

5/23/16

[Recommended] Policy on Use of University Facilities and Grounds

PREAMBLE

Freedom of expression provides an indispensable underpinning for many of our great institutions, and nurturing that vital freedom is nowhere more important than on a university campus. Without freedom of expression, the fundamental goal of increasing knowledge cannot be reached. The primary purpose of this document is to maximize freedom of expression within the context of our academic community while remaining devoted to our four guiding values of respect, responsibility, discovery, and excellence.

I. SCOPE

This Policy on Use of University Facilities and Grounds (“Policy”) applies to the scheduling and conduct of events and activities at the University of Missouri (“University”) other than academic activities such as regularly scheduled courses and seminars. This Policy applies to all buildings, facilities, grounds, and other spaces owned or controlled by the University (collectively referred to as “property”). Examples of events and activities that may be covered by this Policy include

- meetings and other group activities of student organizations;
- speeches, performances and other events by outside individuals or groups invited by student organizations; and

- demonstrations, protests, rallies, vigils, assemblies, and other free speech exercises

when held in University buildings, facilities, grounds, or other spaces.

II. GENERAL PRINCIPLES

The University affirms the First Amendment guarantees of freedom of expression and the right to assemble peaceably as essential fundamental principles in our University community. This policy seeks to ensure that individual and group rights of expression, assembly, dissent, and protest are not infringed or abridged at the same time it seeks to support and preserve the means to maintain the safety of all members of the University community and visitors to the campus, to enable the University to fulfill its missions of teaching, education, and research, and to provide all members of the University's academic enterprise with the broadest possible latitude to speak, write, listen, challenge, and learn. This Policy is intended and shall be administered to provide content-neutral, minimally necessary standards and procedures to achieve these goals.

The property of the University is primarily dedicated to academic, student life, and administrative functions, including the sovereign function of providing higher education. Except as provided by Missouri statutory law, University property is not a place of unrestricted public access. All outdoor spaces are traditional public forums subject to reasonable time, place, and manner regulations. Many indoor spaces are available for use by students, student groups, or others for events and other organized or expressive activities. Although some outdoor spaces must be scheduled in advance, some outdoor spaces are available for spontaneous, unscheduled activities at any time.

Consistent with the provisions of this Policy and the *Commitment to Free Expression*, the University reaffirms its commitment to the values of diversity, inclusion, and community. The foundation for ethical and responsible behavior at the University is a commitment by each member of the University community to respect the rights and dignity of all persons, to recognize that discrimination and harassment undermine this foundation, to fulfill our obligations to others in a fair, respectful, and honest manner, and to make responsible choices about how these obligations are fulfilled.

III. STANDARDS FOR USE OF UNIVERSITY PROPERTY AND FOR CONDUCTING ORDERLY ASSEMBLIES

Freedom of expression and the right to peaceably assemble, protest, and dissent are fundamental values of the University. The University will not interfere with orderly events, meetings, rallies, demonstrations, vigils, protests, or assemblies in public areas of grounds and buildings unless participants engage in one or more of the following behaviors:

- a. Prevent or disrupt the orderly conduct of a University function or activity, including, but not limited to, lectures, meetings, interviews, ceremonies, or other public events.
- b. Disturb or interfere with any room or space in which instructional activities are being held.
- c. Disturb or interfere with locations where educational, health, or financial records are stored or located.
- d. Hold demonstrations, protests, rallies, vigils, or assemblies in

- i. any room or other space in circumstances where a private meeting is being held, or has been scheduled to be held, in such space;
 - ii. private offices;
 - iii. laboratories and associated facilities;
 - iv. computer centers;
 - v. museums, libraries, or facilities that normally contain valuable or sensitive materials, collections, or records protected by law or by an existing University policy (such as educational records, personnel records, or health records);
 - vi. hospitals, health care clinics, and other health-care facilities; or
 - vii. communication systems facilities, utility facilities, or other facilities conducting services vital to the continued functioning of the University.
- e. Injure persons, damage or destroy property, or threaten to cause such injury or damage.
- f. Use sound amplification devices in a manner that violates University of Missouri Business Policy and Procedure Manual (“BPPM”) § 6.052 or that otherwise prevents or disrupts normal University academic activities or operations, or is injurious to health and safety. The BPPM can be accessed through the index found at <http://bppm.missouri.edu/>.
- g. Use flashing or rotating lights or illuminated signs.

