

# **BRIDGEWATER STATE UNIVERSITY**

## **Free Speech and Demonstration Policy**

### **I. Preamble**

Exposure to a wide array of ideas, viewpoints, opinions, and creative expression is an integral part of a university education, preparing 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.

Bridgewater State University supports the right of individuals to exercise free speech, including but not limited to political, symbolic, or artistic speech, provided only that such expression does not materially disrupt normal university activities, create a clear and present danger of the commission of unlawful acts, or infringe upon the rights of others.

This policy establishes reasonable, non-discriminatory, content-neutral guidelines to protect the rights of speakers and non-speakers, to respect the rights of faculty and students in the classroom, to ensure fair access and due process for those who wish to engage in expressive activities, and to maintain a safe environment on campus.

The university does not support closing off the discussion of ideas, however offensive, unwise, disagreeable, or misguided those ideas may appear to some members of the campus community. It is for individual members of the university community, not for the university as an institution, to make judgments for themselves about the worth of those ideas, and to contest the ideas they oppose. Such engagement should be informed at all times by the values of civility and mutual respect.

### **II. Policy Statement**

Bridgewater State University recognizes the right of individuals to exercise all forms of constitutionally protected expression and free speech without prior restraint or censorship. 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.

Because Bridgewater State University is a public institution – and public universities are considered to be the quintessential “marketplaces of ideas” – the rights of both the campus community and the general public to engage in expressive activities should be broadly construed. Free speech rights, however, are not absolute. Public universities are legally permitted to regulate the time, place, and manner of expressive activities, so that these activities do not intrude upon or interfere with the academic programs or the administrative processes of the university or violate the rights of others.

Freedom of expression does not extend to actions that are illegal under valid applicable laws. In particular, this policy does not endorse or relieve any person from legal liability for actions that

amount to libel, slander, true threats, or obscenity. Moreover, all speech and assembly activities must be conducted in accordance with university regulations.

By regulating the exercise of free speech on campus, the university does not sanction the messages that are being declared or the methods of expression used, unless expressly stated otherwise.

### III. General Provisions

The following provisions shall apply to all campus community members and visitors:

#### A. Speeches and Demonstrations

The right to engage in expressive activities in particular locations on the Bridgewater State University campus is largely a function of the character and location of the property where the speech occurs. There are three kinds of “forums” on campus: the public or “traditional” forum, the “limited forum,” and the “non-public forum.”

As defined below, public forum areas are generally available for speeches and demonstrations between 9:00 a.m. and 5:00 p.m. Monday through Friday. Except as further provided below, the use of these areas for speaking, demonstrating, and other expressive activities must be approved at least 24 hours in advance by the university’s chief of police or their designee.

Other areas of the campus and other times occasionally may be used for expressive activities. Such activities in these limited forum areas must be approved by the chief of police or designee at least 48 hours in advance.

#### 1. Definitions and Locations of Public, Limited Public, and Non-Public Forums

##### a. Public Forums

Traditional public forums include the university’s lawns, sidewalks, malls, and similar common areas such as the Boyden Quadrangle and the Maxwell Library Mall.

These areas shall be available to any person, but members of the university community and their organizations shall have preference in the use of these areas. The university may impose reasonable time, place, and manner regulations in these areas.

##### b. Limited Public Forums

Limited or designated public forums include parts of the campus that do not fall within the definition of traditional public forums, but which may be designated by the university as appropriate for expressive activities; these include auditoriums, lobbies, parking lots, and athletic fields.

In those areas the university has designated as a public forum, reasonable time, place, and manner restrictions are permissible, but content-based restrictions are generally proscribed.

c. Non-Public Forums

Non-public forums are areas that are restricted for 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, libraries, computer labs, and residence halls (for privacy reasons and to avoid the creation of a captive audience). Additionally, public safety considerations may affect the availability of spaces that would otherwise be available.

The university's email system is intended for educational and employment uses only; and thus is considered a non-public forum.

Unlawful communications on any university technology platform, including true threats, obscenity, child pornography, and harassing communications, are prohibited.

