

Policy on Use of University Property for Expressive Activities (Appendix N)

Please direct questions about this policy to Business and Auxiliary Services at 765-285-1104

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Ball State University property is intended to be used by its students, employees and others to further the University's educational mission, goals and programs. In fulfilling its educational mission, the University recognizes the importance of free speech, which includes the right to engage in "expressive activities" such as assembling, demonstrating, marching, constructing temporary structures and signs, distributing or posting materials, and other similar means of expressing thoughts and ideas, so long as such expressions are conducted in an orderly manner that respects the rights of others in the campus community.

This policy sets forth rules and procedures governing the time, place and manner for engaging in expressive activities on University property, to ensure they do not endanger the health, safety and welfare of individuals or disrupt the University's academic programs. It applies to all students, employees, visitors and other individuals while on the Ball State University campus. This policy does not replace, but supplements, applicable federal, state and local laws and regulations.

All events involving expressive activities must be scheduled and approved in advance of the event with the following exceptions: (1) an out-of-doors demonstration or assembly that is not reasonably expected to involve more than fifty (50) people; and (2) a distribution of materials by hand out-of-doors in designated areas not involving the use of tables, booths or other similar set-ups. Persons or groups desiring to hold or sponsor an event involving expressive activities that must be scheduled and approved in advance should contact the Campus Reservationist **at least three (3) business days** prior to the event and complete the required forms. The decision whether to approve the event will be made by the Director of Student Life on a content-neutral basis, in consultation with the Associate Vice President for Facilities Planning and Management or designee, the Director of Public Safety or designee, campus reservationist or designee and/or General Counsel. Events sponsored by students, employees, or recognized student organizations will have priority over other events. In the event that multiple events with equal priority are scheduled and approved, the event that is scheduled first will be held in the approved location. If possible, an alternate location for the second event will be identified.

Definitions

Unless expressly defined in this policy, the definitions in Ball State's "Policy Concerning Campus Use" apply to this policy also.

Restrictions Applicable to all Expressive Activities

The following restrictions apply to all expressive activities covered by this policy:

1) Permission for any activity covered by this Policy may be denied or revoked if:

a. The proposed activity would interfere with the free flow of vehicular or pedestrian traffic on or in the vicinity of the campus or in any University building or property, or obstruct exit from or entrance to a University building;

b. The proposed activity would be a danger to the safety or welfare of individuals or property;

- c. The proposed activity would interfere with University classes, instruction, research, or administration, or conflict with other programs, events, activities;*
- d. The proposed activity would involve the display or distribution of obscene material; or*
- e. The proposed activity would violate another University policy.*

2) Restrictions on amplification:

- a. The use of amplification equipment on University property is by permission only. Permission will not be granted under circumstances where amplification may interfere with other scheduled events or activities on or off campus or violate the local noise ordinance;*
- b. Amplification equipment is not permitted in the vicinity of classrooms during scheduled class hours; and*
- c. Persons or groups desiring to use amplification equipment must obtain the prior approval of the Director of Student Life. Requests should be initiated through the Campus Reservationist **at least three (3) business days** prior to the event, as part of the procedure for scheduling and obtaining approval of the event itself. If the use of amplification equipment is desired, the exceptions to the requirement for advance scheduling and approval of the event or activity do not apply.*

3) Prohibition of obscenity:

a. Obscene speech, materials or activity is not protected by the constitution of the United States or the State of Indiana and is prohibited by University policy. Obscene materials share the following elements:

- 1. The average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex;*
- 2. The matter depicts or describes, in a patently offensive way, sexual conduct; and*
- 3. The matter or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.*

b. Under Indiana law (I. C. 35-49-3-1), a person who knowingly or intentionally exhibits or distributes obscene material commits a Class A misdemeanor. However, the offense is a Class D felony if the matter depicts or describes sexual conduct involving a person who is or appears to be under sixteen years of age.

Demonstrations and Assemblies

1) Indoors. Students, employees and recognized student organizations may be granted permission to assemble or hold a demonstration or assembly within a specified area of the following buildings, subject to availability and the payment of any fees uniformly required: Student Center, Emens Auditorium and Pruis Hall.

2) *Out-of-Doors. Demonstrations and assemblies are permitted out-of-doors (subject to prior approval, as noted above, for those reasonably expected to involve more than fifty (50) people). Demonstrations or assemblies that are reasonably expected to involve more than fifty (50) people must be held on the Quad, University Green or LaFollette Field. The following rules also apply:*

a. They may not take place within sixty (60) feet of any window of any classroom or office, or any door of any classroom building, office building or residence hall.

b. They are generally approved as a one-time event; provided, however, multiple approvals for recurring events may be approved on a content-neutral basis manner depending on relevant factors such as whether other events are already scheduled for the area.

c. Overnight demonstrations and assemblies are prohibited unless approved in advance as part of the procedure for scheduling and obtaining approval of the event itself.

