

3356-4-21 Campus free speech.

Responsible Division/Office: Office of the President
Responsible Officer: President
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Board Committee: University Affairs
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- (A) Policy statement. Youngstown state university values the freedoms of speech, thought, expression and assembly both as constitutionally guaranteed rights and as part of the university's core educational, research, and public service mission and shall not prohibit any individual from engaging in noncommercial expressive activity on campus, so long as the individual's conduct is lawful and does not materially and substantially disrupt the functioning of the institution. The university also recognizes that the exercise of these freedoms must be balanced with the rights of others to learn, work, and conduct business. Any speech or other expressive activities by persons under this policy should not be considered to be speech made by or on behalf of the university/administrators or to be endorsed by the university/administrators.
- (B) Purpose. To provide guidelines for the free and orderly exchange of ideas on university grounds and to ensure that these activities do not imperil public safety, obstruct or damage university facilities, or interfere with the university's mission and functions. To provide guidelines in accordance with state law section 3345.0211 to 3345.0214 of the Revised Code, known as the Forming Open and Robust University Minds (FORUM) Act, hereinafter referred to as the "FORUM Act."
- (C) Definitions.
 - (1) "Expressive activity" means all forms of non-commercial expression that are protected by the First Amendment to the U.S. Constitution, which may include peaceful assemblies, speeches, protests, picketing, leafleting, circulating petitions, distributing literature, and similar expressive communications and activities.

- (2) “Harassment” means unwelcome conduct that is so severe, pervasive and objectively offensive and speech that is not protected by the First Amendment of the U.S. Constitution or Article I of the Ohio Constitution (Unprotected Expression) that it effectively denies an individual equal access to the individual’s education program or activity.
 - (3) “Outdoor areas of campus” means the generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways and other similar common areas. This does not include outdoor areas where access is restricted to a majority of the campus community.
 - (4) “Materially and substantially disrupts” means when a person, with the intent to, or with knowledge of doing so, significantly hinders another person’s or group’s expressive activity, prevents communication of their message, or prevents the transaction of the business of a lawful meeting, gathering, or procession by either engaging in violent or otherwise unlawful behavior or physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.
 - (5) “Campus community” means students, student groups, faculty, staff, and employees of the state institution of higher education and their invited guests.
- (D) Parameters.
- (1) Generally accessible outdoor areas of campus.
 - (a) Any person or group may use any publicly accessible outdoor areas of campus except decks, garages and driveways. Federal, state and local laws will be enforced as applicable. The use of walkways or other common areas may not block the free passage of others or impede the regular operation of the university. The university does not maintain free speech zones although reasonable time, place and manner restrictions may be necessary.

- (b) Reasonable time, place and manner restrictions are permitted when in the service of a significant institutional interest if the restrictions are viewpoint and content neutral and provide for ample alternative means for expressive activities. For example, amplification may be restricted during work or class hours or if the area is in use for an official university event, or a university-sponsored event; alternative options for the expressive activity shall be presented.
 - (c) Prior approval is not necessary as long as the primary action is not to advertise or sell a commercial product.
 - (d) Those seeking access to the university for commercial solicitation or advertising purposes should consult university policy 3356-7-19, "Access to campus for purposes of commercial solicitation or advertising." Employees should consult university policy 3356-7-25 regarding political activities of employees.
 - (e) Facilities which are leased by the university and which do not have general access outdoor areas controlled by the university are not available for use under this policy.
- (2) Harassment.
 - (a) The campus community has the right to an environment free of conduct that unreasonably interferes, hinders or otherwise denies another the ability to have equal access to the education environment free from harassment, as defined in paragraph (C)(2) of this policy. The university community shall refrain from harassment while conducting expressive activities.
 - (b) For conduct to violate this policy, the conduct must be more than merely offensive; it must be so objectively offensive, severe and pervasive that it denies one's access to education.
 - (c) Examples of conduct considered harassment may include, but are not limited to, true threats; fighting words or words

that actually provoke immediate violent reaction; obscenity (including child pornography); defamation or false statements; blackmail, criminal solicitation and other criminal speech and any other harassing speech that meets the definition of this policy.

- (d) This policy is not intended to impair any constitutionally protected expressive activity.
 - (e) Any member of the campus community may file a complaint alleging “harassment,” as defined herein, pursuant to university policy 3356-2-03. “Discrimination/harassment.” The compliant procedures as set forth in paragraphs (H) to (P) of university policy 3356-2-03, “Discrimination/harassment,” shall be followed.
 - (f) The standards of “harassment,” as defined in other university policies such as in university policy 3356-2-03, “Discrimination/harassment” and university policy 3356-2-05, “title IX sexual harassment,” may vary.
- (3) Large groups.
- (a) Any person or group whose use of an outdoor area is expected or reasonably likely to draw more than one hundred people should notify the university’s police department at (330) 941-3527 at least three business days before the date of the expressive activity and provide information as to the specific location to be used for the event, the estimated number of persons, and the name and contact information of at least one person who can be contacted regarding logistics of the event, and shall include at least one person who will be personally present. If three business days’ notice is not provided, the person or group must contact the university’s police department as soon as reasonably possible prior to the event. A member of the campus community whose spontaneous and contemporaneous expressive activity results in a large group gathering is advised to notify the university police.

