

# **BRIDGEWATER STATE UNIVERSITY**

## **Free Speech and Demonstration Policy**

### **I. Preamble**

Exposure to a wide array of ideas, viewpoints, opinions, and creative expression is an integral part of a university education, preparing students for life in a diverse global society. The rights of freedom of speech, expression, petition, religion, and public assembly are basic and essential to an individual's intellectual and social development.

Bridgewater State University supports the right of individuals to exercise free speech, including but not limited to political, symbolic, or artistic speech, provided only that such expression does not materially disrupt normal university activities, create a clear and present danger of the commission of unlawful acts, or infringe upon the rights of others.

This policy establishes reasonable, non-discriminatory, content-neutral guidelines to protect the rights of speakers and non-speakers, to respect the rights of faculty and students in the classrooms, to ensure fair access and due process for those who wish to use the university's public forums, and to maintain a safe environment on campus.

### **II. Policy Statement**

Bridgewater State University recognizes the right of individuals to exercise all forms of constitutionally protected expression and free speech without prior restraint or censorship. The university acknowledges that public discourse may include the discussion of controversial ideas, and the university will not limit public discourse based solely on its communicative content.

Because Bridgewater State University is a public institution – and public universities are considered to be the quintessential “marketplaces of ideas” – the rights of both the campus community and the general public to engage in free speech activities are quite broad. Free speech rights, however, are not absolute. Public universities are legally permitted to regulate the time, place, and manner of speech-related activities, so that these activities do not intrude upon or interfere with the academic programs or the administrative processes of the university, or violate the rights of others.

Freedom of expression does not extend to actions that are illegal under valid applicable laws. In particular, this policy does not endorse or relieve any person from legal liability for actions that amount to libel, slander, or obscenity. Moreover, all speech and assembly activities must be conducted in accordance with university regulations.

By regulating the exercise of free speech on campus, the university does not sanction the messages that are being declared or the methods of expression used, unless expressly stated otherwise.

### III. General Provisions

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

#### A. Speeches and Demonstrations

The right to use particular locations on the Bridgewater State University campus is largely a function of the character and location of the property where the speech occurs. There are three kinds of “forums” on campus: the public or “traditional” forum, the “limited forum,” and the “non-public forum.”

As defined below, public forum areas are generally available for speeches and demonstrations between 9:00 a.m. and 5:00 p.m. Monday through Friday. Except as further provided below, the use of these areas for speaking, demonstrating, and other forms of expression must be approved at least 24 hours in advance by the university’s chief of police or his or her designee.

Other areas of the campus and other times are occasionally used for speeches and demonstrations. Such activities in these limited forum areas must be approved by the chief of police or designee at least 48 hours in advance.

#### 1. Definitions and Locations of Public, Limited Public, and Non-Public Forums

##### a. Public Forums

Traditional public forums include the university’s lawns, sidewalks, malls, and similar common areas such as the Boyden Quadrangle and the Maxwell Library Mall.

These facilities shall be available to any person, but members of the university community and their organizations shall have preference in the use of the facilities. Prior restraint and most content-based restrictions are prohibited, but reasonable time, place, and manner regulations may be applied.

Courts have determined that the establishment of exclusive “free speech zones” – where all free speech activity must occur – is usually insufficient to protect expressional rights, especially where a different location may be symbolic to the protest, or is a place where people habitually gather, or which is significant in some other way. Therefore, the university will refrain from establishing exclusive free speech zones, and it will define public forum areas as broadly as possible.

##### b. Limited Public Forums

Limited, or 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 as designated by the university. Unlike traditional public forums, a designated forum results from a purposeful action on the part of the university to open an area

to public discourse. Examples of designated forums include auditoriums, lobbies, parking lots, and athletic fields.

The university is not required to indefinitely designate a forum as open, 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 content-based restrictions are generally proscribed.

### c. Non-Public Forums

Non-public forums are areas that are not traditional public forums or designated public forums. These locations will be restricted to use for their intended purposes and are not available for public expressive activity. Examples include, but are not limited to, interior spaces within academic buildings, administration buildings, libraries, computer labs, and residence halls (for privacy reasons and to avoid the creation of a captive audience). Additionally, public safety considerations may affect the availability of spaces that would otherwise be available.

