

Office/Contact: Facilities and Services

Source: SDBOR Policies 3:7, 6:13, and 6:13:1; University Policy 3:10; University Policy 6:7

Link: <https://www.sdbor.edu/policy/documents/3-7.pdf>; <https://www.sdbor.edu/policy/documents/6-13.pdf>; <https://www.sdbor.edu/policy/Documents/6-13-1.pdf>;

<https://www.sdstate.edu/sites/default/files/file-archive/2019-01/Student%20Organizations.pdf>;

<https://www.sdstate.edu/sites/default/files/file-archive/2019-02/Facilities%20Use%20Scheduling.pdf>

Associated Forms: [Appeal of Facilities Use Denial](#); [Outdoor Designated Public Forum Campus Map](#)

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## **SOUTH DAKOTA STATE UNIVERSITY**

### **Policy and Procedure Manual**

SUBJECT: Use of University Facilities and Grounds for Expressive Activity by Student Organizations, Students, Employees, and their Guests

NUMBER: 6:8

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#### 1. Purpose

This policy and its procedures are governed by SDBOR Policy 6:13:1 and promote and facilitate free expression while allowing the University to ensure such activities do not interfere with the University's mission and operations or with the rights of others.

#### 2. Definitions

- a. Coercion: the inducement of another to perform some act under circumstances which deprives them of their exercise of free will, such as force, threats, or attempts to intimidate or badger a person into viewing, listening to, or accepting a copy of a communication; or persistently requesting or demanding the attention of a person after that person has attempted to walk away or has clearly refused to attend to the speaker's communication.
- b. Demonstration: any process of showing an individual or group cause by speech, example, group action, or other form of public explanation.
- c. Debate: a discussion involving different viewpoints in which different sides of an issue are advocated for, or presented by, differing speakers.
- d. Expressive Activity: any lawful, noncommercial verbal or written means by which one person or group communicates ideas to another, and includes peaceful assembly, protests, debate, demonstrations, speeches, distribution of literature, the carrying of signs, and the circulation of petitions.
- e. Guest: any person who enters campus for a purpose connected with the expressive activity of a University-recognized student organization ("student organization"), student, or employee acting within their non-institutional capacity, by express or implicit invitation of the student organization, student, or employee.
- f. Large-Scale Events: (1) events that are expected to attract 50 or more people, or (2) events that request the use of amplified sound. Such events include invited speakers, marches, parades, protests, and demonstrations.

- g. Prohibited Conduct: any conduct violating state or federal law, regulation, or policy including, but not limited to, coercion, speech unprotected by the United States or South Dakota Constitution, unlawful conduct under state or federal law, rule, or policy including, but not limited to, SDBOR or University policies.

### 3. Policy

- a. The SDBOR and the University recognize and support the University as a marketplace of ideas. The primary function of the University is to discover and disseminate knowledge by means of research and teaching. The University supports the right of student organizations, students, employees, and their guests to speak in public and to demonstrate for or against actions and opinions with which they agree or disagree. Freedom of expression is vital to the shared goal of the pursuit of knowledge. Such freedom comes with a responsibility to welcome and promote this freedom for all, even in cases of disagreement or opposition. In doing so, however, students, employees, and their guests must comply with this and other SDBOR policies, University policies, and applicable law.

- b. General Guidelines

- i. The University is committed to providing an educational, research, and service environment that is conducive to the development of each individual. As a public entity, the University provides both formal and informal forums for the expression of ideas and opinions, as long as such expression occurs within the context of federal and state law and SDBOR and University policies, and does not impede pedestrian and/or vehicular traffic; disturb or interfere with normal academic, administrative, or student activities; or involve prohibited conduct.
- ii. Because University facilities and grounds are tax-exempt public facilities and grounds, they are not generally available for use for commercial purposes, subject to the specific exception set forth in SDBOR Policies 3:7 and 6:13.

- c. Outdoor Areas

- i. To facilitate robust debate and the free exchange of ideas, the outdoor areas within the boundaries of the University, unless otherwise properly restricted, as depicted in the Outdoor Designated Public Forum Campus Map, constitute a designated public forum for the benefit of student organizations, students, employees, and their guests to engage in expressive activity. This use may be without prior permission from the University so long as:
  - 1. The area has not been previously reserved or scheduled for a particular function;
  - 2. No sound amplification is used;
  - 3. Participants do not violate any SDBOR or University policies or engage in prohibited conduct; and
  - 4. The General Guidelines set forth in Section 3.b. above are followed.
- ii. Nothing in Section 3.c. limits the right of a student's free expression elsewhere on campus, in keeping with the nature of the forum designated by the University

and the implementation of SDBOR Policy 6:13, so long as the expressive activities or related conduct do not violate any other applicable SDBOR or University policy or constitute prohibited conduct.

