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17 *Attorneys for Plaintiff*

18 **IN THE UNITED STATES DISTRICT COURT**  
19 **FOR THE DISTRICT OF ARIZONA**

20 **Brittany Mirelez,**  
21 Plaintiff,

22 vs.

23 **Dr. Paul Dale**, President of Paradise  
24 Valley Community College, in his official  
25 and individual capacities; **Veronica**  
26 **Garcia**, Vice President of Student Affairs  
27 for Paradise Valley Community College,  
28 in her official and individual capacities;  
and **Mike Ho**, Director of Student Life  
and Leadership for Paradise Valley  
Community College, in his official and  
individual capacities,  
Defendant.

Case No.

**VERIFIED COMPLAINT**

**Jury Trial Requested**

1 Plaintiff Brittany Mirelez (“Mirelez”), by and through counsel, and for her  
2 Complaint against the Defendants, hereby states as follows:

3 **INTRODUCTION**

4 1. The cornerstone of higher education is the ability of students to participate  
5 in the “marketplace of ideas” on campus. That marketplace depends on free and  
6 vigorous debate between students—debate that is spontaneous, ubiquitous, and often  
7 anonymous—and is carried out through spoken word, flyers, signs, and displays.

8 2. This case arises from policies and practices of Paradise Valley  
9 Community College (“PVCC”) and public officials employed by PVCC that restrict the  
10 expressive rights of students and student organizations.

11 3. Although PVCC encourages free discourse and debate on campus, it uses  
12 its Guidelines for Public Expression on Campus (the “Policy”) to restrict student speech  
13 to one designated speech zone (the “Speech Zone”).

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

18 5. The Policy chills protected student speech and disables the ability of  
19 students to speak on campus about recent and unfolding events.

20 6. The Policy further limits use of the Speech Zone to Monday through  
21 Friday between 9:00 a.m. and 4:00 p.m.

22 7. Additionally, under the Policy, a student must request permission to use  
23 the Speech Zone at least 48 hours in advance of the planned activity.

24 8. On October 7, 2015, Brittany Mirelez, a student at PVCC, set up a table in  
25 the Speech Zone to talk with students about joining the Young Americans for Liberty  
26 student group she is trying to start at PVCC.

27  
28



1 **PLAINTIFF**

2 19. Plaintiff Brittany Mirelez is a student at PVCC.

3 20. In September 2015, Mirelez submitted an application to form a Young  
4 Americans for Liberty (“YAL”) student chapter at PVCC. Although it has been more  
5 than two months, PVCC has not yet approved Mirelez’s application to form the YAL  
6 student organization.

7 21. YAL is a non-partisan, grass-roots political advocacy group supporting  
8 liberty candidates through volunteering, campaigning, and teaching and promoting  
9 liberty values on college campuses throughout the country.

10 22. YAL promotes the intellectual development of students who share an  
11 interest in liberty through activism and academics.

12 23. Mirelez and YAL will express their message on PVCC’s campus through  
13 a variety of means including flyers, signs, peaceful demonstrations, hosting tables with  
14 information, inviting speakers to campus, and talking with fellow students about  
15 libertarian ideas, among other things.

16 24. When engaging in these expressive activities, Mirelez and YAL discuss  
17 political, religious, social, cultural, and moral issues and ideas.

18 **DEFENDANTS**

19 25. Defendant Dr. Paul Dale is, and was at all times relevant to this  
20 Complaint, the President of PVCC, a public community college organized and existing  
21 under the laws of the State of Arizona.

22 26. PVCC receives funding from the State of Arizona to operate.

23 27. PVCC is one of ten community colleges in the Maricopa County  
24 Community College District (“MCCCD”).

25 28. The MCCCD is governed by a Governing Board.

26 29. The Governing Board establishes the policies and procedures for all of the  
27 community colleges in the district, including PVCC.

28

1           30.    The Governing Board has designated the PVCC President as the chief  
2 executive officer and administrative head of PVCC.

3           31.    Defendant Dale is responsible for formulation, adoption, implementation,  
4 and enforcement of PVCC policies, including the Policy challenged herein, and their  
5 application to student speech.

6           32.    Defendant Dale is responsible for enforcement of the Policy by PVCC  
7 employees.

8           33.    All changes in campus policy concerning solicitation are made only with  
9 the prior approval of Defendant Dale.