- h. Create safety hazards, or jeopardize the safety and security of participants or others.
- i. Occupy without authorization a building after it is normally closed.
- j. Engage in camping prohibited by Collected Rules and Regulations (“CRR”) § 110.010 or other applicable University regulations or policies. The CRR can be accessed through the index found at https://www.umsystem.edu/ums/rules/collected_rules/fullindex.
- k. Construct structures, including objects requiring penetration in concrete or grass, on University grounds without prior written authorization from the Office of the Vice Chancellor for Operations. For purposes of this paragraph, “structure” means the framework of and the space enclosed by any building, booth, tent, canopy, vehicle, trailer, fence, wall, or similar object or enclosure.
- l. Continue to engage in behaviors prohibited in this Section after a University official or a member of MUPD has declared that the conduct violates this Policy or other University regulations or policies (“violations”) and has instructed the participants to modify or terminate their behavior.
 - i. Violations by students will be handled through the University’s disciplinary system administered by the Office of Student Conduct. Violations by staff will be handled through the process set forth in the existing Human Resources Policy. Violations by faculty will be handled through the process set

forth in the existing Faculty Bylaws of the University of Missouri, CRR § 300.010(L).

- ii. In the event of non-compliance with an instruction to modify or terminate behavior that violates this Policy and that also may violate state or federal law, the University official or the official's designee may enlist the assistance of the University of Missouri Police Department ("MUPD") in restoring order and enforcing the law.
- iii. When the assistance of MUPD is obtained, MUPD has a responsibility (a) to declare unlawful behavior to be in violation of law, (b) to request all persons engaging in the behavior to cease and desist or be subject to arrest and/or University disciplinary action, (c) to arrest any persons observed to be in violation of law who do not cease and desist, and (d) to enlist the assistance of outside law enforcement agencies, if necessary.
- iv. Prompt compliance with instructions of a University official or the official's designee, or of MUPD, shall be a mitigating factor in any disciplinary proceedings based upon the immediate conduct to which the instructions refer, unless the violators are found to have caused or intended to cause injury to person or property or to have demonstrated willfully in an impermissible location.

IV. PROCEDURES AND STANDARDS FOR SCHEDULING THE USE OF FACILITIES AND GROUNDS

A. Coordinators of Indoor and Outdoor Space (“Coordinators”).

The University places responsibility for the scheduling and use of University facilities and grounds in various offices on the campus depending on the nature of the space involved. The persons who are charged with this responsibility are collectively referred to as “Coordinators.” Appendix A to this Policy identifies various facilities, grounds, and categories of space on the campus and lists the office in which the Coordinator for that space is located and the contact information. Appendix A also sets forth some additional information relevant to reserving a particular facility or space.

The Director of University Events will publish the policies and procedures through which members of the University community can reserve and use University property for public or private meetings and events. The Coordinators will maintain a schedule of all events and activities to which facilities or grounds within the Coordinator’s authority are allocated. The Coordinators will also make all inquiries necessary to evaluate and dispose of requests to schedule space.

B. Prior Scheduling is Generally Required.

Except for spontaneous or unscheduled expressive activities described in Section IV-C, groups and individuals desiring to use University space, facilities, grounds, or other property for expressive events and activity must submit requests through the appropriate Coordinator as far in advance as practical. The priority for approval of requests is set forth in Section IV-D. When the basis for denial is prior

receipt of a competing application for the same time and place, the Coordinator will work with the Director of University Events to suggest alternative times or places.

A number of outdoor areas are available for scheduling of expressive events and activities on a first-come-first-served basis. Outdoor areas available for scheduling for expressive events and activities are identified in Appendix B. Requests to reserve these spaces are to be submitted to the appropriate Coordinator (see Appendix A).

The Director of University Events shall publish on the University website information about space, facilities, and grounds available for scheduling. The Director, working with the Coordinators, shall provide upon request information about which facilities are available for proposed activities or events, and shall assist students and others by providing information about rules and policies regarding the use of particular facilities.