- iii. The University will not designate any outdoor area within its boundaries as a free speech zone or otherwise restrict the expressive activities of students, employees, and their guests to particular outdoor areas within its boundaries in a manner that is inconsistent with this policy or SDBOR Policy 6:13:1.
- iv. Where outdoor areas are allowed to be used for expression, the University may maintain and enforce lawful and reasonable time, place, and manner restrictions, each of which is narrowly tailored to serve significant University interests, including but not limited to: student safety; students' ability to study, learn, or utilize University services; or coordinating the use of limited University facilities and grounds. Such restrictions must be published, must be content- and viewpoint-neutral, and must provide alternate means of engaging in the expressive activity, and shall still allow for students and employees to spontaneously and simultaneously assemble in outdoor areas within the boundaries of the University, unless otherwise properly restricted.

d. Guidelines for Expressive Activity by Students and Student Organizations

- i. A student's right of freedom of expression at the University includes organized demonstrations or events. At the same time, the University has long recognized that this right does not include the right to engage in conduct that disrupts the University's operations, infringes other students' freedom in learning, interferes with the academic freedom of faculty, endangers the safety of others, or constitutes prohibited conduct.
- ii. The University requires any student or student organization planning a large-scale event to contact the Senior Director of the Student Union, successor, or designee in advance of the large-scale event. A representative of the Office of Student Activities will work with the requesting person to either meet the request or find a reasonable alternate time and/or location.
- iii. The University may require the requesting party to provide a parade route, hire security, ensure egress to facilities, or take other steps to maintain the safety of the campus; however, any such requirement(s) must be based on definite and objective criteria that are not content-based. All participants must follow all SDBOR and University policies and applicable law.
- iv. Access to, and use of, facilities and grounds at the University will be equally available to all student organizations, regardless of the ideological, political, or religious beliefs of the organization.

e. Guidelines for Expressive Activity by Guests

- i. Guests of student organizations, students, and employees may engage in expressive activity in outdoor areas in conformity with all applicable policies and in a manner that does not constitute prohibited conduct, or they may seek to

reserve select campus facilities pursuant to SDBOR Policy 6:13 and University Policy 6:7.

- ii. Hosts of guests who are planning a large-scale event must contact the Senior Director of the Student Union, successor, or designee in advance of the large-scale event. A representative of the Office of Student Activities will work with the requesting person to either meet the request or find a reasonable alternate time and/or location.
- iii. By inviting the guest, the student organization, student, or employee, in their individual capacity, assumes responsibility for the compliance, safety, behavior, and violations of their guest.

f. Enforcement

- i. Guests of student organizations, students, and employees found violating SDBOR or University policies, including this policy, will be subject to immediate removal from University grounds, without prior warning, by the University Police Department or other appropriate University officials and may be subject to appropriate legal action.
- ii. Students or student organizations violating this policy will be subject to disciplinary action pursuant to the Student Code of Conduct.
- iii. Employees violating this policy will be subject to disciplinary action pursuant to the applicable SDBOR and University policies.

4. Procedures

- a. If the University denies a request made under this policy to reserve any University facility or grounds, or to hold a Large-Scale Event, the University shall provide a written explanation of the grounds for the denial to the requestor. The grounds for granting or denying these requests shall be in keeping with SDBOR Policy 6:13 and shall, unless otherwise publicized, include those grounds listed in University Policy 6:7. The written denial shall advise the requestor of their right to appeal the denial pursuant to this policy, as well as the contact information for the office to which appeals of this policy are submitted.

b. Appeals

- i. Individuals who believe that the University violated this policy may obtain a review as follows:
  - 1. Complete the *Denial Appeal Form* linked to this policy and submit it to the Office of the Vice President of Student Affairs, whose address is:  
South Dakota State University  
V.P. of Student Affairs  
Morrill Hall 324, Box 2201  
Brookings, SD 57007

2. The completed written appeal must be presented within five (5) working days after the violation occurred.
3. The appeal must specifically state facts that, if proven, would demonstrate that (i) the denial was based upon an incorrect assessment of material fact, or (ii) it involved a misinterpretation, misapplication, or violation of the requirements of a SDBOR or University policy. Mere conclusions, general allegations, and/or speculative statements cannot establish a factual ground for the claim that SDBOR or University policy has been misinterpreted, misapplied, or violated.
  - ii. The Vice President of Student Affairs, successor, or designee will respond to such appeals via email within two (2) working days after receipt by the University. Should the appeal be denied, a copy of the reservation and the procedure for appealing the decision to the University President will be provided in the response. The appeal will thereafter process as provided in SDBOR Policy 6:13:1.

5. Responsible Administrator

The Vice President of Student Affairs, or designee, is responsible for the annual and ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy.

SOURCE: Approved by President on 10/03/2019.