10          34.    Defendant Dale has not instructed Defendant Garcia to change or alter the  
11 Policy to comply with constitutional mandates.

12          35.    Defendant Dale is sued in his official and individual capacities.

13          36.    Defendant Veronica Garcia is, and was at all times relevant to this  
14 Complaint, the Vice President of Student Affairs at PVCC, a public community college  
15 organized and existing under the laws of the State of Arizona.

16          37.    Defendant Garcia, in consultation with Defendant Dale, is responsible for  
17 the development, administration, interpretation, and oversight of PVCC policies,  
18 including the Policy challenged herein, and their application to student speech.

19          38.    Defendant Garcia possesses the authority to approve or reject requests to  
20 speak or use campus facilities for speech by students.

21          39.    All changes in the Policy are made only with the prior approval of  
22 Defendants Dale and Garcia.

23          40.    Defendant Garcia has not changed or altered the Policy to comply with  
24 constitutional mandates.

25          41.    Defendant Garcia is sued in her official and individual capacities.

26          42.    Defendant Mike Ho is, and was at all times relevant to this Complaint, the  
27 Director of Student Life and Leadership at PVCC, a public community college  
28 organized and existing under the laws of the State of Arizona.



1           54. The Vice President of Student Affairs, Defendant Garcia, is the  
2 institutional official responsible for the development, administration, interpretation, and  
3 oversight of the Policy.

4           55. The Policy applies to all PVCC students, student groups, faculty, staff,  
5 and members of the public.

6           56. While PVCC “recognizes and supports the rights of students, employees,  
7 and visitors to speak in public,” the Policy restricts all student expression to one Speech  
8 Zone. Ex. 3.

9           57. Mirelez and her fellow students and student organizations may speak only  
10 in the one Speech Zone. A copy of the campus map with the Speech Zone highlighted  
11 is attached as Exhibit 4 to this Complaint.

12           58. The Speech Zone is the outside walkway between the Kranitz Student  
13 Center and E Building extending from the Blue Pillars of Learning in the center of  
14 campus to the east side of the Kranitz Student Center. The Speech Zone contains  
15 approximately 10,233 square feet of land which is approximately 0.23 of an acre. The  
16 Speech Zone comprises less than 0.26% of the entire PVCC campus. A Google Maps  
17 satellite view of the Speech Zone is attached as Exhibit 5 to this Complaint.

18           59. The purpose of the Speech Zone is “to maintain safety, security, and  
19 order, to insure the orderly scheduling of campus facilities, and to preclude conflicts  
20 with academic and co-curricular activities.” Ex. 3.

21           60. Students may not engage in any expressive activity outside the Speech  
22 Zone.

23           61. According to the Policy, students may not speak on the public sidewalks,  
24 walkways, lawns, or other publicly accessible outdoor areas of campus, unless they are  
25 in the Speech Zone.

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

28           63. Students must reserve use of the Speech Zone.





1           76. Mirelez went to the Student Life Office and inquired about setting up a  
2 table to talk with students and hand out literature. Mirelez was informed that she could  
3 use one of the tables that was already set up in the Speech Zone.

4           77. Mirelez then went to the Speech Zone and located a table that was not  
5 being used. The table was located adjacent to the double doors leading to the cafeteria  
6 inside of the Kravitz Student Center.

7           78. The table was located in a portion of the Speech Zone that is wide and  
8 open to public ingress and egress. The table was not blocking any entrances or exits of  
9 any buildings and was not blocking pedestrian traffic or creating any congestion.

10          79. Mirelez attached a YAL banner to the table and began displaying various  
11 literature at the table, including pocket-sized constitutions, pamphlets discussing free  
12 market economics, and other literature describing YAL and its mission.

13          80. Approximately five minutes after setting up at the table, Mirelez was  
14 approached by a PVCC employee and informed that she was not allowed to be in the  
15 Speech Zone because she did not submit an application to use the Speech Zone forty  
16 eight hours (48) in advance as required by the Policy.

17          81. The PVCC employee informed Mirelez that she would be allowed to  
18 move her display into the cafeteria. Mirelez informed the employee that she did not  
19 want to conduct her activities in the cafeteria but that she wanted to remain in the  
20 Speech Zone.

21          82. During this conversation, Mike Ho, Director of Student Life and  
22 Leadership for PVCC, approached and joined the conversation.

