

## **Time, Place, and Manner for Expressive Activities Policy**

Accommodations for individuals with disabilities in accessing these policies are available upon request by emailing [accessiblepolicy@wcupa.edu](mailto:accessiblepolicy@wcupa.edu)

### **Purpose and Scope**

This policy applies to Expressive Activities and Expressive Conduct of University Community Members and the General Public on University Property.<sup>1</sup> Expressive Activity or Conduct, as defined by this policy, is not permitted in Non-Public-on-Campus Areas except in accordance with University policies and procedures.

### **Policy Statement**

West Chester University (the "University") is a community of educators that develops graduates to succeed personally and professionally and contribute to the common good. To fulfill its educational mission, the University must respect and uphold the full panoply of rights of students, staff, faculty, invited guests and members of the general public granted by the First Amendment of the United States Constitution (the "First Amendment") and Article I, Section 7 of the Constitution of Pennsylvania.

West Chester University welcomes the free exchange of ideas in the public forum of campus life. Engaging in Expressive Activity or Activities must comply with applicable federal, state, and local laws, including all laws, regulations and ordinances concerning traffic, fire prevention and safety, University scheduling protocols and noise generation. This policy establishes the following rules to assure that Expressive Activities do not unreasonably interfere with University

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<sup>1</sup> This Policy does not apply to guest speakers and guest lecturers who are invited into class time by University faculty members. However, responses by University Community Members and the General Public to such speakers and lecturers that constitute Expressive Activity or Expressive Conduct and as such will be governed by this policy.

operations, undermine the protected speech of others, or present a threat of imminent harm to others or University property. This policy defines different areas of campus as Designated University Forums or Designated Public Forums and explains how speech protections apply to different speakers in those areas. Importantly, through this policy, the University regulates the time, place, and manner of speech in a content-neutral manner as a legitimate way to fulfill its educational mission.

As a public university, West Chester University supports the rights of individuals, within the bounds of the law, to engage in protected speech and assembly, including but not limited to demonstrations, marches, picketing, leafleting, and protesting (“Expressive Activity or Activities”).<sup>2</sup> Such rights are equally extended to University community members including individuals, student organizations, University departments, Invited guests/speakers, as well as the general public.

In order to support and achieve its educational mission, the University has an obligation to maintain an environment in which the business of the University can be conducted without permitting undue disruption, imperiling public safety, or allowing obstructing of or damage to University facilities, all in accordance with the highest standards of institutional integrity, academic freedom, freedom of expression, and recognition of the rights, privileges and responsibilities of University community members and the public.

Expressive Activity is not permitted in non-public-on-campus areas without following University scheduling protocols. No Expressive Activity as defined in this

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<sup>2</sup> Nothing in this policy is intended to limit or expand the rights of WCU employees or their respective bargaining units concerning any lawful labor activity as recognized and protected by the Public Employe Relations Act (Act of July 23, 1970, P.L. 563, No. 195, as amended) (43 P.S., Sections 1101.101 to 1101.2301 inclusive).

policy will be prohibited based on content. Any University decisions concerning the prioritization of competing requests for space will be made based on a content-neutral determination of the availability of a space at the time it is requested.

This policy does not create any rights beyond those provided by the First Amendment of the United States Constitution and Article I of the Constitution of Pennsylvania.

### **Policy Framework & Procedures**

#### **Responsible University Official/Offices**

Vice President for University Affairs and Chief of Staff

#### **Designated University Forums**

Designated University Forums are available to University Community Members for Expressive Activity on a first-come basis. The preferred locations are identified in Appendix A.

To reserve designated university spaces, contact [Vice President for University Affairs](#). Requests must include the time, date, and duration of the proposed event along with the reasonably expected number of attendees or participants. If the requested space is already reserved, the University will arrange for an alternative date, time, or location.

- Requestors should make a written request to the [Vice President for University Affairs](#) five (5) days prior to the anticipated Expressive Activity.

## Designated Public Forums

Designated Public Forums are available to both University Community Members and the General Public for Expressive Activity on a first-come basis. The preferred locations are identified in Appendix B.

To reserve designated public forum locations, contact [Vice President for University Affairs](#). Requests must include the time, date, and duration of the proposed event along with the reasonably expected number of attendees or participants. If the requested space is already reserved, the University will arrange for an alternative date, time, or location.

- Requestors should make a written request to the Vice President for University Affairs five (5) days prior to the anticipated Expressive Activity.

