

Policy on Use of Institutional Facilities and Grounds for Expressive Activity by Student Organizations, Students, Employees, and their Guests

Contact: Vice President for Finance and Administration

Sources/Links: South Dakota Board of Regents Policies [3.2.3](#), [6.13](#), [6.13.1](#)

NORTHERN STATE UNIVERSITY

Policies and Guidelines

SUBJECT: Use of Institutional Facilities and Grounds for Expressive Activity by Student Organizations, Students, Employees, and their Guests

NUMBER: 6:3

1. Purpose

The policy and procedures set forth are intended to implement the policy and procedures pertaining to the use and scheduling of institutional facilities by student organizations, students, employees, and their guests.

2. Definitions

- a. Coercion: the inducement of another to perform some act under circumstances which deprives others' their exercise of free will, such as force, threats, or attempts to intimidate or badger a person into viewing, listening to, or accepting a copy of a communication; or persistently requesting or demanding the attention of a person after that person has attempted to walk away or has clearly refused to attend to the speaker's communication.
- b. Debate: a discussion involving different viewpoints in which different sides of an issue are advocated for, or presented by, differing speakers.
- c. Demonstration: any process of showing an individual or group cause by speech, example, group action, or other form of public explanation.
- d. Expressive Activity: any lawful, noncommercial verbal or written means by which one person or group communicates ideas to another, and includes peaceful assembly, protests, debate, demonstrations, speeches, distribution of literature, the carrying of signs, and the circulation of petitions.
- e. Guest: any person who enters campus for a purpose connected with the expressive activity of a University-recognized student organization, student, or employee acting within their non-institutional capacity, by express or implicit invitation of the student organization, student, or employee.
- f. Large-Scale Events: Events that are:
 - i. Expected to attract 50 or more people, or
 - ii. Events that request the use of amplified sound, such as invited speakers, marches, parades, protests, and demonstrations.
- g. Prohibited conduct: any conduct violating state or federal law, regulation, or policy including, but not limited to, coercion, speech unprotected by the United States or South Dakota Constitution, unlawful conduct under state or federal law, rule, or policy including, but not limited to, SDBOR or University policies.

3. Policy

The South Dakota Board of Regents (SDBOR) and NSU recognize and support NSU as a marketplace of ideas. The primary function of a BOR institution is to discover and disseminate knowledge by means of research and teaching. NSU supports the right of student organizations, students, employees, and their guests to speak in public and to demonstrate for or against actions and opinions with which they agree or disagree. Freedom of expression is vital to the shared goal of the pursuit of knowledge. Such freedom comes with a responsibility to welcome and promote this freedom for all, even in cases of disagreement or opposition. In doing so, however, students, employees, and their guests must comply with this and other SDBOR policies, NSU policies, and applicable law.

a. General Guidelines

- i. The University is committed to providing an educational, research, and service environment that is conducive to the development of each individual. As a public entity, the University provides both formal and informal forums for the expression of ideas and opinions, as long as such expression occurs within the context of federal and state law and SDBOR and University policies and does not impede pedestrian and/or vehicular traffic; disturb or interfere with normal academic, administrative, or student activities; or involve prohibited conduct.
- ii. Because NSU facilities and grounds are tax-exempt public facilities and grounds, they are not generally available for use for commercial purposes, subject to the specific exception set forth in SDBOR Policies 3.2.3 and 6.13.
- iii. NSU will not designate any outdoor area within its boundaries as a free speech zone or otherwise restrict the expressive activities for Affiliated Parties to particular outdoor areas within its boundaries in a manner that is inconsistent with this policy or SDBOR Policy 6:13:1.

b. Outdoor Areas

To facilitate robust debate and the free exchange of ideas, the outdoor areas within the boundaries of the University, constitute a designated public forum for the benefit of student organizations, students, employees, and their guests to engage in expressive activity. This use may be without prior permission from the University so long as:

