



Western Michigan University
Kalamazoo, MI 49008

Policy No: XX-xx

Public Event Policy

Statement of Policy

WMU is dedicated to protecting and encouraging free and open association, discussion, and debate. All are important aspects of the WMU educational environment. The University also seeks to ensure the health and safety of its faculty, staff, students, visitors, and speakers while they are on campus. The University reserves the right to deny any requests for use of space if the proposed use substantially disrupts WMU's educational activities, there is a reasonable forecast of substantial disruption, or the use creates a substantial, non-speculative concern about the safety of the University Community. This Policy sets forth how WMU considers use of event space and evaluates when an event may require security services.

Summary of Contents/Major Changes:

This Policy combines, revises, and rescinds the existing, undated Event Security Policy, Common Area Academic, and Non-Academic Space Event policies. It also rescinds and subsumes the 1997 Outside Speakers Policy. This Policy supersedes any prior, contradicting University policy or guidance. There may be additional rescissions as WMU continues to review and revise existing Policies.

Responsible Office and Responsible Enforcement Official:

Director of the Student Center (REO)

Office of the General Counsel (Responsible Office)

Classification:

- Board of Trustees Policy
- Board-delegated Policy

Categories:

History:

- a. Effective date of current version:
- b. Date first adopted: N/A
- c. Revision history:
- d. Proposed date of next review:

1. Purpose of Policy

WMU seeks to ensure the safety of everyone in the WMU Community and protect all WMU facilities from damage while promoting the free discourse of ideas. Some proposed events may substantially disrupt WMU's educational purpose, create a reasonable forecast of substantial disruption, or create a non-speculative concern about the safety of attendees, the WMU community, the general public, and/or damage to WMU property. This Policy has been formulated to provide for the greatest possible range of use to members of the University Community, while also protecting individual safety, assuring orderly and safe conduct of a particular event, and maintaining the general functioning of the University consistent with applicable law.

2. Stakeholders Most Impacted by the Policy

Anyone who wishes to use indoor or outdoor common areas on campus to host public, non-WMU-sponsored events or speakers. Anyone who wishes to protest or counter-protest such events or speakers.

3. Key Definitions

- 3.1. Nonpublic forums: WMU rooms and spaces dedicated to special, generally educational, purposes. Interior rooms in campus buildings designated primarily for student use.
- 3.2. Content-Neutral: Decisions made without regard to the content or substance being communicated
- 3.3. Common Outdoor Spaces: outdoor areas generally available to students and the community, to include Registered Student Organizations (RSOs), such as grassy areas, walkways, or other similar areas
- 3.4. Designated Forums: University-owned public property that is open for public expression even though the public property is not a traditional public forum.
- 3.5. Limited Public Forum: spaces made available to a limited subset of groups, e.g., students, faculty, or other employees; or, spaces dedicated solely to the discussion of certain subjects, e.g., student- or university-sponsored lectures
- 3.6. Public indoor spaces: non-commercial spaces in University buildings that are generally available for use to the WMU Community
- 3.7. Commercial spaces: Space for which the University charges a fee or requires an application (not registration) to use
- 3.8. Unreasonable Security Risk: a risk in which the University is unable to provide security to reasonably ensure the safety of the event attendees, the WMU community, the general public, and/or WMU property, even if the security is to be paid for by the event organizer
- 3.9. Time, Space, and Manner: Restrictions the University places on events based upon

physical or financial impact to the University. Such restrictions shall be content neutral.

- 3.10. Traditional Public Forum:** areas that have been traditionally open to political speech and debate, such as public parks and sidewalks

4. Full Policy Details

4.1. Scope of Policy

This Policy applies to RSO-sponsored or -hosted events. This Policy does not apply to events for which the University has negotiated and contracts with external entities.

4.2. Use of Space in General

4.2.1. This Policy applies to the use of common public areas (such as the Flagpoles, the Fountain Plaza, or other outdoor areas accessible to the general public) and interior public areas, such as the rooms available for use or rental in the Student Center or other University buildings. This Policy also describes how the University addresses the safety of the Campus Community during events on campus.

