

**JACKSONVILLE STATE UNIVERSITY**  
**Manual of Policies and Procedures**

**POLICY NO.:** I.07

**DATE:** June 23, 2020

**REVIEW/REVISION DATES:**

**SUBJECT:** Campus Use and Protection Free Speech

**APPROVED:** Dr. Don C. Killingsworth, Jr., President

Jacksonville State University Board of Trustees Policy  
Related to Campus Use and Protection of Free Speech  
(As Required by Act 2019-396, Alabama Legislature)

**PURPOSE**

The campus grounds, properties and facilities of Jacksonville State University (hereinafter the " University" or "JSU" ) are devoted to and maintained for the purpose of providing higher education to students and for use and enjoyment of the campus community and are not places of unrestricted or unregulated public access. As such, by this policy, the University reasserts the right to properly govern access to and the use of its property in such a way as to protect students, faculty, staff and persons lawfully on or using university facilities, as well as for the protection and preservation of institutional assets.

The University, however, is committed to protecting the free speech rights of students, faculty, staff, and invited guests. The purpose of this policy is to respect the Campus Community 's rights to free speech and expressive activity while preserving public health, safety, and welfare; the normal educational and business uses of the campus ; protecting University property; and safeguarding the rights of others to legitimately use and enjoy the campus.

While the University will not regulate the content of lawful speech, assembly or related activity, the University may regulate the time, place, and manner of free speech and expressive activities in order to prevent unreasonable interference with or disruption of its educational and business functions, normal or scheduled uses of University property by the Campus Community, as well as to protect public health, safety, and welfare.

## DEFINITIONS

The following definitions apply to this policy:

1. **BENEFIT**. Recognition, registration, the use of facilities of the University for meetings or speaking purposes, the use of channels of communications, and funding sources that are available e to student organizations at the University.
  
2. **CAMPUS COMMUNITY**. The students, administrators, faculty, and staff, as well as the invited guests of the University and its student organizations, administrators, faculty, and staff.
  
3. **FREE SPEECH ZONE**. An area on the University ' s campus designated for the purpose of engaging in a protected expressive activity.
  
4. **HARASSMENT**. Expression, whether speech or conduct, that is so severe, pervasive, and objectively offensive that it effectively denies another access to an educational opportunity or benefit provided by the University.
  
5. **MATERIALLY AND SUBSTANTIALLY DISRUPTS**. A disruption that occurs when a person:
  - a.) significantly hinders the protected expressive activity of another person or group, prevents the communication of a message of another person or group, or prevents the transaction of the business of a lawful meeting, gathering, or procession by engaging in fighting, violence, threats of violence, or other unlawful behavior; or
  
  - b.) physically blocks, uses threats of violence to prevent any person from attending, listening to, viewing, or otherwise participating in a protected expressive activity.

The term " materially and substantially disrupts" shall not include conduct that is protected under the First Amendment to the United States Constitution or Article I, Section 4 of the Constitution of Alabama of 1901. Such protected conduct includes , but is not limited to, lawful protests and counter-protests in the outdoor areas of campus generally accessible to members of the public (except during times when those areas have been reserved in advance for other events), or minor, brief, or fleeting nonviolent disruptions of events that are isolated and short in duration.

6. **OUTDOOR AREAS OF CAMPUS.** The generally accessible outside areas of the campus of the University where members of the campus community are commonly allowed including, without limitation, grassy areas, walkways, and other similar common areas.
  
7. **PROTECTED EXPRESSIVE ACTIVITY.** Speech and other conduct protected by the First Amendment to the United States Constitution, or by Article 1, Section 4 of the Constitution of Alabama 1901 to the extent that the activity is lawful and does not significantly and substantially disrupt the functioning of the business or educational activity of the institution, or materially and substantially disrupt the rights of others to engage in or listen to the expressive activity, including all of the following :
  - a.) Communication through any lawful verbal, written, or electronic means.
  - b.) Participating in peaceful assembly.
  - c.) Peacefully protesting.
  - d.) Making speeches.
  - e.) Distributing literature.
  - f.) Making comments to the media.
  - g.) Carrying signs or hanging posters.
  - h.) Circulating petitions.

For purposes of this policy, the term "protected expressive activity" does not include commercial activity, or to expression that relates solely to the economic interests of the speaker and its audience and proposes an economic transaction.

8. **PUBLIC INSTITUTION OF HIGHER EDUCATION.** As defined in Section 16-5-1, Code of Alabama 1975, and as that term is used in Act 2019-396, Jacksonville State University is a "public institution of higher education."

9. **President.** The term "President" shall refer to that person holding the Office of President of Jacksonville State University or otherwise exercising the functions of that office.

10. **STUDENT.** Any person who is enrolled in a class at the University.

11. **STUDENT ORGANIZATION.** An officially recognized group at the University or a group seeking official recognition, composed of admitted students that receive or are seeking to receive benefits through the institution.

## **POLICY**

It is the policy of Jacksonville State University:

That the primary function of the institution is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate, and that, to fulfill that function, the institution will strive to ensure the fullest degree possible of intellectual freedom and free expression.