1. All applicable federal and state laws, city ordinances, and NSU and SDBOR policies are followed.
2. Pedestrian and/or vehicular traffic is not impeded.
3. Instructional, research, service or administrative activities of the institution are not interfered with.
4. Meetings or events sponsored or conducted by NSU, affiliated parties or other non-affiliated parties are not disrupted.
5. The area has not been previously reserved or scheduled for a particular function.
6. No sound amplification is used.
 - i. Nothing in Section 3.a limits the right of free expression so long as the expressive activities or related conduct do not violate any other applicable SDBOR or University policy or constitute prohibited conduct.
 - ii. Where outdoor areas are allowed to be used for expression, NSU may maintain and enforce lawful and reasonable time, place, and manner restrictions, each of which is

narrowly tailored to serve significant University interests, including but not limited to: campus safety; students' ability to study, learn, or utilize University services; or coordinating the use of limited University facilities and grounds. Such restrictions must be published, must be content- and viewpoint-neutral, and must provide alternate means of engaging in the expressive activity, and shall still allow for students and employees to spontaneously and simultaneously assemble in outdoor areas within the boundaries of the University, unless otherwise properly restricted.

4. Procedures

Student Organizations, Students, Employees and their Guests are collectively referred to as "Party/Parties" below:

1. The right of freedom of expression at NSU includes organized demonstrations or events. At the same time, NSU has long recognized that this right does not include the right to engage in conduct that disrupts the University's operations, infringes other students' freedom in learning, interferes with the academic freedom of faculty, endangers the safety of others, or constitutes prohibited conduct.
2. Expressive activities by Parties will be limited to the hours of 8:00 a.m. – 10:00 p.m.
3. Outdoor areas on campus that aren't otherwise properly restricted are generally available for Parties, who are otherwise in compliance with the provisions of this policy, to engage in expressive activity without paying a fee.
2. NSU requires all Parties planning a Large-Scale Event to complete the [Request Form for Expressive Activity](#) and submit to the Vice President for Finance and Administration, or designee in advance of the large-scale event. A representative of the university will work with the requesting Party to either meet the request or find a reasonable alternate time and/or location.
3. NSU may require the requesting Party to provide a parade route, hire security, ensure egress to facilities, or take other steps to maintain the safety of the campus; however, any such requirement(s) must be based on definite and objective criteria that are not content-based. All participants must follow all SDBOR and NSU policies and applicable law.
4. Access to, and use of, facilities and grounds at NSU will be equally available to all Parties regardless of ideological, political, or religious beliefs.
5. All Parties engaging in expressive activity in outdoor areas will conform with all applicable policies and in a manner that does not constitute prohibited conduct.
6. Enforcement
 - i. Parties found violating SDBOR or NSU policies, included in this policy, will be subject to immediate removal from university grounds without prior warning, by campus security or other appropriate university officials and may be subject to appropriate legal action.
 - ii. Students or student organizations violating this policy will be subject to disciplinary action pursuant to the Student Code of Conduct.

iii. Employees violating this policy will be subject to disciplinary action pursuant to applicable SDBOR and NSU policies.

7. Appeals

i. Individuals who believe that NSU violated this policy may obtain a review as follows:

1. Complete an [Facility Use Denial Appeal Form](#) and submit it to the Office of the President, Spafford Hall 202.
2. The completed appeal must be presented within five (5) working days after the alleged violation occurred.
3. The appeal must specifically state facts that, if proven, would demonstrate that:
 - a. The denial was based on an incorrect assessment of material fact, or
 - b. It involved a misinterpretation, misapplication, or violation of the requirements of an SDBOR or NSU policy. Mere conclusions, general allegations, and/or speculative statements cannot establish a factual ground for the claim that SDBOR or NSU policy has been misinterpreted, misapplied, or violated.

ii. The President or designee will respond to such appeals via email within five (5) working days after receipt by the university. Should the appeal be denied, the procedure for appealing the decision will thereafter be processed as provided in SDBOR Policy 6.13.1.

5. Responsible Administrator

The Vice President of Finance and Administration, or designee, is responsible for the annual review of this policy and its procedures. The University President is responsible for the approval of this policy.

6. Source History

Approval Date: February 5, 2024

Approved By: President Neal Schnoor