

## **ELIZABETH CITY STATE UNIVERSITY**

### **Regulation on Freedom of Expression**

#### **Introduction**

The purpose of this regulation is to provide applicable guidelines for the exercise of free speech and free expression on the campus of Elizabeth City State University. This regulation applies to members of the University community and all others who seek to use University space for the purpose of expression. Universities in the UNC system place high value on the freedom of speech and encourage the open and free exchange of ideas and debate. The primary function of each constituent institution is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. ECSU embraces and strives to uphold the freedoms of expression and speech guaranteed by the First Amendment of the United States Constitution and the North Carolina Constitution. In accordance with [UNC Policy Manual 1300.8](#), Elizabeth City State University may not take action on contemporary public policy controversies which require members of the University community to express a given view of social policy publicly. It is not the proper role of any constituent institution to shield individuals from speech protected by the First Amendment, including, without limitation, ideas and opinions found to be unwelcome, disagreeable, or even deeply offensive. Even so, campus safety remains a priority. Use of campus space does not, in itself, represent a University endorsement of the content expressed by an individual or group. The University reserves the right, under appropriate circumstances, to regulate the time, place, and manner of exercising these and other constitutionally protected rights. This policy supersedes and nullifies any prior provisions in campus policies, regulations, rules or guidelines that restrict speech on campus.

#### **1. Definitions**

- 1.1. “University/Campus Community” includes all official representatives and employees of the University, students, potential students, parents, visitors, supporters and alumni.
- 1.2. “Non-affiliated Group(s)” means an individual or group of individuals who are not affiliated with the University. Though non-affiliated groups may include members or participants that are University personnel or students, they are separate entities from the University.
- 1.3. “University Group(s)” means any unit within the University, including but not limited to, administrative and academic departments, institutes, and other University-sponsored programs.
- 1.4. “Student Group(s)” means a number of individuals that, as a collective, associate as a body and are recognized by the University after having met the requirements for registration as a student organization.
- 1.5. “University Space” refers to any space, building, or structure that is owned, operated, or controlled by Elizabeth City State University.

- 1.6. “Distribution” means the dissemination of information by the exchange of hands. Leaving materials unattended on a surface to be picked up is not considered distribution.
- 1.7. “Major Event” is an event whose expected attendance is 250 or more.
- 1.8. A “Material and substantial disruption” is any action that:
  - a. qualifies as disorderly conduct;
  - b. constitutes a disruption as defined by N.C. General Statute §143-318.17;
  - c. violates a curfew period designated by the chancellor pursuant to N.C. General Statute §116-212; and
  - d. results in the receipt of a trespass notice from the University Police Department.

## 2. Priority for Use

- 2.1. Reservation requests for use of University space will be considered in the following order:
  - a. Academic use. At the forefront of the University’s mission is a commitment to academic excellence. Accordingly, academic courses, research, and activities that constitute an extension of academic programs will have the highest priority for reserving University space. If academic units are primarily housed in a particular building or space, that unit will have priority over others who seek to use such space. Use of any facility shall not be authorized where such use may disturb the conduct of University activities.
  - b. University groups. Other non-academic units of the University will have next priority in reserving and using University space. Use of University facilities by a University-affiliated group for a major event is subject to guidelines set by University Reservations office, which defines procedures to be followed and approvals to be obtained before events will be approved for use of University space.
  - c. Student groups. Students, student groups/organizations, and student-sponsored groups will have the next highest priority.
  - d. Non-affiliated group. A non-affiliated group or individual must be invited to campus by a University or student group in order to use University space. Use of space by a non-affiliated group will have the lowest priority in reservation and use of University space.

### 3. General Procedures for Use of University Space

- 3.1. Notice. Groups and individuals who wish to reserve University space must request to use space at least fifteen (15) working days in advance via the Ad Astra Reservations System. Failure to enter all of the required information into the database may result in a denial of the request or a delay in scheduling the event.
- 3.2. Usage Fee. The University may impose a fee for use of certain spaces. In such circumstances, the terms of the fee agreement will be in writing and signed by both a University representative and the party seeking to reserve the space. Fees may be imposed at the discretion of the University and failure to adhere to the terms of a fee agreement may result in denial of the request.
- 3.3. Other Fees. Other fees for use of University space may be imposed including, but not limited to, security fees, technical support fees, and parking fees.
- 3.4. Conditions on Use
  - a. Approval of use of space is based on whether the requested space is suitable for the proposed use, among other things. Other factors to be assessed include, but are not limited to:
    - i. the anticipated number of attendees;
    - ii. the potential disturbance to ordinary campus operations;
    - iii. the impact on vehicular and pedestrian traffic; and
    - iv. the general purpose of the space requested.
  - b. The University does not tolerate, condone, or permit behavior that violates the First Amendment rights of students, members of the University community, or other non-affiliated groups or individuals. The University will protect the rights of all individuals and organizations, regardless of content or viewpoint. The University will not deny the use of space because of the content or viewpoint of speech or the possible reaction to such speech.
  - c. Notwithstanding the above, the University may consider certain speech or expressive activities to be in violation of UNC Policy Manual 1300.8 if the speech includes, but is not limited to, the following:
    - i. Expression that a court has deemed unprotected defamation;
    - ii. Unlawful harassment;

- iii. True threats, which are defined as statements meant by the speaker to communicate a serious expression of intent to commit an act of unlawful violence to a particular individual or group of individuals;
  - iv. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern;
  - v. An action that materially and substantially disrupts the functioning of Elizabeth City State University or that substantially interferes with the protected free expression rights of others;
  - vi. Expressive activities that are inconsistent with the reasonable time, place and manner prescribed by the chancellor; and
  - vii. Speech that interferes with the treatment of patients.
- d. Activities shall take place only in facilities that are appropriate for the activity in question, as determined by the nature of the activity, staging requirements, anticipated audience, and the like. All activities must be in compliance with University Environmental, Health and Safety policies and practices, the North Carolina Fire Prevention Code, and local fire and life safety policies.