Sidewalks on University property that adjoin public roadways are traditional public forums and, as such, will not be regulated pursuant to this policy. However, officers from University Public Safety or other law enforcement officials exercising lawful jurisdiction may, for the safety of those engaged in the Expressive Activity and other persons, ensure pedestrians can pass by and that entrances to buildings are not blocked.

## Exceptions to the General Rules and Procedures

### 1. Small Group Exception

The University encourages University Community Members to use the aforementioned procedure for reserving a space on campus regardless of size. However, Expressive Activities involving ten or fewer University Community Members or Invited Guests, collectively, may occur in both Designated University Forums or Designated Public Forums without

advance notice as required above, provided that such activities do not result in violations of this policy or other laws or campus policies, including, but not limited to, interference with functions that occupy a given space with prior approval.

## **2. Spontaneous Expression**

University Community:

- a. Without prior notice, University Community Members and Invited Guests may assemble and engage in Spontaneous Expressive Activity in Designated Public Forums. Except for the notice provision, all other aspects of this policy apply to spontaneous expression.
- b. Notwithstanding that this section addresses Spontaneous Expression, to the extent feasible, the University encourages University Community Members to provide advance notice to the [Vice President for University Affairs](#), so that the Chief of Police may provide guidance in scheduling and planning to ensure a safe and successful event. The Vice President for University Affairs can also assist the Speaker in identifying alternative locations if the desired location is already reserved in a manner consistent with this policy.

General Public:

- a. Without prior notice, the General Public may assemble and engage in Spontaneous Expressive Activity in Designated Public Forums. Except for the notice provision, all other aspects of this policy apply to spontaneous expression.
- b. To the extent feasible, the University encourages University Community Members to provide advance notice to the [Vice President for University Affairs](#), so that they may provide guidance in scheduling and planning to ensure a safe and successful event. The Vice President for University Affairs can also assist the Speaker in identifying alternative

locations if the desired location is already reserved in a manner consistent with this policy.

### **3. Amplification**

It shall be the general policy of the University that academic programs be given maximum protection from intrusion of amplified sound.

Therefore, amplification of any sound that interferes with classroom instruction or normal University operations shall not be permitted.

Therefore, at any time when sound amplification used for Expressive Activity interferes with classroom instruction or other University operations, university officials or Public Safety officers may require sound amplification to be reduced or discontinued. Failure to comply with University directives related to sound amplification may result in the authorized Expressive Activity being discontinued. Moreover, it is the responsibility of the users of sound amplification devices to ensure they are compliant with the volume limitations of all applicable municipalities.

### **4. Signs**

Items that are carried, such as signs, banners, or flags should be made of soft material, such as cloth or cardboard, and not attached to rigid materials, e.g., metal or wooden poles. The University reserves the right to limit the use of items made of potentially dangerous materials or material that can be used as a weapon.

### **5. Invited Guests**

Spaces for Invited Guests to engage in Expressive Activity must be reserved by a University recognized student organization ("RSO") or University Unit in a manner consistent with this policy. The reserving RSO or University Unit will be accountable for any policy violations by the Invited Guest.

### **Request Denials**

Requests may be denied for the following reasons:

1. Unavailability because of a preexisting reservation;
  - a. If the denial is due to a preexisting reservation or similar conflict, then the University will reasonably accommodate the Speaker's request with an alternative date, time, or location.
2. Scheduled maintenance or repair of the property;
3. Violation of this policy.
  - a. If the denial is for failure to abide by this policy, then the University will provide the requestor a reasonable opportunity to correct the violation.

Absent extenuating circumstances, the University will provide notice of denial within two days.

### **Conditions of Use**

All Expressive Activities must comply with applicable federal, state, and local laws, including all laws, regulations, and ordinances, e.g. traffic, fire prevention and safety, sound, etc. Additionally, all Speakers engaging in Expressive Activities must abide by all applicable policies of the University and the Pennsylvania State System of Higher Education.

#### **A. Specific Prohibitions**

The following is/are prohibited:

1. Disrupting University Operations (i.e. teaching, research, administrative or service activities), or obstructing or disrupting other authorized or approved activities on the University's campus
2. Obstructing entrances or exits of University building or parking lots or otherwise interfering with the free flow of vehicular and/or pedestrian traffic within the University's campus or into or out of campus;

3. Construction of permanent or temporary structures without prior written approval from an authorized University administrator;
4. Camping, lodging, or sleeping as an Expressive Activity (except in authorized facilities or locations);
5. Conduct that constitutes unlawful harassment, disturbance of the peace, or unlawful assembly;
6. Theft, damage, misuse, or destruction of University Property;
7. At any time violating the West Chester Borough, West Goshen Township, and/or East Bradford Township noise ordinances - see References below.
8. Operating or using a drone or other unmanned aircraft system;
9. Soliciting for commercial purposes as defined by West Chester University's [Vendors & Solicitation Policy](#).