C. Spontaneous Expressive Events and Activities Permitted in Certain Outdoor Locations.

The educational process of the University includes various and diverse forms of open expression. University employees, students, and recognized student organizations may engage in spontaneous or unscheduled expressive events and activities as follows in all outdoor areas of the campus *except*:

1. outdoor areas listed in Appendix B, Sec. 1 (areas which may be reserved but in which spontaneous events or activities may not occur);
2. outdoor areas listed in Appendix B, Sec. 2 (areas which may be reserved and in which spontaneous events or activities may occur in the absence of

a prior reservation) when a prior reservation has been made for use of the space; and

3. outdoor areas listed in Appendix C (areas which may not be reserved and in which spontaneous events or activities may not occur).

If a spontaneous or unscheduled expressive activity involves one of the behaviors listed in Section III above, University officials shall require the activity to be relocated or rescheduled.

D. Scheduling Priorities.

Activities of the University itself have precedence over all extracurricular events and all activities of other users. Activities of recognized student organizations and groups have priority over those of other users except the University. Occasions may arise when, in order to accommodate official University activities and functions, an official University activity takes precedence for use of an already scheduled space. In the event rescheduling is necessary, the Director of University Events will work with the sponsors or organizers of the displaced activity to find suitable alternative locations and times, and otherwise to provide all assistance that is reasonable under the circumstances.

E. Considering Scheduling Requests: Time, Place, Manner, Security, and Other Standards.

When reserving space for events or activities, the Coordinator charged with responding to the request, in consultation with the Director of University Events as appropriate, will consider (a) whether the requested location is suitable for the event or

activity, and (b) whether health and safety concerns require special precautions or arrangements.

In determining whether the requested location is suitable for the proposed event or activity, or whether special precautions or arrangements are required, the Coordinator, in consultation with the Director of University Events, will consider the following:

- a. the anticipated size of the proposed event or activity;
- b. noise likely to be generated by the proposed event or activity and impact, if any, on academic activities or other University activities in the vicinity;
- c. impact of the proposed event or activity on traffic;
- d. whether the accommodations provided in the requested location are suitable and adequate for the proposed event or activity;
- e. whether the proposed event or activity complies with applicable laws, rules, regulations, and policies; and
- f. whether the proposed event or activity poses any risk to the health or safety of participants, observers, or others in the vicinity of the event or activity

and may consider any other similar, content-neutral factor that is related to any standard in this section.

The Coordinator or Director of University Events may deny a request to reserve space for an event or activity if:

- a. the applicant has not completed a reservation request on a form required of all applicants;
- b. the request to reserve space contains a material misrepresentation or materially false statement;
- c. the request is not received sufficiently in advance of the proposed event or activity to permit necessary evaluation and to determine the appropriate location;
- d. the use or activity intended by the request is prohibited by law or proposes behaviors or conduct proscribed in Section III;
- e. the applicant has damaged University facilities or grounds in the past in violation of University rules, regulations, or policies, and has not paid for repairs;
- f. the request to use University facilities or grounds conflicts with a preexisting reservation; or
- g. the use or activity would present an unreasonable health or safety danger.

F. Outside Speakers and Groups.

1. Invitations and Sponsorships by Student Organizations

Recognized student organizations may invite or sponsor non-University speakers, performers, or groups to conduct activities or events on campus. The outside speaker, performer, or group may be given permission to use specific facilities through a written contract under terms and conditions that protect the University's institutional

interests. Such groups may not state or imply University sponsorship of the organization or its program without written authorization.

2. Non-Invited Outside Groups

The University reserves the right to deny the use of its facilities to any non-University organization or individual seeking to rent or use University property. The University will charge rental or usage fees, and additional contractual obligations will apply.

G. Responsibility to Comply with Laws, Regulations, and Policies.

Each sponsoring organization that uses University facilities, grounds, or property assumes a responsibility to comply with all applicable laws, regulations, and policies. All events and activities must comply with all applicable University policies and rules, including those relating to alcohol, tents, filming and photography, smoking, weapons, and parking. Failure to adhere to these requirements is a basis for revoking permission to use facilities and space and may result in disciplinary action.

H. Fees and Charges.

Student organizations are responsible for fees and charges in connection with events and activities as set forth in further detail in the Student Organization Handbook, <http://mbook.missouri.edu/student-organizations/>, promulgated under the authority of CRR § 250.010.

Spontaneous and unscheduled expressive events and activities will not be assessed fees or charges. In the event the expressive event or activity is causing damage or destruction of property, or imminently threatening to cause such damage or destruction, a University official or a member of MUPD may ask that the event or activity

be relocated to an alternative space at the University, or if this is not possible be rescheduled, or if this is not possible cease and desist. The Director of University Events will assist those engaged in the expressive event or activity in finding a suitable alternative location, or in the event of rescheduling, a suitable alternative time for the event or activity.

