

## University Administrative Policy

|                                  |  |
|----------------------------------|--|
| <b>Policy Name:</b>              | Freedom of Speech and Expressive Activities  |
| <b>Responsible Office:</b>       | Public Safety and Risk Management  |
| <b>Originator of the Policy:</b> | Associate Vice President of Public Safety and Risk Management  |
| <b>Effective Date:</b>           | October 25, 2021   |
| <b>Revision History:</b>         | Replaces the Policy on Public Speaking, Distribution of Literature, Commercial Solicitation and Demonstrations in Public Areas |
| <b>Web Link:</b>                 | <a href="https://records.salemstate.edu/">https://records.salemstate.edu/</a>  |

---

### 1. Rationale

The university recognizes and supports the rights of individuals to engage in all forms of constitutionally protected expression on campus without prior restraint or censorship. The university acknowledges that public discourse may include the discussion of controversial ideas and will not limit public discourse based solely on its communicative content.

Free speech rights, however, are not absolute. Public universities are legally permitted to impose reasonable and content-neutral time, place, and manner restrictions on expressive activities. Expressive activities that are solicitations to commit crimes; seek to incite imminent violence or lawless action; constitute fighting words, harassment, threats, defamation, perjury, blackmail, plagiarism, or obscenities, including child pornography; or materially disrupt university activities or functions are **prohibited**. Disruptive activities include, but are not limited to, obstructing building entrances or exits, walkways, sidewalks, or vehicular or pedestrian traffic on or adjacent to campus or interfering with the university's academic mission by interrupting classes, meetings, ceremonies, or other essential processes of the university. See Appendix A for additional regulations regarding expressive activities and see the Commercial Solicitation Policy for information on commercial solicitation.

It shall not be inferred or implied that the university endorses the messages expressed in accordance with this policy.

### 2. Statement of Policy

- A. Individuals or groups may use traditional public forums or designated public forums on campus for expressive activities. Expressive activities include but are not limited to the following: activities undertaken by an individual or individuals, whether members of the campus community or visitors to campus, who seek to orate, distribute literature, engage in sequential, incidental, brief, and transitory verbal interactions with passersby, or conduct an event or assembly where individuals gather.

Expressive activities that are not allowed on campus include the following (please note that these activities have very specific legal meanings and will be interpreted in accordance with the law):

1. Solicitations to commit crimes;
2. Incitement of imminent violence or lawless action;

3. Harassment, threats, defamation, perjury, blackmail, plagiarism or obscenities, including child pornography;
  4. Fighting words.
- B. The use of locations on campus for expressive activities is largely a function of the character and location of the property where the activity is intended to occur. There are three kinds of forums on campus: the traditional public forum, the designated public forum, and the non-public forum.

1. Traditional Public Forums

Various courts have determined that the establishment of exclusive “free speech zones” – where all free speech activity must occur – is insufficient to protect expressional rights, especially where a different location may be symbolic to the protest, is a place where people habitually gather, or is significant in some other way. Therefore, the university will refrain from establishing exclusive free speech zones. Instead, it will define public forum areas as broadly as possible to include public areas on campus that are generally open to the public and that do not serve a specific educational, administrative, research, health, residential, dining, athletic, or recreational purpose. Public areas are locations that by tradition or policy are available for public assembly and speech.

Examples of public forums include but are not limited to the Alumni Plaza and the North Campus Quadrangle, as well as other lawns, malls, sidewalks, and streets on campus. Depending on the circumstances, these spaces may be excluded if they abut spaces in use by the campus community. City sidewalks and streets are not considered public forums, as these areas fall under the jurisdiction of the City of Salem.

Public forums shall be available to any person on a first-come, first-served basis. Reasonable time, place, and manner regulations may be applied. (See Appendix A). Public forum areas are generally available between 9:00 a.m. and 5:00 p.m., Monday through Friday. However, other days and times will be considered as well. No restrictions will be imposed based on the anticipated content of the speech.

2. Designated Public Forums

Designated public forums include parts of the campus that do not fall within the definition of traditional public forums, but which may become temporarily available for expressive activity when designated by university officials. Unlike traditional public forums, a designated public forum results from a purposeful action on the part of the university to open an area to public discourse. Examples of designated forums include, but are not limited to, auditoriums, lobbies, parking lots, and athletic fields.

The university is not required to indefinitely designate a forum as public but, as long as it does, it is bound by the same standards that apply in a traditional public forum. Therefore, reasonable time, place, and manner restrictions are permissible, but no restrictions will be imposed based on the anticipated content of the speech.

3. Non-Public Forums

Non-public forums include all areas that are not defined as traditional public forums or designated

public forums. These locations are not available for expressive activity, so that the privacy of their inhabitants can be protected and the creation of a captive audience can be avoided. 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.

See Appendix A for Regulations for Use of Public Forums for Expressive Activities.

### 3. 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. Spaces owned or leased by the university that are occupied by unaffiliated entities (such as spaces in the Enterprise Center that are occupied by private entities) are excluded from this policy.

