

: FREE SPEECH AND DEMONSTRATION POLICY

In Workflow

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Approval Path

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Nicole Kapurch (nkapurch): Approved for PO Division Head

New Policy Proposal

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Changes proposed by: hlamarche

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Proposal Title

Free Speech and Demonstration Policy

Type of Proposal

Non-Academic

Proposal's Division

President's Office

Campus Department

President's Office

Proposal Summary

WSU may also impose reasonable limits on the time, place and manner of expressive activities for the purposes of assuring that the administrative functions supporting WSU's mission continue and that all community members are able to learn, teach and work safely and without disruption. Individuals or groups may use traditional public forums or designated public forums on campus for protected expressive activities, seven (7) days/week, during the hours of 8:00 a.m. to 9:00 pm. In order for the University to arrange staff, trash receptacles, and signage, etc., groups greater than ten (10) must request a permit from University Police, two (2) business days in advance of their expressive activities. Expressive activities identified in this policy are distinguished from curricular activities engaged in by faculty members and students; curricular activities respond to the principles and standards of academic freedom.

SCOPE

This policy shall apply to all members of the campus community including but not limited to students and employees of the university, including faculty, staff, contract employees, student employees, and volunteers, as well as visitors to campus, third party organizations or groups who seek to host events in university buildings or on grounds affiliated with the university. This policy does not apply to academic instruction.

DEFINITIONS

- First Amendment to the US Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
- Speech: The Supreme Court has interpreted "speech" broadly, to include talking, writing and symbolic expression, such as displaying flags and wearing armbands.
- Traditional Public Forum: Available for expressive activity includes public areas on campus that are generally open to the public, while not in use for a specific educational, administrative, research, health, residential, dining, athletic, or recreational purpose. Examples include the Binienda Family Green and the lawn in front of the administration building.
- Designated Public Forum: Sometimes available for expressive activity during periods when temporarily designated by university officials for events and activities. Examples of designated forums include, but are not limited to auditoriums, lobbies, parking lots, and athletic fields.
- Non-Public Forum: Unavailable for expressive activity. Examples include, but are not limited to, interior spaces within academic buildings and administration buildings including faculty, administrative and student offices, libraries, cafeterias and other eateries, computer labs, and residence halls.

The following definitions are operational:

- Email & Technology: The university's email system is intended for educational, and employment uses only; and thus is considered a non-public forum. Unlawful communications on any university technology platform, including threats of violence, obscenity, child pornography, and harassing communications, are prohibited. Violations may result in the loss of electronic mail privileges, loss of university owed access, loss of network privileges, and/or referral to appropriate University or legal Authorities.

- Harassment:

- Approaching within three feet of a person to be contacted, until such time as that person has indicated a willingness to converse with the speaker or distributor of flyers;
- Following a person who walks away from the speaker or distributor or flyers;
- Refusing to leave a person alone after a request to do so;
- Making statements, gestures, or depictions constituting intimidation or other kinds of "true threats" that place a person in fear of bodily harm or death; or statements constituting "fighting words" which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace.

Rationale for Proposal

Worcester State University (WSU) is a collaborative and vibrant community for learning, critical inquiry, research and discovery, as well as a place of civility and respect. When engaging with one another or acting on behalf of WSU, each member of the WSU community is expected to uphold the University's Core values:

- Academic Excellence
- Engaged Citizenship
- Open Exchange of Ideas
- Diversity and Inclusiveness
- Civility and Integrity

WSU is an inclusive community that supports each person's First Amendment right to express opinions and ideas, including unpopular or controversial viewpoints, without governmental interference, retaliation or punishment. WSU also protects each community member's right to an environment free from discrimination and harassment based on characteristics protected by law.

Although WSU supports all forms of constitutionally protected expression, the community must understand that certain types of expression are not protected:

1. Words or expressive conduct that incite violence or illegal activity;
2. Obscenity or lewd behavior;

This policy does not apply to academic instruction.¹

3. True threats;
4. Defamation/libel;
5. Expressive activity that involves illegal conduct (e.g., vandalism, trespass, disturbance, terrorizing activity);
6. Harassing speech or conduct that is (1) unwelcome, (2) discriminatory, (3) directed at an individual, (4) on the basis of his or her protected status, and (5) so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.

Procedure Related to this Policy

Individuals and/or groups seeking obtain the approval to use campus areas for expressional activities must:

I. Contact the office of Conference & Event Services (CESO) at wsu_events@worchester.edu or 508-929-8237 to reserve space in accordance with standard university procedures. University Events will consult with the chief of police or designee and secure all necessary police approvals in preparation for the event; or

II. If there is no intention to reserve space on campus, the requester must contact the chief of police or designee at 508-929-8911.

The request must identify the requester and provide contact information, and state the proposed date, time, and duration of the proposed event and an estimate of the number of people expected to attend, as well as a list of planned activities (e.g., speech or rally, march, signs, picketing, distribution of literature). A liability waiver form must be executed. The chief of police or designee will respond to the request in writing as soon as practicable. It allows for the safe and equitable use of university facilities, as well as the ability of the university to notify the appropriate members of its staff whose services might be needed or impacted by the use of the designated areas. Exceptions to the advance approval requirement may be made in the case of spontaneous speech-related events which are occasioned by news or affairs coming into public knowledge less than 24 hours prior to such event. In such a case, responsive expressional activities in the public forum areas of the campus require no advance notice.