4.2.2. The University will not consider any reaction expected in response to the viewpoints expressed by the individual or group using the space when evaluating space use. However, the University may consider evidence of a likely reaction when evaluating where the event should be held so as to control for the safety and security of the campus community and the event sponsor or speaker.

4.2.3. Obstructing building entrances, walkways, and rights-of-way; obstructing vehicular or pedestrian traffic on or adjacent to campus; or substantially disrupting classes, meetings, events, ceremonies, or other essential processes of the University will generally be considered disruptive of University activities and functions. Continuous or repeated sound audible to those in contiguous or nearby classrooms, offices or other rooms (e.g., loud music) may be considered disruptive.

4.2.4. Users may not damage or deface WMU property or the property of any person who has not authorized users to do so. No electrical modifications, structures, or mechanical apparatus may be erected or installed without specific written approval.

4.3. Common Outdoor Spaces

4.3.1. WMU will not restrict free expression in Common Outdoor Spaces unless the Common Outdoor Space is being used as a Commercial Space, e.g., Bronco Bash. Any Common Outdoor Space may be temporarily reserved for a specific use, as long as the use does not substantially disrupt WMU programs and operations or create a significant, reasonable safety or security concerns.

4.3.2. Persons or groups wishing to use WMU's Common Outdoor Spaces for non-WMU-sponsored events are encouraged, but not required, to inform DPS of their

intent to be present in such areas. WMU encourages such collaboration as a means to provide for event safety and for the equitable use of such areas.

- 4.3.3. Persons using Common Outdoor Spaces shall not purposefully touch, strike or physically impede the progress of passersby, nor shall they force passersby to accept distributed materials. See Posting and Distributing Materials on Campus Policy.
- 4.3.4. Organizations that are registered with the Secretary of State as nonprofit corporations or that are WMU-approved RSOs may solicit donations through direct requests, sales of tickets, goods, or otherwise, while using Common Outdoor Spaces.
- 4.3.5. Those using Common Outdoor Spaces may use amplification so long as it does not disrupt the orderly conduct of the campus, classes, or other lawful activities. Amplification may not exceed 90dBs and is not allowed near classroom or residential buildings the week of final examinations and other University-designated study days.
- 4.3.6. In the case of competing use of Common Outdoor Spaces, the University will work with event organizers to attempt to reach a mutually agreeable solution. If the parties cannot agree on a solution, the event that has preregistered will receive preference.
- 4.3.7. As discussed later in this Policy, security fees may be imposed for use of Common Outdoor Spaces.

4.4. Academic and other Nonpublic Indoor Spaces

The primary purpose of academic buildings is education. Academic buildings are non-public forums and are not intended for free, unrestricted public use. Moreover, some of these spaces contain equipment and may be subject to special rules. The Associate Registrar maintains a list of academic spaces subject to special rules. Those university personnel wishing to use Academic non-public spaces should contact the Associate Registrar. Other non-public indoor spaces include office and/or administrative spaces. WMU may restrict the content of speech in non-public forums; however, if it does so, it may not discriminate based on speakers' viewpoints.

4.5. Public Indoor Spaces

- 4.5.1. Some WMU rooms and spaces are designated non-academic spaces, such as meeting spaces. These are Limited Public Forums. Use is allowed for such places and at such times as identified by WMU. WMU is not obligated to keep Public Indoor Spaces open. However, if it does, speech in those places receives the same First Amendment protections as speech in traditional public forums.
- 4.5.2. The University will only consider the following content-neutral, objective criteria when assessing availability of Public Indoor Space:
 - 4.5.2.1. Competing requests for the same space at the same time, based solely on a "first-come, first-served" standard;

- 4.5.2.2. The anticipated number of attendees;
- 4.5.2.3. The impact of the event on the WMU community;
- 4.5.2.4. Maximum occupancy rules;
- 4.5.2.5. Impact on other events on campus; and
- 4.5.2.6. Human resources necessary to run the event in a safe and secure manner.