## 2. Guidelines for Speeches and Demonstrations

The overriding consideration in deciding whether to allow the use of a particular place or facility for speech activity is whether that speech would interfere with the central educational mission of the university or the primary uses of its premises.

Therefore, classes or other scheduled activities shall not be materially disrupted. Public assembly, discussion or demonstration shall not disturb or interfere with any program, event, or activity approved prior to the public assembly, discussion or demonstration; shall not disturb or interfere with normal operations and activities of the university; and will not be scheduled during other major events already scheduled on campus.

Mere annoyance or inconvenience are not enough to constitute interference under these guidelines. The speech activity involved must be fundamentally incompatible with normal activity in order to be disallowed.

Certain other regulations are in effect, as follows:

- 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.
- No person may 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.

- 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.
- 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 or damage or destroy any article of personal property belonging to another person.
- 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.
- 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.

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.

#### B. Distribution of Written Material

With the approval of the chief of police or designee at least 24 hours in advance, non-commercial pamphlets, handbills, circulars, newspapers, magazines, and other written materials may be distributed on a person-to-person basis in open areas on campus that are at least 10 feet from the entrances or exits of university buildings. Outdoor recreation areas, such as playing fields, courts, and grounds adjacent to private residences, such as residence halls and staff housing, are not included in the definition of "open areas."

Certain other regulations are in effect, as follows:

- 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.
- No written material may be attached or affixed to private property without the owner's permission.
- The university maintains a position of neutrality as to the content of any written material distributed on campus under this policy.

- The distribution of commercial materials and publications is covered by the Commercial Solicitation Policy.

### C. Marches, Parades, and Processions

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.

### D. Miscellaneous Provisions Applicable to All Modes of Expression

Persons seeking to obtain the approval to use campus areas for expressional activities must:

- 1) Contact the office of University Events 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
- 2) If there is no intention to reserve space on campus, the requester must submit a permit application to the chief of police or designee. 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. This approval procedure is not intended as a prior restraint; rather, 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.

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. "Failure to comply" includes occupying or remaining on any property or facility owned or operated by the University after receiving due notice to leave the premises.

Preventing speech from occurring by disruptive protest itself constitutes an attack on freedom of speech. Therefore, no individual may obstruct the ability of a speaker or speakers to speak in a way that may be heard by the audience. For these purposes, obstruction includes: (1) physically impeding a speaker's route to the stage or platform from which an address is scheduled to take place; (2) physically occupying the stage or platform from which the address is scheduled to take place; (3) physically interfering with the microphones or other

amplification systems used by the event's organizers to increase the speaker's volume so that the speech may be heard by the audience; (4) interfering with a building's lighting, heating, or air conditioning systems; and (5) repeatedly making so much noise, through any means, at the precise moments the speaker is speaking such that the speaker's words may not be heard by the audience.

There must be no obstruction of entrances or exits, corridors or thoroughfares of buildings.

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

There must be no interference with scheduled university ceremonies, events, or activities.

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

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

Lewd or obscene conduct is prohibited.

Illegal harassment is prohibited. For the purposes of this policy, "illegal harassment" is defined as engaging behavior at the university or in connection with a university event, wherever situated, which is aimed at a particular individual on the basis of a legally protected characteristic and is also so persistent, pervasive, or severe, that it denies a person's ability to pursue an education or to participate in the activities of the university; or creates an intimidating, hostile, and demeaning atmosphere. For example, posting racist messages on the residence hall room door of an African-American student would be regarded as illegal harassment and not speech protected by the First Amendment.

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.

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

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.

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.

The need for university staff support, including police support, in conjunction with any use of facilities or areas, shall be determined by University Events or the BSU Police Department, as applicable. Users 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.

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

This policy does not apply to academic instruction.

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

This policy cannot and does not apply to any area within the jurisdiction of the town of Bridgewater. In some instances the sidewalks, roadways, or other facilities bordering university property are owned or controlled by (or otherwise under the jurisdiction of) the town of Bridgewater or the Massachusetts Bay Transportation Authority (MBTA). Event planners are advised to inquire into the ownership or control of these areas prior to their event. In case of doubt, the Bridgewater State University Police Department is available to clarify those areas constituting university property, town property, or MBTA property.

#### E. Campus Posting Guidelines

The posting of signs, flyers, and posters by students or others is permitted at designated locations throughout the campus, subject to the following guidelines:

Individual building or area managers may set reasonable posting policies governing the use of any bulletin boards, outdoor kiosks, or other posting areas within their areas of responsibility.