23          83. Mr. Ho stated that Mirelez was not allowed to continue her speech  
24 activities in the Speech Zone because she did not submit an application 48 hours in  
25 advance as required by the Policy.

26          84. Mr. Ho stated that Mirelez could either move to the cafeteria or she could  
27 leave the campus but that she was not allowed to remain in the Speech Zone.  
28

1           85.    Though Mirelez thought Mr. Ho’s order was unjust and unconstitutional,  
2 Mirelez complied and removed the table, left the Speech Zone, and set up a table in the  
3 cafeteria.

4           86.    The table in the cafeteria is inadequate for Mirelez’s desired expression  
5 because it does not afford her the same level of foot traffic available in the outdoor areas  
6 of campus.

7           87.    Mirelez desires to engage in peaceful expressive activities on campus—  
8 including oral communication and literature distribution—without first registering her  
9 intent to do so 48 hours in advance and without agreeing to limit her activities to the  
10 Speech Zone, but she has not done so for fear of punishment.

11          88.    The Policy indicates that Mirelez would expose herself to a range of  
12 disciplinary actions, including suspension or dismissal, if she engaged in expressive  
13 activities in the open, outdoor areas of the PVCC campus without first obtaining  
14 administrative permission.

15          89.    PVCC’s Policy and Defendants’ enforcement of such Policy against  
16 Mirelez burdens her speech for multiple reasons.

17          90.    Mirelez wants to engage in expressive activities outside the Speech Zone,  
18 but has refrained from doing so for fear of punishment.

19          91.    Mirelez wants to engage in speech containing political and social  
20 messages while she stands on public ways and open areas on PVCC’s campus.

21          92.    Mirelez’s speech is further frustrated because she cannot speak publicly at  
22 PVCC until she first applies for a reservation 48 hours in advance with PVCC and  
23 restricts her activities to the Speech Zone.

24          93.    The permit requirement, in and of itself, is unduly burdensome as it  
25 requires 48 hours advanced notice for processing.

26          94.    The permit requirement means that Mirelez may not engage in  
27 spontaneous or anonymous speech on campus even though she desires to do so  
28 immediately.

1 95. Mirelez desires to spread her political beliefs and those of Young  
2 Americans for Liberty in reaction to current events.

3 96. The Policy, which restricts all student speech to a single Speech Zone,  
4 closes an entire forum for speech activity by Mirelez.

5 97. PVCC's Speech Zone is inadequate for Mirelez's speech because she  
6 wants to reach a wider audience and there is greater foot traffic in other areas of  
7 campus.

8 98. PVCC's Speech Zone is inadequate for Mirelez because if the entire  
9 Speech Zone is reserved on campus, then she may not engage in expressive activity.

10 99. Mirelez is bound to comply with the terms of the Policy at all times on  
11 campus.

12 100. Mirelez has not engaged in oral, written, and symbolic speech on political  
13 and cultural topics on campus outside the Speech Zone due to the Policy.

14 101. Mirelez is chilled in her ability to discuss political and cultural topics on  
15 campus due to the Policy.

16 102. If not for the Policy, Mirelez would have spoken numerous times in the  
17 open areas of PVCC's campus and conveyed her messages about politics, culture, and  
18 social issues.

19 103. Specifically, Mirelez would have solicited students to join the Young  
20 Americans for Liberty student group outside the Speech Zone. Mirelez refrained from  
21 doing so for fear of arrest or punishment under the Policy.

22 104. The fear of arrest or punishment severely limited Mirelez's  
23 constitutionally-protected expression on campus.

24 **ALLEGATIONS OF LAW**

25 105. At all times relevant to this Complaint, each and all of the acts and  
26 policies alleged herein were attributed to the Defendants who acted under color of a  
27 statute, regulation, custom, or usage of the State of Arizona.  
28

1           106. Defendants knew or should have known that by prohibiting all expressive  
2 activities of students, including Mirelez, except in the designated Speech Zone, PVCC  
3 was and is violating Mirelez’s constitutional rights.

4           107. Mirelez is suffering irreparable harm from Defendants’ Policy.

5           108. Mirelez has no adequate or speedy remedy at law to correct or redress the  
6 deprivation of her rights by Defendants.

7           109. Unless the conduct of Defendants and the Policy are enjoined, Mirelez  
8 will continue to suffer irreparable injury.

