



TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE POLICIES AND PROCEDURES

SECTION: Student Services

Policy 05.01.01

AREA: Student Affairs

SUBJECT: Freedom of Expression Policy and Procedures

I. POLICY STATEMENT:

Texas Southern University ("TSU") recognizes that freedom of expression and public assembly are fundamental rights of all persons, and are essential components of the education process. These activities promote debate and the sharing of ideas, which are the foundation of educational institutions. In keeping with this responsibility, any person is free to exercise the rights to assemble and engage in expressive activity in a constitutionally protected manner subject only to the content-neutral regulations necessary to fulfill the mission and obligations of TSU, preserve the rights of others, coordinate multiple uses of limited space, assure preservation of the campus facilities and grounds, and assure financial accountability for any damage caused by these activities.

Although members of the TSU community are free to criticize and contest the views expressed by others, they may not deny, materially obstruct, or otherwise improperly interfere with others' freedom to express views with which they disagree or which they find offensive or even loathsome. The fact that public expression activity occurs on TSU property does not imply and should not be construed as implying approval or endorsement by TSU of any viewpoint or message expressed.

II. PURPOSE AND SCOPE:

The purpose of this Policy is adherence and implementation of Texas Education Code, Section 51.9315 titled "Protection of Expression on Campus". TSU ensures:

- (A) Free, robust, and uninhibited debate and deliberations by students enrolled herein, regardless of whether the students are on or off campus; and
- (B) Any person may assemble peaceably on the campus of TSU for Expressive Activities, including to listen to or observe the Expressive Activities of others.

Sections II (A) & (B) are subject to Section IV (2) relating to reasonable restrictions on time, place, and manner.

This Policy applies to all TSU students, employees, organizations, and visitors to campus. This Policy does not apply to official academic and administrative activities and functions of TSU. Nothing in this Policy is intended to prohibit faculty members from maintaining order in the classroom.

III. DEFINITIONS:

- (A) Amplified Sound - Sound that is increased or enhanced by any electric, electronic, or mechanical means, including handheld devices such as megaphones and sound trucks. Other sound, specifically individual shouting or group chanting/singing, is subject to general regulations concerning disruption of official TSU functions.
- (B) Antisemitism - a certain perception of Jews that may be expressed as hatred toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities. Examples of antisemitism are included with the International Holocaust Remembrance Alliance's 'Working Definition of Antisemitism' adopted on May 26, 2016. (See, Section 448.001 of the Texas Government Code defines Anti Semitism).
- (C) Benefit includes:
 - (1) Recognition by or registration with an institution of higher education;
 - (2) The use of an institution of higher education's facilities for meetings or speaking purposes;
 - (3) The use of channels of communication controlled by an institution of higher education;
 - (4) Funding sources made generally available to student organizations at an institution of higher education; and
 - (5) TSU Department of Public Safety ("DPS") Services as appropriate and necessary to ensure the safety of the TSU community and minimize disruption to the learning environment.
- (D) Campus Grounds - All outdoor areas owned, leased or controlled by TSU that are common and accessible to all students, employees, and visitors, such as sidewalks and park-like areas.
- (E) Content Neutral- means without regard to the substance or subject matter of the public expression or to the viewpoint(s) expressed therein.
- (F) Expressive Activities -Any speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, and includes assemblies, protests, speeches, the distribution of written material, the carrying of signs, and the circulation of petitions. The term does not include commercial speech. The term also does not include: Fighting Words, Gratuitous Violence or True Threats.
- (G) Fighting words - Using "abusive, indecent, profane, or vulgar language," of the kind likely to provoke a physical altercation.
- (H) Gratuitous Violence - means real or simulated graphic, realistic visual depictions of brutal acts of physical harm or cruelty to or the infliction of brutal physical harm or cruelty upon humans, animals, or human- or animal-like creatures and, taken as a whole, lacks discernible literary, artistic, political or scientific value.
- (I) Literature - Any printed material that does not concern a commercial transaction and is produced in multiple copies for distribution or publication to an audience, including but not limited to flyers, handbills, leaflets, placards, bulletins, newspapers, and magazines, but does not include any official TSU material.

