

**3341-2-45 Bowling Green State University Freedom of Expression.**

Applicability	All University units and Visitors to the University
Responsible Unit	Office of the Provost Finance and Administration
Policy Administrator	Provost and Senior Vice President for Academic and Student Affairs Vice President for Finance and Administration

**(A) Policy Statement and Purpose**

Read not to contradict and confute, nor to believe and take for granted, but to weigh and consider. – Francis Bacon, Of Studies, inscribed on the north façade of the McFall Center, Bowling Green State University.

Bowling Green State University (BGSU) exists to create and share knowledge, promote open debate and dialogue, and be a place where multiple views and perspectives can be weighed and considered. So essential are these principles to BGSU that words affirming them were carved in stone on the façade of the university's first dedicated library building.

BGSU is a community of learners and teachers. The university strives to ensure that members of our community feel valued and respected and have a shared responsibility to maintain and promote an environment of civil discourse and mutual respect. At times, the university must allow speech on our campuses that may not align with our values of fostering a campus environment of diversity and inclusion. As a public university, we are committed to freedom of expression and the rights protected by the First Amendment.

The purpose of this policy is to affirm the university's commitment to Free Expression and to provide a resource for students, faculty, staff and visitors. An FAQ has been developed to provide additional context including definitions of legal terms.<sup>1</sup> The University of Chicago Statement on

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<sup>1</sup> <https://www.bgsu.edu/dean-of-students/free-speech/faq.html>

Principles of Free Expression informs this Policy and BGSU acknowledges and appreciates the work of the Statement's authors.<sup>2</sup>

(B) Policy Scope

This policy applies to all students, student organizations, faculty, staff and visitors concerning expressive activities that take place on BGSU property (owned, leased, or controlled premises), at BGSU-sponsored events, and in connection with a BGSU-recognized program or activity.

This policy shall not be construed to impair any right or activity, including speech, protest, or assembly protected by the U.S. Constitution.

Nothing within this policy shall be interpreted as preventing BGSU from restricting expressive activities that the First Amendment of the U.S. Constitution or Article I, Sections 3 and 11 of the Ohio Constitution does not protect. Further, nothing in this policy shall be interpreted as restricting or impairing the university's obligations under federal law including, but not limited to, Title IV of the Higher Education Act of 1965, Title VI of the Civil Rights Act of 1962, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act, Age Discrimination in Employment Act and the Age Discrimination Act of 1975 as addressed through its non-discrimination and Title IX policies.

(C) Definitions

- (1) Student means any person who is enrolled on a full-time or part-time basis at BGSU.
- (2) Student organization means an officially recognized student organization or a group of students seeking official university recognition as a student organization.
- (3) Expressive activities mean any lawful verbal, written, audiovisual, or electronic/digital means by which individuals may communicate ideas, including all forms of peaceful assembly, protests, speeches,

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<sup>2</sup> <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

distribution of literature, carrying and displaying signs, and circulating petitions.

(D) Time, Place, and Manner Limitations on Expression and the Avoidance of Disruption

(1) The university welcomes a robust exchange of ideas and acknowledges that this will include protests, marches, demonstrations, petitioning, leafletting, chalking, and other expressions that will take place in outdoor spaces. When conducted on university property these activities are subject to two categories of university regulation:

- (a) Rules prohibiting activities that substantially and materially disrupt university operations; and
- (b) Rules that regulate the time, place and manner of expressive activities.

The university has both types of rules. The precise application of these rules varies depending on the nature of the university space. The rules must always be view-point and content-neutral, reasonable, and allow for numerous alternative methods of expression. These rules are to be applied narrowly and never in a manner that is inconsistent with the university's core commitment to the free and open exchange of ideas.

(E) Assembly and Expressive Activities

(1) BGSU strives to support any individual or group who endeavors to engage in expressive activities while undertaking the responsibilities that come with exercising these rights. Some of the responsibilities associated with these rights include ensuring that:

- (a) University operations are not substantially and materially disrupted
- (b) Building entries and exits, walkways, and roadways remain accessible

- (c) An expressive activity does not prevent campus community members from being able to move freely about campus
  - (d) The use of signs, banners, and display boards do not impede university operations
  - (e) There is no destruction to property or harm to persons
  - (f) The expressive activity does not violate any laws
  - (g) The expressive activity complies with university policies
  - (h) The expressive activity does not pose a true threat to persons or the community
  - (i) The expressive activity does not constitute harassment, as specifically defined in section (I), against a specific individual/group that unreasonably interferes with that individual's/group's educational experience
  - (j) The expressive activity does not endanger the physical safety of others
- (2) In order for the university to best assist in meeting these responsibilities, we encourage organizers to inform us of planned expressive activities. Prior to sponsoring a rally, demonstration, march, or other group event, the organization or individual coordinating the activity is encouraged to complete the space reservation process two business days in advance through the main campus Office of Conference & Event Services or the Office of Budget and Operations for the Firelands campus. Advance notice enables the university to help ensure the activity takes place in a safe manner and support for the activity is identified, if needed.
- (3) Demonstrations, marches, and non-university invited speakers may not be in campus buildings or obstruct or disrupt any university operations. In the past, non-university affiliated speakers have used the following areas for demonstrations, marches and similar expressive activities:

- (a) Bowen-Thompson Student Union, Oval
  - (b) Education Building Steps
  - (c) Education/Business Administration/Library Lawn (Carillon Park)
  - (d) Thompson Quadrangle
  - (e) Math Science Lawn
  - (f) Oaks/McDonald Lawn
- (4) Expressive activities are not confined to the outdoor locations listed in D.3 above and may take place elsewhere in accordance with this policy.