Marches

1) *Students, employees, and recognized student organizations are permitted to march out-of-doors on University property.*

2) *Marches that are expected to involve a large number of people and thus may not be contained to the sidewalk may have additional restrictions based on local ordinances and/or safety considerations. The Campus Reservationist will notify the student, employee, or recognized student organization if such restrictions apply.*

Temporary Structures and Signs

1) *Students, employees, and recognized student organizations are permitted to construct temporary structures and signs out-of-doors in a designated area, where the structure or sign is designed to express the individual's or group's views, or to raise public consciousness and awareness of an issue.*

2) *The designated areas for structures and signs are the Quad, University Green or LaFollette Field.*

3) *Structures and signs are permitted for a period of up to ten (10) calendar days, which includes the time used to set up and tear down the structure or sign.*

4) *Approval for a structure or sign may be denied or revoked if weather conditions are such as to pose a substantial threat to health, safety or welfare, if the conditions of the structure or sign become unsanitary, or if the structure or sign otherwise threatens the health, safety or welfare of any individual.*

5) *Any structure or sign not in compliance with this policy shall be subject to immediate removal. The students, employees or student organization which sponsored, constructed or participated in the construction or use of the unauthorized structure or sign may be subject to disciplinary action and will be responsible for any costs associated with its removal.*

Distribution and Posting of Materials

1) *Distribution of Materials:*

a. Any person may distribute printed materials by hand directly to other persons, at any time, in an out-of-doors area if such distribution is done without tables, booths, or other similar set-ups. Printed material may not be placed on motor vehicles on University property.

b. In addition to the information above, University entities (recognized student organizations, academic departments, etc.) may reserve tables based on availability for distribution both in-and out-of-doors through the Campus Reservationist.

2) Posting Materials: Materials may be posted on bulletin boards based on the posting policy for each particular building. Materials that are out-of-date, that cover the entire bulletin board, or that violate any University policy may be subject to immediate removal.

3) Chalking: Chalking is prohibited on University property.

Sanctions

In no event will the University sanction any individual or group based on the content of an expressive activity. However, the University may sanction individuals or groups for violations of the time, place and manner restrictions set forth in this policy. Possible sanctions may include:

1) Immediate cessation of the expressive activity;

2) Suspension of the sponsoring individual or group from holding future events or participating in future events on campus;

3) Placing a recognized student organization on probation or withdrawing recognition; and/or

4) Disciplinary action against individual student(s) up to and including dismissal from the University.

Any questions concerning the interpretation or application of this policy shall be submitted to the Director of Student Life for resolution. The question shall be submitted in writing by the person affected and must set forth all facts and arguments which the person believes to be relevant to the resolution of the question. The Director of Student Life may conduct such investigation of the circumstances involved as deemed desirable and shall render a decision in writing. Any person who is informed that the person's conduct is in violation of this policy shall immediately cease the conduct involved. An appeal may be taken from the decision made under this paragraph.

Appeals

If a request for approval of an event involving an expressive activity is denied or approved with restrictions, the individual(s) or group(s) that filed the request may submit an appeal to the Vice President for Student Affairs and Enrollment Services. The Vice President for Student Affairs and Enrollment Services or his/her designee will review the appeal and render a decision. The process for an appeal is as follows:

1) The appeal must be submitted in writing within ten (10) business days after the Director of Student Life's decision to deny the request or approve it with restrictions.

2) The appeal must include the name(s) and address(es) of the individual(s) or group(s) that submitted the original request, the nature of the action being appealed, and the grounds for the appeal.

3) The Vice President for Student Affairs and Enrollment Services or his/her designee's review will include the following:

a. The original request;

b. The basis for the denial or restriction of the request, and any related information;

c. The basis for the appeal and any supporting information submitted with the appeal; and

d. Any additional information requested or obtained by the Vice President for Student Affairs and Enrollment Services or his/her designee from the Director of Student Life or the individual(s) or group(s) that submitted the appeal.

4) The decision of the Vice President for Student Affairs and Enrollment Services or his/her designee is final.

5) The event that is the subject of the appeal shall not be held until after the decision on appeal is made.

Amendment

This policy may be amended, added to, or revoked, in whole or in part, by the President of the University as the President from time to time may deem to be appropriate. Any such amendment, addition, or revocation, shall be effective as determined by the President and does not require approval by the Board of Trustees unless the action is inconsistent with any then existing policy of the Board of Trustees.