- (J) Ordinary University Operations - means all day-to-day business and other functions of the university, including but not limited to, academic instruction, administrative services, performance of employment responsibilities, facilities maintenance, and groundskeeping, creative activities, community events, campus safety and security, and the maintenance of a university-wide environment that is open, acceptable and welcoming to the university community.
- (K) True Threats - means a communicated statement that frightens or intimidates one or more specified persons into believing that they will be seriously harmed by the speaker or by someone acting at the speaker's behest.
- (L) TSU Material - Literature distributed under this Policy that contains the name "University", "Texas Southern University", or "TSU" or that contains any reference to affiliation with TSU.
- (M) Official TSU Function - All activities, events and programs sponsored by an academic or administrative unit of TSU.
- (N) Student - Any person who is currently enrolled and attending TSU and, for the purposes of this policy, it also includes student organizations and student groups.
- (O) Student Organization - Any organization that is composed mostly of students enrolled at TSU and that receives a Benefit from TSU.

IV. POLICY PROVISIONS:

- (A) TSU ensures that the common outdoor areas of the campus are deemed traditional public forums, and permit any person to engage in Expressive Activities in those areas of the campus freely; as long as the person's conduct is not unlawful, and does not materially and substantially disrupt the ordinary university operation.
- (B) The responsibility of TSU to operate and maintain an effective and efficient institution of higher education requires reasonable regulation of the time, place, and manner of assembly, speech, and other Expressive Activities on the grounds of TSU. Subject to these reasonable restrictions and procedures herein, members of TSU community will not need per se a permit from TSU to engage in such Expressive Activities.
 - (1) Reasonable time, place, and manner restrictions may be imposed on expressive activities to achieve a compelling university interest, including, but not limited to, ensuring ordinary university operations are not disrupted and to protect the safety and security of the university community and property.
 - (2) Time, place, and manner restrictions shall be determined by the university president or designee on a case-by-case basis, in consultation with the Department of Public Safety and the Office of General Counsel.
 - (3) Any and all time, place, and manner restrictions shall be the least restrictive means necessary to achieve the compelling university interest and must not effectively stop or prevent spontaneous expressive activities. Such restrictions must be designed to maximize opportunities and alternative channels for expressive activities.

- (4) Any and all time, place, and manner restrictions on expressive activities shall be content neutral. 5. In the event the university deems it necessary to restrict expressive activities, the university will nevertheless, to the maximum extent practicable, propose and provide alternate opportunities for such expressive activities.
- (C) In determining whether to approve a speaker to speak on campus or in determining the amount of a fee to be charged for use of TSU's facilities for purposes of engaging in Expressive Activities, TSU:
- (1) Will consider only content-neutral and viewpoint-neutral criteria related to the needs of the event, such as:
- (i) The proposed venue and the expected size of the audience;
- (ii) Any anticipated need for campus security to ensure the safety of the TSU community and minimize disruption to the learning environment;
- (iii) Any necessary accommodations; and
- (iv) Any relevant history of compliance or noncompliance by the requesting Student organization or faculty member with the TSU's policy and any other relevant policies; and
- (D) May not consider any anticipated controversy related to the event.
- (E) Expressive activity may not create a vehicular or other safety hazard, substantially interrupt the safe and orderly movement of traffic, or constitute disruptive activity, defamation, riotous conduct or obscenity as those terms are defined by federal or state law; and may not impede access to other expressive activity, such as blocking the audience's view or preventing the audience from hearing a speaker. Displaying a sign, gesturing, wearing symbolic clothing, or otherwise protesting silently is permissible anywhere, unless it materially and substantially disrupts the functioning of TSU.
- (F) TSU will not take action against a Student organization or deny the organization any Benefit generally available to other student organizations at TSU on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any Expressive Activities of the organization.
- (G) Amplification in the designated areas cannot exceed 92 decibels on the "A" scale at 50 feet from the source of amplification. Amplification will not be approved for any time period during the seven (7) calendar days preceding the final week of each fall and spring semester.
- (H) Requests submitted pursuant to the Procedures provisions in Section V to reserve within Campus Grounds or use Amplified Sound may not be denied based on the content of the proposed expressive activity. Requests may be denied only for the following reasons:
- (1) An earlier request to reserve the same location and time has been made;
- (2) The designated area or an adjacent area has been reserved for an official TSU function or the designated area is no longer suitable for use due to a conflict with a nearby official TSU function;
- (3) The reservation or registration form is incomplete;
- (4) The request exceeds more than fifteen (15) days in a semester or is for more than five

