



Campus Free Speech | YSU

Campus Free Speech

The Board of Trustees passed a Resolution regarding campus free speech on June 23, 2022, adopting the public policy of the state of Ohio set out in Ohio Revised Code 3345.0215(B). The principles are:

1. Students have a fundamental constitutional right to free speech.
2. Youngstown State University is committed to giving students broad latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to Ohio Revised Code 3345.0215.
3. Youngstown State University is committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the University's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
4. It is for the University's students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.
5. It is not the proper role of the University to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
6. Although the University greatly values civility and mutual respect, concerns about civility and mutual respect shall never be used by the University as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal traditional radical, or wrong-headed those ideas may be to some students or faculty.
7. Although all students and all faculty are free to state their own views about and content the views expressed on campus, and to state their own views about and content speakers who are invited to express their views on campus, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject or even loathe. To this end, the university has a responsibility to promote a lively and fearless freedom of debate and deliberation and protect that freedom.
8. The University is committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding.
9. The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

Nothing contained in the Policy shall be construed as prohibiting the University from imposing measures that do not violate the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution such as:

1. Constitutional time, place, and manner restrictions;
2. Reasonable and viewpoint-neutral restrictions in nonpublic forums;
3. Restricting the use of the University's property to protect the free speech rights of students and teachers and preserve the use of the property for the advancement of the University's mission;
4. Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article 1, Sections 3 and 11 of the Ohio Constitution;
5. Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by teachers.

Further, the University has created a process under which a student, student group, or faculty member may submit a complaint about an alleged violation by an employee of the University established under this section, including any penalty imposed on a student's grade for an assignment or coursework that is unrelated to ordinary academic standards of substance and relevance, including any legitimate pedagogical concerns, and is instead based on the contents of student's free speech.

A complaint can be submitted by using the **Campus Free Speech Complaint Form** (<https://adsf.ysu.edu/adsf/ls/?SAMLRequest=nZLbauMwEIZfxejlq0kThFJIJuwBKCH0KS92Jtllo83Ah28GqmHt6%2FrtPQA24uiCzGj%2BUB%2F%2FMyMwJpOLIM8umv8i5Bi9mC>)

The process for reviewing complaints shall comply with standards adopted by the Chancellor of the Department of Higher Education and include an investigation of the alleged violation and a fair and impartial hearing regarding the alleged violation. Under the process, the state institution of higher education will investigate the alleged violation and conduct a fair and impartial hearing regarding the alleged violation. If the hearing determines the state institution of higher education's policy was violated, the board of trustees shall determine a resolution to address the violation and prevent any further violation of the University policy.

Campus Free Speech Policy

- **R.C. 3345.0214(A) Report Submitted by Youngstown State University (September 2021)*** ([/student-affairs/dean-of-students/campus-free-speech/R.C.3345.0214A-Report](https://student-affairs/dean-of-students/campus-free-speech/R.C.3345.0214A-Report))

In accordance with state law **ORC 3345.0211-3345.0213**, known as the **Forming Open and Robust University Minds Act** (or the **FORUM Act**), Youngstown State University's **Campus Free Speech policy (3356-4-21)** provides guidelines to encourage the free and orderly exchange of ideas and to ensure that these activities do not imperil public safety, obstruct or damage university facilities, or interfere with the University's mission and functions.

Free Speech and Expressive Activities

Youngstown State University values the freedoms of speech, thought, expression, and assembly, both as constitutionally guaranteed rights, and as part of the university's core educational, research, and public service mission and shall not prohibit any individual from engaging in noncommercial expressive activity on campus, so long as the individual's conduct is lawful and does not materially and substantially disrupt the functioning of the institution. The university also recognizes that the exercise of these freedoms must be balanced with the rights of others to learn, work, and conduct business. Any speech or expressive activity pursuant to this policy should not be considered to be made by or on behalf of the university/administrators or to be endorsed by the university/administrators.

The campus community has the freedom to discuss any problem or issue that presents itself, assemble, and engage in spontaneous expressive activity on campus, within the bounds of established principles of the First Amendment to the Constitution of the United States and the state of Ohio, and subject to reasonable time, place, and manner restrictions that are consistent with established First Amendment principles.