9                                   **FIRST CAUSE OF ACTION**

10                               **Violation of Plaintiff’s First Amendment Right**  
11                                   **to Freedom of Speech**  
12                                   **(42 U.S.C. § 1983)**

13           110. Plaintiff repeats and realleges each of the allegations contained in  
14 paragraphs 1–109 of this Complaint.

15           111. Speech is entitled to comprehensive protection under the First  
16 Amendment.

17           112. Political speech is fully protected by the First Amendment.

18           113. The First Amendment also protects citizens’ right to engage in  
19 spontaneous and anonymous speech.

20           114. The First Amendment rights of free speech and press extend to campuses  
21 of state colleges.

22           115. The sidewalks and open spaces of PVCC’s campus are designated public  
23 forums—if not traditional public forums—for speech and expressive activities by  
24 students enrolled at PVCC.

25           116. The First Amendment’s Free Speech Clause, incorporated and made  
26 applicable to the states by the Fourteenth Amendment to the United States Constitution,  
27 prohibits content and viewpoint discrimination in the public forums for student speech  
28 and expression on the campus of a public college.

1           117. A public college’s ability to restrict speech—particularly student speech—  
2 in a public forum is limited.

3           118. The First Amendment’s Free Speech Clause prohibits censorship of  
4 political expression.

5           119. Under the First Amendment’s Free Speech Clause, a prior restraint on  
6 citizens’ expression is presumptively unconstitutional, unless it (1) does not delegate  
7 overly broad licensing discretion to a government official, (2) contains only content and  
8 viewpoint neutral reasonable time, place, and manner restrictions, (3) is narrowly  
9 tailored to serve a significant governmental interest, and (4) leaves open ample  
10 alternative means for communication.

11           120. Defendants’ Policy and their practice of limiting students and student  
12 organizations expressive activities to a single Speech Zone at PVCC violates the First  
13 Amendment facially and as applied because it prohibits students and student  
14 organizations from engaging in speech in public areas of the campus other than the  
15 limited area of the Speech Zone.

16           121. Defendants’ Policy and their practice of requiring students and student  
17 organizations to obtain a reservation in order to engage in speech at PVCC violates the  
18 First Amendment facially and as applied because it prohibits students and student  
19 organizations from engaging in anonymous or spontaneous expression.

20           122. Defendants’ Policy and their practice of requiring students and student  
21 organizations to obtain a reservation in order to engage in speech at PVCC violates the  
22 First Amendment facially and as applied because it is a prior restraint on speech in areas  
23 of campus that are traditional or designated public forums for PVCC’s students.

24           123. Unbridled discretion to discriminate against speech based on its content or  
25 viewpoint violates the First Amendment regardless of whether that discretion has ever  
26 been unconstitutionally applied in practice.

27           124. Defendants’ Policy and their practice of requiring students and student  
28 organizations to obtain a reservation in order to engage in speech at PVCC violates the

1 First Amendment facially and as applied because it grants PVCC officials unbridled  
2 discretion to discriminate against speech based on its content or viewpoint.

3 125. Defendants' Policy and associated practices provide no narrow, objective,  
4 or definite standards to limit the discretion of PVCC officials in deciding whether to  
5 grant or deny a request from a student or student organization to engage in speech in the  
6 Speech Zone or in deciding what conditions, limitations, or restrictions to impose before  
7 granting such a request.

8 126. Defendants' Policy and associated practices does not provide a way for  
9 PVCC officials to approve of spontaneous student or student organization speech in the  
10 Speech Zone.

11 127. Defendants' Policy and associated practices does not require PVCC  
12 officials to provide written justification for their decision to grant, deny, or place  
13 conditions on a request from a student or student organization to engage in speech in the  
14 Speech Zone.

15 128. Defendants' Policy and associated practices provides no appeal process  
16 that students or student organizations may utilize when their request to engage in speech  
17 is denied or limited.

18 129. These grants of unbridled discretion to PVCC officials violate the First  
19 Amendment because they create a system in which speech is reviewed without any  
20 standards, thus giving students no way to prove that a denial, restriction, or relocation of  
21 their speech was based on unconstitutional considerations.

22 130. Because Defendants have failed to establish narrow, objective, and  
23 definite standards governing the review of requests from students and student  
24 organizations to engage in speech in the Speech Zone, there is a substantial risk that  
25 PVCC officials will engage in content and viewpoint discrimination when addressing  
26 those applications.

