendants' violation of Salazar's First and Fourteenth Amendment rights, as alleged above, all of which are irreparable injuries *per se*, Salazar is entitled to declaratory and injunctive relief, damages, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

**False Imprisonment
Fourth Amendment (42 U.S.C. § 1983)
(Against Defendants Jane Doe, John Doe No. 1, John Doe No. 2)**

136. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

137. In detaining Salazar on November 28 simply because she was attempting to distribute flyers in generally accessible areas of JJC's campus, Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 intentionally seized Salazar and confined her without lawful justification.

138. Salazar did not consent to being held in the interrogation room and asked Defendants how long she would be detained.

139. A reasonable person in Salazar's position would not have believed that they were free to leave and Salazar did not believe she was free to leave.

140. Defendant Jane Doe lacked probable cause to seize Salazar.

141. Defendants John Doe No. 1 and John Doe No. 2 lacked probable cause to detain Salazar.

142. Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 were acting under the color of state law when Salazar was seized and detained.

143. Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 seized Salazar's flyers expressly in order to prevent her from distributing them on JJC's campus.

144. The denial of constitutional rights is an irreparable injury *per se*. Salazar also experienced emotional injury as a consequence of being denied her Fourth Amendment rights.

145. Salazar is entitled to a declaration that Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 violated her Fourth Amendment rights. Additionally, Salazar is entitled to

damages in an amount to be determined by this Court, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

FIFTH CAUSE OF ACTION

***Monell* Claim Under 42 U.S.C. § 1983
(Against Defendant Joliet Junior College)**

146. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

147. A government body such as JJC may be held liable under 42 U.S.C. § 1983 when the execution of government policy or custom that may be fairly said to represent its official policy inflicts injury on a plaintiff. Section 1983 also allows liability for constitutional violations committed by government employees if the government body itself is responsible for causing constitutional deprivations. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). *Monell* liability can further rest on ratification by a final policymaker, or for damages caused by a failure to train employees that leads to the deprivation of constitutional rights.

148. In prohibiting Salazar from distributing flyers on JJC's campus without obtaining prior approval and limiting all student expressive activities to the Free Speech Area, Defendants violated Salazar's clearly established rights under the First and Fourteenth Amendments to the United States Constitution.

149. At all times relevant to this Complaint, Defendants were acting under color of the laws of the State of Illinois and Will County, Illinois.

150. Defendants Jane Doe, John Doe No. 1, and John Doe No. 2 interfered with and prevented Salazar from distributing political flyers on the JJC campus and enforced Board policies in a content- and viewpoint-discriminatory manner. Further, JJC promulgated policies limiting student speech activities to a designated Free Speech Area, limiting the period during which students could use the Free Speech Area, requiring advance permission to engage in any

expressive activity on campus, and using overbroad and vague terms to limit student expression in public postings on campus.

151. JJC fails to train its employees, including its police department, adequately with respect to the First Amendment rights of college students, displaying deliberate indifference to students' constitutional rights.

152. On information and belief, JJC failed to supervise and discipline its employees for unlawfully interfering with the First Amendment right of students to engage in expressive activities, distribute written materials in the public areas of a public college, and post materials without obtaining advance permission from government officials, displaying deliberate indifference to its citizens' constitutional rights.

153. These unconstitutional policies, customs, and practices of JJC were the moving force behind the violation of Salazar's constitutional rights by Defendants Jane Doe, John Doe No. 1, and John Doe No. 2.

154. As a legal consequence of the Defendants' violation of Salazar's First, Fourth, and Fourteenth Amendment rights, as alleged above, which are irreparable injuries *per se*, Salazar is entitled to declaratory and injunctive relief, damages, and the reasonable costs of this lawsuit, including reasonable attorneys' fees.

SIXTH CAUSE OF ACTION

Declaratory Relief and Injunction (28 U.S.C. § 2201, *et seq.*) (Against All Defendants)

155. Salazar repeats and realleges each of the foregoing paragraphs in this Complaint.

156. An actual controversy has arisen and now exists between Salazar and Defendants concerning her rights under the United States Constitution. A judicial declaration is necessary and appropriate at this time as to Counts I through V above.

157. Salazar desires a judicial determination of her rights against Defendants as they pertain to her right to engage in expressive activity in the generally accessible areas of JJC without being subjected to an unconstitutional prior restraint or unreasonable “time, place, and manner” regulations, which are not narrowly tailored to serve a substantial government interest, and which do not leave open alternative channels of communication; her right to engage in expressive activity free from content or viewpoint discrimination; and her right to post materials without being subject to prior restraint and overbroad and vague limitations on speech.

158. To prevent further violation of Salazar’s constitutional rights by Defendants, it is appropriate and proper that a declaratory judgment issue, pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, declaring JJC’s policies and practices unconstitutional.

159. Further, pursuant to 28 U.S.C. § 2202 and Fed. R. Civ. P. 65, it is appropriate and hereby requested that this Court issue a permanent injunction prohibiting Defendants from enforcing their restrictions on Salazar’s expressive activities to the extent they are unconstitutional, so as to prevent an ongoing violation of Salazar’s constitutional rights. Salazar is suffering from irreparable harm from continued enforcement of JJC’s unconstitutional policies and practices. Monetary damages are inadequate to remedy the harm suffered as a result of the deprivation of rights under the First and Fourteenth Amendments, and the balance of equities and public interest both favor a grant of injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ivette Salazar respectfully requests that the Court enter judgment against Defendants and provide Salazar the following relief:

- A. A declaratory judgment stating that Defendants’ policies regulating student expression, both facially and as applied against Salazar, and Defendants’

enforcement practices related to such policies violate the First and Fourteenth Amendments to the Constitution of the United States;

- B. A declaratory judgment stating that Defendants violated Salazar's rights under the Fourth Amendment to the Constitution of the United States;
- C. A permanent injunction restraining enforcement of Defendants' unconstitutional policies and enforcement practices;
- D. Monetary damages in an amount to be determined by the Court to compensate for Salazar's emotional distress and the Defendants' unconstitutional interference with Salazar's rights under the First, Fourth, and Fourteenth Amendments to the Constitution of the United States;
- E. Salazar's reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988 and other applicable law; and
- F. All other further relief to which Salazar may be entitled.

JURY TRIAL

- 160. Salazar demands a trial by jury on all claims triable by jury in this cause of action.

DATED: January 11, 2018

By: /s/ Wayne B. Giampietro
Wayne B. Giampietro
Poltrock & Giampietro
123 W. Madison, Suite 1300
Chicago, Illinois 60602
Tel: (312) 236-0606; Fax: (312) 236-9264
wgiampietro@giampietrolaw.com

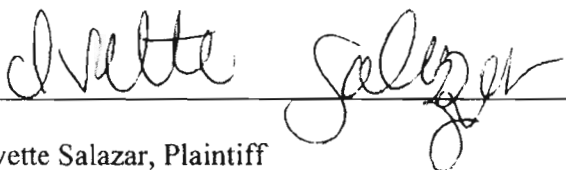
Marieke Tuthill Beck-Coon
Email: marieke@thefire.org
Brynne S. Madway
Email: brynne.madway@thefire.org
Foundation For Individual Rights in Education
510 Walnut Street, Suite 1250
Philadelphia, PA 19106
Tel: (215) 717-3473; Fax: (215) 717-3440
Pro hac vice applications to be filed

Attorneys for Plaintiff Ivette Salazar

VERIFICATION OF COMPLAINT

I, Ivette Salazar, 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 11 day of January, 2018.



Ivette Salazar, Plaintiff