



## Ohio Administrative Code Rule 3362-5-11 Freedom of expression.

Effective: December 2, 2022

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### (A) Purpose and scope

(1) Shawnee state university believes that the right of expression is as necessary as the right of inquiry and that both must be preserved as essential to the pursuit and dissemination of knowledge and truth. The Shawnee state university community, including students, recognized student groups (and those seeking recognition), faculty, staff, and their invited guests enjoy expansive rights to free expression on campus as permitted by the United States and Ohio constitutions. The university is committed to the following principles:

(a) Students have a fundamental constitutional right to free speech;

(b) Students have broad latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to the restrictions set forth in paragraphs (B), (D)(1)(a), (D)(1)(b), (D)(1)(c), (D)(1)(d), (D)(1)(e), (D)(3), and (H) of this rule;

(c) The campus is a marketplace of ideas for all students, faculty, and staff, in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or most members of the community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed (hereinafter collectively referred to as "offensive");

(d) Individual students, faculty, and staff may make judgments about ideas for themselves and may act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting ideas they oppose;

(e) The university should not attempt to shield individuals from free speech, because some ideas and opinions may be deemed offensive;

(f) Civility and mutual respect are greatly valued, but should never be used to justify closing off



discussion of ideas, however offensive the ideas may be to some students, faculty, or staff;

(g) Students, faculty, and staff are free to state their own views about and contest views expressed on campus, including those of invited speakers, but they may not substantially obstruct or substantially interfere with the freedom of others to express views they reject or loathe. The university is responsible for promoting a lively and fearless freedom of debate and deliberation and protecting that freedom;

(h) The campus atmosphere should be conducive to speculation, experimentation, and creation by all students and faculty, who shall remain free to inquire, study, evaluate, and gain new understanding.

(i) The primary responsibility of faculty is to engage in an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

(2) This policy applies to university students, student groups, faculty, staff, and visitors.

**(B) Lawful, non-commercial expression**

The university and its administration will not prohibit any member of the campus community from engaging in lawful, noncommercial free expression to the extent that it does not materially and substantially disrupt the functioning of the university. These rights apply to verbal, written, and electronic means, including protests, speeches, literature distribution, and the circulation of petitions (collectively, "expressive activity").

**(C) Outdoor areas of campus**

Except as noted in this rule, expressive activity is permitted in outdoor areas of campus where the campus community is generally allowed, such as grassy areas, walkways, and common areas.

**(D) Limitations on free expression**

(1) The university's commitment to freedom of expression does not extend to speech that takes place on property owned, leased, or controlled by the university, and that:



- (a) Is not protected under the United States or Ohio constitutions (unprotected speech); and/or
  - (b) Constitutes harassment. Harassment is defined as unprotected speech that is both:
    - (i) Unwelcome; and
    - (ii) So severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the individual's education program or activity.
  - (c) Takes place in a nonpublic forum and is restricted in a way that is reasonable and viewpoint-neutral.
  - (d) Is subject to content restrictions that are reasonably related to a legitimate pedagogical purpose, including classroom rules enacted by teachers.
  - (e) Is disruptive to previously scheduled or reserved activities occurring in a public forum.
- (2) Nothing within this policy shall be interpreted as preventing the university from restricting speech described in paragraph (D)(1)(a), (D)(1)(b), (D)(1)(c), (D)(1)(d) or (D)(1)(e) of this rule.
- (3) The university may maintain and enforce reasonable time, place, and manner limitations on expressive activity as permitted by law.
- (E) Reporting
- (1) Complaints under this policy shall be made to human resources or through the university's online complaint reporting system (maxient or any similar successor program).
  - (2) Visitors shall report alleged violations of this policy to the department of public safety, which shall notify human resources of the complaint.
  - (3) Any complaint under this policy against an employee whose terms and conditions of employment



are governed by a collective bargaining agreement shall follow the procedures for investigation, hearing, and potential discipline set forth in the CBA.

(F) Complaints, investigation, and resolution

(1) Any student, student group, faculty or staff member, or visitor may submit a complaint about an alleged violation of this policy by a university employee, including any alleged penalty imposed on a student's grade for an assignment or coursework that is unrelated to ordinary academic standards of substance and relevance, including legitimate pedagogical concerns, and is instead based on the contents of the student's free speech. The university will investigate the alleged violation and conduct a fair and impartial hearing, pursuant to a procedure approved by the president. In instances where a hearing determines this policy was violated, the board of trustees delegates to the president (or a sub-delegate named by the president) the authority to determine a resolution to address the violation and prevent further violation of the policy.

Complaints that allege a student violated an individual's rights under this policy shall be addressed through the student conduct code.

(G) Retaliation

Members of the university community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right to free speech as set forth in this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. The procedures set forth in this policy and accompanying procedure shall apply to complaints of retaliation under this paragraph.

(H) Other anti-discrimination laws, policies, and procedures

Nothing within this policy shall be interpreted as impairing the university's obligations under federal law including, but not limited to, Title IV of the Higher Education Act of 1965; Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964; Title IX of the Education



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Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans With Disabilities Act; the Age Discrimination in Employment Act; the Age Discrimination Act of 1975; or any similar state laws, as addressed through the universitys non-discrimination and Title IX policies and procedures.