Except as set forth in the preceding paragraph, users of University property must restore facilities and grounds to their original conditions. If such restoration is not completed to the satisfaction of the Office of the Vice Chancellor for Operations, the user shall be held responsible for and liable to the University for payment of any and all costs incurred by the University to restore the facilities and grounds to their original condition, including any costs or charges identified under BPPM § 6:050.

V. APPLICABILITY TO NON-UNIVERSITY PERSONS AND ENTITIES

This Policy addresses itself explicitly to forms of individual and collective expression in a University location by members of the University community. The extent to which the privileges and obligations of this Policy may be made applicable in particular circumstances to individuals or entities that are not members of the University community shall be determined by the Chancellor or the Chancellor's designee. Participants in meetings, events, and demonstrations in a University location are required to comply with the instructions of a properly identified University official or a member of MUPD.

Appendix A

COORDINATORS; OTHER INFORMATION ABOUT SCHEDULING THE USE OF FACILITIES AND GROUNDS

This Appendix A identifies various facilities and grounds, or categories of space, on the campus and lists the office in which the Coordinator for that space is located. This Appendix also sets forth some additional information relevant to reserving a particular facility or space.

<u>University Space</u>	<u>Coordinator</u>	<u>Additional Information</u>
Classrooms	Registration Office, 225 Jesse Hall, 882-6794 https://25live.collegenet.com/missouri/#home_my25live[0]	Rooms normally used as classrooms may be scheduled for temporary use for University functions or by recognized student organizations in good standing. Some classrooms and other academic space in some academic buildings are coordinated by other offices. The Registration Office will refer the request to such other offices or the Director of University Events when appropriate.
MU Student Center and Memorial Union	Office of the Director of Missouri Unions, 884-8793 http://ems.missouri.edu/VirtualEMS/	
Hearnes Multipurpose Building	Director of Hearnes, 260 Hearnes, 882-2056	
Jesse Auditorium and Missouri Theater	Director of University Events (DUE), 304 Jesse Hall, 882-7255	
D.W. Reynolds Alumni Center	University Club, Sales Office, 882-2765	
Outdoor Space Adjacent to	Office of the Director of Missouri Unions, 884-8793	

the MU Student Center		
Outdoor Space Adjacent to a Residence Hall	Director of the residence hall to which the space is adjacent	
All Other Outside Areas (Not Specifically Listed Above)	Director of University Events (DUE), 304 Jesse Hall, 882-7255	

Outdoor Space: Outdoor space on campus is generally assigned by the Director of University Events (DUE). However, as noted on the above chart, some outdoor spaces are coordinated and scheduled by other offices. It is generally recommended that a request for outdoor space initially be submitted to DUE; DUE will either act on the request or refer it to the appropriate office. It is appropriate, however, for a request to be submitted to a coordinator thought to have responsibility for a particular outdoor space; if a request is made to a coordinator who lacks authority to act upon it, the coordinator will refer it to DUE for further handling.

City Streets and Sidewalks: Requests to reserve outside space will sometimes propose to utilize city streets and city sidewalks within the boundaries of the University. Requests to use these spaces for activities and events often require a permit from the City of Columbia. DUE will refer those seeking to schedule events on city-controlled spaces to the appropriate City of Columbia offices.

Policies and Procedures Available on the Web: The DUE will publish the policies and procedures through which members of the University community can reserve and use University property for public or private meetings and events. This information can be found at [web link here.]

Availability of Schedules: The Coordinators will maintain a schedule of all events and activities to which facilities or grounds within the Coordinator’s authority are allocated.

Other Questions: For other questions about reserving and scheduling facilities and grounds at the University, or for questions about this Policy, contact the Director of University Events, 304 Jesse Hall, 882-7255.

Appendix B: Outdoor areas that may be reserved

Note: Outdoor areas of the University of Missouri campus not listed in Appendix B or Appendix C are always available for spontaneous or unscheduled expressive events and activities.

Appendix B, Section 1 Outdoor Areas

Outdoor areas listed in this Appendix B, Section 1 may be reserved in advance, upon the approval of the appropriate Coordinator, for meetings, events, activities, and expressive events and activities, but are not available for spontaneous, unscheduled expressive events and activities.

