

Responsible Officer (Title): Director of Public Safety
Responsible Office: Public Safety
Responsible Division: Administrative Services
Approval Date: Approved as Interim Policy June 8, 2015

Policy on Time, Place and Manner of Free Expression (Interim)

1. Policy Objective

Through this policy, the California State University, Fresno seeks to foster and sustain a forum for the free, civil and orderly exchange of ideas, values and opinions, recognizing that individuals grow and learn when confronted with differing views, alternative ways of thinking and conflicting values.

2. Policy Statement

- 2.1.** Freedom of expression is a cornerstone of a democratic society and is essential to the educational process. Universities have a special obligation not only to allow but also to encourage and support the free expression of ideas, values and opinions, even where they may be unpopular or controversial. Fresno State accepts and embraces this obligation, recognizing that such expression may take a variety of forms, such as speeches, signs, written materials, public assemblies, parades, demonstrations and artistic representation.
- 2.2.** Acknowledging the central role the unfettered exchange of information and ideas plays in learning and in a free society, Fresno State shall ensure that individuals and groups are afforded wide latitude in exercising the right of free expression and that their constitutionally protected right to free expression is not abridged. Freedom of expression, however, is not an absolute right. It coexists with other rights and the need for public order.
- 2.3.** To ensure that exercise of the right of free expression does not interfere with Fresno State functions, imperil public safety, or obstruct or damage university facilities, Fresno State will, at times, establish and enforce campus regulations regarding the time, place and manner of the exercise of free expression by individuals and groups.
- 2.4.** Universities cannot restrict free expression solely because it causes offense or discomfort. At the same time, all members of the Fresno State community should recognize that freedom of expression includes respecting the dignity of others and acknowledging the right of others to express their opinions.
- 2.5.** Fresno State will maintain control of its grounds and facilities in a manner that will not censor communication based on its content. In exercising content neutrality, the university will not necessarily sanction or condone the messages that are being declared or the methods of communication used, but will recognize the right to express those messages.

3. Authority

This policy is promulgated under the authority of Title 5 of the California Code of Regulations, the California Education Code, state and Federal law, and subsequent directives, resolutions, standing orders, and Executive Orders of the Board of Trustees and Chancellor of the California State University, and the President of California State University, Fresno.

4. Scope/Applicability

This policy applies to all students, faculty and staff of the University, and the general public.

5. Supersedes

This policy supersedes Section 12 of the Policy on the Use of University Buildings and Grounds dated July 2015.

6. General Limitations and Guidelines

6.1. Limitations

- 6.1.1.** At Fresno State, the time, place, and manner of expression are limited solely by the following general conditions and by additional specific conditions as defined in this policy.
- 6.1.2.** The exercise of free expression and assembly rights must comply with all applicable federal, state, and local laws. In addition, such activities may not:
 - 6.1.2.1.** Interfere with Fresno State activities, including classes in session or other scheduled academic, educational, athletic, cultural arts, and career programs, student-organized activities, work conducted in faculty, staff, or administrative offices and facilities, or with the use of the Fresno State library;
 - 6.1.2.2.** Obstruct the flow of pedestrian or vehicular traffic or interfere with access for persons with disabilities;
 - 6.1.2.3.** Interfere with or disrupt the conduct of Fresno State business and operations;
 - 6.1.2.4.** Employ unauthorized outdoor sound amplification or create unreasonable noise disruptive of normal Fresno State activities as outlined in Section 5.0 of the Policy on the Use of University Buildings and Grounds.
 - 6.1.2.5.** Violate any federal, state, local, or Fresno State safety code, such as regulations set by the State Fire Marshal.
- 6.1.3.** There shall be no restrictions on legal free expression activity based on the content of such speech or expression or on the political, religious, or other affiliations of speakers. Illegal expression activity, not protected by the First Amendment to the U.S. Constitution or by this policy, includes defamation, obscenity, terrorist threats, false advertising, and the promotion of actual or imminent violence or harm.

6.2. Scheduling of Campus Events and Activities

- 6.2.1.** Fresno State has established procedures for large-scale planned events and activities to ensure effective coordination and to provide individuals and groups with a means to reserve facilities, spaces, equipment, and other resources and support services. These scheduling protocols apply to organized campus events and activities, including but not limited to musical and artistic performances and exhibitions, theatrical performances, exhibitions, athletic competitions, parades, and commercial activities.
- 6.2.2.** Campus events and activities are scheduled through the Fresno State Scheduling Office or USU Reservation Center.

