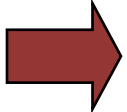


Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.scc@nds.edu first so that a clean policy can be presented to the committees.

SECTION:

154: Freedom of Speech, Expression, and Assembly

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? X Yes No
 - Describe change: This is a complete rewrite of policy to comply with new state legislation and NDUS policy.
2. This policy change was originated by (individual, office or committee/organization):
 - Student Affairs and Enrollment Management, August 20, 2019
 - Casey.Peterson@nds.edu or Emily.Frazier@nds.edu

This portion will be completed by Heather Higgins-Dochtermann.

Note: Items routed as information by SCC will have date that policy was routed listed below.

3. This policy has been reviewed/passed by the following (include dates of official action):

Senate Coordinating Committee:

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

The formatting of this policy will be updated on the website once the content has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to nds.scc@nds.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

North Dakota State University

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SECTION 154

DISTRIBUTION OF LITERATURE

SOURCE: NDSU President
~~Rights and Responsibilities of Community: A Code of Student Conduct~~

- ~~1. All individuals or organizations responsible for distribution of literature on campus must be identified on the literature.~~
- ~~2. All individuals or organizations distributing literature will be held responsible for cleaning up all litter resulting from its distribution. Clean-up costs will be assessed to any such person or group which does not clean up all such litter within a reasonable time.~~
- ~~3. Distribution by means involving shouting, pursuing, hawking, or accosting individuals is prohibited, as is any interference with normal University functions or interruption of the free flow of traffic, inside or outside a building.~~
- ~~4. Commercial literature may not be sold or distributed on campus unless the rules governing advertising in the NDSU Policy Section 150, Commercial and Fund-Raising Activities, have been followed. (These rules include prohibiting the placing of leaflets or flyers on cars on the NDSU campus.)~~
- ~~5. Any person or group of persons wishing to distribute literature to the public in the Memorial Union may use the following methods:~~
 - ~~a. literature racks located near the Service Center on the main level;~~
 - ~~b. contact tables in the main concourse area, available for reservation for up to two week periods, (a rental fee will be charged for off-campus entities wishing to utilize contact tables);~~
 - ~~c. exterior locations as designated by the University. Exterior location distributions are limited to one location for no more than two consecutive weeks per group, with at least five class days between multiple registrations. In times when a large number of requests have been received, the Memorial Union Administrative Office reserves the right to reduce the two week limit to accommodate as many users as possible. Distributor(s) must register in advance in the Memorial Union Administrative Office, at which time the following information will be required:~~
 - ~~a) the type, location, date(s), and time of the distribution;~~
 - ~~b) a copy of the literature;~~
 - ~~c) the name of the organization represented, if any; and~~
 - ~~d) the name, address, and signature of the person or a group representative.~~