27 131. The First Amendment's prohibition against content and viewpoint  
28 discrimination requires Defendants to provide adequate safeguards to protect against the

1 improper exclusion, restriction, or relocation of student speech based on its content or  
2 viewpoint.

3 132. Defendants' Policy and associated practices are an unconstitutional  
4 "time," "place," and "manner" restriction that violates Plaintiff's and other students'  
5 right to freedom of speech and expression.

6 133. Defendants' Policy and associated practice are neither reasonable nor  
7 valid time, place, and manner restrictions on speech because they are not content-  
8 neutral, they are not narrowly tailored to serve a significant government interest, and  
9 they do not leave open ample alternative channels of communication.

10 134. While Defendants have an interest in maintaining a safe campus, requiring  
11 advance approval or a reservation in order to engage in speech in public areas of PVCC  
12 campus is not narrowly tailored to Defendants' interest.

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

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

19 137. Defendants' Policy and associated practices are overbroad because they  
20 prohibit and restrict protected expression.

21 138. Defendants' Policy and associated practices unconstitutionally impose  
22 restrictions on all private student speech that occurs on PVCC's campus.

23 139. The overbreadth of Defendants' Policy and related practice chill the  
24 speech of students not before the Court who seek to engage in private expression on  
25 campus.

26 140. Defendants' Policy and associated practices chill, deter, and restrict  
27 Mirelez from freely expressing her political beliefs.

28 141. Defendants' Policy and associated practices violate Mirelez's right to free

1 speech as guaranteed by the First Amendment to the United States Constitution.

2 142. Because of Defendants' actions, Mirelez has suffered, and continues to  
3 suffer, economic injury and irreparable harm. She is entitled to an award of monetary  
4 damages and equitable relief.

5 143. Pursuant to 42 U.S.C. §§ 1983 and 1988, Mirelez is entitled to a  
6 declaration that Defendants violated her First Amendment right to freedom of speech  
7 and an injunction against Defendants' Policy and actions. Additionally, Mirelez is  
8 entitled to damages in an amount to be determined by the evidence and this Court and  
9 the reasonable costs of this lawsuit, including her reasonable attorneys' fees.

10 **SECOND CAUSE OF ACTION**

11 **Violation of Plaintiff's Fourteenth Amendment Right**  
12 **to Due Process of Law**

13 **(42 U.S.C. § 1983)**

14 144. Mirelez repeats and realleges each of the allegations contained in  
15 paragraphs 1–109 of this Complaint, as if set forth fully herein.

16 145. The Fourteenth Amendment to the United States Constitution guarantees  
17 Mirelez the right to due process of law and prohibits Defendants from promulgating and  
18 employing vague and overbroad standards that allow for viewpoint discrimination in  
19 Defendants' handling of Mirelez's speech.

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

22 147. The government may not regulate speech based on policies that cause  
23 persons of common intelligence to guess at their meaning and differ as to their  
24 application.

25 148. The government also may not regulate speech in ways that do not provide  
26 persons of common intelligence fair warning as to what speech is permitted and what  
27 speech is prohibited.

28





- 1 (D) A preliminary and permanent injunction prohibiting Defendants, their  
2 agents, officials, servants, employees, and any other persons acting on  
3 their behalf from enforcing the Policy and associated practices challenged  
4 in this Complaint;
- 5 (E) Compensatory and nominal damages for the violation of Plaintiff's First  
6 and Fourteenth Amendment rights;
- 7 (F) Plaintiff's reasonable attorneys' fees, costs, and other costs and  
8 disbursements in this action pursuant to 42 U.S.C. § 1988; and
- 9 (G) All other further relief to which Plaintiff may be entitled.

10 **JURY DEMAND**

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

12  
13 DATED this 8th day of December, 2015.

14  
15 s/ Kenneth W. Schutt, Jr.

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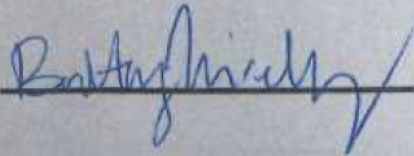
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**DECLARATION UNDER PENALTY OF PERJURY**

I, Brittany Mirelez, a citizen of the United States and a resident of the State of Arizona, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 7 day of December, 2015, at Phoenix, Arizona.

x 

Brittany Mirelez