

BOG Governance Rule 1.8 – Freedom of Expression

Governance

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Responsible Unit: Office of the President

Amended: [TBD]

Adopted: June 21, 2019

Effective: July 15, 2019

Revision History: Prior BOG Policy 11 (originally effective November 8, 2002)

Review Date: April 2023

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- 1.1 The West Virginia University Board of Governors acknowledges a First Amendment right of free speech and assembly and encourages open dialogue as an opportunity to expand the educational opportunities of our campus communities.
 - 1.2 This Rule applies to West Virginia University, including West Virginia University Institute of Technology and West Virginia University Potomac State College (collectively the “University”).
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SECTION 2: HIGHER EDUCATION AND THE FIRST AMENDMENT.

- 2.1 The primary function of higher education is to discover and disseminate knowledge by means of research, teaching and public service. To fulfill this function a free interchange of ideas is necessary within its walls and within the world beyond. It follows that the University must do everything it can to ensure within it the fullest degree of intellectual freedom.
 - 2.2 First Amendment rights must always be applied in light of the special characteristics of the higher education institutional environment. As in the case of other public facilities, a higher education institution may place reasonable restrictions on assemblies to protect safety and property, maintain normal operations, facilitate campus traffic, and the like. In order to protect the rights of participants and non-participants alike, as well as the core functions of the institution, reasonable restrictions on time, place, and manner of speech are appropriate and necessary.
 - 2.3 The University expects that persons engaging in expressive activities will demonstrate civility, concern for the safety of persons and property, respect for University activities, respect for those who may disagree with their message, and compliance with University rules and policies, as well as applicable local, state, and federal laws.
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SECTION 3: EXPRESSIVE ACTIVITIES.

- 3.1 Freedom of expression, including speech and any other activity not inconsistent with this Rule, is a campus right and subject only to reasonable content-neutral time, place and manner restrictions. The following is a non-exclusive list of expressive activities:
 - 3.1.1 Engaging in symbolic speech, including, among other things, silent protest, wearing expressive clothing, gesturing, or standing.
 - 3.1.2 Posting of signs on bulletin boards designated for public use.
 - 3.1.3 Distributing written or printed materials outdoors on the grounds outside of campus buildings.
 - 3.1.4 A Member of the University Community distributing written or printed materials inside of campus buildings.
 - 3.1.5 Assembling outdoors on grounds outside of campus buildings.

SECTION 4: REASONABLE, CONTENT NEUTRAL LIMITATIONS.

- 4.1 *Time, Place, or Manner Restrictions.* To enable the University to function in a safe and secure manner and to advance the University's mission and objectives, the President may enact reasonable time, place and manner restrictions which are content neutral and narrowly tailored to serve a significant University or other governmental interest. The institution reserves the right to deny, cancel or postpone a reservation, or immediately terminate any ongoing activity that represents a violation of the time, place and manner provisions included in this section.
- 4.2 *No Right to Create a Hazard.* This Rule does not permit any group or individual to undertake any expressive activity that creates an imminent health or safety hazard.
- 4.2.1 The use and presence of open flames on the grounds outside of campus buildings is prohibited except with prior approval by the President.
- 4.3 *No Right to Interfere, Impair, or Impede.* This Rule does not permit any group or individual to interfere with, impair or impede the following:
- 4.3.1 The University's regularly scheduled classes, events, ceremonies or normal and essential operations.
- 4.3.2 The flow of vehicular, bicycle, or pedestrian traffic in, around, or through the University's campuses or within any building.
- 4.3.3 The boarding or disembarking of the PRT or other any other form of public transportation.
- 4.3.4 The ingress or egress from any building, parking structure, or driveway.
- 4.3.5 Within 75 feet of a campus health care facility, to knowingly approach within 8 feet of another person in order to pass a leaflet or handbill, display a sign, or engage in oral protest, education, symbolic speech or counseling, without that person's consent.
- 4.3.6 Any University event by blocking audience view, making sufficient noise to hamper a speaker or performance from being heard.
- 4.3.7 Any other person or group's lawful assembly or expressive activity, regardless of viewpoint.
- 4.4 *Advanced Reservations are Encouraged.* For the avoidance of doubt, the grounds outside of campus buildings are typically open to the public without a reservation; however, advance notice and a reservation is strongly encouraged in order to ensure that a particular location will be available at a specific date and time. See WVU BOG Administration and Finance Rule 5.5 - Facilities Use.
- 4.5 *Compliance with Other Rules and Policies, and Laws.* Participants in expressive activities must comply with University rules and policies, as well as applicable local, state, and federal laws (e.g., no littering, no destruction of personal property, etc.).

SECTION 5: DEFINITIONS.

- 5.1 “Member(s) of the University Community” means, for purposes of this Rule, any individual who is a University student, employee, or volunteer, as well as any recognized student organization.
- 5.2 “President” means President of West Virginia University or his or her designee.
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SECTION 6: DELEGATION.

- 6.1 The Board of Governors delegates to the President the authority to adopt additional internal policies and procedures to effectuate the implementation of this Board of Governors Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.
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SECTION 7: AUTHORITY.

- 7.1 W. Va. Code § 18B-1-6.
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SECTION 8: SUPERSEDING PROVISIONS.

- 8.1 This rule replaces Board of Governors Policy 11: Freedom of Expression and Use of Facilities, which was effective on November 8, 2002, and any rule of the Higher Education Policy Commission which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes and replaces any internal University policy or procedure which relates to the subject matter contained within this Rule.

History

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