Definitions

1. **"Expressive activity"** means all forms of non-commercial expression that are protected by the First Amendment to the U.S. Constitution, which may include peaceful assemblies, speeches, protests, picketing, leafleting, circulating petitions, distributing literature, and similar expressive communications and activities.
2. **"Harassment"** means unwelcome conduct that is so severe, pervasive and objectively offensive and speech that is not protected by the First Amendment to the United States Constitution or Article I of the Ohio Constitution (Unprotected Expression) that it effectively denies an individual equal access to the individual's education program or activity.
3. **"Outdoor areas of campus"** means the generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways and other similar common areas. This does not include outdoor areas where access is restricted to a majority of the campus community.
4. **"Materially and substantially disrupts"** means when a person, with the intent to, or with knowledge of doing so, significantly hinders another person's or group's expressive activity, prevents communication of their message, or prevents the transaction of the business of a lawful meeting, gathering, or procession by either engaging in violent or otherwise unlawful behavior or physically blocking or using threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in an expressive activity.
5. **"Campus community"** means students, student groups, faculty, staff, and employees of a state institution of higher education and their invited guests.

Common Campus Scenarios Involving the Freedom of Speech

Social Media

Social media provides a mechanism for information to be broadly shared – sometimes even anonymously. Some content may even be offensive; however, the university must adhere to the First Amendment which may not allow the institution to censor the message.

Speakers

A primary mission of higher education is to facilitate and protect the free exchange of ideas. One common way to execute this mission is via speakers discussing a variety of topics and issues. Individuals who disagree with the speaker have the right to peacefully demonstrate their differing opinion. Blocking access to a speaker or preventing the speaker from being able to deliver their message is not permitted. The university can regulate the time, place, and manner of free speech and expressive activities to ensure that normal operations of the institution are not interrupted.

In the Classroom

The First Amendment also has implications inside the classroom. Faculty members should emphasize only topics related to the academic discipline of the course. They may also place time limits on class discussions and require that written or oral information conform to academic standards.

Campus Public Spaces / Public Forums

The outdoor spaces of Youngstown State University are public forums, open on the same terms to any invited speaker subject to reasonable time, place, and manner restrictions that are consistent with established principles of the First Amendment to the Constitution of the United States and the state of Ohio. The university does not maintain free speech zones although reasonable time, place and manner restrictions may be necessary.

- Reasonable time, place and manner restrictions, when in the service of a significant institutional interest are permitted if the restrictions are viewpoint and content neutral and provide for ample alternative means for expressive activities. Alternative options for the expressive activity shall also be presented.

Harassment

The campus community has the right to an environment free of conduct that unreasonably interferes, hinders or otherwise denies another the ability to have equal access to the education environment. The university community shall refrain from harassment while conducting expressive activities. However, for conduct to violate this policy, the conduct must be more than merely offensive; it must be so objectively offensive, severe and pervasive and violates federal and state constitutions that it denies one's access to education.

- Examples of conduct considered harassment may include but are not limited to, true threats; fighting words or words that provoke immediate violent reaction; obscenity (including child pornography); defamatory or false statements; blackmail, criminal solicitation and other criminal speech and any other harassing speech that meets the definition of this policy.

Noncommercial Expressive activities

Noncommercial expressive activities protected under the provisions of this policy include, but are not limited to, any lawful oral or written means by which members of the campus community may communicate ideas to one another, including, but not limited to, all forms of peaceful assembly, protests, speeches including by invited speakers, distribution of literature, circulating petitions, and publishing, including publishing or streaming on an internet site, audio or video recorded in outdoor areas of campus.

- A member of the campus community who wishes to engage in noncommercial expressive activity in outdoor areas of campus shall be permitted to do so freely, subject to reasonable time, place, and manner restrictions, and as long as the member's conduct is not unlawful, does not impede others' access to a facility or use of walkways, and does not disrupt the functioning of Youngstown State University's operations. Staff may designate other areas of campus available for use by the campus community according to its institutional policies, but in all cases access to designated areas of campus must be granted on a viewpoint-neutral basis within the bounds of established First Amendment principles.
- A member of the campus community whose spontaneous and contemporaneous expressive activity results in a large group gathering is advised to notify the **university police** (<https://ysu.edu/ysu-police>).
- To schedule a noncommercial expressive activity, contact the Office of Alumni & University Events at **(330) 941-3497 (null)**.