### 4. Fiscal Considerations

|                               | <b>Direct Costs / Savings / Revenue Generation</b> | <b>Indirect Costs / Savings / Revenue Generation</b> |
|-------------------------------|--|--|
| <b>Initial Implementation</b> | N/A  | N/A  |
| <b>Ongoing</b>                | N/A  | N/A  |

### 5. Responsibilities

| <b>Responsible Party</b>                       | <b>List of Responsibilities</b>                                 |
|--|---|
| Office of Public Safety and Risk Management    | Ensure the policy is updated as needed.                         |
| Dean of Students                               | Communicate this policy and its related procedures to students. |
| Provost and Vice President of Academic Affairs | Communicate this policy and its related procedures to faculty.  |
| All Other Area Vice Presidents                 | Communicate this policy and its related procedures to staff.    |

### 6. Policy Enforcement

| <b>Violation(s)</b>    | <b>Engaging in speech or other conduct that is prohibited.</b>  |
|------------------------|---|
| Potential consequences | If use of a public forum creates an unsafe environment on campus, its participants may be relocated to a safer location.<br>Individuals affiliated with the university who violate this policy may be subject to administrative disciplinary action and individuals not affiliated with the university may be asked to leave the property. Failure to adhere may result in legal action or face criminal charges. |
| How to report          | Violations of this policy should be reported to the Office of Public Safety and Risk Management or, if the individual is a student, to Community Standards.   |

## 7. Reference Documents

| Policy or Document          | Web Address   |
|-----------------------------|---|
| Minors on Campus Policy     | <a href="https://records.salemstate.edu/">https://records.salemstate.edu/</a> |
| Campus Events Policy        | <a href="https://records.salemstate.edu/">https://records.salemstate.edu/</a> |
| Student Social Event Policy | <a href="https://records.salemstate.edu/">https://records.salemstate.edu/</a> |

## 8. Contact(s)

| Subject  | Office or Position   | Telephone Number | Email  |
|--|--|------------------|--|
| Questions related to this policy                                       | Rita Colucci, General Counsel                                    | Ext. 8600        | <a href="mailto:rcolucci@salemstate.edu">rcolucci@salemstate.edu</a> |
| Questions related to safety and security preparations for events       | Gene Labonte, University Police Chief                            | Ext. 6542        | <a href="mailto:glabonte@salemstate.edu">glabonte@salemstate.edu</a> |
| Questions related to policies and procedures for student organizations | Melissa Arroyo, Associate Director of Campus Life and Recreation | Ext. 2806        | <a href="mailto:marroyo@salemstate.edu">marroyo@salemstate.edu</a>   |

**9. Effective Date:** Upon approval by the president.

**10. Dissemination:** Posted on the university web site and announced to the university community.

**11. Review Cycle:** Initial review after 12 months; subsequent review every 3 years.

## **Appendix A: Regulations for Use of Public Forums for Expressive Activities and Distribution of Non-commercial Literature**

The following regulations apply to any expressive activity, including the distribution of non-commercial literature (hereinafter “expressive activities”) held in a public forum:

1. Expressive activities can only be held in public forums, to include both traditional public forums and designated public forums.
2. Before engaging in an expressive activity, members of the campus community and visitors to campus must notify the university of the date, time, approximate number of people involved/anticipated, and provide contact information at least three (3) business days prior to the time requested to be on campus. Failure to do so may result in consequences, including but not limited to denial to use the space. In the event of a conflict, priority for spaces will be given to university students and employees. Please call the office of campus life and recreation at 978.542.2806 for notice and reservation of space.
  - a. In certain circumstances, facility or space use by individuals outside of the campus community is subject to the execution of a facility use agreement and fee.
  - b. For spontaneous instances of expressive activities that are directly related to or occasioned by local, national or international news, events or affairs, the university may waive the 72-hour notice requirement. However, individuals must still notify the university as soon as practicable.
  - c. Failure to notify the office of campus life and recreation in a timely manner may result in a denial or postponement of the use of campus property.
  - d. The university reserves the right to ask individuals to move to another space in the interests of security, campus operations, or use of the space by another group or individual.
3. Persons wishing to use sound amplification in a traditional public forum or designated public forum must do so in accordance with the Major Campus Events Policy at <https://records.salemstate.edu/policies/campus-event-policy>
4. All persons shall comply with the directions of university officials lawfully acting in the performance of their duties. Failure to 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 may lead to cancellation of the expressive activity. University officials shall not invoke this provision to stifle expression because of its content.
5. Public areas may not be used between midnight to 6:00 a.m. All public areas must be cleaned up and restored to their previous states by midnight. Any materials left on the site after that time will be cleared by Facilities and the user may be charged for the costs of the cleanup.
6. Interference with educational or administrative activities, athletic events or university ceremonies is prohibited.
7. For public forums held indoors, hand-held signs larger than 11” by 17” that can be used to obstruct viewing, or signs of any size with handles attached are prohibited.

8. Signs affixed to posts of any type are prohibited.
9. No person may block or otherwise interfere with reasonable ingress or egress into and out of buildings, to include obstructing entrances, exits, corridors and other thoroughfares, or block or otherwise interfere with the free flow of pedestrian, vehicular, or bicycle traffic. The right of way on streets and sidewalks must be maintained.
10. The safety and well-being of the campus must be protected at all times. No person shall engage in physically assaultive conduct towards any other person, including touching, or striking attendees or passersby.
11. All participants must respect the right to dissent. Any person who interferes with the rights of a dissenter is considered in violation of this policy in the same way as a dissenter who violates the rights of a speaker or audience member.
12. Preventing speech from occurring by disruptive protest is also in violation of this policy.
13. Open flames or burning of objects of any type is prohibited.
14. Possession or consumption of alcoholic beverages without prior approval is prohibited. Use of tobacco is strictly prohibited.
15. Malicious or unwarranted damage or destruction of property owned or operated by the university or personal property belonging to students, faculty, staff, or guests of the university is prohibited. If damage is caused, responsible individuals will be held legally and financially responsible.
16. Responsible individuals must remove all resulting structures, signs, and litter from the area at the end of an event. If items are not removed, these items may be confiscated and the responsible individual may be held financially responsible for any related costs.
17. All persons participating in an expressive activity must comply with applicable state and federal laws and university policies, rules and regulations to include, but not limited to, laws prohibiting discrimination on the grounds of race, color, creed, religion, national origin, gender, age, disability, sexual orientation, gender identity, genetic information, marital/parental status, or veteran status.