- 6.2.3.** These scheduling procedures do not apply to spontaneous events, or events by individuals or groups who wish to use campus grounds to express viewpoints. In such cases it is recommended and preferred that individuals and groups follow the scheduling protocols, but not required. Such events must comply with the time, place and manner guidelines described in this policy.
- 6.2.4.** Any events or activities held in the University Courtyard are subject to their policies.

6.3. Time, Place and Manner Guidelines

- 6.3.1.** Fresno State may impose procedures to implement the time, place and manner restrictions set forth in this policy and to preserve the safe and orderly operation of the campus. The following guidelines are not exclusive; rules and procedures applicable to specific venues must also be observed.

6.3.2. General Guidelines

- 6.3.2.1.** Indoor events and activities are not assigned fixed limits as to time of day or day of the week, but all indoor spaces must be scheduled via the appropriate method described in section 6.2.
- 6.3.2.2.** Use of Fresno State's scheduling protocols is encouraged to facilitate coordination of outdoor events and activities with other events and among potential campus service providers.
- 6.3.2.3.** Amplified sound is permitted at outdoor events and activities on campus so long as its use will not disrupt University activities, including, but not limited to, classes and other academic or administrative activities as outlined in section 6.1.2. The sound level from amplified equipment shall normally not exceed 75dbA average or 90dbA peak when measured a distance of 50' from the source, unless a specific permit for greater amplification is granted by the Department of Public Safety.
- 6.3.2.4.** Regardless of the time they are held, events and activities must be conducted in a manner consistent with Section 6.1 and in conformity with any additional guidelines pertinent to a particular venue.

6.3.3. Guidelines as to Place

- 6.3.3.1.** While freedom of expression is allowed in all outdoor spaces on campus, the Speaker's Platform is the most common place where individuals and groups assemble to exercise the right of free expression unless the space has already been scheduled in advance. Other outdoor spaces on campus may be used as public gathering spaces for events and activities.
- 6.3.3.2.** Whether conducted indoors or out of doors, activities must be conducted in a manner consistent with Section 6.1 and in conformity with any additional guidelines pertinent to a particular venue.

6.3.4. Guidelines as to Manner

6.3.4.1. Solicitation and Commercial Activities

- 6.3.4.1.1.** As defined in Title 5 of the California Code of Regulations (Section 42350), "Solicitation' means to importune, or endeavor to persuade or obtain by asking, but does not include 'commercial' solicitation."
- 6.3.4.1.2.** Solicitation is permitted on campus subject to the limitations set forth in this policy.

6.3.4.1.3. Commercial solicitation means “any direct and personal communication in the course of a trade or business reasonably intended to result in a sale.” Organizations or individuals wishing to engage in commercial solicitation or transactions at Fresno State must obtain prior approval from the Vice President for Administration.

6.3.4.1.4. No person or organization may throw, deposit or distribute on campus any advertising materials which contain false, misleading, or illegal advertising.

6.3.4.2. Electronic Communications

6.3.4.2.1. All use of Fresno State information technology resources for purposes of individual or collective free expression must adhere to the provisions of the University’s Acceptable Computing Use Policy.

6.3.4.3. Assemblies, Marches and Demonstrations

6.3.4.3.1. Freedom of expression extends to the right to demonstrate, protest and advocate through public assemblies, marches and demonstrations.

6.3.4.3.2. These activities must comply with the limitations and restrictions set forth in this policy.

6.3.4.3.3. To address public safety issues (routes of march, necessary public safety staffing, etc.), groups contemplating holding public assemblies, marches or demonstrations are strongly encouraged to notify the Fresno State Police 72 hours in advance of the event. Prior coordination for these types of events can help mitigate logistical concerns and ensure the event is in conformance with Section 6.1 of this policy.

6.3.4.3.4. In addition, to avoid conflicts with other scheduled Fresno State events, and to reserve other necessary support services and ensure event success, organizers of public assemblies, marches or demonstrations are also strongly encouraged to notify the Fresno State Scheduling Office.