## 2. Guidelines for Speeches and Demonstrations

The overriding consideration in deciding whether to allow the use of a particular place or facility for expressive activity is whether that activity would interfere with the central educational mission of the university or the primary uses of its premises.

Therefore, classes or other scheduled activities shall not be materially disrupted. Public assembly, discussion or demonstration shall not disturb or interfere with any program, event, or activity approved prior to the public assembly, discussion or demonstration; shall not disturb or interfere with normal operations and activities of the university; and shall not occur at the same time as other major events already scheduled on campus.

Mere annoyance or inconvenience are not enough to constitute interference with the university's educational mission under these guidelines. The expressive activity involved must be fundamentally incompatible with regular educational activities in order to be disallowed.

Certain other regulations are in effect, as follows:

- No expressive activity may create a clear and present danger of the commission of unlawful acts, or include "fighting words," which are those words that by their very utterance tend to incite an immediate breach of the peace.
- No person may block or otherwise interfere with the free flow of pedestrian, vehicular, or bicycle traffic. The right of way on streets and sidewalks must be maintained.

- Individuals who seek to distribute literature or solicit communication with pedestrians on campus may not approach within three feet of a person unless or until that person has indicated a willingness to engage with the speaker or distributor of literature. No individual who seeks to distribute literature or solicit communication with a pedestrian may follow a person who walks away from said individual or refuse to leave a person alone after being requested to do so.
- No person shall make statements, gestures, or otherwise engage in conduct that constitutes intimidation or intends a true threat aimed at another individual.
- No individual may block or otherwise interfere with reasonable ingress or egress into and out of campus buildings or interfere with any use of property belonging to the university or to other persons.
- The safety and well-being of the campus must be protected at all times. No person shall engage in physically assaultive conduct towards any other person or damage or destroy any article of personal property belonging to the university or another person.
- All persons shall comply with the directions of university officials lawfully acting in the performance of their duties. University officials shall not invoke this provision to stifle expression because of its content.
- Amplified sound equipment is prohibited unless approved 24 hours in advance by university officials. Under no circumstances will noise be allowed to exceed 55 decibels at a distance of 50 feet from the source of the amplification.

University organizations may sponsor a speaker or event, at the expense of the organization, under the university's usual event registration procedures. Such sponsorship does not necessarily imply approval of the views presented.

## B. Distribution of Written Material

With the approval of the chief of police or designee at least 24 hours in advance, noncommercial pamphlets, handbills, circulars, newspapers, magazines, and other written materials may be distributed on a person-to-person basis in open areas on campus that are at least 10 feet from the entrances or exits of university buildings. Outdoor recreation areas, such as playing fields, courts, and grounds adjacent to private residences, such as residence halls and staff housing, are not included in the definition of "open areas."

Certain other regulations are in effect, as follows:

- No stand, table, or booth shall be used in distribution except in traditional public forum areas. Such use shall require the prior permission of the chief of police or designee, who shall state in writing the reasons for their approval or disapproval.

- No written material may be attached or affixed to university or private property without the owner's permission.
- The university maintains a position of neutrality as to the content of any written material distributed on campus under this policy.
- The distribution of commercial materials and publications is covered by the university's Commercial Solicitation Policy <https://www.bridgew.edu/policy/commercial-solicitation-policy#:~:text=False%2C%20misleading%2C%20or%20illegal%20claims,credit%20card%20applications%20is%20prohibited.>

#### C. Marches, Parades, and Processions

Marches, parades, and processions may take place on streets and sidewalks and other public areas of the campus. Public safety and traffic control considerations dictate that plans for an event of this nature must be approved by the chief of police or designee at least 48 hours in advance.

#### D. Miscellaneous Provisions Applicable to All Modes of Expression

Persons seeking to obtain the approval to use campus areas for expressive activities must:

- 1) Contact the office of University Events to reserve space in accordance with standard university procedures. University Events will consult with the chief of police or designee and secure all necessary police approvals in preparation for the event; or
- 2) If there is no intention to reserve space on campus, the requester must submit a permit application to the chief of police or designee. The request must identify the requester and provide contact information and state the proposed date, time, and duration of the proposed event and an estimate of the number of people expected to attend, as well as a list of planned activities (e.g., speech or rally, march, signs, picketing, distribution of literature). A liability waiver form must be executed. The chief of police or designee will respond to the request in writing as soon as practicable. This approval procedure is not intended as a prior restraint; rather, it allows for the safe and equitable use of university facilities, as well as the ability of the university to notify the appropriate members of its staff whose services might be needed or impacted by the use of the designated areas. Exceptions to the advance approval requirement may be made in the case of spontaneous speech-related events which are occasioned by news or affairs coming into public knowledge less than 24 hours prior to such event.