- Stankowski Field
- The green space surrounding the Residence on the Quad
- Areas managed by the University of Missouri Athletic Department
- Hinkson Recreational Playing Fields
- Epple Field (fields south of Green Tennis Center)
- Parking lots during time periods when parking permits are not required.
- The green spaces adjacent to residence halls (these areas are dedicated for the sole use of Residential Life.)

Appendix B, Section 2 Outdoor Areas

Outdoor areas listed in the Appendix B, Section 2 are available for reservation by University or non-University organizations or departments for meetings, events, or activities up to 24 hours in advance of the planned meeting, event, or activity. If these spaces are unreserved, they are available for spontaneous expressive events and activities:

- Francis Quadrangle
- Carnahan Quadrangle
- Traditions Plaza
- McAlester Park (also known as Peace Park)
- Lowry Mall

- Kulhman Court
- Dairy Lawn
- Plaza south of Jesse Hall
- Walsworth Plaza

Appendix C: Outdoor Areas that may not be reserved

Note: Outdoor areas of the University of Missouri campus not listed in Appendix B or Appendix C are always available for spontaneous or unscheduled expressive events and activities.

The areas listed in this Appendix C are not available for reservation by University or non-University organizations or departments for meetings, events, or activities at any time.

- The area containing and surrounding the University of Missouri Research Reactor (MURR); this area is bounded by Research Park Drive to the west, Agronomy Drive to the east, the USDA facility to the north, and the outermost edge of the grassy areas immediately to the south, but does not include the sidewalks in this area
- The area containing and surrounding the University of Missouri Power Plant; this area is bounded by Providence Road to the west, Fifth Street to the east, Stewart Road to the south, and Elm Street to the north, but does not include the sidewalks in this area
- Within 20 feet of the entrance or exit to any building
- Parking garages, including the top level
- Parking lots during time periods when permits are required
- Planted gardens
- Green spaces, including lawns, adjacent to health care facilities, but not including sidewalks that traverse through these spaces
- The courtyard between Stanley Hall and Sears Lotti Greenhouses (near the children's day care facility located in that area)
- Sanborn Field
- Areas surrounding utilities, including electrical substations and drinking water wells
- Areas that are fenced and locked, including construction sites

Appendix D

This **Appendix D** provides guidance to offices and officials responsible for implementing the Policy on Use of University Facilities and Grounds and for evaluating proposed or actual behaviors that occur in connection with events or activities within the scope of the Policy. The guidance does not constitute, in and of itself, rules or regulations of the University.

GUIDANCE MEMORANDUM FOR IMPLEMENTING “POLICY ON USE OF UNIVERSITY FACILITIES AND GROUNDS”

The law governing freedom of expression is complex. The types of questions that arise under the First Amendment and related state constitutional and statutory provisions are virtually infinite. Thus, no single reference guide can hope to answer all questions that will arise in the future with respect to the rights to free speech, expression, and assembly and the limits that can permissibly be imposed by government on those rights. Yet there is value in describing some of the guideposts that provide reference points for answering questions that will arise under the Policy on Use of University Facilities and Grounds. As such, this Guidance Memorandum does not have the force of official policy but it does provide direction for those who desire a deeper understanding of the values and rationales of the Policy. It also provides guidance for those who are responsible for implementing the Policy and evaluating proposed or actual behaviors that occur in connection with events or activities within the scope of the Policy.

The guidance in this memorandum is set forth as a series of principles. These principles appear in no particular order or priority, but related ideas are grouped together as subpoints under the heading of a particular principle.

- **The right to dissent and protest** complements the right to speak, but circumstances do exist where these rights conflict. The University has a responsibility to ensure that speakers can be heard along with a corollary responsibility not to chill counter-speech, dissent, and protest in the interest of preventing serious disruption. The University will be mindful of steps it can

take to protect both speakers and those who wish to engage in speech, dissent, or protest opposed to such speakers:

- To prevent serious disruption where it is anticipated, an organization hosting an open meeting can work closely with University officials to devise the time, place, and arrangements for admitting the audience. University officials and others can meet in advance with protesting groups, making clear the University's obligations to free expression and indicating forms of dissent that do not interfere with speech.
- Where serious disruption is anticipated, the University will make effective arrangements to protect the speaker and the right of the audience to hear the speech.
- When disruption occurs, the University should seek to identify disrupters and to take appropriate action as set forth in University rules and regulations.
- When protected dissent and protest are substantially impeded or inappropriately prevented, the University will undertake to create and enforce effective arrangements to protect the right to dissent and protest. When efforts to impede or prevent dissent or protest themselves rise to a disruptive level, the University will seek to identify those who commit such acts and to take appropriate actions as set forth in University rules and regulations.
- **A speaker is entitled to communicate** the speaker's message to an audience during the time allotted for the message, and **the audience is entitled to hear** the message and see the speaker during that time. A dissenter or protestor must not substantially interfere with a speaker's ability to communicate or with an audience's ability to see and hear the speaker.
 - **In a closed meeting**, dissent or protest by non-attendees is typically limited to activity outside the meeting that does not impede access to the meeting or substantially interfere with the communications inside.
 - A closed meeting is generally understood to be a meeting at which the sponsoring organization limits the attendance to the membership in the organization or to invited or designated individuals or groups (including members of the press), and

from which members of the University community and general public not related to the sponsoring organization or to the meeting are excluded. To the extent that a closed meeting is advertised to those who are not invited to attend, there should be clear disclosure that the meeting is closed.

- **When a meeting is open**, limitations on dissent or protest generally depend on whether the dissent or protest occurs inside or outside the meeting and on whether the dissent or protest occurs before, during, or after the meeting.
 - A meeting should be considered open even though the sponsoring organization limits the audience to members of the University community or to portions thereof (e.g., graduate students) unless the meeting has the characteristics of the closed meeting described above.
 - When an open meeting is intended, the sponsoring organization typically provides timely notice that the meeting is open and typically makes at least a majority of the available seats available to the University community, a portion thereof, or the general public.
- **Picketing** in an orderly way or **distributing literature** outside a meeting is generally acceptable unless it impedes access to the meeting. Distributing literature inside an open meeting is generally acceptable before the meeting is called to order and after the meeting is adjourned.
- **Displaying a sign, wearing significant or symbolic clothing, gesturing, standing, or otherwise protesting noiselessly** is generally acceptable unless the protest interferes with the audience's view or prevents the audience from paying attention to the speaker. Use of signs, prolonged standing, or other activity likely to block the view of anyone in the audience should be confined to the back of the room.
- **Responding vocally** to a speaker in a spontaneous and temporary manner is generally acceptable, especially if reaction against a speaker is similar in kind and degree to reaction in favor of the speaker. Asking critical questions of the speaker during an event formatted to include a question-and-answer session is acceptable. Chanting, persistent heckling, making other sustained

or repeated noise in a manner that makes it difficult or impossible to hear what the speaker is saying, or substantially interfering with the speaker's communication with the audience is not acceptable, either inside or outside the meeting.

- **Using or making a genuine, “true threat” to use force or violence is never permitted.** The Supreme Court of the United States (“SCOTUS”) has ruled on a number of occasions that the First Amendment allows government to prohibit the making of a “true threat,” which the Court has defined as a statement “where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals” (quoting *Virginia v. Black*, 538 U.S. 343, 359 (2003)). Thus, behaviors such as defacing a sign, assaulting or threatening to assault a speaker, or assaulting or threatening to assault a member of the audience are never appropriate. These kinds of behaviors are serious matters and may violate state or federal law, or both.
- **Audiences, event organizers, and speakers have a responsibility to respect the right to dissent and protest.** An individual who substantially interferes with lawful dissent or protest is engaging in behavior as unacceptable as a dissenter or protestor who violates the rights of a speaker or an audience.
- The **security of speakers, members of an audience, event organizers, and bystanders** is a legitimate and important concern of the University of Missouri. Senior University officials will determine, either on their own initiative or after hearing from campus organizations, groups, or individuals, whether the protection of free speech and expression at an open meeting requires measures to provide security.
 - Upon making this determination that security measures are required, University officials, acting in consultation with the University of Missouri Police Department and other law enforcement agencies as appropriate, may determine the nature and extent of security measures required and should ensure their implementation in a way that does not unfairly discriminate against nor intimidate any participant. The University will fund these measures.
 - When a meeting is closed, the sponsoring organization will ordinarily be responsible for planning, obtaining, and funding its own security. MUPD will be available to consult with the sponsoring organization.