### 3.5. Security Assessment

- a. The safety of the campus community is a priority and as such, security may be provided for events as necessary. A determination regarding the need for security will be made in the discretion of campus police based on the following criteria:
  - i. the anticipated number of attendees;
  - ii. risk of injury to others or damage to university property;
  - iii. need for traffic control; and
  - iv. prior incidents of injury or property damage during similar events at ECSU or other institutions.
- b. Costs and damage incident to the use of a facility under this policy shall be borne by the organization using the facility. As a condition of use, the user organization will be required to obtain comprehensive liability insurance with combined limits of no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate consistent University rules or regulations on special events.

### 3.6. Areas Open to Speech

The University has designated certain areas on campus, also known as designated public forums, as areas on campus where individuals may engage in spontaneous, expressive activity. Students, faculty and invited groups/individuals are permitted to assemble and engage in spontaneous expressive activity within the designated public forum as long as such activity is lawful and does not materially and substantially disrupt the functioning of the institution.

- a. The Outdoor Classroom has been identified by the University as a designated public forum.
  - i. The University may impose time, place and manner restrictions on the use of the Outdoor Classroom. (For example, the University may require that individuals only use the Outdoor Classroom at certain times.)
- b. The University has designated other areas on campus, known as limited public forums, as areas on campus where use of the space is restricted to members of the University community or certain topics. Access to campus in a limited public forum for purposes of free speech and expression is available to any member of the University community, i.e., student, student group, faculty member or staff. The Promenade has been identified by the University as a designated limited public forum.
  - i. The University may impose time, place and manner restrictions on the use of the Promenade.
  - ii. Visitors and non-affiliated groups may not engage in free speech or free expression activities in the Promenade.

## 4. General Procedures for Distribution of Materials

- 4.1. With the exception of vendors previously approved by the University, individuals and groups may not engage in commercial solicitation at University-sponsored events. The distribution of leaflets, brochures, pamphlets, or other materials at University-sponsored events should mainly be for informational purposes. Donations may be accepted in connection with such distribution.
- 4.2. University groups may distribute publications in open, outdoor spaces without advance approval. However, approval to distribute, as well as to sell publications, in any other location must be obtained from the Director of Auxiliary Services in advance of the event where the material is to be distributed.
- 4.3. General purpose bulletin boards may be used for informational purposes, for materials associated with student election campaigns, and for solicitation of charitable contributions and fundraising events. They may not be used for commercial purposes, except by

University students, faculty, and staff for offering personal items, such as textbooks or bicycles for sale or for advertising individual services of students, faculty, and staff, such as babysitting or term paper typing for compensation. All notices are subject to removal at any time.

- 4.4. In addition to being subject to those consequences associated with violations of this policy, as discussed below, persons responsible for damage to walls or other surfaces resulting from violation of these posting procedures shall pay the costs of repair, and may be subjected to criminal penalties under [N.C. General Statute §14-132](#).

## 5. Termination of Privileges

- 5.1. Use of University space requires compliance with this policy and all other applicable University policies, regulations or rules. Accordingly, the University reserves the right to terminate any use of space that fails to comply with University policies.
- 5.2. If a decision is made to terminate the use of space during an event, the individual or group(s) responsible for the use of space should promptly ensure that all necessary actions are taken to end the event.

## 6. Disciplinary Sanctions

- 6.1. Anyone under the jurisdiction of the University who substantially disrupts the functioning of the institution or substantially interferes with the protected free speech rights of others will be considered to have engaged in misconduct and will be subject to a range of disciplinary sanctions in accordance with applicable University policies and procedures consistent with [UNC Policy 1300.8](#). Visitors who engage in such misconduct may be barred from campus and may face criminal charges pursuant to state law.
- 6.2. Substantial interference with the protected free speech rights of others includes, but is not limited to protests and demonstrations that infringe upon the rights of others to engage in and listen to expressive activity when the expressive activity has been scheduled pursuant to this policy.

## 7. Responsible Officer

- 7.1. Pursuant to UNC Policy 1300.8, ECSU is required to identify a “responsible officer” who shall be responsible for ensuring compliance with UNC Policy 1300.8 and Article 36 of Chapter 116 of the North Carolina General Statutes. The responsible officer is also responsible for answering any questions or concerns from students, faculty members, staff members or others.

7.2. The name and contact information for ECSU's responsible officer is:

Ms. Tiffany Hinton  
trhinton@ecsu.edu  
252-335-3276

7.3. The [Office of Legal Affairs](#) is also available to answer questions related to UNC Policy 1300.8 and this policy.