III. The need for university staff support, including police support, in conjunction with any use of facilities or areas, shall be determined by CESO or the WSU Police Department, as applicable. Permissible factors for determining the need for police support include:

- proposed location of the event;
- estimated number of participants based on event organizer estimates and any other relevant information, including past or similar events at WSU or other locations;
- time of the day that the event is to take place;
- date and day of the week of the event;
- proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the protective measures being implemented;
- resources needed to secure the event;
- anticipated weather conditions;
- estimated duration of the event;
- other considerations relevant to an assessment of safety needs, provided that such considerations are similarly viewpoint- and content-neutral.

IV. Users of university facilities may be required to sign an agreement to reimburse the university for any out-of-pocket costs arising from staff support. In the event of unforeseen or extraordinary staff support needs arising from the particular nature of the event, the university reserves the right to bill users of campus facilities whether or not such staffing support has been agreed to in advance.

V. Any posting of materials on campus must be approved by the Office of Communications and Marketing prior to the posting. Content posted does not reflect the views, opinions or values of Worcester State University and are solely those of the sponsor, organizer, or business. Materials to be reviewed and considered for posting on external boards should be sent to: wsumarcom@worchester.edu or 508-929-8492. The university maintains a position of neutrality as to the content of any written material distributed on campus under this policy.

VI. Event Sponsorship

- Academic department sponsors must inform their dean of the event (2) two weeks before it occurs.
- Administrators/staff leading events should be sure their immediate supervisor and area vice president are aware, as soon as event planning is underway.
- The lead sponsor - whether department or student organization, faculty member, or administrator - must indicate they are present at the event and remain visible, ideally offering a statement at the beginning to introduce the program and/or speaker.

VII. The following provisions shall apply to all campus community members and visitors:

1. No speech or demonstration may create a clear and present danger of the commission of unlawful acts, or include "fighting words," which are those words that by their very utterance tend to incite an immediate breach of the peace.

2. No person may block or otherwise interfere with reasonable ingress or egress into and out of campus buildings, or interfere with any use of property belonging to the university or to other persons. There must be no obstruction of entrances or exits, corridors or thoroughfares of buildings.

3. No person shall engage in physically assaultive conduct towards any other person or damage or destroy any article of personal property belonging to the university or another person. There must be no interference with scheduled university ceremonies, events, or activities.

4. Persons engaged in speech activities or distributing literature shall not impede the progress of passersby, nor shall they force passersby to take material.

5. All persons shall comply with the directions of university officials lawfully acting in the performance of their duties. University officials shall not invoke this provision to stifle expression because of its content. Failure to identify oneself to, or comply with the directions of, a university official or other public official acting in the performance of his or her duties while on university property, is prohibited.

6. Amplified sound equipment is prohibited unless approved in advance by university officials. Under no circumstances will noise be allowed to exceed 55 decibels at a distance of 50 feet from the source of the amplification.

7. University organizations may sponsor a speaker or event, at the expense of the organization, under the university's usual event registration procedures. Such sponsorship does not necessarily imply approval of the views presented.

8. No stand, table, or booth shall be used in distribution except in traditional public forum areas. Such use shall require the prior permission of the chief of police or designee.

9. Marches, parades, and processions may take place on streets and sidewalks and other public areas of the campus. Public safety and traffic control considerations dictate that plans for an event of this nature must be approved by the chief of police or designee at least 48 hours in advance.

10. All persons at a talk or demonstration must respect the right to dissent. Any person who interferes with acceptable forms of dissent is considered in violation of this policy in the same way as is a dissenter who violates the rights of the speaker or the audience. Preventing speech from occurring by disruptive protest itself constitutes an attack on freedom of speech.

11. There must be no interference with educational or administrative activities inside or outside of buildings.

12. Persons engaged in expressional activities shall not threaten, touch, or strike attendees or passersby.

13. Lewd or obscene conduct is prohibited.

14. No alcoholic beverages of any kind shall be in the possession of or consumed by individuals at any event held under the provisions of this policy. This does preclude the CESO approved bartending services.

15. No hand-held signs or pickets are permitted in any building.

16. Harassment or interference with speakers or individuals distributing flyers is prohibited.

17. Malicious or unwarranted damage or destruction of property owned or operated by the university, or property belonging to students, faculty, staff, or guests of the university, is prohibited. Persons or organizations causing such damage will be held legally and financially responsible.

18. Persons or organizations responsible for a demonstration or other expressive event must remove all resulting structures, signs, and litter from the area at the end of the event. If this is not done, the persons or organizations responsible for the event will be held legally and financially responsible.

19. No camping is allowed without permission and temporary structures are prohibited without permission.

20. There must be compliance with all applicable state and federal laws and university policies, rules and regulations.

Proposal Narrative

SUMMARY

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