4.6. Public Indoor Space Use.

When available, persons or groups may use Public Indoor Space for public, literary, scientific, recreational, or educational meetings, or for discussion of matters of general or public interest, subject to the below.

WMU rooms and meeting spaces may not be used for speech, expression, or assembly that substantially disrupts WMU's educational mission, including teaching, research, administration, and other authorized campus activities.

4.7. Commercial Spaces

The University may regulate speech in Commercial Spaces if that speech is fraudulent or illegal, or if the University has a Substantial Interest in regulating it. Bronco Bash is an example in which the University has a Substantial Interest in regulating the speech that occurs in a commercial setting.

4.8. Security

- 4.8.1. WMU will, at its own cost, provide DPS security services for outside events held on campus. Subject to appeal, WMU will determine how many officers should be present for a scheduled event to maintain campus safety and security. Event organizers may request security at an event, but it is not required.
- 4.8.2. If, based on the factors stated below, DPS, in consultation with the Office of the President, and the Office of General Counsel, believes that officers beyond those that would otherwise be on duty are necessary to ensure the safety and security of the Campus Community, the event sponsor will be responsible for paying the difference in security costs.
- 4.8.3. WMU may require event sponsors or organizers to reimburse the University for all security costs if the event is fraudulently or unreasonably misrepresented on the event registration form or other communication and the lack of accuracy leads to WMU incurring unexpected security costs due to the actual nature of the Use.
- 4.8.4. Factors for Assessing Security Costs. In determining the amount of such costs to be charged to the event sponsor, the University will consider only the following content-neutral, objective criteria:

- 4.8.4.1. a reasonable estimate of the number of anticipated attendees (events with over 500 expected participants will likely have higher security costs);
 - 4.8.4.2. expected proportion of WMU community program participants/attendees (events with a higher proportion of non WMU Community participants will likely have higher security costs);
 - 4.8.4.3. venue in which the event is to take place (venues that are harder to secure or that could suffer greater property damage will likely have higher security costs);
 - 4.8.4.4. the number of event staff present (events with a higher number of their own staff present may have lower security costs);
 - 4.8.4.5. time of day, day of the week, and date on which the event is to take place (events scheduled on weekend evenings will likely have higher security costs);
 - 4.8.4.6. planned duration of the event;
 - 4.8.4.7. whether tickets are required for attendance, the proceeds for which might be used to defray security costs;
 - 4.8.4.8. amount of cash anticipated to be present at the event (events with significant amounts of cash on hand will likely have higher security costs);
 - 4.8.4.9. whether alcohol will be served (events where alcohol is served may have higher security costs);
 - 4.8.4.10. the general format of the event, e.g., whether it a rally vs. a panel discussion (events similar to a rally will likely have higher security costs than events similar to a lecture or panel discussion);
 - 4.8.4.11. confirmed information that violence surrounding the same event with the same participants at another location(s) occurred within the last six months will likely lead to higher security costs;
 - 4.8.4.12. whether, based on evidence from a similar, past event at another location(s), speech is reasonably likely to incite others to create an immediate, clear, and present danger of the commission of violence or unlawful acts at WMU will likely lead to higher security costs.
- 4.8.5. Written Assessment. If security costs are assessed, DPS will provide the event sponsor or organizer a written summary of its review of criteria and costs and an explanation for the determination. DPS will provide this explanation in a timely manner so the event sponsor may take advantage of the appeal process.
- 4.8.6. Additional services upon request. Sponsors may contact DPS to request security services outside of regular DPS patrols for a particular event. Generally, these

services must be requested a minimum of ten days prior to the planned event and will be at the Sponsor's expense. Requests made less than ten days prior to the date of use will be considered when possible.