Any provision for the use of force as a security measure must be planned with participation of MUPD.

- Possible security measures may include, but are not limited to, (a) bags and other containers being subject to search by MUPD or other security officers; (b) bags and other containers being required to be put in a checkroom before entrance into an event; (c) coats or outerwear being required to be put in a checkroom before entrance into an event; (d) videotaping, audiotaping, and/or photographing of the event with prior notice to the audience.
- Only MUPD or another official law enforcement agency, or member of such agency, may use force as a security measure.
- **Posting of fliers and posters** on campus is generally limited to bulletin boards and kiosks. In campus buildings, the posting of fliers and posters is only allowed on bulletin boards or other spaces specifically designated for such purpose. See MU Business Policy and Procedure Manual (BPPM) 1:070 for more information; available at http://bppm.missouri.edu/chapter1/1_070.html. The University will not discriminate or place content-based limitations on what may be posted in areas where posting is allowed, except that the University has the authority to restrict certain spaces and certain bulletin boards to posting of certain kinds of material. Thus, for example, a bulletin board can be reserved by an academic department for the posting of academic information and policies.
- **Chalking** on sidewalks or buildings is prohibited on the campus. See BPPM 1:070 for more information; available at http://bppm.missouri.edu/chapter1/1_070.html. The University will not discriminate in favor of or against particular messages or particular content when enforcing this regulation.
- **Outdoor spaces** on the University campus are both functionally and legally distinct from indoor spaces, and thus are subject to different regulations.
 - A **legal distinction between outdoor space and indoor space** is made by Missouri statutory law. See Mo. Rev. Stat. § 173.1550.1, which became effective on August 28, 2015. The statute is available at <http://www.moga.mo.gov/mostatutes/stathtml/17300015501.html>.

- Under the Missouri statute, the “outdoor areas of campuses of public institutions of higher education in this state shall be deemed traditional public forums. Public institutions of higher education may maintain and enforce reasonable time, place, and manner restrictions 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. Any such restrictions shall allow for members of the university community to spontaneously and contemporaneously assemble.”
 - Further, “[a]ny person who wishes to engage in noncommercial expressive activity on campus shall be permitted to do so freely, as long as the person’s conduct is not unlawful and does not materially and substantially disrupt the functioning of the institution subject to the requirements of subsection 2 of this section.”
- Because of this statute, all outdoor areas on the University campus are designated “**traditional public forums.**” This phrase is a term of art articulated by SCOTUS in past cases, and it is used to help explain how the First Amendment is applied when disputes about the contours of free speech arise in public areas. Under a series of SCOTUS decisions, government entities can place reasonable “**time, place, and manner**” **restrictions** on speech in public spaces. The University, being a public institution, is the equivalent of “the government” for purposes of these decisions. A large number of cases decided by SCOTUS collectively describe the circumstances under which the government may impose time, place, and manner restrictions consistently with the requirements of the U.S. Constitution.
- SCOTUS has defined “traditional public forums” as **streets, sidewalks, and parks.** Thus, streets, sidewalks, and parks on the campus – whether owned by the City of Columbia (as some are) or the University – are treated the same for purposes of free speech activities.
- SCOTUS has ruled that government may require certain types of events in traditional public forums to have **permits** before proceeding. Examples include: marches and parades that do not stay on sidewalks,

and other events that block traffic or close streets; large assemblies or rallies requiring the use of sound amplification; and assemblies or rallies in certain designated parks or plazas.

- Government may require applications for permits to be filed a number of weeks in advance, but SCOTUS has held that the First Amendment prohibits an advance notice requirement being used to prevent protests in response to recent news events.
 - The permit application process must be content neutral; the permit cannot be denied because an event is controversial or will express unpopular views.
 - Denying a permit for reasons unrelated to traffic control, public health or safety considerations, or permissible content-neutral time, place or manner restrictions may violate the First Amendment.
- If **marchers or protestors** stay on sidewalks and obey traffic and pedestrian signals, their activity is constitutionally protected even without a permit. Marchers or protestors may be required to allow enough space on the sidewalk for normal pedestrian traffic and may not intentionally obstruct or detain other pedestrians. Also, marchers or protestors may not occupy sidewalks in ways that block entrances to buildings.
 - The **distribution of leaflets** and other literature by protestors is permitted on public sidewalks, and no permit is necessary to do so. Protestors may approach pedestrians with these materials but may not physically or maliciously detain them.
 - **Picketing on public sidewalks** is permissible and does not require a permit. Picketing must occur in a non-disruptive fashion so that pedestrians can pass by and entrances to buildings are not blocked.
- **Photography** is allowed in traditional public forums or other public spaces. In other words, when a person is in a public space, the person has a right to photograph anything that is in plain view. Members of the press have this same right to the same extent (neither more nor less) as any other person. Police officers may not confiscate or demand to view a person's photographs