- consecutive days; or
- (5) The request otherwise conflicts with this Policy.
- (I) Individuals and organizations engaged in expressive activity on Campus Grounds may be required to relocate to other areas by the Vice President for Student Services/designee or DPS when immediate action is necessary, under the following circumstances:
- (1) The noise generated by the activity disrupts an official TSU function or substantially interferes with resident housing life and activities (*e.g.*, the activity is too close to an academic, administrative or residential building);
 - (2) The location does not safely accommodate the number of participants;
 - (3) The number of individuals participating in or attending the activity creates unsafe conditions for vehicular or pedestrian traffic, or parking, or blocks the ingress or egress to buildings, staircases or official TSU activities;
 - (4) The space has been reserved for an official TSU function, has been reserved in accordance with this Policy, or a reserved location is needed for an official TSU function;
 - (5) The activity creates a health, safety or welfare hazard, such as interfering with fire, police or emergency services; or
 - (6) The activity interferes with the expressive activity of another individual or organization, such as blocking the audience's view of a speaker or preventing the audience from hearing a speaker.
- (J) Individuals involved in the setup of an outdoor exhibit or structure shall not damage TSU property or grounds, and are responsible for returning the area surrounding the exhibit or structure to its original condition.
- (K) Students, Student organizations, faculty and staff shall not unduly interfere with the Expressive Activities of others on Campus Grounds. Students, Student organizations, faculty, or staff suspected of such interference may be referred to the Dean of Students, Office of the Provost, or Human Resources, respectively, for investigation and disciplinary action, if applicable. Any discipline shall be in accordance with policies and procedures applicable to each group as follows:
- (1) Students and Student Organizations – Student Code of Conduct;
 - (2) Faculty – Faculty Manual; and
 - (3) Staff – Discipline and Termination Policy (02.05.03).
- (L) TSU understands and respects its obligation to intervene when speech violates federal anti-discrimination law, which prohibits discrimination based on race, color, national origin, or perceived religious or ethnic identity. Anti-Semitism and other hostility or prejudice directed towards members of a particular religion or ethnic identity have no place at TSU. Threats to harm another person, inciting of imminent violence, destruction of public property, unlawful conduct, including civil disobedience like sit-ins or traffic blockades are not protected speech and will be addressed through university policies and procedures.

V. PROCEDURES

- (A) Persons who wish to organize parades, marches or rallies in areas that cross thoroughfares or would stop or slow traffic must notify the TSU Department of Public Safety ("DPS") at

least eight (8) business days in advance of the activity in order to ensure that the proposed route does not substantially interrupt the safe and orderly movement of traffic or create a safety hazard.