**B. Dissenters, Counter-Speakers, and Protesters**

Dissenters, counter-speakers, and protesters have the same speech rights as those who are conducting or attending a planned meeting or Expressive Activity. Nothing in this Policy shall be construed to establish a “hecklers’ veto.” If University Community Members, Invited Guests, or members of the General Public materially and substantially disrupt the Expressive Activities of others, then they are subject to the sanctions referenced in this policy.

**C. Enforcement/Sanctions**

1. University Community Members
  - a. Any violation of this Policy may result in the modification or cancellation of an event.
  - b. Violations of this Policy by a University employee may constitute misconduct subject to disciplinary action, up to and including discharge or termination, in accordance with



any applicable collective bargaining agreement provisions or State System or university policies.

- c. Alleged violations of this Policy by students may be referred by the university for review in accordance with the Code of Conduct.

2. Invited Guests and General Public

- a. Any violation of this Policy may result in the modification or cancellation of an event.
- b. Additionally, violators may be removed from campus and/or precluded from engaging in Expressive Activities on University Property in the future.

**D. Security**

The University reserves the right to require security in an effort to protect both Speakers and University Community Members and University property.

**E. Distribution of Literature**

Speakers may distribute petitions, leaflets, newsletters, and other non-commercial printed materials.

**F. Restoration of Property**

Speakers, or the inviting Recognized Student Organization or University unit, are responsible for any non-routine clean-up following an event, including litter from printed materials, excessive signage, approved structures, etc.

**Definitions**

“**Commercial Speech**” means advertisements, solicitations, or testimonials for goods or services, including distribution of commercial leaflets, fliers, handbills, or similar messaging.

“**Designated Public Forum**” means any area of campus that has been specifically dedicated to the Expressive Activities of both University Community Members and the General Public and specifically defined in Appendix B.

“**Designated University Forum**” means any area of campus that has been either specifically dedicated or long held out as open to the speech of University Community Members and specifically defined in Appendix A.

“**Employee**” means an individual who is employed by the University. This definition does not include independent contractors.

“**Expressive Activity**” includes constitutionally protected speech and assembly, including but not limited to oral presentations, demonstrations, marches, picketing, leafleting, expressive conduct, protesting, and similar non-Commercial Speech.

“**Expressive Conduct**” includes constitutionally protected symbolic speech which communicates a particular message without the use of verbal communication.

“**General Public**” means any person, group, club, organization, or entity that does not fall within the definition of “University Community Member” or “Invited Guest.”

— UNIVERSITY POLICY —

**“Invited Guest”** means a person, group, club, or other organization invited by a University Community Member to participate in Expressive Activity as defined in this policy on University Property.

**“Harassment”** means targeted speech that is (1) intended to harass, annoy or alarm another by communications that are threatening, lewd, or obscene and (2) is not constitutionally protected.

**“Material and Substantial”** or **“Materially and Substantially”** refers to actions or activities that have an actual impact as opposed to a predicted one. It includes actions that materially infringe on the rights of others to engage in, or listen to, Expressive Activity.

**“Misuse of Property”** means unauthorized access to, entry into, or use of University Property, including fixtures or other forms of personal property.

**“Non-Public-on-Campus Area”** means any area of campus that is not specifically identified in Appendix A or B to this Policy and is considered non-public and dedicated to other activities consistent with the mission of the University or University Operations.

**“Protected Speech”** means all speech other than certain limited exceptions such as obscenity, incitement of imminent violence, and defamation.

**“Responsible University Official (or Office)”** means the position or office responsible for oversight and enforcement of this policy.

**“Speaker”** means any person engaging in Expressive Activity including University Community Members, Invited Guests and the General Public.

**“Spontaneous Expressive Activity”** includes Expressive Activity by a Speaker in a Designated University Forum or Designated Public Forum where notice is not provided.

**“Student”** means anyone who is registered and currently enrolled in one or more for-credit courses offered by the University, including internships and clinical placements located on or off campus. This definition does not include high school students taking courses at the University through any grant-funded or other program or contractual agreement with a local school district or other school entity.

**“University Community Member”** means a University Unit or member thereof, Employee, or Student.

**“University Department”** means any academic office or department, student affairs office, or similar university entity.

**“University Operations”** means all operations necessary to carry out the University's academic, health, safety, and administrative functions.

**“University Property”** includes any building, land, or space, including, but not limited to, grassy areas, entrances and exits to campus, parking lots, sidewalks, paths, stairways, or platforms that are owned, leased or otherwise controlled by the University.