- 4.8.7. **Unreasonable Security Risk.** If DPS, in consultation with University leadership, determines an event poses an unreasonable and significant security risk to persons and/or property such that it cannot reasonably ensure the safety of the campus community, it may decline a request or terminate an event, even if the event organizers are paying for the security. If the University declines a request or terminates an event, it will provide a written articulation of the reasons for the determination to the person or group requesting space within five University business days.

4.9. Endorsements

Individuals and organizations may not in any way represent that their activities are endorsed, sponsored, or sanctioned by WMU without the express written consent of the Vice President for Marketing and Strategic Communications. Use of the Student Assessment Fee Funded logo does not imply University endorsement or sponsorship.

4.10. Appeal

- 4.10.1. An event sponsor who disagrees with an event security decision may appeal the decision, including the amount of security costs, to the WMU Vice President for Business and Finance and the Vice President for Student Affairs. Appeals must be in writing and submitted to each Vice President on or before the third University business day after the date the sponsor is notified of the University's decision.
- 4.10.2. The notice of appeal must contain the name and address of the sponsor appealing the decision, a brief description of the decision being appealed, the basis of the appeal, and the date the sponsor received notification of the decision being appealed.
- 4.10.3. Sponsors who meet the appeal criteria shall have an opportunity to meet with the Vice President for Business and Finance and Vice President for Student Affairs, or their designees, prior to receiving a decision on the appeal. The sponsor shall be notified of the date and time of the meeting at least one University business day in advance.
- 4.10.4. In considering the appeal, the Vice President of Business and Finance and the Vice President of Student Affairs, in consultation with DPS and the Office of the General Counsel, will review whether the event was denied, postponed or canceled because of the University's reasonable, content neutral, non-speculative concern about WMU Community safety or property damage. The University will consider appeals promptly and issue a decision within two University business days from the meeting with the sponsor.

4.11. Right to Protest or Counter-Protest

- 4.11.1. Protest is a necessary and acceptable means of expression within the WMU community. However, protest may not obstruct the basic exchange of ideas or the free expression of those whom they are protesting. Such obstruction is a form of censorship, no matter who initiates it or for what reasons.
- 4.11.2. Protests or demonstrations that infringe upon the rights of others to peaceful assembly, orderly protest, free exchange of ideas, or that interfere with the rights of others to make use of or enjoy the facilities or attend the functions of the University will not be tolerated.
- 4.11.3. Picket lines that permit free passage of those who wish to pass, and signs, banners and peaceful assemblies are all acceptable. However, the University reserves the right to request removal of signs that constitute a hazard to other people or that interfere with others' participation in the event.
- 4.11.4. Prohibited actions include, but are not limited to, blocking access, obstructing or impeding passage of a person or vehicle, actions that result in bodily harm, erecting or placing of obstructions that result in depriving others of their rights. If individuals do not comply with the University's request, the University may remove either the sign or the individual from the event. The University's determinations in this regard shall be content neutral.
- 4.11.5. Halting a lecture, debate, or any public forum is an unacceptable form of protest. "Halting" means directly or indirectly preventing a speaker from speaking - even for a brief period of time - or seizing control of a public forum for one's own purposes.

5. Accountability

- 5.1. Failure to follow this Policy could result in an event being cancelled or stopped while in progress.
- 5.2. Failure to follow this Policy and any associated procedures may subject WMU employees to disciplinary action, up to and including dismissal from employment by the University, consistent with applicable procedures and Collective Bargaining Agreements.
- 5.3. Failure to follow this Policy and any associated procedures may subject WMU students to disciplinary action, up to and including dismissal from the University.

6. Related Procedures and Guidelines

- 6.1. [OGC and Bernhard Center staff to draft and post procedures on BC website prior to posting policy.]
- 6.2. Individual facilities may have building-specific guidelines for public or private use. This information should be available on each facility's webpage.

7. Additional Information

Individuals who violate the terms of this Policy may be denied access for future events.

