

Campus Free Speech

Aug 16, 2022

Scope: Who is Covered by this Policy?

Undergraduate and Graduate Students and Faculty

Policy

Principles of Campus Free Speech

In accordance with the public policy and the laws of the state of Ohio, the University affirms the following principles:

1. Students have a fundamental constitutional right to free speech.
2. The University is committed to giving students broad latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to Ohio Revised Code 3345.0215(E).
3. The University is committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the institution's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
4. It is for the University's individual students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose.

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5. It is not the proper role of the University to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed.
6. Although the University greatly values civility and mutual respect, concerns about civility and mutual respect shall never be used as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed those ideas may be to some students or faculty.
7. Although all students and all faculty are free to state their own views about and contest the views expressed on campus, and to state their own views about and contest speakers who are invited to express their views on the campus of a state institution of higher education, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject or even loathe. To this end, the University has a responsibility to promote a lively and fearless freedom of debate and deliberation and protect that freedom.
8. The University shall be committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding.
9. The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence.

Nothing contained in this Policy shall be construed as prohibiting the University from imposing measures that do not violate the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution such as:

1. Constitutional time, place, and manner restrictions;
2. Reasonable and viewpoint-neutral restrictions in nonpublic forums;
3. Restricting the use of the University's property to protect the free speech rights of students and teachers and preserve the use of the property for the advancement of the University's mission;
4. Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article I, Sections 3 and 11 of the Ohio Constitution;

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5. Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by teachers.

Nothing in this Policy shall be construed to grant students the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.

Nothing in this Policy shall be interpreted as restricting or impairing the University's obligations under federal law including, but not limited to, Title IV of the Higher Education Act of 1965, Title VI of the Civil Rights Act of 1962, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act, Age Discrimination in Employment Act, and the Age Discrimination Act of 1975 as addressed through its non-discrimination and Title IX policies.

Procedures

Complaints

Further, the University ~~is creating a~~has established the following Complaint process under which a student, student group, or faculty member may submit a complaint about an alleged violation ~~by~~ an employee of the University for violations of the above policy, including any violation which results in a penalty imposed on a student's grade for an assignment or coursework that is unrelated to ordinary academic standards of substance and relevance, including any legitimate pedagogical concerns, and is instead based on the contents of student's free speech.

A complaint can be submitted ~~through~~ Ethicspoint

Under ~~the~~this process, which ~~shall comply~~complies with standards adopted by the Ohio Chancellor of Higher Education, the University will investigate the alleged violation and conduct a fair and impartial hearing regarding the alleged violation. If the hearing determines the state institution of higher education's policy was violated, the University shall determine a resolution to address the violation and prevent any further violation of the University policy.

Complaint and Investigation Procedures

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1. Any student, student group or faculty member may submit a complaint alleging that their speech rights have been violated by an employee of the University under the Campus Free Speech policy by submitting an EthicsPoint complaint via the link within 30 days of the alleged violation. The Ohio statutory authority for this complaint process is specific to students, student groups, and faculty members only. O.R.C. 3345.0215(C). The Complaint must include the following information:
 - a. The Name and Contact Information of the complaining student, faculty member, or student group (“Complaining Party”);
 - b. The Name and/or Title of the University Employee alleged to have violated the free speech rights of the Complaining Party. For purposes of this policy, a University Employee may include Residence Life staff (e.g. RA or RD) and Graduate Students acting in their capacity as an agent of the University in their role;
 - c. A recitation of the facts, location and circumstances of the alleged violation;
 - d. The names of any witnesses to the alleged violation;
2. While EthicsPoint permits the filing of anonymous complaints, anonymous complaints cannot be investigated under this policy.
3. Upon receipt of the Complaint submitted via the EthicsPoint portal, the Office of General Counsel (“OGC”) will review to confirm that the complaint contains enough information to discern that a bona fide allegation of a violation of a protected free speech right has occurred within the time frame required under this process.
4. Either via EthicsPoint or direct written communication with the Complaining Party, the Complaint will be acknowledged and the Complaining Party notified that an investigation will be conducted, or that the Complaint does not allege a bona fide violation of a protected right of free speech and the matter will be closed with no further action.
5. OGC will notify the Hearing Committee Administrator that a Complaint has been filed, the names of the Parties to the complaint, and advise that an Investigator needs to be appointed and Hearing Panel convened. The Hearing Committee Administrator is a person designated by the Provost to serve as the liaison

between the Parties and the Hearing Committee and administer the investigation and prehearing process under this policy.

6. The Hearing Committee Administrator will notify the Complaining Party that the Complaint will be investigated, and the Party against whom the Complaint is alleged (Respondent) will be notified of the Complaint along with a recitation of the allegations in the Complaint.
7. An appointed investigator will contact both the Complaining Party and the Respondent to gather the relevant facts and circumstances surrounding the alleged violation from the Parties and any information regarding witnesses to the alleged violation. The investigator will also inquire with the Complaining Party what remedy they are seeking to remediate the alleged violation. The investigator will prepare a summary briefing detailing the information gathered in the investigation. This briefing will be provided to the Parties and the Hearing Committee Administrator.
8. Upon receipt of the investigation report, the Hearing Committee Administrator will contact the Parties to schedule a hearing on the alleged violation. The Hearing Committee Administrator will also ask the parties whether there is any interest in resolving the alleged violation through alternative dispute resolution. Alternative dispute resolution under this policy would likely take the form of a mediated dialogue in lieu of a hearing, based upon the interest of the parties and the proposed resolution to the Complaint. If there is no interest in alternative dispute resolution by both parties, or if an effort at alternative dispute resolution does not resolve the Complaint, then a hearing date and time will be set.