Failure to identify oneself to, or comply with the directions of, a university official or other public official acting in the performance of their duties while on university property, is prohibited.

All persons at a talk or demonstration shall respect the right to dissent. Any person who interferes with acceptable forms of expressive activity shall be considered to be in

violation of this policy. Preventing speech from occurring by disruptive protest itself constitutes an attack on freedom of speech.

There shall be no obstruction of entrances or exits, corridors or thoroughfares of buildings.

There shall be no interference with educational or administrative activities inside or outside of buildings.

There shall be no interference with scheduled university ceremonies, events, or activities.

Persons engaged in speech activities or distributing literature shall not impede the progress of passersby, nor shall they force passersby to take material.

Persons engaged in expressive activities shall not threaten, touch, or strike attendees or passersby.

Lewd or obscene conduct is prohibited.

No alcoholic beverages of any kind shall be in the possession of or consumed by individuals at any event held under the provisions of this policy.

No hand-held signs or pickets are permitted in any building.

Malicious or unwarranted damage or destruction of property owned or operated by the university, or property belonging to students, faculty, staff, or guests of the university, is prohibited. Persons or organizations causing such damage will be held legally and financially responsible.

Persons or organizations responsible for a demonstration or other, similar expressive activity must remove all resulting structures, signs, and litter from the area at the end of the event. If this is not done, the persons or organizations responsible for the event will be held legally and financially responsible.

The need for university staff support, including police support, in conjunction with any use of facilities or areas, shall be determined by University Events or the BSU Police Department, as applicable. Permissible factors for determining the need for police support include, but are not limited to:

- The proposed location of the event;
- The estimated number of participants based on event organizer estimates and any other relevant information, including past or similar events at BSU or other locations;
- the time of the day that the event is to take place;
- the date and day of the week of the event;

- the proximity of the event to other activities or locations that may interfere, obstruct, or lessen the effectiveness of the protective measures being implemented;
- the resources needed to secure the event;
- the anticipated weather conditions;
- the estimated duration of the event;
- any other considerations relevant to an assessment of safety needs, provided that such considerations are similarly viewpoint- and content-neutral.

Users of university facilities may be required to sign an agreement to reimburse the university for any out-of-pocket costs arising from staff support. In the event of unforeseen or extraordinary staff support needs arising from the particular nature of the event, the university reserves the right to bill users of campus facilities whether or not such staffing support has been agreed to in advance.

No camping is allowed without permission and temporary structures are prohibited without permission.

This policy does not apply to academic instruction.

There must be compliance with all applicable state and federal laws and university policies, rules, and regulations.

This policy cannot and does not apply to any area within the jurisdiction of the town of Bridgewater. In some instances, the sidewalks, roadways, or other facilities bordering university property are owned or controlled by (or otherwise under the jurisdiction of) the town of Bridgewater or the Massachusetts Bay Transportation Authority (MBTA). Event planners are advised to inquire into the ownership or control of these areas prior to their event. In case of doubt, the Bridgewater State University Police Department is available to clarify those areas constituting university property, town property, or MBTA property.

#### E. Campus Posting Guidelines

The posting of signs, flyers, and posters is limited to BSU faculty, staff, and students at designated locations throughout the campus, subject to the following guidelines:

Individual building or area managers shall assume responsibility for any bulletin boards, outdoor kiosks, or other posting areas within their areas of responsibility; these managers shall set reasonable posting policies.

In any area that is not under the jurisdiction of a particular university department, including outdoor areas, the chief of police or designee will make a determination regarding the posting request in accordance with these guidelines.

Academic and administrative department bulletin boards are for the responsible department's exclusive use in connection with its academic and related programs.