or video, or digital records thereof, without a warrant, and they may not delete a person's photographs or video under any circumstances. Police officers may legitimately order citizens (whether a member of the public or a member of the press) to cease activities that are actually interfering with legitimate law enforcement operations.

- The government may require a **fee** as a condition of larger groups exercising their free speech rights, such as application fees, security deposits for clean-up, clean-up fees, or charges for overtime security costs. Government may not charge higher fees for events that are controversial or where it is foreseeable that an audience or crowd may react to the speech in a hostile way.
- **Counter-demonstrators** also have a right to dissent and protest. This includes a right to be present at a demonstration and to voice displeasure with demonstrators. Counter-demonstrators should not be allowed to physically disrupt the event they are protesting. University officials and MUPD are permitted to take steps to keep two or more antagonistic groups separated from each other, but such groups should be allowed to be within the general vicinity of each other if this can be accomplished without compromising the health or safety of participants or observers.
- **Traditional public forums are public property**, and any member of the public has the right to enter into and upon public property. **The press** has the same right of access to public property as does the general public. In the absence of the issuance by the government (in this context, the University) of a permit that gives a person, organization, or group exclusive use of a defined area that is otherwise a traditional public forum for a designated period of time, a person, organization, or group cannot deny members of the public the right to enter into a traditional public forum.
 - Groups or organizations desiring to meet or assemble in University space or grounds for private discussions, events, or activities may reserve appropriate space under the Policy on Use of University and Grounds for a closed meeting.
 - Generally speaking, space that constitutes a traditional public forum is not the preferred location for the scheduling of a closed meeting. There are, however, occasions when such scheduling may appropriately occur for events and activities that are limited to the

attendance of the sponsoring organization or group. Examples include a wedding ceremony on Traditions Plaza or an alumni event on Carnahan Quadrangle.

- When private events and activities or closed meetings are scheduled in outdoor spaces, the rights of protest, dissent, and assembly on adjacent space in the traditional public forum continue in full force and effect. Expressive activities may occur on such adjacent space provided it otherwise complies with applicable University rules, regulations, and policies, which shall be applied in a nondiscriminatory and content-neutral manner.
- As of 2016, SCOTUS has not addressed the issue of **individual privacy rights within a traditional public forum**, but it is reasonable to expect that individuals do not lose all privacy rights while in traditional public forums, even though all acts and behaviors of individuals in plain view in public forums are subject to recording and dissemination (provided the purpose of the recorder or disseminator is noncommercial). Thus, individuals while in a public forum have a reasonable expectation, for example, that no one, including the government, will open their backpacks, purses, and briefcases carried into the public forum, occupy an area of personal physical space that would be objectively understood as offensive or inappropriate if it occurred in a private area (e.g., taking a physical stance within a few inches of a person's face or body), or seek to peer into or photograph private areas under clothing or other apparel.
- SCOTUS has recognized that individuals have an expectation of privacy in "curtilage," which is the immediate, enclosed area surrounding a house or dwelling. It is reasonable to assume that individuals while occupying space in a traditional public forum have privacy rights in space that is analogous to curtilage. Because a traditional public forum is by its nature public property freely accessible to the general public, it is reasonable to assume that SCOTUS, if it has occasion in the future to address the question of individual privacy rights in public forums, will define the boundaries of curtilage narrowly.
- Legal protest and dissent are different from **civil disobedience**. Civil disobedience is public, non-violent, and conscientious violation of law undertaken for the purpose of bringing about a change in law, government

policies, or society. In the history of the United States, civil disobedience has helped bring about many highly important, desirable changes in law and society. Although deliberate acts that violate the laws, rules, and policies applicable to free expression may constitute civil disobedience, those who commit such civil disobedience should be willing to and must expect to suffer the disciplinary and remedial consequences of their actions as provided by law, rule, or policy.

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