

# Westfield State University

Policy concerning:

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2023

Section Public Safety

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## FREE SPEECH / DEMONSTRATION / PICKETING POLICY

### PURPOSE

Westfield State University (hereinafter “University”) supports the constitutional right of free speech, demonstration, and picketing (collectively referred to as “Expressive Activity” or “Expressive Activities”). Exposure to a wide array of ideas, viewpoints, opinions, and creative expression is an integral part of the University education as it prepares 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. However, Expressive Activities and speech must be considered in the context of the University’s educational mission and commitment to allowing students and members of the University community access to the University’s services and resources. This Free Speech/Demonstration/Picketing policy (“Policy”) seeks to protect the rights of speakers and non-speakers and to respect the rights of faculty, staff, and students to ensure fair access for those who wish to engage in Expressive Activities, while maintaining a safe campus environment.

Westfield State University supports the right of individuals to free expression, including, but not limited to, political, symbolic, and artistic speech, provided that such expression does not materially disrupt University operations and programs, create a clear and present danger of the commission of unlawful acts, or infringe upon the rights of others so as to limit or deny a person’s ability to participate in or benefit from the University’s operations and programs. Expressive Activities must be carried out so as not to inflict bodily injury, obstruct physical movement to, from, or within any place on the campus, create a hostile environment, or disrupt activity on campus. Moreover, Expressive Activities must be conducted in accordance with the reasonable, non-discriminatory, and content-neutral time, place, and manner restrictions set forth in this Policy.

It shall not be inferred or implied that the University sanctions or endorses the Expressive Activities addressed in this Policy, unless expressly stated by the University.

### POLICY

#### EXPRESSIVE ACTIVITIES DEFINED

This Policy applies to Expressive Activities, including, but not limited to: Activities undertaken by an individual or individuals who seek to orate, distribute literature, engage in sequential, incidental, brief, and transitory verbal or non-verbal interactions with passersby, or conduct an event or assembly of any size that contemplates individuals gathering to communicate a message or messages.

#### USE OF THE UNIVERSITY CAMPUS FOR EXPRESSIVE ACTIVITIES AT WESTFIELD

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## STATE UNIVERSITY

The right to engage in Expressive Activities in particular locations on the Westfield State University campus is a function of the character and location of the property where such Expressive Activity occurs. Individuals have a right to engage in Expressive Activity on the University's campus as provided herein; however, no such Expressive Activity is permitted which materially disrupts University programs and operations including, but not limited to, classes, final examinations, orientation sessions, designated University-wide quiet hour periods, the opening and closing of campus, the traversing of student, faculty, and staff to or on the University campus, or any other University business. Further, no Expressive Activity is permitted that threatens substantial disorder on campus or invades the rights of other members of the Westfield community.

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.

1. Traditional Public Forums shall be available to people, but members of the campus community and their organizations shall have preference in the use of these areas. Traditional Public Forums include the University's lawns, such as the Globe area, sidewalks, malls, and similar common areas traditionally open to Expressive Activities. Reasonable time, place, and manner restrictions are permissible.
2. Limited and/or Designated Public Forums are parts of the University's campus that do not fall within the definition of a Traditional Public Forum, but which are designed by the University and may be occasionally used as appropriate for Expressive Activity. These spaces include auditoriums, lobbies, parking lots, and athletic fields. Limited and/or Designated Public Forums may be used by faculty, staff, contract employees, students, and volunteers. All others, including individuals, third-party organizations, and groups who seek to use such space, must be sponsored by a student group or academic or administrative office. Sponsorship does not mean that the views are endorsed by the sponsoring group or the University, unless expressed otherwise. Reasonable time, place, and manner restrictions are permissible, but content-based and communicative content-based restrictions are proscribed.
3. Non-Public Forums are those areas of the University's campus that are not defined as Traditional Public Forums or Limited and/or Designated Public Forums; these areas are restricted to use for their intended purposes and are not available for Expressive Activities. Examples include, but are not limited to, interior spaces within academic buildings; administration buildings, including faculty, administrative and student offices; libraries; cafeterias and other eateries; computer labs, residence halls, areas that prohibit the flow of traffic or egress, and areas that are prohibited by Commonwealth or local building fire codes.
4. City of Westfield sidewalks and streets that are about the campus are not addressed by this policy, as these areas fall under the jurisdiction of the City of Westfield and are likewise controlled by the City of Westfield.

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5. Public safety considerations may affect the availability of spaces that would otherwise be available for Expressive Activities.
  6. Spaces owned or leased by the University that are occupied by unaffiliated entities are excluded from this Policy.

## PROCESS FOR REQUESTING USE OF SPACE FOR EXPRESSIVE ACTIVITIES

1. Individuals, organizations and third-parties seeking to engage in Expressive Activities on University property where such Expressive Activities are permitted (Traditional Public Forums and Limited and/or Designated Public Forums), must provide written notice ("Notice") to, meet with, and obtain approval from the appropriate office (i.e. Dean of Students, Event Management, Human Resources, Provost or the appropriate office designee) at least 72 business hours in advance of any proposed Expressive Activity. University Police will be consulted by the appropriate office/designee.
2. Such Notice must provide the appropriate office (i.e., Dean of Students, Event Management, Human Resources, Provost, or the appropriate office designee) with the date and time of the proposed Expressive Activity, as well as the approximate number of attendees involved or expected, and contact information. Approval will not be given if this information is not provided.
3. The appropriate office (i.e, Dean of Students, Event Management, Human Resources, Provost, or the appropriate office designee), will determine whether additional information will be needed prior to approving the Expressive Activity. Additional information may also be used to determine whether there is a need for additional University support.
4. Individuals, organizations, and third parties reserving University Traditional Public Forum or Limited and/or Designated Public Forum space where such Expressive Activities are permitted shall be limited to use for three (3) proposed Expressive Activities per semester, none of which shall exceed four (4) hours in duration per Expressive Activity. This does not apply to registered clubs and organizations that are scheduled to meet weekly through the Student Activities Involvement and Leadership Office (SAIL).
5. Failure to request and obtain approval for a proposed Expressive Activity pursuant to this Policy and its regulations may result in the denial of the use of University Traditional Public Forum or Limited and/or Designated Public Forum space for such Expressive Activity.