8. FAQs

8.1. How do I reserve space for an event?

To reserve outdoor space, please go to: <https://wmich.edu/studentcenter/outdoor-reservation>. Note that reserving outdoor space is voluntary; however, doing so allows the University to work with you to evaluate potential space, security, and safety concerns.

To reserve indoor space in the Student Center, see available rooms, and for other useful information please go to: <http://wmich.edu/studentcenter/reservation>.

To reserve the Multicultural Center, Our Space, and Trimpe Conference Room, go to: wwwmcc.bookedscheduler.com.

RSOs may request space in an academic building at the following web site: <https://wmich.edu/studentcenter/academic-rso>.

8.2. Are there limitations on the use of outdoor space?

Yes. See Section 4.3, above.

8.3. How do I plan for security at an event?

8.3.1. Users should contact DPS to obtain the cost per hour (or overtime hour) for security personnel. There is no minimum number of hours required for use of security personnel. These costs may be updated at the beginning of each academic year by the DPS. These costs are limited to the direct expenses incident to providing the security services.

8.3.2. A reasonable fee may be charged as identified by DPS. *See* Section 4.8.

8.4. Does WMU make decisions regarding events based on the viewpoint of the sponsor or individual?

No. The University is committed to the free and open exchange of ideas and does not engage in viewpoint discrimination, even if the ideas are controversial, unpopular and offensive to many in the University Community. The University is content-neutral when making decisions regarding on-campus events. Unless stated otherwise, the University does not endorse, agree with, or otherwise approve of the content of any particular event held on campus.

8.5. Are Tents considered structures for purposes of Section 4.2.4?

It depends on the type of tent. Small, pop-up tents generally are not considered structures. Larger tents that are in any way tethered or attached to the ground would be considered

tents. For specific questions, contact Paul Terzino (see below).

8.6. Whom should I contact with further questions?

Paul Terzino, Director of the Bernhard Center at 387-4864 or using the Contact Us option on the Bernhard Center's webpage, <https://wmich.edu/studentcenter/contact>.

Related Policies:

WMU Student Code

RSO Handbook

Employee Code of Conduct

Posting Policy

Political Activities Policy

Tobacco and Drugs on Campus

Alcohol on Campus

References (excerpted):

Foundation for Individual Rights in Education, Correcting Common Mistakes in Campus Speech Policies, 2016, available at <https://www.thefire.org/resources/spotlight/correcting-common-mistakes-in-campus-speech-policies/>.

Committee on Freedom of Expression at the University of Chicago, Report of the Committee on Freedom of Expression, 2014, available at <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

Exec. Order, Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities, Mar. 21, 2019, available at <https://www.whitehouse.gov/presidential-actions/executive-order-improving-free-inquiry-transparency-accountability-colleges-universities/>.

Association of Governing Boards of Universities and Colleges, Freedom of Speech on Campus, Guidelines for Governing Boards and Institutional Leaders, 2017, available at <https://agb.org/product/freedom-of-speech-on-campus-guidelines-for-governing-boards-and-institutional-leaders/>.

ERWIN CHERMERINSKY & HOWARD GILLMAN, FREE SPEECH ON CAMPUS, 2017.

Virginia v. Black, 538 U.S. 343 (2003).

Young America's Foundation v. Kaler, 370 F. Supp.3d 967 (D. Minn. 2019)

UNIVERSITY OF CALIFORNIA, BERKELEY, MAJOR EVENTS HOSTED BY NON-DEPARTMENTAL USERS, 2019, available at <https://campuspol.berkeley.edu/policies/majoreventsnondeptusers.pdf>.

BROWN UNIVERSITY, PROTEST AND DEMONSTRATION POLICY, available at <https://www.brown.edu/offices/student-conduct/protest-and-demonstration-policy>.

Certified by:
Responsible Enforcement Official

At the Direction of:
The Board of Trustees

_____/s/_____
Paul Terzino
Director, Bernhard Center
[Date]

_____/s/_____
Kahler B. Scheumann
Secretary of the Board of Trustees
[Date]