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EXTRACURRICULAR USE OF INSTITUTIONAL FACILITIES, AREAS OR MEDIA FOR THE PURPOSE OF EXPRESSION

3.13

1. Philosophy and Scope

A. Philosophy

- i. A goal of the faculty, students, administration, staff and Board is for the institutions governed by the Board to be superior educational centers for the preservation, transmission and discovery of knowledge. The wide variety of Extracurricular activities at the institutions governed by the Board represent one way this goal is achieved. Therefore, these activities are an integral part of the total educational mission of the Board's institutions.
- ii. The Board and its institutions recognize and protect free inquiry and free Expression as indispensable components of the critical examination of philosophies and ideas. Given the unique mission of public educational institutions in a democratic society, this inquiry should be open and vigorous, and should consequently have greater protection than in society at large, provided that such inquiry does not infringe upon the rights of others. Commitment to free inquiry and Expression creates a strong presumption against prohibition of

Expression based upon its content. This philosophy is intended to apply to all forms of Expression occurring at the Board's institutions and any uncertainty regarding the application or operation of this Policy shall be resolved in a manner consistent with this philosophy.

B. Scope

- i. This Policy shall be applicable only to the Extracurricular use of any institutional-controlled facility, area or medium used as a forum generally open to members of the institutional community and others for the purpose of Expression. Institutional affiliated newspapers, radio stations or cable television channels are not presently subject to this Policy.
- ii. Any institutional policy providing for conditions or limitations on Extracurricular Expression shall be consistent with this Policy.
- iii. The procedures in this Policy apply only to scheduling the Extracurricular use of institutional-controlled facilities or areas for the purpose of Expression.

2. Definitions

- A. Authorized Designee. Each institution is expected to designate a person or persons who have the authority to schedule the use of a particular institutional facility or area.
- B. Campus Community. Students, administrators, faculty and staff at the institution and their invited guests.
- C. Expression. Any communication, discussion, acquisition, manifestation, representation or indication, whether clear or unclear, ambiguous or unambiguous, of attitudes, information, ideals, beliefs, opinions or ideas on any subject by any student, faculty or other member of the academic community, outside speaker or act, process or instance of representation in any media. The media of expression may include, but shall not be limited to, speech, publications, literature or documents, art, cinema, theater or music, electronic emissions, audio or visual recording in any medium or media, or recordings in any medium or media that combine audible, visible or other sensory

expression, whether expressed, transmitted, presented or sponsored individually or by a group.

- D. Extracurricular. All activities outside the institution's instruction, research, extension and related academic functions.
- E. Harassment. Expression that is unwelcome, so severe, pervasive and subjectively and objectively offensive that a student is effectively denied equal access to educational opportunities or benefits provided by the institution.
- F. Materially and Substantially Disrupts. When a person, with the intent to or with knowledge of doing so, significantly hinders another person's or group's expressive activity, prevents the communication of the message or prevents the transaction of the business of a lawful meeting, gather or procession by:
- i. Engaging in fighting, violent or other unlawful behavior, or
 - ii. Physically blocking or using threats of violence to prevent any person from attending, listening to, viewing or otherwise participating in an expressive activity.

Conduct that "materially disrupts" shall not include conduct protected under the Oklahoma Constitution or the United States Constitution.

Protected conduct includes, but is not limited to, lawful protests in the outdoor areas of campus generally accessible to the 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.

- G. Outdoor Areas of Campus. The generally accessible outside areas of campus where members of the campus community are commonly allowed, such as grassy areas, walkways or other similar common areas. Outdoor Areas of Campus does not include outdoor areas where access is restricted from a majority of the campus community.

3. Public Forum

All Outdoor Areas of Campuses as defined herein are deemed public forums for the Campus Community. Institutions may maintain and enforce reasonable time, place, and manner restrictions narrowly tailored in service of a significant institutional interest only when such restrictions employ clear, published, content- and viewpoint-neutral criteria and provide for ample alternative means of expression.