That it is not the proper role of the institution to shield individuals from speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama of 1901, including without limitation, ideas and opinions they find simply unwelcome, disagreeable, or offensive.

That students, administrators, faculty and staff are free to take positions on public controversies and matters of public concern and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.

That the outdoor areas of a campus of the University shall be deemed to be a forum for members of the Campus Community.

That there shall be no designated "free speech zones" whereby expressive activity is restricted to such an area to the exclusion of the remainder of the campus. No such "free speech zones" shall be created within the outdoor areas of the campus in order to limit or prohibit protected expressive activities.

That the campus of the University shall be open to any speaker whom the University's student organizations or faculty have invited, and the institution will make all reasonable efforts to make available all appropriate resources to ensure the safety of the campus community; and that the University will not charge "security fees" based on the protected expressive activity of the member of the campus community or the member's organization, or the content of the invited guest's speech, or the anticipated reaction or opposition of the listeners to the speech. Usual and customary fees commensurate with the facility utilized, the direct costs associated with the use of the venue, and fees related to preparation, maintenance and clean-up may be assessed provided they are not discriminatory, arbitrary or utilized to discourage appropriate use.

That the University shall not permit members of the Campus Community to engage in conduct that materially and substantially disrupts another person's protected expressive activity or infringes on the rights of others to engage in or listen to a protected expressive activity that is occurring in a location that has been reserved for that protected expressive activity. The material and substantial disruption of the protected expressive activity of another shall, if by a student, be a violation of the Student Code of Conduct, and if by a University employee, shall be deemed employee misconduct.

Depending on the severity of the disruption caused, its intent and manner, a student may be subject to jurisdiction of the Office of Community Standards and Student Ethics which has the jurisdiction to impose a disciplinary sanction up to and including expulsion. Employees, including tenured and non-tenured faculty, may be subject to administrative disciplinary action up to and including termination. Disruptive conduct that violates state law may be subject to citation or arrest with prosecution in the Municipal Court of the City of Jacksonville or the state courts of Calhoun County.

That the University has the right and may maintain and enforce constitutional time, place, and manner restrictions for outdoor areas of campus when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression. All restrictions shall allow for members of the university community to spontaneously and contemporaneously assemble and distribute literature.

That the University shall support free association and shall not deny a student organization any benefit or privilege available to any other student organization or otherwise discriminate against an organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.

That the University should strive to remain neutral, as an institution, on the public policy controversies of the day, except as far as administrative decisions on the issues are essential to the day-to-day functioning of the institution, and that the University will not require students, faculty, or staff to publicly express a given view of a public controversy.

That the University shall prohibit harassment in a manner consistent with the definition provided in this act, and no more expansively than provided herein.

This policy shall supersede and nullify any prior provisions in the policies or parts of policies that restrict speech on campus and are, therefore, inconsistent with this policy. Any policy inconsistent with this policy, its letter or spirit, shall be revised to be consistent herewith.

Without unnecessary delay, the University shall include in the its student, faculty, and staff orientation programs a section describing to all members of the campus community the policy developed pursuant to this section, and shall disseminate this policy to all members of the campus community and make the policy available in their respective handbooks and on the JSU website.

The President shall cause to be prepared a document for the Board of Trustees to submit to the Governor and the Legislature a report that details the following:

- 1.) The course of action implemented to ensure compliance with the requirements of this act within 90 days after the effective date of this Act.
- 2.) Any changes or updates to the chosen course of action within 30 days after making the changes or updates.

On or before September 1 of each year, the President, on behalf of the Board of Trustees, shall prepare and disseminate a report for the prior 12-month period ending July 31, that includes all of the following:

- 1.) The date and description of each violation of the policy adopted pursuant to this Act.
- 2.) A description of the administrative handling and discipline relating to each violation described.
- 3.) A description of substantial difficulties, controversies, or successes in maintaining a posture of administrative and institutional neutrality.
- 4.) Any assessments, criticism, commendations, or recommendations the Board of Trustees sees fit to include.

The President shall cause the report to be published in a prominent location on the JSU.edu website and to submit a copy of the report to the Alabama Commission on Higher Education, which shall publish the report in a prominent location on its website and notify the Governor and the Legislature of its receipt of the report.

Nothing herein shall be construed to prevent Jacksonville State University from regulating and restricting speech, expression, or expressive activity that is not protected by the United States Constitution or the Constitution of Alabama of 1901, including , but not limited to, any of the following:

- 1.) Violations of state or federal law, including, but not limited to, actions that damage institutional property.
- 2.) Expressions that a court has deemed unprotected defamation.
- 3.) Harassment.
- 4.) True threats, which are defined as statements meant by the speaker to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- 5.) An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
- 6.) An action that unlawfully disrupts the function or security of the institution.

## **RESPONSIBILITY**

The University Counsel is responsible for this policy.

## **EVALUATION**

This policy will be reviewed at least every five (5) years.