- ~~6. Literature may not be distributed in classrooms except by permission of the instructor or by registered student organizations at the scheduled meetings or events.~~
- ~~7. Literature may not be distributed in buildings on campus other than the Memorial Union unless it is University or student organization sponsored and complies with building policies. An employee, student or visitor may not solicit or distribute literature to NDSU employees in work areas for matters not related to NDSU business (See NDSU Policy 700 Services and Facilities Usage). Literature may not be distributed in classrooms except by permission of the instructor or by recognized student organizations at the scheduled meetings or events. For questions regarding literature distribution within the Memorial Union, contact the Director of Operations. For questions regarding literature distribution within the Residence Halls, contact the Director of Facilities Management.~~
- ~~8. A poster distribution list of places on campus where notices may be posted is available in the Memorial Union Administrative Office, Room 246. Bulletin boards in buildings on campus are restricted unless a notice on the board states otherwise.~~
- ~~9. Demonstrations~~
 - ~~9.1 The University community is one of inquiry and persuasion. An individual or group may protest, rally or demonstrate provided such protest or demonstration does not disrupt University operations or obstruct physical movement to, from, or within any place on the campus, including University property located off the main campus. While the campus must be open to the free exchange of ideas, the University may limit the time, place and manner of protests, rallies, and demonstrations. All members of the community are expected to conduct dialogues with dignity and courtesy. Organizers and participants must allow other community members freedom of movement on campus and the freedom to engage in the performance of their duties or the pursuit of their educational activities~~
 - ~~9.2 A protest, rally, or demonstration must not interfere with the missions, processes, procedures or functions of the University. Therefore, organizers and participants must recognize and allow the staff and faculty of the University to engage in the performance of their duties, and for students to pursue their educational activities. Impeding or restricting these activities by making noise, blocking entrances or exits from University facilities, or by coercion, intimidation or threats or use of violence is unacceptable.~~
 - ~~9.3 Organizers and participants are expected and required to vacate an area or facility of the University when directed to do so by an appropriate official of the University for reasons stated in subsections 9.1 or 9.2 or if there has been a failure to register pursuant to 9.4.~~
 - ~~9.4 Any protest, rally or demonstration must be registered with the Memorial Union Administrative Office and University Police prior to the event. Whenever possible, at least 24 hours lead time will be given. The registration process will enable University officials to:~~
 - ~~A. Outline and discuss with demonstrators the guidelines necessary to keep the demonstration non-violent and non-disruptive.~~
 - ~~B. Plan for the control of possible counter demonstrations which would infringe upon the rights of the demonstrators or result in violent or abusive action.~~
 - ~~C. Identify information similar to section 5.~~
 - ~~9.5 If the Demonstration/Parade will involve a public street, applicants may also have to get a City of Fargo Special Event permit. Parades through campus buildings are not permitted, except in the case of a silent march through the Memorial Union.~~

HISTORY:

New	July 1990
Amended	July 2001
Amended	December 2002
Amended	April 2005
Amended	November 2005
Amended	October 2007
Housekeeping	September 2015
Housekeeping	August 25, 2017
Amended	October 29, 2018

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SECTION 154

FREEDOM OF SPEECH, EXPRESSION, AND ASSEMBLY

SOURCE: President's Office

1. Introduction

1.1. North Dakota State University recognizes and supports the fundamental right of its students and others to free speech and expression under the First Amendment to the United States Constitution and the North Dakota Constitution. NDSU values and encourages the free exchange of ideas while maintaining the safety of the campus community and the orderly operations of the institution. To that end, NDSU is committed to ensuring the freedom to speak, write, listen, challenge, learn, and discuss any issue, subject to reasonable and constitutionally-recognized limitations. As part of this commitment, NDSU is dedicated to promoting free speech and expression while providing a safe and non-discriminatory campus climate that supports diversity of thought and people.

This policy defines the spaces available for exercising the rights of free speech and expression and communicates the parameters of any such expressive activity, to protect the safety of campus, and to minimize disruption to NDSU's educational mission. This policy establishes certain standards of conduct that must be observed by demonstrators and groups and applies to all individuals while using University property for exercising the rights of free speech and assembly.

2. Definitions

- 2.1. Amplified sound – means sound whose volume is increased by any electric, electronic, mechanical, or motor-powered means. Shouting, group chanting, and acoustic musical instruments are exempt from this definition and are not subject to the special rules on amplified sound, but are subject to general rules on disruption.
- 2.2. Commercial Speech – The promotion, sale, or distribution of a product or service. For the purposes of this section, commercial speech does not include the incidental promotion, sale, or distribution of a product as part of the exercise of non-commercial speech.
- 2.3. Constitutional Time, Place, and Manner Restrictions – Restrictions on free speech which are content-neutral, narrowly tailored to serve a significant interest, and leave open alternative methods of communicating the message in question.