(F) Space and Facilities Reservations

So as not to interfere with its mission and operation, without regard to viewpoint and content of expressive activities, the university has the right to determine the time, place and manner its spaces and facilities can be used. The use of university facilities and grounds must conform to the following university policies and to local, state and federal laws.

Use of campus grounds must comply with the provisions on “Space and Facilities Reservations Including Use of Campus Grounds”. See, policy 3341-6-42: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Space-and-Facilities-Reservations-Including-Use-of-Campus-Grounds.pdf>

(G) Use of Amplification Equipment

Use of amplification equipment must be in accordance with regulations as stated in the Sound Amplification Policy. See, policy 3341-6-3: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Amplified-Sound-Policy.pdf>

(H) Temporary Structures

No temporary structure may be erected on campus grounds without prior written approval. See, policy 3341-6-42 (C): <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Space-and-Facilities-Reservations-Including-Use-of-Campus-Grounds.pdf>

(I) Free Speech and Harassment

Ohio Revised Code 3345.0212 requires each public university in Ohio to adopt a policy on harassment that is consistent with and adheres strictly to the definition of harassment in section 3345.0122 of the Ohio Revised Code.

The university believes that the right of expression is as necessary as the right of inquiry and that both must be preserved as essential to the pursuit and dissemination of knowledge and truth. However, the university's commitment to freedom of expression does not extend to harassment. Under section 3345.0122, harassment is defined as conduct and/or expression that is:

1. not protected by the First Amendment to the United States Constitution or Article I of the Ohio Constitution (Unprotected Expression);
2. unwelcome; and
3. so severe, pervasive, and objectively offensive that it effectively denies an individual equal access to the individual's education program or activity.

Expression (either in person, in writing or by telecommunication) must meet all three elements to be actionable under this policy.

Some harassment as defined in this policy may also rise to the level of a crime (e.g. a true threat, child pornography) and should be reported to the BGSU Police Department. For emergencies call 911 and for non-emergencies call (419) 372-2346.

(J) Reporting Violations

Alleged violations of this policy should be reported to the Office of the Dean of Students. Reports may be submitted via See It. Hear It. Report It. or by call the office during business hours at (419) 372-2843.

(K) Compilation of Relevant Policies

Following are URLs to the university policies most relevant to expressive activities.

(1) Faculty and Academic Freedom

- (a) Article I: The Basic Principles of BGSU Academic Charter, Policy 3341-1-08: <https://www.bgsu.edu/faculty-senate/academic-charter.html>
- (b) Article 9, Collective Bargaining Agreement. <https://www.bgsu.edu/content/dam/BGSU/health-and-human-services/OnboardingDocuments/cba3-20190701.pdf>
- (c) Policy on university libraries collection policies, see 3341-3-60(B)(5)(c): <https://www.bgsu.edu/general-counsel/university-policies/university-libraries-collection-policies--undergraduate.html>

- (2) Commercial solicitations on university property is governed by the university policy on solicitation, see policy 3341-5-25: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Solicitation.pdf>

(3) Students and Student Organizations

- (a) Student Rights and Responsibilities

See, policy 3341-2-37: <https://www.bgsu.edu/general-counsel/university-policies/student-rights-and-responsibilities.html>

- (b) Advertisements and Postings

This university policy addresses the display of posters, notices, handbills, fliers, banners, yard signs, chalking, and other forms of posting. See, policy 3341-2-2: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Advertisement.pdf>

(c) Guest Speakers

The university encourages student organizations and university departments to invite speakers to our campuses. Recognized student organizations and university departments must comply with all university policies regarding the reservation of space for non-university affiliated speakers in order to assure orderly calendaring and appropriate support to facilitate the event.

The Policy and procedure for student organizations inviting guest speakers to campus is policy 3341-2-16: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Guest-Speakers.pdf>

(d) Event Management

The Event Management Policy governs student organizations and the provision of security for campus events. See, policy 3341-2-11: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Event-Management.pdf>

(e) Prohibited Conduct

The Prohibited Conduct Policy provides for student discipline relating to, among other things, the disruption or obstruction of teaching; communications that are intended to threaten, harass or injure a person; harassment; hazing; demonstrations; riots; and disorderly conduct. See, policy 3341-2-28: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Prohibited-Conduct.pdf>

(f) Student Political Activity

Student participation in political activity is protected expressive activity. Such activity must be conducted in such a way as to not state or imply the university's endorsement or opposition to any candidate or ballot initiative. See, policy 3341-2-27: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Political-Campaigning.pdf>



(4) Workplace

(a) Non-Discrimination, Equal Protection

Discrimination, including the harassment of any person based on a protected status, is prohibited and contrary to the university's core values.

Policy 3341-2-41: <https://www.bgsu.edu/general-counsel/university-policies/title-ix-sexual-harassment-policy-and-procedures.html>

Policy 3341-5-41: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Non-Discrimination.pdf>

Policy 3341-5-38: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Sexual-Harassment.pdf>

(b) Safe Workplace

Policy 3341-5-28: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Violence-in-the-Workplace.pdf>

(c) Lobbying on Behalf of the University

Policy 3341-5-8: <https://www.bgsu.edu/content/dam/BGSU/general-counsel/documents/Contact-with-State-Federal-Agencies.pdf>

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