Bulletin boards in classrooms fall under the jurisdiction of academic departments and are also for the department's exclusive use in connection with their academic and related programs.

Signs, flyers, and posters should be posted for a period not exceeding 21 days. The sponsoring individual or organization of an event has the primary responsibility for removing promotional information within 48 hours after an event.

All signs, flyers, and posters to be posted on campus shall not contain any obscene content. Postings may not be misleading; promote the excessive use of alcohol or the illegal use of alcohol by underage persons; promote the use of illegal drugs; or promote engagement in other illegal activities.

All postings must clearly indicate the full name of the sponsoring individual or organization.

The posting of paper with tape on sidewalks or using any kind of paint or other marking on sidewalks is not permitted.

No posting is allowed on windows, doors, walls, floors, trees, trash cans, lamp posts, building markers, bus shelters, or other surfaces that are not designated for such purpose.

Unless otherwise specified by the responsible department or area head, posters shall not to exceed 11" by 17" in size.

Posting is limited to one poster per bulletin board.

Lawn signs may be permitted in traditional or designated public forums for special events or occasions where appropriate, depending on the size of the sign and whether any physical damage to campus grounds is likely to result from the use of the sign. Requests will be considered by the chief of police or designee in consultation with the University's office of Facilities Management.

Banners are allowed in some locations but shall be approved by an appropriate building or area manager, or in an area not under the supervision of a building or area manager, the chief of police or designee. In outdoor locations, special care must be taken not to damage or injure trees.

The University reserves the right to remove any sign, poster, flyer, or banner which does not comply with any provision of these guidelines.

Bulletin boards and similar amenities within a residence hall are available only for use by university officials and students who are residents of the residence hall. Posting in residence halls must be approved in advance by the director of residence life and housing, who will act on the request according to these guidelines and the provisions of any policy



applicable to residence halls in general, or any specific residence hall in particular. Door-to-door distribution or posting of printed material is not allowed.

#### F. Effect of Other University Policies

Notwithstanding this policy, all other university policies remain in effect, including the Commercial Solicitation Policy, Residence Hall Room Decorations/Window Covering Policy, Responsible Use of Technology Policy, and Massachusetts State Universities Title IX Sexual Harassment Policy; and nothing in this policy shall be interpreted as restricting or impairing the university's obligations under federal or state laws, including, but not limited to, Title IV of the Higher Education Act of 1964, Title VI of the Civil Rights Act of 1962, Title VII of the Civil Rights Act of 1972, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Age Discrimination Act of 1975 as addressed through the university's nondiscrimination and Title IX policies.

#### G. Enforcement of Policy

This policy shall be enforced by officers from the Bridgewater State University Police Department or other university staff members according to their particular areas of responsibility.

The BSU Police Department shall strive to effectively manage crowds during demonstrations or civil disturbances to prevent loss of life, personal injury, or property damage and minimize disruption to persons who are uninvolved.

In rare circumstances involving highly volatile civil unrest with the potential for widespread violence, the chief of police or designee has the power to declare a local emergency or unlawful assembly; to revoke any permit or other permission to assemble or demonstrate; to disperse disorderly or threatening crowds; to eliminate the immediate risks giving rise to continued escalation and further violence; and to arrest, remove, or isolate law violators or other persons inciting violent behavior.

In all crowd situations, weapons or objects that could be used as weapons are prohibited and may be confiscated by the BSU Police Department.

#### H. Violations of Policy

Within 10 business days following an alleged violation of this policy, any member of the campus community aggrieved by the alleged violation may submit a complaint to the chief of police for appropriate investigation and follow-up.

In the event that a decision made by the chief of police is at issue, appeal may be made through the president of the university or designee, whose determination shall be final.

Retaliation against any person, who in good faith submits a complaint regarding an alleged violation of this policy, or who participates as a witness in any investigation or proceeding, is strictly prohibited, and will not be tolerated.

Campus community members who engage in activities in violation of this policy may be subject to administrative disciplinary action. Non-affiliated persons may be subject to relocation or removal from campus. Any participant in disruptive or otherwise illegal activity may face criminal charges and the payment of damages, etc.

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