Student/Student Groups

Youngstown State University will not deny benefits or privileges available to a student or student organizations based on the viewpoint of a student or student organization or the expression of the viewpoint of a student or student organization by the student or student organization or its members protected by the First Amendment to the Constitution of the United States or state of Ohio. In addition, Youngstown State University will not deny any benefit or privilege to a student organization based on the student organization's requirement that the leaders of the student organization agree to and support the student organization's beliefs, as those beliefs are interpreted and applied by the organization, and to further the student organization's mission.

- The university shall not charge additional security fees to a student or student organization based on the content of their expression, the content of the expression of their invited guest or the anticipated reaction to a guest expression.

Potential Violations of Student Conduct Related to Free Speech

When free speech or expression becomes unlawful harassment against another individual materially and substantially, or severely disrupts the day-to-day operations of the university, it may constitute a violation of **The Student Code of Conduct** (<https://ysu.edu/student-conduct/student-code-conduct>). In particular, the following charge may be assigned in these cases:

- Violation of Campus Free Speech Policy ("Published university policies")
 - Students charged with this violation will be referred to the formal student conduct process for follow-up and adjudication

This policy shall not be interpreted as preventing Youngstown State University from prohibiting, limiting, or restricting expression which the First Amendment of the Constitution of the United States and/or Ohio does not protect, including, but not limited to:

- Threat of serious harm and expression directed or likely directed to provoke imminent unlawful actions;
- Obscenity and defamation;
- Harassment, including, but not limited to, expression which is so severe, pervasive, and objectively offensive that the expression unreasonably interferes with an individual's access to educational opportunities or benefits provided by Youngstown State University and/or violates the university's anti-harassment policy

Campus Free Speech Policy Complaint Form Procedures

Any person or organization that believes unlawful, unreasonable, or arbitrary limitations have been imposed on their expressive activities in violation of the **Campus Free Speech Policy** may file a complaint.

- Complaints must be presented by the complainant on the complaint form
 - All questions must be answered
- Complaints can be filed using the **Campus Free Speech Complaint Form** (<https://adfs.ysu.edu/adfs/ls/?SAMLRequest=nZLbauMwEIZfxejelq0kThFJlJuwBKCH0KS92Jtll083Ah28GqmHt6%2FrtPQA24uiCzGj%2BUb%2F%2FMyMwJpOLIM8umv8I5B>)
- Complaints must be filed within one year of the date of the action causing the complaint
- Within 30 calendar days of the formal complaint, the complainant will be notified in writing of the resolution

Harassment Complaint Form Procedures

Any person or organization that believes that they have suffered harassment as a result of another member of the campus community's expressive activities may file a complaint with the Office of Equal Opportunity.

- Complaints can be filed using the **Campus Free Speech Complaint Form** (<https://adfs.ysu.edu/adfs/ls/?SAMLRequest=nZLbauMwEIZfxejelq0kThFJlJuwBKCH0KS92Jtll083Ah28GqmHt6%2FrtPQA24uiCzGj%2BUb%2F%2FMyMwJpOLIM8umv8I5B>)
- Complaints must be filed within thirty days of the date of the action causing the complaint

Please direct off-campus inquiries about free speech and expression to University Relations at (330) 941-3497. (null)

"To suppress free speech is a double wrong. It violates the rights of the hearer as well as those of the speaker."

- Frederick Douglass, abolitionist, activist, and author

"[T]he precedents of this Court leave no room for the view that, because of the acknowledged need for order, First Amendment protections should apply with less force on college campuses than in the community at large. Quite to the contrary, "[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools."

- U.S. Supreme Court, *Healy v. James* (1972), unanimous opinion

"The history of intellectual growth and discovery clearly demonstrates the need for unfettered freedom, the right to think the unthinkable, discuss the unmentionable, and challenge the unchallengeable. To curtail free expression strikes twice at intellectual freedom, for whoever deprives another of the right to state unpopular views necessarily also deprives others of the right to listen to those views."

- C. Vann Woodward, historian and *Pulitzer Prize* Winner