In any area that is not under the jurisdiction of a particular university department, including outdoor areas, the chief of police or designee will make a determination regarding the posting request in accordance with these guidelines.

Academic department bulletin boards are for the department's exclusive use in connection with its academic and related programs. Bulletin boards in classrooms fall under the jurisdiction of academic departments and are also for the department's exclusive use in connection with their academic and related programs.

Signs, flyers, and posters should be posted for a period not exceeding three weeks. The sponsoring individual or organization of an event has the primary responsibility for removing promotional information within 48 hours after an event.

All signs, flyers, and posters to be posted on campus must not contain any obscene sexual content. Postings may not be misleading; promote the excessive use of alcohol or the illegal use of alcohol by underage persons; promote the use of illegal drugs; or promote engagement in other illegal activities.

All postings must clearly indicate the full name of the sponsoring individual or organization.

The posting of paper with tape on sidewalks or using any kind of paint or other permanent marking on sidewalks is not permitted.

No posting is allowed on windows, doors, walls, floors, trees, trash cans, lamp posts, building markers, bus shelters, or other surfaces that are not designated for such purposes.

Unless otherwise specified by the responsible department or area head, posters are not to exceed 11" by 17" in size.

Posting is limited to one poster per bulletin board.

Lawn signs may be permitted in traditional or designated public forums for special events or occasions where appropriate, depending on the size of the sign and whether any physical damage to campus grounds will occur as a result of the use of the sign. Requests will be considered by the chief of police or designee in consultation with the director of physical plant. The permissible content of the sign is governed by other portions of this policy.

Banners are allowed in some locations, but must be approved by an appropriate building or area manager or, in an area not under the supervision of a building or area manager, the chief of police or designee. In outdoor locations, special care must be taken not to damage or injure trees.

The university reserves the right to remove any sign, poster, flyer, or banner which does not comply with any provision of these guidelines.

Bulletin boards and similar amenities within a residence hall are available only for use by university officials and students who are residents of the residence hall. Posting in residence halls must be approved in advance by the director of residence life and housing, who will act on the request according to these guidelines and the provisions of any policy applicable to residence halls in general, or any specific residence hall in particular. Door-to-door distribution or posting of printed material is not allowed.

#### F. Media Access

News media are permitted to enter areas of the university's campus that are open to the public, but are encouraged to first contact the university's Office of Marketing and Communications so that staff may help facilitate campus visits.

News media who have arranged to conduct an interview with faculty, staff or students may use a designated area over which the interviewee has authority (e.g., a faculty member's own office) or for which the interviewee has obtained permission from the university (e.g., a conference room or student cafeteria). Media representatives are not permitted access to nonpublic areas, such as classrooms (except to participate in educational activities at the request of the instructor), laboratories, business offices or residence halls without prior permission from the university. During emergencies, the university may require news media to remain within a designated area for law enforcement or safety reasons. Media personnel who interfere with the university's normal operations may be asked to leave the campus.

#### G. Enforcement of Policy

This policy will be enforced by officers the Bridgewater State University Police Department or other university staff members according to their particular areas of responsibility.

The BSU Police Department will strive to effectively manage crowds during demonstrations or civil disturbances to prevent loss of life, personal injury, or property damage and minimize disruption to persons who are uninvolved.

In rare circumstances involving highly volatile civil unrest with the potential for widespread violence, the chief of police or designee has the power to declare a local emergency or unlawful assembly; to revoke any permit or other permission to assemble or demonstrate; to disperse disorderly or threatening crowds; to eliminate the immediate risks giving rise to continued escalation and further violence; and to arrest, remove, or isolate law violators or other persons inciting violent behavior.

In all crowd situations, weapons or objects that could be used as weapons are prohibited and may be confiscated by the BSU Police Department.

#### H. Violations of Policy

Campus community members who engage in activities in violation of this policy may be subject to administrative disciplinary action. Non-affiliated persons may be subject to relocation or removal from campus. Any participant in disruptive or otherwise illegal activity may face criminal charges and the payment of damages, etc.

#### I. Appeal

Any person who believes that his or her rights as stated in this policy have been violated may file a complaint with the chief of police. In the event that a decision made personally by the chief of police is at issue, appeal may be made through the president of the university or designee, whose determination shall be final.

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