- 2.4. Disruptive Conduct – Any act that: unreasonably interferes with the rights of others to peaceably assemble or to exercise the right of free speech or expression; impedes the flow of pedestrian and/or vehicular traffic; disrupts the normal functioning of the University; damages property; or endangers health or safety.
- 2.5. Employee - means any person acting on behalf of NDSU in an official capacity, temporarily or permanently, with or without compensation. The term does not include an independent contractor.
- 2.6. Free Speech or Free Expression – The rights to speech, expression, and assembly protected by the First Amendment to the United States Constitution or the Constitution of North Dakota. Such rights include, but are not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, the display of signs or banners, or the circulation of petitions. For the purposes of this policy, “free speech” or “free expression” is not intended to include Commercial Speech.
- 2.7. Protected Conduct – Free Speech or Free Expression protected by the First Amendment to the United States Constitution or the Constitution of North Dakota, subject to reasonable Time, Place, and Manner restrictions; reservation requirements under institutional policies or procedures; and the reasonable safety and security needs of NDSU.
- 2.8. Student – an individual enrolled in one or more courses at NDSU.
- 2.9. Student Organization – An organization recognized or seeking recognition by NDSU’s Congress of Student Organizations, whether or not that organization seeks or receives institutional funds.

3. General Provisions

- 3.1. NDSU will not engage in viewpoint or content-based discrimination or suppression of speech, and will, to the greatest extent possible, permit and facilitate the open discussion and debate of ideas and issues, regardless of the content of those issues.
- 3.2. NDSU will not use the concept of civility or mutual respect as a basis to suppress or limit the discussion of ideas, regardless of content, except as reasonably necessary to an educational activity. NDSU does, however, encourage that all such discussions take place in an atmosphere of mutual respect, free from racism, sexism, and other forms of bias.
- 3.3. NDSU and its employees shall generally not seek to shield individuals from the Free Speech or Free Expression of others. However, it shall not be considered shielding when employees provide information about upcoming events to the campus community.
- 3.4. No speech, expression, or assembly may be conducted in a way that disrupts or interferes with any teaching, research, administration, or other authorized activities on the campus. Nor may such speech, expression, or assembly be conducted in a way that interferes with the rights of others to Free Speech and Free Expression. Due

to the contextual nature of Disruptive Conduct, NDSU is reliant on the judgment and fairness of University employees and authorities in determining what constitutes Disruptive Conduct. Such judgment must be content neutral and focused on the disruptive nature of the conduct and not the message of the disruption. Disruptive Conduct is prohibited.

4. Free Speech Areas

- 4.1. Open Public Forums - The generally accessible, open, outdoor areas of NDSU's campus are considered open forums for free speech, subject to reasonable and constitutional time, place, and manner restrictions. If a group desires to utilize amplified sound or have exclusive use of an Open Public Forum, NDSU requires the group to obtain a reservation (See Section 6).
- 4.2. Designated Public Forums – NDSU has identified the following areas as restricted or designated forums. Utilization of these areas for free speech or expressive activity requires a reservation (See Section 6):
 - 4.2.1. Areas inside buildings which have been identified as areas which may be rented or reserved.
 - 4.2.2. Areas surrounding residential buildings are restricted from 10 am-10 pm and closed from 10 pm-10 am. Any sound production must not constitute Disruptive Conduct;
 - 4.2.3. Areas surrounding academic buildings are closed during times when classes are held in that building and restricted when not in session. Any sound production must not constitute Disruptive Conduct;
 - 4.2.4. Areas which must be restricted due to reasonable safety and security concerns, as designated by appropriate campus official(s);
 - 4.2.5. Areas which must be restricted to enable the flow of pedestrian or vehicle traffic, as determined by appropriate campus official(s).
- 4.3. Closed Forums – Unless otherwise identified in this Policy, all other areas of campus are considered Closed Forums. Closed Forums are those areas which are not designed for the exercise of free speech or expression or which have traditionally not been open to the exercise of free speech or expressive activity.