6.3.4.3.5. The Fresno State President has delegated oversight of campus demonstrations to the Fresno State Chief of Police and Director of Public Safety.

6.4. Withholding or Withdrawal of Approval

6.4.1. Approval of events or activities encompassed by this policy may be withheld or withdrawn where determined by the President or designee to be in violation of this policy or Federal or state law.

6.5. Advertising in Publications

6.5.1. Advertising may be permitted in faculty, staff, alumni and student publications subject to the policies of each publication. Restrictions regarding advertising of alcohol at Fresno State are contained in APM 646 Policy on use of Alcoholic Beverages and California State University Executive Order 966. Publications in electronic format, utilizing campus information technology resources, are subject to the Fresno State Acceptable Use Policy.

6.6. Approved and Priority Uses of Fresno State Facilities

6.6.1. Use of those Fresno State facilities that may be scheduled for activities or events is limited to the following purposes and is normally granted in the following order of precedence:

6.6.1.1. The regular Fresno State Instructional Program: Actual classes and scheduled meetings that are part of the regular academic program.

6.6.1.2. The broad Fresno State Instructional Program: Discussions, instructionally related activities/programs such as music, drama, forensics, journalism, intercollegiate athletics; special programs and other activities, that are a part of normal class-associated or academic programs; courses that are a part of the authorized campus Continuing and Global Education program.

6.6.1.3. Research and Consultant Activities: Programs that are research-oriented in nature which contribute to the professional development of students, faculty and staff and consultant activities that have been approved by Fresno State.

6.6.1.4. Educational and Co-Curricular Activities: Events such as conferences, meetings, lectures, musicals, concerts, films, productions, contests or public assemblies concerned with the professional, cultural, recreational, or entertainment phases of Fresno State life. Participants and guests may include students, faculty, and staff of other educational institutions and the general public when such participants or guests are appropriate to the function.

6.6.1.5. Other Uses: Use of facilities for programs consistent with the objectives of Fresno State may be granted to those agencies and organizations with whom Fresno State has entered into a lease, operating, or similar agreements.

6.6.2. Costs and Fees

6.6.2.1. Use of campus facilities may be subject to a fee, require liability insurance, and/or require a written use agreement. More information regarding these requirements can be obtained from the Office of Environmental Health and Safety, Risk Management and Sustainability.

6.7. Leafleting and Handing Out of Non-Commercial Written and Printed Materials

6.7.1. Leafleting or distributing handbills and circulars is permitted on campus but must be consistent with the limitations and restrictions set forth in this policy.

6.7.2. Individuals may, without prior scheduling, distribute non-commercial written and printed materials in any outdoor area of Fresno State (excepting roadways and parking lots) or in any Fresno State building.

6.7.3. Littering is not permitted. Posting of written and printed materials on vehicles without the owner's permission is not permitted.

6.7.4. Distribution of materials in electronic format using Fresno State information technology resources must comply with the Acceptable Use Policy.

6.8. Non-Commercial Signage

All signage on Fresno State property must comply with the Fresno State Signage Policy.

7. Related Policies and Reference Documents

- 7.1. California Education Code, § 89030-31
- 7.2. Title 5, California Code of Regulations, Sections 41301 and 42350-42354
- 7.3. Policy on the Use of University Buildings and Grounds (D-08)
- 7.4. Policy on Signage, Temporary and Permanent (D-17)
- 7.5. Office of Environmental Health and Safety, Risk Management and Sustainability
- 7.6. Acceptable Use Policy (APM 622)
- 7.7. Policy on Use of Alcoholic Beverages (APM 646)
- 7.8. California State University Executive Order 966, Alcoholic Beverage Sales & Advertising Policy

8. Contact Information

If you have any questions, please contact the Department of Public Safety at 559.278.8400.

9. Key Search Words

Free expression, free speech

10. History/Revision Dates

Approved as interim policy by the President:	June 8, 2015
Minor Edits	September 15, 2015
Policy to be taken to Academic Senate for courtesy review:	Fall 2015

11. Continuous Renewal Date:

June 8, 2020

This policy shall be evaluated five years from its effective date to determine its effectiveness and appropriateness. This policy may be evaluated before that time as necessary to reflect substantial organizational, financial, physical or academic changes at Fresno State or any change required by law or by Fresno State or other governing policy.