## REGULATIONS FOR EXPRESSIVE ACTIVITIES AT WESTFIELD STATE UNIVERSITY

1. University space where such Expressive Activities are permitted (Public Forums and Limited and Designated Forums) may not be used during the hours outlined in the Access to Academic and Administrative Buildings Policy. Regardless of the forum, any Expressive Activity that interferes with the central educational mission of the University,

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the primary uses of its campus, or normal University programs and operations, including, but not limited to, business in offices, classes in classroom spaces, or previously scheduled programs and operations, is not permitted.

2. In no circumstances is picketing with stakes, posts, pipes, or similar devices that could be used as a weapon, as defined in the University Student Handbook, permitted. There shall be no hand-held signs or picketing permitted inside any building. Westfield State University limits amplified sound equipment to not exceed 55 decibels at 50 feet from the source of amplification.
3. Open flames and burning objects are prohibited.
4. No alcoholic beverages or controlled substances of any kind shall be in the possession of, or consumed by, individuals at any event held under the provisions of this Policy.
5. Individuals engaged in Expressive Activity are prohibited from blocking free entry to, or free exit, from buildings, interfering with the free movement of people on campus, or creating obstacles to normal University programs and operations. Interference with free movement includes, but is not limited to, any denial or restriction, physical or otherwise, of a person's ability to freely reach or leave a given geographical area, or that prevents them from engaging in normal movement around the Westfield State University campus. Obstacles include, but are not limited to, physical devices, encampments, temporary structures, bodies, or signs that cause interference with free movement, or sounds that prevent normal communication.
6. Individuals who seek to distribute literature or solicit communication with pedestrians on campus may offer literature to pedestrians and are required to respect a person's declination of the literature. In no circumstance may the distributor follow a person who declines the literature.
7. With the approval of the appropriate office (i.e. Dean of Students, Event Management, Human Resources, Provost, or the appropriate office designee) within 24 hours in advance of distribution, noncommercial pamphlets, handbills, circulars, newspapers, magazines and other handwritten materials may be distributed on a person-to-person basis in open areas on campus that are at least 20 feet from the entrances or exits of buildings. Outdoor recreation areas, such as playing fields, courts, and grounds adjacent to private residences, and residence halls, are not considered open areas for the distribution of materials.
8. Postings, signs, banners, and flyers must be reviewed and approved by the appropriate office (i.e., Dean of Students, Event Management, Human Resources, Provost, or the appropriate office designee). The University reserves the right to remove any sign, poster, flyer, or banner that has not been reviewed and approved by the appropriate office.
9. The following Expressive Activity is not to be considered protected under the First Amendment, and is therefore prohibited: a solicitation or threat to commit a crime or crimes; a clear and present danger; is physically assaultive; destroys or threatens to destroy property; harasses, threatens, or defames; is used to engage in blackmail; is

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obscene or involves child pornography, or satisfies the legal definition of a true threat, fighting words, incitement of imminent violence, creates a hostile environment or lawless action.

10. All persons participating in an Expressive Activity must comply with applicable state, local, and federal laws and University policies, rules and regulations including, 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.
11. All campus community members, including students, employees, and volunteers, must have their University identification on them and present their identification to a University official upon request. University officials shall not invoke this provision to stifle expression because of its content or its communicative content.
12. All persons shall comply with the directions of University officials lawfully acting in the performance of their duties. Failure to cease any Expressive Activity in violation of this Policy or other University policies immediately following either written or oral notice by a University official shall also be a violation of this Policy.
13. Any violation of this Policy will subject the violators to denial of future request for use of the University campus and applicable disciplinary actions as defined in the Student Handbook, Equal Opportunity, Diversity and Affirmative Action Plan, Title IX Sex or Sexual Harassment Policy, Title VI Policy, and/or collective bargaining agreements. Failure to adhere to this Policy may also result in legal action or criminal charges.
14. All persons engaged in Expressive Activity must respect the right of other members of the community to dissent. Dissenters, however, may not disrupt the rights of the speakers to speak or the audience to listen. Preventing expression from occurring by disruptive University programs and operations is prohibited and may create a hostile environment.
15. Persons or organizations responsible for Expressive Activity must remove all resulting structures, signs, and litter from the area at the end of the event. The individuals responsible for such Expressive Activity and any sponsoring organization(s) will be held financially responsible for any subsequent cleanup by the University.
16. If Expressive Activity otherwise approved under this Policy, creates or threatens to create an unsafe environment on campus, participants may be relocated to another location.
17. The University reserves the right to close the campus or cancel an Expressive Activity if circumstances warrant doing so. Examples of circumstances that could warrant such action include, but are not limited to, threats to the safety of the community or individual members of the community, inclement weather, creation of a hostile environment, or physical limitations of the space.
18. Reckless conduct may subject organizers to personal liability.

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## REVIEW

This Policy will be reviewed every three years and revised as needed by the Director of Public Safety, Dean of Students, Event Management, Human Resources, and Provost.