



## Ohio Administrative Code Rule 3344-2-06 Expressive activity policy.

Effective: [June 5, 2021](#)

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### (A) Purpose

- (1) The purpose of the policy is to promote the free exchange of ideas on university property and the safe and efficient operation of the university by:
  - (a) Fostering free speech, assembly and other expressive activities on university property by all persons, whether or not they are affiliated with the university.
  - (b) Maintaining an appropriate educational and work environment for all persons present on university property, including but not limited to students, faculty, employees, customers and visitors.
  - (c) Maintaining the personal security of all persons present on university property and protecting the property of the university and of persons present on university property.
  - (d) Adopting a policy on harassment that is consistent with and adheres strictly to its definition in section 3345.0211 of the Revised Code and providing guidelines in accordance with sections 3345.0211 to 3345.0214 of the Revised Code, known as the Forming Open and Robust University Minds Act or the Forum Act.
- (2) In developing this policy, the university recognizes the constitutional freedoms of speech, press, and peaceable assembly guaranteed by the United States and Ohio constitutions. The university 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 university. The university also recognizes the need to preserve and protect its property, students, guests and employees of the university, and to ensure the effective operation of educational, business and related activities of the university. Expressive activities on the university's campus may be subject to reasonable regulation with regard to the time, place and manner of the activities when in the service of a significant university interest if such regulations are viewpoint and content neutral and provide for ample alternative means for expressive activities. University employees will not consider the content of expressive activities when enforcing this policy. No policy can address every possible activity or situation that may occur on university property, and the university reserves the right to address such situations as circumstances warrant.



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- (3) This rule does not apply to use of university facilities and grounds for official events sponsored by the university. Expressive activities carried out under this policy shall not be considered to be speech made by, on behalf of or endorsed by the university.

(B) Definitions

- (1) "Campus community" means student, student groups, faculty, staff, and employees of the university and their invited guests.
- (2) "Expressive activity" means any noncommercial lawful verbal, written, audiovisual, or electronic means by which individuals may communicate ideas, including all form of peaceable assembly, protests, speeches, distribution of literature, carrying and displaying signs, and circulating petitions.
- (3) "Harassment" means unwelcome conduct that is so severe, pervasive and objectively offensive that it effectively denies an individual equal access to the individual's education program or activity.
- (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 participation in an expressive activity. This does not include conduct that is protected under the First Amendment to the United States Constitution or Section 3 of Article I of the Ohio Constitution.
- (5) "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.
- (6) "Student group" means an officially recognized group at the university, or a group seeking official recognition, comprised of admitted students that receive, or are seeking to receive, benefits through the university.

(C) Outdoor areas of campus

- (1) Publicly accessible outdoor areas



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- (a) Any person or group may use for expressive activity, with out prior approval or reservation, any outdoor area of campus except parking lots, garages and driveways. Federal, state and local laws will be enforced as applicable. The use of walkways or other common areas for expressive activity may not block the free passage of others or impede the regular operation of the university. Members of the campus community may spontaneously and contemporaneously assemble and distribute noncommercial literature.
- (b) Use of the publicly accessible outdoor areas may include speaking, non-verbal expression, distributing literature, displaying signage and circulating petitions. There is no limit to the number of times a month a person or group may access those areas.
- (c) The university does not maintain free speech zones. The university may maintain and enforce reasonable time, place, and manner restrictions specifically developed in service of a significant institutional interest when such restrictions are viewpoint and content neutral and provide for ample alternative means for expressive activities.

(2) Large groups

- (a) Except in circumstances described in paragraph (B)(2)(b) of this policy, any person or group whose use of an outdoor area is expected or reasonably likely to have more than one hundred people should notify the university's police department at 216-687-2020 at least five business days before the day of the expressive activity and provide information as to the specific location of the event, the estimated expected number of persons, and the name and contact information of at least one person who can be contacted regarding logistics of the event, which shall include at least one person who will be personally present.
- (b) Prior notice is necessary to ensure that there is sufficient space for the large group event, that 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. If such advance notice is not feasible because of circumstances that could not be reasonably anticipated, the person or group shall provide the university with as much advance notice as circumstances reasonably permit.



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(D) Student use

- (1) In addition to the right of access to publicly accessible outdoor areas of campus described in paragraph (C)(1) of this rule, any student or student group may seek to reserve the use of specific outdoor areas by contacting conference services at 216-523-7203. Reserving the area is not required but does result in priority use.
- (2) Any request by a student or student group to reserve such area should be made at least one business day prior to the event. A request will be granted unless it would conflict or interfere with a previously scheduled event or activity or violate this policy.
- (3) A student or student group that has reserved a specific area under this policy will have priority over any other persons seeking to use the area 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. The content of the expressive activity shall not form the basis for a denial.
- (4) The university will not charge security fees to a student or student group based on the content of their expression, the content of the expression of their invited guest, or the anticipated reaction to an invited guest's expression.

(E) Harassment

- (1) The university strives to provide an environment for the campus community that is free from harassment as defined in paragraph (B)(4) of this policy.
- (2) The university community shall refrain from harassment as defined in paragraph (B)(4) of this policy while conducting expressive activities.
- (3) Any member of the campus community may file a complaint alleging harassment as defined in paragraph (B)(4) of this policy pursuant to the university's policy against discrimination, harassment, sexual violence and retaliation and related procedures.
- (4) The definition of harassment set forth in paragraph (B)(4) of this policy is specific to this policy and varies from the definition of harassment set forth in other university policies.

(F) Use of indoor university space



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Use of indoor university space is governed by rules 3344-90-01 (university space) and 3344-90-02 (use of space for non-academic purposes) of the Administrative Code.

(G) Prohibited activities

- (1) Any event or activity that significantly 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) No activity may damage university property. Prohibited actions include but are not limited to driving stakes or poles into the ground, affixing items to a building, and attaching anything to sidewalks, paved areas, or any part of any building, structure or fixture. This prohibition does not limit the otherwise authorized decoration of offices and residences by non-destructive means.
- (3) Distribution or solicitation by placing any material on vehicles in the parking lots or garages is prohibited. Leaving trash, litter, materials or pollutants in any area is prohibited.
- (4) Expressive activity that meets the definition of harassment under this policy is prohibited. Any member of the campus community may file a complaint alleging harassment as defined herein pursuant to rule 3344-2-02 of the Administrative Code, policy against discrimination, harassment, sexual violence. Such complaints will be addressed pursuant to the office for institutional equity procedures for addressing reports of discrimination, harassment, sexual violence and retaliation.
- (5) Conduct that intentionally, materially, and substantially disrupts another individual's expressive activity if it occurs in a campus space reserved for exclusive use or control of a particular individual or group, also known as "heckler's veto," is prohibited.

(H) Enforcement

Any person who violates paragraph (G) of this policy may be subject to an order to leave university property. Employees in violation of this policy may be subject to discipline. Students may be subject to charges under the code of student conduct.

(I) Procedures



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The university administration has adopted procedures to administer this policy.

(J) Interpretation

- (1) This policy shall not be interpreted as restricting or 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 1962, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act, Age Discrimination in Employment Act, and the Age Discrimination Act of 1975 as addressed through other university non-discrimination and Title IX policies.
- (2) This policy is not intended to impair any constitutionally protected expressive activity.