- (B) Visitors who plan to engage in expressive activity on Campus Grounds and have a reasonable expectation of attracting a crowd of fifty (50) or more people must notify DPS no fewer than two (2) weeks prior to the activity so that appropriate measures can be taken to ensure the safety of the TSU community and minimize disruption to the learning environment. Campus Grounds may be reserved on a first-come, first-served basis and are subject to the reservation procedures published by the Office of Student Services.
- (C) DPS will strive to respond to notifications regarding parades, marches or rallies, or Expressive Activities expected to draw a crowd of fifty (50) or more people, within two (2) business days.
- (D) Individuals may reserve locations within the Campus Grounds for a total of fifteen (15) days per semester and no more than five (5) consecutive days. DPS and Office of Event Services are responsible for:
 - (1) Identifying locations and establishing times for use within Campus Grounds and identifying locations and establishing times for use of Amplified Sound;
 - (2) Managing requests for reservation of Campus Grounds under this Policy;
 - (3) Relocating Expressive Activities as allowed under this Policy;
 - (4) Developing procedures for reserving areas for expressive activity and use of amplified sound and for registering for parades, marches and rallies;
 - (5) Creating forms for use in reserving Campus Grounds, using Amplified Sound, and registering for parades, marches and rallies; and
 - (6) Publishing the locations, times, procedures and forms required under this Policy at the beginning of each academic year.
- (E) If a reservation request is denied, DPS and/or Office of Event Services may, where feasible, propose measures to address any defects in the request. When the basis for denial is receipt of an earlier request for the same location and time, DPS and/or Office of Event Services will inform the individual or organization whose request is denied of other dates, times and locations that are available for reservation.
- (F) Advance reservation is required before Amplified Sound may be used on Campus Grounds. Students, employees, and visitors may use Amplified Sound on Campus Grounds only at the locations and times published by DPS and/or Office of Event Services. Amplified Sound areas may be reserved on a first-come, first-served basis and are subject to the reservation procedures published by Office of Event Services.
- (G) Students, employees, and visitors who distribute Literature are expected to collect such that is left over or that is on the ground in the area in which it is distributed. Literature may not be placed on automobiles (*e.g.*, under the windshield wipers) parked on TSU property.
- (H) Literature distributed under this Policy by a Student, employee, or visitor that contains the name “University”, “Texas Southern University”, or “TSU” or that contains any reference to affiliation with TSU (“TSU Material”), must include the statement that the Literature is not official TSU literature and does not represent the views or official position of TSU.

- (I) Exhibits may only be set up in accordance with this Policy. DPS and Office of Event Services must be contacted at least eight (5) business days prior to the proposed activity involving an outdoor exhibit or structure.
- (J) Outdoor exhibits and structures may be placed on Campus Grounds, except that individuals may place displays on easel-type supports that are open and accessible for expressive activity. Outdoor exhibits and structures are subject to the following limitations:
 - (1) Exhibits and structures may not exceed twenty-five (25) feet in length or width or fifteen (15) feet in height;
 - (2) Exhibits and structures may not extend into or onto any sidewalks or walkways in such a way as to interfere with pedestrian or vehicular traffic or otherwise present an unreasonable threat to public safety; and
 - (3) The interior of three-dimensional structures or exhibits must be fully visible from at least one side of the exhibit or structure, and no exhibit or structure may provide opportunity for individuals to be completely secluded from view. Individuals setting up an outdoor exhibit or structure are responsible for cleanup of the area surrounding the exhibit or structure and shall return it to its original condition at the completion of the expressive activity.
- (K) Exception to the dimension limitations may be granted by DPS and/or Office of Event Services upon a showing by the individual or organization seeking the exception that the exhibit will not present a safety hazard and will not interfere with pedestrian or vehicular traffic. Proof of insurance to cover injury or damage to persons or property does not entitle the individual or organization to an exception to the dimension limitations. Requests for exception to the outdoor exhibit dimension limitations must be made at least eight (8) business days in advance of the desired display date.
- (L) Decisions related to use of Campus Grounds for expressive activity that are denied may be appealed to the Vice President of Student Services/designee no later than 5:00 p.m., on the second business day after notice of the decision that is being challenged is provided. The appeal must be made in writing and state the specific reason(s) the individual or organization disagrees with the decision. The appeal should include all information the individual or organization believes will assist the Vice President of Student Services/designee in reaching a determination on the matter. The Vice President of Student Services/designee will issue a written decision on the appeal within three (3) business days of its receipt. The decision is final.

VI. COMPLAINTS

- (A) Any member of the TSU community who feels their right to Public Expression has been infringed upon or otherwise violated, or believes this policy has not been followed or has been misapplied may contact the TSU Compliance Office to submit a complaint.

VII. VIOLATIONS

- (A) Any individual who violates this policy may be removed and/or trespassed from TSU or a TSU-sponsored activity and/or denied the ability to reserve TSU's public areas for future public expression events/activities.

- (B) Any violations of this policy by a TSU student or employee that also constitutes a separate violation of TSU policy may be subject to additional applicable sanctions pursuant to the Student Code of Conduct or applicable TSU policy, respectively, as outlined in IV (K) above.
- (C) Any violation of this policy that also constitutes a violation of federal or state law may also subject an individual or group to additional sanctions, including criminal arrest, prosecution, and/or civil penalties.