- (b) Prior notice is necessary in order to ensure that there is sufficient space for the large group event, the large group event does not conflict with any other scheduled use of the outdoor area, and that sufficient university resources are available for crowd control and security.
- (4) Student use.
 - (a) In addition to the right of access to generally accessible outdoor areas described above, any student, group of students, or registered student organization may seek to reserve the use of specific outdoor areas by contacting the office of university events. Reserving the space is not required, but does result in priority use.
 - (b) A student or student organization request to reserve such area or space should be made at least two business days prior to the use. A request will be granted unless it would conflict or interfere with a previously scheduled event or activity or violate this policy.
 - (c) A student or student organization that has reserved a specific area or space under this policy will have priority over any other persons seeking to use the area or space during the scheduled time period. Any decision denying a request shall be promptly communicated in writing to the requester and shall set forth the basis for the denial.
- (5) Use of indoor space.
 - (a) University indoor space is mainly dedicated to the mission of teaching, learning, research, extracurricular and student life and other university support activities. Specific buildings may have specific rules that govern these spaces and not all areas of buildings are available for the general public or even students or staff. Additionally, some spaces are reserved for use to specific faculty, staff or students and other spaces require reservation to use. See university policy 3356-4-03, "University facilities – use, priorities, and fees."

- (b) Production and hosting of large events by the university or any other person or group should follow the guidelines set forth by the office of university events.
 - (c) Public bulletin boards. The university provides designated public bulletin boards for the purpose of posting materials. Refer to university policy 3356-4-17 regarding the display of posters and other printed materials.
 - (d) The university affirms its commitment to freedom of assembly and expressive activity at appropriate indoor spaces. However, activities in indoor spaces that materially and substantially disrupt the functioning of the institution are prohibited. Noise levels and crowds that impede or interfere with academic instruction and research or other scheduled events may be more disruptive indoors than in outdoor areas of campus. Determinations will be made by the administrator responsible for the space in consultation with other appropriate university officers and/or the YSU police.
 - (e) Issues of public safety are determination for the police to resolve.
- (6) Neutrality. All decisions and actions of university employees and agents made under this policy shall be content and viewpoint neutral.
- (E) Prohibited activities.
 - (1) Any event or activity that disrupts the ability of the university to effectively and peacefully teach students, provide client services, or conduct any of its other business and support operations is prohibited. Examples include, but are not limited to, excessive noise, impeding vehicle or pedestrian traffic, and conduct otherwise unlawful.
 - (2) Damage to university property including, but not limited to, damage to grounds and landscaping, driving stakes or poles into the ground, hammering nails into buildings, fastening or attaching

anything to sidewalks, paved areas, or any part of any building, structure, or fixture.

- (3) Distribution or solicitation by placing any material on vehicles in the parking lots, decks or garages.
- (4) Leaving trash, litter, materials, or pollutants in any area.
- (5) Expressive activities that meet the definition of harassment under this policy.
- (6) The university shall not charge security fees to a student or a student group based upon the content of their expression, the content of the expression of their invited guest or the anticipated reaction to an invited guest's expression.
- (7) Materially and substantially disrupting another's lawful expressive activity significantly hindering the person or group's expressive activity, thus creating a "heckler's veto." This does not prevent counter demonstrations or other constitutionally protected expression.

(F) Enforcement.

- (1) Administrators or academics charged with the responsibility of managing indoor and outdoor events: events management staff: administrators and academic responsible for the space where the activity is occurring are responsible for the enforcement.
- (2) The Youngstown state university police department shall be responsible for making decisions involving the safety of the campus community. Any person who violates this policy may be subject to any order to leave university property and may be subject to arrest if that order is not promptly obeyed. Employees who violate this policy may be subject to discipline up to and including termination.

(G) Dispute resolution. Any person or organization that believes unlawful, unreasonable, or arbitrary limitations have been imposed on their expressive activities in violation of the FORUM Act may file a complaint. Any person or organization that believes they have suffered harassment as

a result of another member of the campus community's expressive activities under this policy may file a complaint with the office of equal opportunity and policy development and Title IX.

- (H) The FORUM Act requires that the university submit to the governor, speaker of the house of representative and the president of the senate a report detailing compliance with the Act within 180 days of the effective date of FORUM. This report shall also be published on the university's website created for purposes of education on First Amendment issues. The website will contain materials, programs and procedures to inform those responsible for the education or discipline of students regarding free expression on campus.