4. Time, Place or Manner Considerations

A. Expression may be limited or restricted with respect to time, place or manner only as provided for in this Policy and other related statements of policy, such as the Student Code of Conduct: Student Rights and Responsibilities Governing Student Behavior. For Outdoor Areas of Campus, such limitations shall be narrowly tailored to serve a significant interest (such as avoiding disruption of regular classes, prohibiting conduct that Materially and Substantially Disrupts another person's or group's expressive activity, prohibiting Harassment, avoiding the scheduling of two events at the same time in the same facility and the protection of the public order) and to assure compliance with applicable local, state and federal laws. Any limitations must be both reasonable and content-neutral, the latter term meaning that they shall be applied without regard to the content of the Expression or the purpose of the assembly.

B. Limitations may include requiring scheduling and planning with the appropriate Authorized Designee, restricting or prohibiting the use of certain areas (i.e., ingress and egress areas, instructional classrooms, laboratories, etc.), limiting amplification within a certain distance of academic buildings when classes are in session, and reimbursing the institution for any costs and damages associated with the use of a facility, area or medium.

5. Content Considerations

The First Amendment of the Constitution protects and guarantees freedom of speech by prohibiting any law that would serve to deny or limit Expression. Through the Fourteenth Amendment, this prohibition is extended to all actions of state government, including those of publicly-

supported institutions. Expression may not be denied or limited, based upon content, unless it has been determined in state or federal court precedent that such speech or Expression is not protected by the Constitution.

6. Disclaimer Regarding Expression

- A. Given the wide diversity of Expression that occurs at higher education institutions, the use of any institutionally-controlled facility, area or medium for any Expression shall not constitute or suggest endorsement by the Board, the institution, its administration, staff, faculty, student body or any individual member of these constituencies.
- B. Individuals and groups utilizing institutional property shall assume full responsibility for any violation of law they commit while on institutional property.

7. Procedure for Scheduling Institutional Areas or Facilities for Extracurricular Expression

A. Requests for the Use of a Scheduled Institutional Facility or Area

- i. The Extracurricular use of any scheduled institutional-controlled facility or area for the purpose of Expression shall be preceded by a request made to an Authorized Designee. A request shall contain the name of the requestor and how he/she can be contacted; the proposed date, time and location for the contemplated activity; the expected size of the audience; and any other information that may be necessary to accommodate the needs associated with the activity.
- ii. The request should be made as far in advance as possible to provide for orderly scheduling of facilities or areas. Barring extraordinary circumstances, the Authorized Designee shall take one of the following actions:
 - a. Grant the request. This will be the routine action taken on the vast majority of requests. The Authorized Designee should work with the requestor in preparing or revising a request so that it may be granted. If the Authorized Designee has any question about whether to grant the request, he/she should consult with his/her

administrative supervisor(s). When a request has been granted, such action shall be final and the requestor shall be promptly notified.

b. Deny/Limit the Request. An Authorized Designee may recommend that a request be denied if it is determined after appropriate inquiry (including consultation with the Board's Office of Legal Counsel) that the proposed Expression is unprotected. For protected Expression, an Authorized Designee may recommend that a request be limited based on Time, Place or Manner Considerations pursuant to Paragraph (3) above. In determining whether to make such recommendations, full and adequate consideration should be given to the educational mission of the institution and specifically the responsibility of the institution and its officials to actively encourage free and open inquiry by avoiding and resisting limitations of Expression. Any recommendation to deny or limit a request, and the reasons upon which it is based, shall be stated in writing.

iii. No final arrangements or advertising should be made for the proposed use of the facility or area prior to the granting of the request for the use of the facility or area.

B. Limitations based upon Time, Place or Manner Considerations

i. If a request is limited based on time, place or manner considerations (see (4) above), the requestor shall be promptly informed of such decision. A written statement of the reasons for the limitation shall be provided upon request.

ii. The requestor may appeal denials or limitations by filing a written statement with the President of the institution or his/her designee. The statement shall set forth the reason(s) for appealing the denial or limitation. A final decision should be made in time to allow the requestor to carry out final arrangements for the proposed Expression in the event the President, or his/her designee, reverses the Authorized Designee and grants the request.

8. Availability and Training on Expression Policies

- A. Each institution shall make its policies related to Expression available to the public and their students.
 - B. Each institution shall provide materials to and conduct training for employees with responsibility for discipline or education of students on the institution's policies related to Expression.
9. Compliance with State Law. Each institution shall post on its website and submit annually to the Governor and the Legislature a report in compliance with the provisions of Oklahoma State law.

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September 13, 2019

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