Hearing Process

The University shall maintain a standing Hearing Committee. The Hearing Committee shall be constituted of six total members: three (3) persons holding Faculty-rank and three (3) Unclassified Staff members appointed by the Provost & Executive Vice President of the University to serve a three-year term. Individual hearings shall be conducted by a panel of three (3) members of the Hearing Committee ("Hearing Panel") as appointed by the Hearing Committee Administrator. The Hearing Panel must contain at least one member of the same employee classification as the Respondent. An appointed Hearing Officer shall sit with the Hearing Panel to conduct the hearing and provide guidance during deliberations on applicable Constitutional law.

Hearing Guidelines

The hearing will be conducted according to the following guidelines:

1. The investigation report shall be shared with the Hearing Panel prior to the hearing.
2. The hearing shall normally be conducted in private. Admission of any person to the hearing shall be at the discretion of the Hearing Panel.
3. The Complaining Party and the Respondent shall have the right to be assisted by an advisor of their choice. The role of the advisor is only to be present; they will not be provided documentation or permitted to speak on behalf of any Party during the hearing. If an advisor is determined by the Hearing Officer to be unreasonably interfering with the proceeding, they may be asked to leave.
4. The Complaining Party and the Respondent shall have the right to present testimony and witnesses, subject to the right of cross examination by the other party and the Hearing Panel members.
5. The Hearing Panel may request testimony from witnesses which it believes may be relevant to its decision on the merits. Witnesses who are subject matter experts may be called by either party, or called upon by a member of the hearing panel, to provide expertise in a given academic discipline at any stage of deliberation.
6. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the Hearing Panel, but any such records must be exchanged between the Parties prior to the Hearing, in accordance with the directions established during the pre-hearing scheduling conference.
7. All procedural questions are subject to the final decision of the Hearing Officer, in consultation with the Hearing Panel, if appropriate in the judgment of the Hearing Officer.
8. After the hearing, the Hearing Panel shall deliberate and, with the assistance of the Hearing Officer, timely issue its findings of fact and decision on the merits as to whether or not a violation occurred, along with a suggested remediation and/or disciplinary sanction, if appropriate, to the Parties and the Provost.

Appeals Process

An appeal of the Hearing Panel's Findings and Decision will follow the following guidelines:

1. Appeals may be filed for the following reasons:

- a. A procedural error in the hearing of the case occurred that is determined to be substantial enough to have changed the outcome of the hearing.
 - b. New evidence exists that was not reasonably available at the time the determination was made that is determined to be substantial enough to have changed the outcome of the hearing.
 - c. The proposed remediation is not aligned with the hearing panel's findings and decision.
2. Within 10 business days of the issuance of the Hearing Panel's Findings and Decision, either Party may submit a written appeal of the Hearing Panel's decision to the Office of the Provost.
3. If a Party appeals the decision, then the non-appealing party will have 10 business days to submit a written response to the appeal.
4. Based upon a review of the record, the Provost may accept, reject, or modify the Hearing Panel's decision and will notify the Parties of their decision within 15 business days of the submission date of the response. The Provost's decision will be final and reported to the President and Board of Trustees.
5. The Provost may adjust the timelines set forth here to facilitate a fair process for the Parties.
6. If neither Party appeals the decision of the Hearing Panel within the timeframe provided for appeals (see 10(b)), the Provost will accept the decision of the Hearing Panel and, if a violation was found, the Provost will issue a directive on remediation or disciplinary sanction in consultation with the Respondent's Vice President or Designee, or supervisor. For purposes of this Campus Free Speech policy, "disciplinary sanction" means any directive that results in a suspension, termination, or change in job status of an employee.
7. In cases where the disciplinary sanction results in suspension or termination of the Respondent, the Respondent employee will be afforded the processes for appeal of the appropriateness of the sanction only, as described in the applicable disciplinary policy.
8. An appeal of the underlying Hearing Panel's Decision, or that of the Provost, as reflected in the findings of fact and decision on the merits as to whether or not a violation occurred, will not be subject to further review.
9. Once all options for appeal have been applied, the decision will be final and reported to the President and Board of Trustees.

Non-Retaliation

Retaliation against any person(s) who in good faith reports a violation of this policy, participates in an investigation or is a witness in any investigation or proceeding is strictly prohibited and will not be tolerated. Those who engage in retaliation will face University disciplinary action up to and including suspension or dismissal.

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Related Form(s)

Not Applicable.

Ethicspoint

Additional Resources and Procedures

Not Applicable.

Right of Expression of Students

Public Speaking, Leaflet Distribution, and Demonstrations

Procedures for Disciplinary Action

Teaching, Clinical Professors and Lecturers (TCPLs)

Interim Disciplinary Procedures

Reporting and Addressing Illegal Activity and Misconduct

FAQ

Not Applicable.

Policy Administration

Next Review Date

7/1/2025

Responsible Officer

General Counsel

Legal Authority

O.R.C. 3345.0215

Compliance Policy

No

Revision History

New August 2022; [Amended August 2023](#)

Reference ID

N/A

Reviewing Bodies

General Counsel