“**University Unit**” means Council of Trustees, all university divisions, departments, offices, Recognized Student Organizations, athletic teams, and any other organization that is wholly sanctioned, supervised, and governed by the University or a division or department of the University.

**References**

- [West Chester Borough Noise Ordinance](#)
- [West Goshen Township Noise Ordinance](#)
- [East Bradford Township Noise Ordinance](#)
- [Vendors & Solicitation Policy](#)
- [Student Code of Conduct Policy](#)
- [Campus Map](#)

**Reviewed by:** Vice President for Diversity, Equity, & Inclusion, Vice President for Student Affairs, Chief Human Resources Officer, Vice President for University Affairs and Chief of Staff

**Office of Labor Relations Review:** William Helzouer, Chief Human Resources Officer

**Policy Owner:** Vice President for University Affairs and Chief of Staff

**Approved by:**



Andrew C. Lehman

Vice President for University Affairs and Chief of Staff

October 26, 2022



— UNIVERSITY POLICY —

**Effective Date:** October 26, 2022

**Next Review Date:** October 26, 2026

**History**

**Initial Approval:** September 1, 2022

**Review Dates:** October 2022

**Amended:** October 26, 2022

**Appendix A**

<b>DESIGNATED UNIVERSITY FORUMS</b>			
<b><u>Name of Space or Building</u></b>	<b><u>Location and Description</u></b>	<b><u>Boundaries of the Forum</u></b>	<b><u>Special Restrictions</u></b>
<b>Academic Quad</b>	<b>Grassy area between FGH Library, Main Hall, Philips Memorial Hall, Ruby Jones, and Recitation Hall</b>	<b>Quad side in front of FH Green Library, Recitation, Ruby Jones, Asplundh/Philips, and Main Hall</b>	
<b>SECC</b>	<b>Grassy triangle area between SECC and University Hall</b>	<b>Grassy area, triangle shape bordered by sidewalks southwest corner of SECC and near University Hall</b>	
<b>SECC</b>	<b>Indoor space between ballrooms and faculty lounge, and Freshens convenience center</b>		<b>Maximum number of people permitted is dependent upon fire code</b>
<b>25 University Ave. Lawn</b>	<b>Grassy area between 25 University Ave, and Church St.</b>	<b>Church St, Mitchell Hall, 25 University Hall, and University Ave.</b>	
<b>Ram Park</b>	<b>Grassy Area behind 114 W. Rosedale Ave.</b>		
<b>Sykes Student Union</b>	<b>Indoor space main lobby on the 1<sup>st</sup> floor</b>	<b>Area between Ballroom A and first floor lounge</b>	<b>Maximum number of people permitted is dependent upon fire code</b>
<b>Hoberman Plaza at Swope Music Building</b>	<b>Plaza between Swope Music Building and parking lot M</b>	<b>Parking lot M, Swope Music Building</b>	
<b>Sturzebecker Lawn</b>	<b>Grassy Area at southwest corner of Sturzebecker Building</b>	<b>Sturzebecker building, parking lot, and roadway into Sturzebecker building main entrance</b>	

**APPENDIX B**

<b>DESIGNATED PUBLIC FORUMS</b>			
<b>Name of Space or Building</b>	<b>Location and Description</b>	<b>Boundaries of the Forum</b>	<b>Special Restrictions</b>
<b>Academic Quad</b>	<b>Grassy area between FGH Library, Main Hall, Philips Memorial Hall, Ruby Jones, and Recitation Hall</b>	<b>Quad side in front of FH Green Library, Recitation, Ruby Jones, Asplundh/Philips, and Main Hall</b>	
<b>SECC</b>	<b>Grassy triangle area between SECC and University Hall</b>	<b>Grassy area, triangle shape bordered by sidewalks southwest corner of SECC and near University Hall</b>	
<b>25 University Ave. Lawn</b>	<b>Grassy area between 25 University Ave, and Church St.</b>	<b>Church St, Mitchell Hall, 25 University Hall, and University Ave.</b>	
<b>Ram Park</b>	<b>Grassy Area behind 114 W. Rosedale Ave.</b>		
<b>Hoberman Plaza at Swope Music Building</b>	<b>Plaza between Swope Music Building and parking lot M</b>	<b>Parking lot M, Swope Music Building</b>	
<b>Sturzebecker Lawn</b>	<b>Grassy Area at southwest corner of Sturzebecker Building</b>	<b>Sturzebecker building, parking lot, and roadway into Sturzebecker building main entrance</b>	