5. Public Assemblies and Guest Speakers

- 5.1. Any public assembly or guest speaker taking place in an Open Public Forum with an expected attendance of more than 25 participants, including counter-demonstrators, requires a reservation (See Section 6).
- 5.2. Any public assembly or guest speaker taking place in an Open Public Forum utilizing Amplified Sound requires a reservation (See Section 6).
- 5.3. When organizing a public assembly taking place in an Open Public Forum with an expected attendance less than 25 participants, including counter-demonstrators, or without the use of Amplified Sound, organizers are encouraged to consult the Dean of

Students Office. The Dean of Students Office will assist in the event taking place in an effective and safe manner that does not disrupt the normal functioning of the University.

5.4. Reservations for public assemblies and Guest Speakers are not required for academic or administrative units.

6. Reservation of Space and Fees

To further the effectiveness of an event, protest, assembly, or demonstration, organizers are encouraged to make advance arrangements with the Dean of Students Office. Advance notification enables the University to assist in the event taking place in a constructive and peaceful manner. Additionally, with appropriate advance notice, the appropriate administration representative (e.g., student group advisor, University Police, etc.) will engage with participants during the event to help ensure that the event is effective and safe, and to assist organizers in seeing that the event does not disrupt the normal functioning of the University.

6.1. Most routine events can be approved within 48 hours, however, the scope of an event may impact how long it takes to process a request. The Dean of Students Office will determine whether an event can be executed as requested and in accordance with this policy. To request a reservation of space, NDSU requires organizers to submit a Free Speech Event Registration form to the Dean of Students Office. Some events may also require the submission of a Facility Use Agreement and/or coordination with specific buildings, offices, or departments. Reservations must be made following the process in place for each particular space.

6.2. If multiple requests are made for the same space during the same time, reservation requests will be processed in the order in which they were received.

6.3. A space reservation affords the group the right to the reserved space for the time covered by the reservation. Any person or organization using or occupying the reserved space without a reservation must yield control of the reserved space in time to allow for the reservation and any time that may be needed to setup the space for the reservation.

6.4. Fees - The University may prescribe a fee schedule for reserving specified campus spaces. The schedule shall be made available on request, by the area responsible for a particular space or venue, and shall be based on the actual expenses incurred by the campus in making the space available. The schedule must not be wholly or partially based on viewpoint- or content-based criteria, but may include security and logistic fees based on the venue, the anticipated attendance, historical protest activity at events of similar attendance, and other content-neutral factors. The cost of security will be set by the University Police and Safety Office. The criteria used to establish the fee schedule shall be made publicly available.

6.5. The University may waive any applicable fee for an assembly contributing to the educational mission of the institution or engaging in charitable work.

6.6. Academic and administrative units are not subject to the fee schedule.

7. Prohibited Items at Events Covered by this Policy

7.1. Dangerous weapons, as defined by N.D.C.C. § 62.1-01-01(1).

7.2. Firearms, except as permitted by law. See N.D.C.C. § 62.1-02-05.

7.3. Body-armor or makeshift body-armor, helmets and other garments, such as sporting protective gear, that alone or in combination could be reasonably construed as weapons or body-armor, without written permission from appropriate campus official(s).

7.4. Open flame, unless approved in advance by appropriate campus official(s).

8. Distribution of Literature and Chalking

8.1. Commercial Literature may be distributed in designated public forums only:

8.1.1. At University events where the commercial activity has been pre-approved;

8.1.2. On University-approved bulletin boards per building's policy/guidance for use of bulletin boards. All other commercial solicitations are prohibited, unless authorized under and pursuant to NDSU Policy 150 and 700;

8.1.3. Through publications such as The Spectrum student newspaper, whose distribution on campus is pre-approved; and

8.1.4. In the Free Speech Literature rack and contact tables in the main level of Memorial Union (contact tables are available through reservation in the Memorial Union and a fee is charged to off-campus entities).

8.2. Chalking is only allowed for Residence Hall Move-in and NDSU Homecoming with permission from Facilities Management.

HISTORY:

New	July 1990
Amended	July 2001
Amended	December 2002
Amended	April 2005
Amended	November 2005
Amended	October 2007
Housekeeping	September 2015
Housekeeping	August 25, 2017
Amended	October 29, 2018
Amended	August 21, 2019